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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lancaster County

Honorable Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JENNIFER BLAIR MCNAUGHTON,

APPELLANT

APPELLATE CASE NO. 2025-001041

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS
COUNTY OF LANCASTER CASE NO. 2022-GS-29-00739

STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	<u>TRANSCRIPT OF RECORD</u>
	)	(VOLUME I OF III)
JENNIFER BLAIR MCNAUGHTON,	)	
	)	
Defendant.	)	
_____	)	

May 19, 2025
Lancaster, South Carolina

B E F O R E:

Honorable Donald B. Hocker, Judge; and a jury.

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Court Reporter

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(REPORTER'S NOTE: All exhibits admitted during this proceeding were duly filed with the Lancaster County Clerk of Court's Office.)

1 THE COURT: We are on the record this afternoon. It's
2 the case of *The State of South Carolina versus Jennifer*
3 *Blair McNaughton*.

4 Mr. Frick, I don't see -- is your client in route?

5 MR. FRICK: She is. She was at my office. She was
6 waiting for me upstairs while I was in courtroom A. I saw
7 her about 12:30, said we should be starting back about 1:30,
8 so she -- I mean, 1:00. She said she wanted to go run get
9 some lunch. I expect to see her.

10 THE COURT: Okay.

11 MR. FRICK: She's just not present.

12 THE COURT: I mean, I don't mind holding off--

13 MR. FRICK: If you'd give me a couple minutes.

14 THE COURT: ---until she gets here.

15 MR. FRICK: Yeah. That'd be fine.

16 THE COURT: Okay. We'll just be at ease and we'll do
17 what we can do and then when the jury -- bring the jury in.
18 Certainly, we can go ahead and qualify and pick a jury and
19 that will have no bearing on whatever we decide on this
20 motion to suppress. All right?

21 MR. FRICK: Sounds good. Thank you, Judge.

22 THE COURT: Okay. All right. Everybody be at ease at
23 this point.

24 (Court at ease)

25 THE COURT: We are on the record this afternoon in the

1 case of *The State of South Carolina versus Jennifer Blair*
2 *McNaughton*. I don't have the indictment, but the warrant
3 number is 22A2910100020. The case has been called to trial
4 by the State. We have some pretrial matters and I think
5 I've been provided a list and both of them are just
6 administrative matters. So let's just, for the purposes of
7 the record, let's just go down one-by-one based upon your
8 list and then we'll get into, at least get started with, the
9 main pretrial matter and that is defense motion to suppress
10 evidence. So, Solicitor, I'll turn it over to you, sir.

11 MR. CUTHBERTSON: Yes, Your Honor. Thank you. For
12 pretrial matters, we'll start with number 1. We do have a
13 rejection of the plea offer on the record. At this time,
14 the State, what we know and did put in our motions, unless
15 the defense is asking for that, the State will be okay to
16 moving on to number 2 on this list.

17 THE COURT: Okay. The rejection of the plea offer has
18 already been put on the record at some previous point in
19 time?

20 MR. CUTHBERTSON: It has not, from my understanding.

21 MR. FRICK: No. We'll do that. We have not done that
22 before.

23 THE COURT: Okay. Well, let's do that now. The offer
24 that the State made is what?

25 MR. CUTHBERTSON: The offer the State made is seven

1 years of active time in prison, Your Honor.

2 THE COURT: Okay. All right. And, Mr. Frick, has that
3 offer been rejected?

4 MR. FRICK: I have discussed that with my client and we
5 rejected it. Is that correct, Ms. McNaughton?

6 MS. MCNAUGHTON: Yes, sir.

7 MR. FRICK: Yes, sir. We --

8 THE COURT: Okay. All right. Okay.

9 Ms. McNaughton, just -- let me just hear that from you.
10 Stand up, please and raise your right hand.

11 (Oath administered by the Court.)

12 THE COURT: Okay. And you have rejected the State's
13 offer of seven years active time?

14 MS. MCNAUGHTON: Yes, sir.

15 THE COURT: Okay. Thank you very much.

16 Next matter.

17 MR. CUTHBERTSON: Thank you, Your Honor. *Jackson v.*
18 *Denno* hearing, just putting on the record that there's need
19 for one of those hearings. This defendant did not make any
20 of those statements---

21 THE COURT: Okay.

22 MR. CUTHBERTSON: ---that we plan to introduce as
23 evidence.

24 THE COURT: Okay. Is that correct, Mr. Frick?

25 MR. FRICK: Judge, I believe that's correct. I think

1 there's some statements that she makes when they make the
2
3 initial stop. She was not in custody at that time.

4 THE COURT: Right.

5 MR. FRICK: Later they did place handcuffs on her, but
6 I don't believe she made any additional incriminating
7 statements---

8 THE COURT: Okay.

9 MR. FRICK: ---while she was in custody.

10 THE COURT: Okay. All right. Very good. Next matter?

11 MR. CUTHBERTSON: Number 3, compliance with defense
12 discovery request. Just want to put on the record that we
13 have sent over everything that's been requested by the
14 defense.

15 THE COURT: Okay. Mr. Frick?

16 MR. FRICK: To my knowledge. I don't know what all
17 they got, but---

18 THE COURT: Right.

19 MR. FRICK: ---I got what they gave me.

20 THE COURT: All right. And next is just a discussion
21 relating scheduling. Assuming that I were to deny defense
22 motion to suppress, do we need to discuss -- I know we did
23 discuss about an expert witness, but that's no longer an
24 issue because he's going to be provided transportation to
25 the courthouse at some point in time.

1 MR. CUTHBERTSON: Yes, Your Honor. That is correct. I
2 guess the question here would just be discussion regarding
3 time we would be back tomorrow, if we pick a jury today,
4 just so I can have my witnesses here. I'm assuming there
5 will be a motion for them to be sequestered, so just what
6 time should I have them here, what time we're starting in
7 the morning.

8 THE COURT: Okay. Well, let's make that decision at
9 the end of the day. See how long qualification, jury
10 selection takes and see what else we can get done on the
11 motion to suppress. So we'll address that, but let's just
12 wait 'til the end of the day.

13 MR. CUTHBERTSON: Yes, Your Honor. Thank you.

14 Number 5, regarding a stipulation of the SLED chain of
15 custody.

16 Your Honor, I've been in conversations with Mr. Frick
17 about the chain of custody that SLED sends us. It is a drug
18 case so, as you know, they pass through a number of hands
19 when they're being tested, when the drugs are being tested.
20 So in an effort to avoid having every single one of those
21 individuals come here and testify that they, you know,
22 moved it from one location to another, Mr. Frick has agreed
23 to stipulate to that chain of custody there. I guess my
24 question that I -- for you, Your Honor, would be in this
25 situation, we do have sweet old Ms. Ann Horton, who's with

1 the -- she's an evidence custodian at the Lancaster County
2 Sheriff's Office and I'm not sure that I spoke about this
3 with you -- with you, Frick, but just wanted to -- so she
4 was the one who received the evidence from our agents here
5 and her job was to, basically, transport them down to SLED--
6 -

7 THE COURT: Sure.

8 MR. CUTHBERTSON: ---and bring them back. I can have
9 her come to testify here to that extent, but Your Honor, I
10 would ask -- she's nearing retirement in her long years of
11 working with the sheriff's office. I would ask if we could
12 have some sort of stipulation where we can agree that she
13 took the drugs down to SLED and would not have to have her
14 come testify.

15 THE COURT: Mr. Frick, concerning a chain of custody,
16 do you agree as to the complete chain? You'll stipulate to
17 that or --

18 MR. FRICK: Your Honor, as regarding the chain of
19 custody, I've been provided a copy of the chain of custody,
20 the SLED chain of custody. I don't have any issues with
21 that. I don't think I need the intermediary people at SLED.
22 However, I don't know that I can waive the evidence
23 custodian that took it down there and I say that, Your
24 Honor, I have had Ms. Horton on the stand many times and I
25 think the only question I ever ask her is you don't go

1 collect evidence. So understanding that, I'm not waiving
2 her presence, but I will abide by whatever the Court rules.

3 THE COURT: All right. Well, I mean, it's -- you know,
4 I think you can stipulate to her as well as being in the
5 chain of custody, but I'm not going to make that decision
6 for you. So if you want her here, then --

7 MR. FRICK: I think to lay the proper foundation,---

8 THE COURT: Okay.

9 MR. FRICK: ---I think she needs to be here.

10 THE COURT: All right. Solicitor, is that going to be
11 -- you say she's retired, but is she still in the area?

12 MR. CUTHBERTSON: She's not retired quite yet. I think
13 she's working on her way out. I was informed maybe by next
14 week she will be retired.

15 THE COURT: Oh, okay.

16 MR. CUTHBERTSON: She's on standby.

17 THE COURT: Okay.

18 MR. CULBERTSON: I have spoken with her so she knows
19 kind of the situation that's going on. I just told her for
20 --

21 THE COURT: Yeah.

22 MR. CULBERTSON: -- for her sake, I would do my due
23 diligence to see --

24 THE COURT: Yeah.

25 MR. FRICK: And, Judge, if this is going to be my last

1 opportunity after 20-something years of cross-examining Ms.
2 Horton, I would really relish that opportunity.

3 THE COURT: Sure. All right. Let's have her here. So
4 -- all right. So the only chain witness we're going to
5 have, other than the SLED analyst who actually did the
6 testing, would be the local custodial evidence or evidence
7 person.

8 MR. FRICK: And the officer who collected it; correct?

9 MR. CUTHBERTSON: Yes.

10 THE COURT: Oh, sure. I mean, that's almost a given.

11 MR. FRICK: I just want to be sure.

12 THE COURT: Right. All right. Okay. Next on the list
13 is discussion regarding video evidence, which would be body
14 cam, in-car video, et cetera.

15 MR. CUTHBERTSON: Yes, Your Honor. The State, at this
16 time, we plan to use all of investigator Davis's video. We
17 understand that there are some statements that are made in
18 the video that will need to be redacted. So the State's
19 plan at this time was to play the whole video. We have a
20 way to essentially mute the audio on the videos---

21 THE COURT: Okay. All right.

22 MR. CUTHBERTSON: ---as -- whenever there's something
23 that's --

24 THE COURT: Sure.

25 MR. CUTHBERTSON: -- could possibly be, not necessarily

1 incriminating, but not in the defendant's favor as far as
2 prior arrests and other things like that, so --

3 THE COURT: All right. Mr. Frick, would you agree for
4 a redaction to be handled by way of muting the audio?

5 MR. FRICK: That's fine. We've done that before. Yes,
6 sir.

7 THE COURT: We have. And, typically, what I do is I
8 will tell the jury at the outset that there will be portions
9 where you will not hear the audio and that they are to place
10 no significance whatsoever to that, and just make sure that
11 y'all are singing on the same page as far as what portions
12 will be muted. Okay? Just make sure y'all get together on
13 that.

14 MR. FRICK: We'll get together on that. Yes, sir.

15 THE COURT: Okay.

16 MR. CUTHBERTSON: Yes, sir, Your Honor. Your Honor,
17 and in addition to their -- we do not plan to use all of
18 the body-camera footage that we have. I believe -- unless
19 we believe these folks need to come testify, like Lieutenant
20 Lockhart, I believe we have his body camera footage. Is
21 that still something that you would like to be turned over
22 as a part of the -- I guess as part of the record? Not for
23 the jury to see, but --

24 THE COURT: Right. Unless there is a dispute
25 concerning other video that has not been provided to me in

1 connection with the motion to suppress, I don't need to see
2 it in advance of it coming in. Now, if there is some sort
3 of contest or issue with respect to the other video, then,
4 yeah, I would need to see it, but otherwise, if y'all are
5 good with it and can work out what needs to be muted, then,
6 you know, I don't need to see it in advance.

7 MR. FRICK: That sounds fair and if we have any issues,
8 obviously,---

9 THE COURT: Sure. Yeah.

10 MR. FRICK: ---we'll bring it before you for a ruling.

11 THE COURT: And, also, if the State does not play all
12 of the video, the defense feels like that portion that's not
13 being played by the State, you want to play it, you
14 certainly have a right to do that. Okay.

15 All right. The next would be if Ms. McNaughton
16 testifies. Evidently the State believes that there are
17 certain prior convictions that they would like to use to
18 impeach.

19 MR. CUTHBERTSON: Well, Your Honor, as I was looking
20 back, I do not believe there's anything on here---

21 THE COURT: Oh.

22 MR. CUTHBERTSON: ---in which we can impeach her with.

23 THE COURT: Okay. All right. So that's not -- that's
24 not an issue. Okay. Very good.

25 Okay. All right. So anything else other than the

1 defense motion to suppress? There was some issues about --
2 mention about sequestration. Is that going to be an issue?

3 MR. FRICK: Judge, and you've tried several cases with
4 me, I don't typically ask for that. It has been my
5 experience, at least in the Sixth Circuit, that they can sit
6 in the courtroom and they can listen to the testimony or
7 they're going to sit in some other room, in the hallway, and
8 talk to each other.

9 THE COURT: Yeah.

10 MR. FRICK: So I just as soon they sit in the courtroom
11 for strategic purposes---

12 THE COURT: Yeah. Sure.

13 MR. FRICK: ---so I can use that as I may.

14 THE COURT: Okay. Very good. Thank you, Mr. Frick.

15 All right. Well, I think probably what we need to do
16 -- now, you've got one officer here, Solicitor, and you -- I
17 mean, I'm not going to tell you what officers to call as to
18 the motion, but I do need to hear some officers' testimony,
19 at least primarily on the first prong of the -- of
20 determining whether or not they had reasonable suspicion,
21 but if you think you can accomplish that by one witness or
22 you need all officers, then that's going to be your call.

23 MR. CUTHBERTSON: Yes, sir. I think we can accomplish
24 that by the officer we have here, Investigator Davis.

25 THE COURT: Okay. All right. Okay. Let's take his

1 testimony in camera. Come on up, please, Officer.

2 (PRESTON DAVIS, being first duly sworn, was examined
3 and testified as follows):

4 THE COURT: Okay. Have a seat. When you take your
5 seat -- you got an extra witness list for me, Solicitor?
6 Maybe?

7 MR. CUTHBERTSON: I did not bring down the witness
8 list--

9 THE COURT: That's fine.

10 MR. CUTHBERTSON: ---for this hearing, Your Honor.
11 We'll have it when we --

12 THE COURT: That's fine. All right. State your name,
13 please, sir.

14 THE WITNESS: Preston Davis.

15 THE COURT: Davis?

16 THE WITNESS: Yes, sir.

17 THE COURT: Okay. And your first name?

18 THE WITNESS: Preston, P-r-e-s-t-o-n. Yes, sir.

19 THE COURT: Gotcha. All right. You may proceed,
20 Solicitor.

21 MR. CUTHBERTSON: Thank you, Your Honor.

22 PRETRIAL DIRECT EXAMINATION

23 PRESTON DAVIS BY MR. CUTHBERTSON:

24 Q. Investigator Davis, can you please tell the Court how
25 long you've been with the sheriff's office?

1 A. I've been a deputy sheriff for the sheriff's office for
2 seven years.

3 Q. And in what capacity do you work for them now?

4 A. I'm currently assigned as an investigator to the drug
5 task force.

6 Q. And how long have you been with the drug task force?

7 A. Five years.

8 Q. What led you to the area of High Point Circle on
9 January 5th of 2022?

10 A. We had previously received a Crime Stoppers tip that
11 narcotics were being sold from the residence on High Point.

12 Q. Okay. And those Crime Stopper tips, how do you receive
13 that?

14 A. They normally come anonymously, electronically.
15 They've submitted online or by phone.

16 Q. Okay. And in this situation, how did you receive it?

17 A. I believe it was a online tip.

18 Q. And upon receiving that tip, what was the -- what was
19 the response to the drug task force?

20 A. Typically, when we get tips, we conduct surveillance on
21 the locations, as we did with High Point Circle. We began
22 surveilling the location.

23 Q. Okay. And did that tip -- did they give you just the
24 general area or did they locate on a specific address?

25 A. They gave a specific address.

1 THE COURT: Is that the [REDACTED]---

2 THE WITNESS: Yes, sir.

3 THE COURT: ---High Point Circle?

4 THE WITNESS: Yes, sir.

5 Q. And do you know, can you remember, was this the first
6 -- would this have been the first complaint on the home?

7 A. I don't recall at this time like when that tip came in
8 if that was the first one or there had been previous ones.
9 I can't recall, 'cause there have been some since.

10 Q. And that tip, what did it allege?

11 A. I believe the tip said that Charlie Outen was selling
12 narcotics from the location. I can't -- I don't recall
13 exactly, but I imagine that's the --

14 THE COURT: Is he the owner of the address? Resides
15 there at that address?

16 THE WITNESS: He did at the time.

17 THE COURT: Okay.

18 Q. On January the 5th of 2022, how long were you observing
19 the home that day?

20 A. I believe that specific day, I don't remember exactly,
21 I'd say less than 15, 30 minutes.

22 Q. And were there any cars in the driveway?

23 A. Yes. There was a -- the green Dodge pickup.

24 Q. Had you seen that car there before?

25 A. Yes, sir. I'd surveilled the location several times

1 before and seen that vehicle there multiple times.

2 Q. And I guess each of those times, would it be there for
3 prolonged periods of time or would it be --

4 A. Yes, sir. That night was the first time that I'd seen
5 it leave.

6 Q. So you're surveilling the home. What happens next?

7 A. I'm surveilling the home. I see the green Dodge pickup
8 leave the location, travel off High Point Circle to Great
9 Falls Highway.

10 Q. Did you see anybody -- did you see who got into that
11 vehicle?

12 A. No, sir. I didn't. It was dark outside.

13 Q. And so what made you initiate the stop?

14 A. As the vehicle approached the intersection there at
15 Airport Road and Great Falls Highway here in Lancaster
16 County, the driver applied the brakes to slow because
17 there's a traffic light. I observed that the top brake
18 light on the cab of the vehicle was not functioning.

19 Q. So you turn on your blue lights then. What happens
20 next?

21 A. Yes, sir. We traveled through the intersection. I
22 followed the traffic stop. I activated my blue lights. We
23 were in the area of Chandler's Paint and Body there on Great
24 Falls Highway. Chandler's Paint and Body has got two
25 driveways. They kind of come in as a semicircle into the

1 parking lot. In between those two driveways is a sidewalk,
2 a curb, and a hill that goes down into the -- down into the
3 parking lot, like a steep hill. When I activated my blue
4 lights, we were in that area. The driver of the truck
5 jumped over the sidewalk, down into the parking lot, making
6 an abrasive move into the parking lot as if they were trying
7 to avoid me.

8 Q. And you say jumped over -- you say the vehicle
9 essentially --

10 A. Yes. Traveled over the sidewalk, down to -- a real
11 abrupt turn into the parking lot, over the sidewalk instead
12 of using the driveways.

13 Q. And in your mind, what did you think about that?

14 A. I thought either they were trying to evade me or, you
15 know, they had some type of contraband, guns, narcotics,
16 that they were trying to conceal.

17 Q. So you have the stop and you approach. Do you say
18 anything to Ms. McNaughton?

19 A. I believe I, you know, asked her why -- why she jumped
20 the curb like that into the parking lot. I believe her
21 response was that she was -- that she was nervous with the
22 presence of law enforcement.

23 Q. And what did you ask her to do next?

24 A. Well, the truck kind of sat at a elevated position, it
25 was lifted a little bit, so I asked her to step out of the

1 vehicle to speak with me for officer safety, because I
2 couldn't see into the vehicle due to the height of it. I
3 couldn't see in it good, and with those abrasive maneuvers,
4 I was unsure of what -- what the problem was.

5 Q. Were there any other officers on the scene with you at
6 that point?

7 A. Yes, sir. I believe at the time of the traffic stop it
8 was myself and Lieutenant Lockhart.

9 THE COURT: What's the last name of that officer?

10 THE WITNESS: Lockhart.

11 THE COURT: Lockhart?

12 THE WITNESS: Yes, sir.

13 Q. And as you were having the conversation, what was your
14 demeanor?

15 A. I believe I was calm.

16 Q. What about Ms. McNaughton?

17 A. She was -- she was obviously nervous. She even stated
18 that she was nervous.

19 Q. At that time when you asked her to step out, was she
20 under arrest?

21 A. No, sir.

22 Q. Was she in handcuffs?

23 A. No, sir.

24 Q. What happens next?

25 A. I asked Ms. McNaughton for her driver's license. She

1 stated that she did not have her driver's license. I asked
2 her for her name. She gave me the name Blair McNaughton. I
3 asked if she had anything on her, like on her person and
4 her -- you know, inside the vehicle that had her name on it
5 for me to be able to confirm that. I believe she had some
6 type of debit card or credit card or something like that on
7 her person that she handed me and I seen that the name on
8 the credit card was Jennifer McNaughton. So I, you know,
9 asked her if her name was Blair McNaughton or Jennifer
10 McNaughton.

11 Q. At any point, did you ask for consent to search the
12 vehicle?

13 A. Yes, sir. I did ask. I'm not sure if it was -- I
14 think it was before I could get my warning book out of my
15 vehicle, I asked her and she consented and I went to get my
16 warning book out of my vehicle to continue the traffic stop.

17 Q. So when you went to get your warning book, what
18 happened with the vehicle while you were going to get your
19 --

20 A. While I was going to get my warning book to continue
21 the traffic stop, Investigator Hammond advised me that he
22 had located narcotics inside the vehicle.

23 Q. So as you were going to get your warning book, the car
24 was being searched?

25 A. Yes, sir.

1 Q. So you didn't search the car?

2 A. No, sir.

3 Q. What was her response when you asked her to search the
4 vehicle, when you got consent?

5 A. I believe her exact response was that she didn't want
6 me to, but we could.

7 THE COURT: Tell me that again, 'cause I have not seen
8 the video yet, Officer, but, of course, the video would
9 speak for itself, but---

10 THE WITNESS: Yes, sir.

11 THE COURT: ---you're remembering, what was her
12 statement again?

13 THE WITNESS: I don't want you to, but you can.

14 Q. After she said you can, was it -- did she make any
15 other statements towards you?

16 A. No, sir. I don't believe so.

17 Q. And I want to circle back to the initial -- to when you
18 stopped her initially. Did she take -- did she answer her
19 phone? Did she take a phone call for any reason?

20 A. I do remember the phone ringing, but I -- I can't
21 recall if she answered it.

22 Q. If she actually answered.

23 A. And I believe the whole time we were out there, the
24 phone rang several times.

25 Q. All right. Just one or two more questions here. How

1 long would you say it took, this whole interaction took,
2 from the stop of the vehicle to locating the drugs in the
3 car?

4 A. I'd say between a range of five to ten minutes.

5 MR. CUTHBERTSON: Beg the Court's indulgence.

6 THE COURT: Sure.

7 Q. Investigator Davis, do you -- at what point were the
8 hand- -- was she placed in handcuffs?

9 A. After the narcotics were located in the vehicle.

10 Q. Did you ask her what she believed it could be, the
11 drugs could be?

12 A. Yes, sir. After she was placed in handcuffs, I read
13 her her Miranda warning and she stated -- I believe she
14 stated that -- that she wasn't sure, but it was probably
15 meth, I believe, somewhere along the lines of what she said.

16 MR. CUTHBERTSON: No further questions at this time,
17 Your Honor.

18 THE COURT: Okay. Mr. Frick.

19 MR. FRICK: Thank you, Your Honor.

20 PRETRIAL CROSS-EXAMINATION

21 PRESTON DAVIS BY MR. FRICK:

22 Q. Investigator Davis, you said that y'all received a
23 Crime Stop tip?

24 A. Yes, sir.

25 Q. Okay. And this Crime Stopper tip said that there were

1 being drugs being sold out of that residence?

2 A. Yes, sir.

3 Q. Didn't give any particulars about who was selling these
4 drugs?

5 A. I believe the Crime Stoppers tip said Charlie Outen.

6 Q. Charlie Outen?

7 A. Correct.

8 Q. Not Jennifer Blair McNaughton.

9 A. Correct.

10 Q. Okay.

11 THE COURT: Last name is Outz?

12 THE WITNESS: Outen, O-u-t-e-n.

13 THE COURT: O-u-t-e-n?

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay.

16 Q. And I'll ask you this outside the presence of the jury.
17 Are you familiar with Mr. Outen?

18 A. I am.

19 Q. Have you dealt with him in your line of work?

20 A. Previous -- or prior to date, yes. Prior to that
21 traffic stop, I don't believe so.

22 Q. Not prior to that traffic stop?

23 A. Correct.

24 Q. Okay. Well, I mean, in the video Ms. McNaughton says
25 oh, he's worked with y'all before. Were you aware of that?

1 A. No, sir.

2 Q. Okay. All right. The traffic stop was conducted
3 solely by narcotics. Isn't that correct?

4 A. Yes, sir.

5 Q. There were no other Lancaster County Deputies at that
6 traffic stop? They may have arrived later, but --

7 A. Right. At the time of the traffic stop, it was just
8 us. Yes.

9 Q. So it was solely conducted by you and Lockhart. Was
10 anybody else -- was Hammond there?

11 A. From the start, it was just myself and Lockhart and
12 then Hammond and Williamson arrived later.

13 Q. Okay. And to be clear, y'all were in separate
14 vehicles; correct?

15 A. Yes, sir.

16 Q. Okay. You were in a vehicle that -- it's an unmarked
17 vehicle; correct?

18 A. Correct.

19 Q. Lockhart's vehicle unmarked?

20 A. Yes, sir.

21 Q. So no in-car cameras on those?

22 A. No, sir.

23 Q. Okay. But y'all did have body cams?

24 A. Correct.

25 Q. Okay. The body cams that y'all wear, are they the

1 regular body -- the Axon Body Cams that everybody wears?

2 A. At the time they were Watchguard, I believe.

3 Q. Okay. But the typical body cam---

4 A. Yes, sir.

5 Q. ---that all deputies would wear?

6 A. Correct.

7 Q. Okay. Have you seen the body cam recently?

8 A. Yes, sir. I believe I watched it last week.

9 Q. Okay. Are you familiar with body-cam videos in
10 general?

11 A. For the most part, I believe so. Yes.

12 Q. Okay. Okay. Are you aware there's typically a delay
13 from when you cut it on to when you actually hear noise?

14 A. At the time of this traffic stop, ours were not
15 programmed that way. They are now, but they were not at the
16 time of this traffic stop.

17 Q. They were not programmed that -- so there --

18 A. Yes, sir. These were -- these were older body cameras
19 than we currently have.

20 Q. Okay. So there's -- the Judge is looking at me funny.
21 There's no 29-second delay on these; right?

22 A. Correct. The ones at that time were --

23 THE COURT: I'm not looking at you funny, Mr. Frick.

24 Okay?

25 MR. FRICK: I just said that, Judge. I'm sorry.

1 A. At the time, these body cameras, they only recorded
2 when you hit the button. That's when they started.

3 Q. Okay. Okay. All right. So you got the tip that
4 there's this residence drugs being sold out of and you got
5 the name Charles Outen; correct?

6 A. Correct.

7 Q. And then y'all just go to that residence?

8 A. We did surveillance at the location.

9 Q. What's the time frame between, typically, -- I don't
10 know -- not a 100 percent here, but what's the time frame
11 from getting the tip to when y'all go sit on the house?

12 A. We usually start working them immediately, within a few
13 days, weeks.

14 Q. Okay. But in this particular case, did you recall?

15 A. I believe -- I mean, we had worked it -- we had done
16 surveillance at it multiple times. I don't remember the
17 exact time frame of when we'd started.

18 Q. Okay. Multiple times?

19 A. Yes, sir.

20 Q. Had you ever done traffic stops out of it other times?

21 A. I'm having a hard time remembering this date because
22 I've done a lot of traffic stops from that house. I just
23 don't recall if they were before or after this traffic stop.

24 Q. Okay. I understand. All right. And on this
25 particular date, y'all were observing it for, I think you

1 said, 15 to 30 minutes?

2 A. Yes, sir. It wasn't very long.

3 Q. Okay. You said you could see a vehicle. Could you see
4 the license plate?

5 A. You mean when I was sitting at the house?

6 Q. Yes, sir.

7 A. I don't recall.

8 Q. Okay. But we didn't run a plate; right?

9 A. No, sir. I don't remember running a plate.

10 Q. Okay. In fact, you couldn't tell who got into the car;
11 correct?

12 A. Correct. Correct.

13 Q. So y'all were some distance away?

14 A. Right.

15 Q. Whereabouts were you?

16 A. I was probably somewhere on Great Falls Highway,
17 because that area there's really nowhere to sit in there.
18 It's a residential area, a lot of houses everywhere.

19 Q. Okay. So you can't see who gets in it. You can't see
20 if they've got anything. You got no idea what's -- you just
21 see somebody getting get into a car?

22 A. I just see the vehicle at the house and then I see the
23 vehicle away from the house.

24 Q. Well, at some point you see somebody get into the car?
25 Or was that not you?

1 A. I wasn't positioned where I could physically see the
2 house.

3 Q. Okay. Well, you testified somebody saw somebody get
4 into the car. Who saw somebody get into the car?

5 A. I don't know that anybody seen anybody getting into the
6 car. I seen the vehicle leaving the house, like traveling
7 down High Point Circle.

8 Q. Okay. Okay. All right. And it didn't drive itself?

9 A. Correct. I could assume that someone got in the car.

10 Q. Somebody got into the car.

11 A. Right. Right.

12 Q. And when you stopped it, somebody was in the car?

13 A. Correct.

14 Q. Okay.

15 A. Correct. Correct.

16 Q. Okay. At any point before you initiated the traffic
17 stop, did you run the tag?

18 A. When I called off the traffic stop, I probably gave it
19 to dispatch and they were running it in the course of -- the
20 course of that.

21 Q. Okay. Do you know who the tag came back to?

22 A. I don't recall.

23 Q. Okay. And you were the officer that conducted the
24 traffic stop; correct?

25 A. Correct.

1 Q. And you're the one who approached the vehicle; correct?

2 A. Correct.

3 Q. Obviously, she was nervous. She says that in the
4 video; right?

5 A. Yes, sir.

6 Q. And it's observable; right?

7 A. Right.

8 Q. Okay. You asked her to get out of the car; correct?

9 A. Correct.

10 Q. Okay. Any particular reason at that point you want her
11 to get out of the car? I guess 'cause she was evasive?

12 A. Yes, sir. I -- it was -- the truck sat a little
13 higher, so I couldn't -- I didn't have that great of a view
14 inside the -- inside the vehicle.

15 Q. Okay. When she got out, the door was still open,
16 wasn't it?

17 A. I believe so. Yes, sir.

18 Q. Okay. When you asked her for some information that
19 gave her name, she jumped back into the car, didn't she?

20 A. Yes, sir.

21 Q. And y'all told he to get back out; right?

22 A. Right.

23 Q. Okay. And I'm trying to recall, was there four doors
24 on that car or was there just two?

25 A. I believe it's an extended cab.

1 Q. Okay.

2 A. So it would have been like, I guess you'd call it half
3 a door.

4 Q. Okay. There was some additional there; right?

5 A. Right.

6 Q. All right. And that door was left open too; right?

7 A. I don't -- I don't recall.

8 Q. Okay. In fact, when she got back out of the car,
9 you're the one who found the paperwork with her name on it,
10 isn't it? Isn't that correct?

11 A. She gave it to me out of her pocket. It was like a
12 debit card or credit card.

13 Q. Okay. But did you not hop into the truck looking for
14 something with her name on it?

15 A. I don't -- I don't recall if I did or not.

16 Q. Okay. All right. But the doors are open at some -- at
17 least the one door is open?

18 A. Right.

19 Q. And obviously you're law enforcement, you're looking;
20 right?

21 A. Right.

22 Q. For anything in plain sight; right?

23 A. Right.

24 Q. Okay. You didn't see anything in plain sight, did you?

25 A. No.

1 Q. Okay. All right. Let's talk about the -- this -- the
2 consent to search. You asked her to consent to search and
3 she initially said I don't want you to; right?

4 A. Right.

5 Q. Or something to that effect.

6 A. Right.

7 Q. I'm not trying to say -- and I'm not trying to say that
8 you said what you said was her exact words.

9 A. Right.

10 Q. But she said no, I don't want you to look in the car,
11 but you pressed further; correct?

12 A. I don't recall what the exact conversation was.
13 Without watching my camera right now, I don't want to speak
14 --

15 Q. Don't worry about that, but you asked her additional
16 questions like you -- why don't you want us to look in the
17 car or something to that effect?

18 A. I'm not saying you're lying. I'm just saying I don't
19 remember. I could have.

20 Q. Good, 'cause it's on the body cam. All right. All
21 right. But you don't disagree that you likely asked
22 additional questions?

23 A. Yes, sir. Yes, sir.

24 Q. And at some point she said I don't really want you to,
25 but I guess you can.

1 A. She said I don't want you to, but you can. Yes, sir.

2 Q. Right. But that's after she had said no and then you
3 continued to question?

4 A. If that's what you're saying the body camera says. I
5 --

6 Q. Okay.

7 A. -- I don't recall exactly.

8 Q. All right. And then after she says, well, I guess you
9 can. You say okay, I'm going to get my warning book. Is
10 that right?

11 A. Yes, sir.

12 Q. Okay. And then Agent Lockhart takes her to the back of
13 the vehicle. You may not know that part, I guess, because
14 you were walking off.

15 A. I will say when I walked back over there she was at the
16 back of the truck.

17 Q. Okay.

18 A. I don't know how she got there, but, yes, sir.

19 Q. Okay. All right. But as soon as she said consent to
20 search, Agent Hammond's in the vehicle?

21 A. I would assume so, yes, sir.

22 Q. Okay. I mean, it didn't take long once y'all say she'd
23 given consent that Agent---

24 A. Right.

25 Q. ---Hammond says I found something; right?

1 A. Right.

2 Q. Okay.

3 THE COURT: Is that Officer Hammond?

4 MR. FRICK: H-a- --

5 THE COURT: -- m-m-o-n-d.

6 MR. FRICK: -- m-m-o-d. Yes, sir.

7 THE COURT: Okay.

8 Q. And we'll see it on the body cam, but at no time
9 did she say yeah, those drugs are mine. Is that fair to
10 say?

11 A. Yes. That's fair to say.

12 Q. In fact, she indicated it might have been planted on
13 her?

14 A. Correct. But she told me exactly what it was, so --

15 Q. Right. Well, I mean, there ain't but so many guesses,
16 are there?

17 A. Well, there's more drugs than you would think.

18 Q. I get that. But, I mean, were you surprised that it
19 was meth then?

20 A. No, sir.

21 Q. Okay. Other than her being, I guess we'll call it, the
22 evasive maneuver when she hit the curb and went into the
23 parking lot and y'all weren't exactly sure what she was
24 doing, did she give any reason for pause?

25 A. You mean in her demeanor?

1 Q. Yeah.

2 A. I mean, she was obviously nervous that something
3 outside the normal traffic stop was going on.

4 Q. Right. Okay.

5 A. She was leaving a house that we had a drug complaint
6 on.

7 Q. Right. But other than you thinking that something was
8 wrong, did you see anything that indicated that there
9 was --

10 A. No, sir. I didn't see anything. She also didn't have
11 a driver's license on her, so we had to confirm who she was.

12 Q. Right. And y'all did that; right?

13 A. Yes, sir.

14 Q. Were there any outstanding issues with that?

15 A. Her driver's license was suspended, but she didn't have
16 any warrants or anything like that.

17 Q. But y'all didn't know that at the time?

18 A. I did not know that at the time. Correct.

19 Q. And y'all didn't know that until after you'd already
20 taken her into custody for --

21 A. Correct.

22 Q. -- for this case?

23 A. Correct.

24 Q. Okay. All right. Thank you, sir.

25 MR. FRICK: I believe that's all the questions

1 I have.

2 THE COURT: Solicitor, anything on follow-up?

3 MR. CUTHBERTSON: Just briefly, Your Honor.

4 THE COURT: Sure.

5 MR. CUTHBERTSON: Just briefly, Your Honor.

6 PRETRIAL REDIRECT EXAMINATION

7 PRESTON DAVIS BY MR. CUTHBERTSON:

8 Q. Investigator Davis, how long were you behind this
9 vehicle before you stopped it? I guess from leaving the
10 home to where you stopped her, how was long was that?

11 A. It was a pretty short distance for a traffic stop. I'd
12 say maybe a mile or so between me getting behind the
13 vehicle, observing the violation, calling it all to dispatch
14 and activating my blue lights.

15 Q. As far as the car that the defendant was in, do you
16 know if it was registered to that location?

17 A. I don't recall what the registration of the vehicle
18 was.

19 Q. And as far as the consent that you -- as far as consent
20 goes, when you talked to her and you asked her for consent,
21 how long between the no -- how much time elapsed between
22 when she told you no versus when she told you yes?

23 A. A very short amount of time. I don't know exactly, but
24 if I had to guess it'd be less than a minute.

25 Q. Who else -- was anybody else around you when you asked

1 for consent?

2 A. Myself and Lieutenant Lockhart.

3 Q. And just as a brief summary, can you tell the Court
4 what the initial reason was for you stopping the car to
5 begin with?

6 A. The defective brake light.

7 MR. CUTHBERTSON: No further questions at this time,
8 Your Honor.

9 THE COURT: Okay. Mr. Frick, anything in --

10 PRETRIAL RECROSS EXAMINATION

11 PRESTON DAVIS BY MR. FRICK:

12 Q. Do you recall when you told her the reason for the
13 traffic stop, the real reason for the traffic stop?

14 A. I know it wasn't immediate. It was -- I'm not exactly
15 sure when. I think she maybe -- I know she didn't know why
16 she was getting stopped and I told her.

17 Q. Right. Right. About --

18 A. I don't recall how far into the traffic stop that was.

19 Q. About three and a half minutes in. Is that fair to
20 say?

21 A. Sure.

22 Q. Okay. Thank you, sir.

23 THE COURT: I've got a couple of questions. Just give
24 me a second. Okay. Officer, you said you've had some prior
25 experience with this Charlie Outen?

1 THE WITNESS: Yes, sir.

2 THE COURT: What kind of experience? Prior arrest,
3 prior --

4 THE WITNESS: Yes, sir, prior arrest. He's been in
5 vehicles we've pulled over and gotten narcotics out of.

6 THE COURT: Okay. Prior arrest for drugs?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. All right. And you said that this
9 particular residence, [REDACTED] High Point Circle, you've done
10 previous surveillance -- had done previous surveillance
11 prior to the night in question?

12 THE WITNESS: I believe so. Yes, sir.

13 THE COURT: Okay. And that was for purposes of drug
14 surveillance?

15 THE WITNESS: Yes, sir.

16 THE COURT: And you indicated that you did not have any
17 in-car video?

18 THE WITNESS: No, sir.

19 THE COURT: Was your body cam turned on to show --
20 again, I haven't looked at the flash drive yet, but was your
21 body cam turned on to be able to show the driving? I don't
22 know if it goes over the dashboard or not.

23 THE WITNESS: No. No, sir. The way it's positioned on
24 my vest, when I'm inside my car all it sees is my steering
25 wheel.

1 THE COURT: Okay.

2 THE WITNESS: But I believe in this specific stop I
3 didn't turn it on until I got out of the car.

4 THE COURT: All right. So I don't -- the flash drive
5 the State provided to me only shows once you get out of your
6 vehicle from that point forward?

7 THE WITNESS: Correct.

8 THE COURT: Okay. Gotcha. And I think this was in
9 response to one of Mr. Frick's questions. After you
10 initially asked her name, she jumped back into the car?

11 THE WITNESS: Yes, sir. She -- I asked about anything
12 that she had with her name on it so I could confirm her
13 name.

14 THE COURT: Oh. That's why she jumped back in.

15 THE WITNESS: Yes, sir.

16 THE COURT: Okay. Gotcha. All right. Now, Officer,
17 do you believe that you had a reasonable suspicion of
18 criminal activity on the part of the defendant in this
19 case?

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay. And can you go through those points
22 that you believe would establish your reasonable suspicion
23 of criminal activity?

24 THE WITNESS: Yes, sir. To start, the reason I was
25 over there was for the Crime Stoppers tip of narcotics being

1 sold out of the location.

2 THE COURT: Okay.

3 THE WITNESS: Once she left the location, got the
4 traffic violation, I conducted the traffic stop. There was
5 the abrasive move into the parking lot that is not a normal
6 way to get into the parking lot to yield to law enforcement.
7 Once I approached the vehicle, she was visibly nervous even
8 in the way she was talking and she even admitted that she
9 was nervous. Once I got her out of the vehicle and I
10 started to question her about being nervous, she blamed it
11 on the presence of law enforcement, saying that anybody
12 would be that nervous in that situation, but I've done
13 hundreds of traffic stops and it was a different nervous
14 than a normal nervous for a traffic stop.

15 THE COURT: Okay.

16 THE WITNESS: When I began asking her about, you know,
17 illegal activity or stuff being illegal inside the vehicle,
18 she still continued that same nervous demeanor where she
19 would look to the truck, look back to me, tell me there
20 wasn't anything in there. Based off my experience,
21 oftentimes when people are looking around like that, they
22 typically look to exactly where the contraband is that I'm
23 asking about.

24 THE COURT: All right. Okay. All right. Thank you.

25 In response to the Court's questions, Solicitor, do you

1 have any questions of this officer?

2 MR. CUTHBERTSON: Yes, Your Honor, just briefly.

3 PRETRIAL REDIRECT EXAMINATION

4 PRESTON DAVIS BY MR. CUTHBERTSON:

5 Q. Investigator, do you recall any conversation about
6 somebody potentially planting drugs in this vehicle?

7 A. Yes, sir. Once the narcotics were found, Ms.

8 McNaughton stated that she suspected that Mr. Outen planted
9 it in the vehicle. She stated that she felt like it was all
10 a setup.

11 Q. Now, was that in response to any questioning or was
12 that just --

13 A. I just believe that was just once -- once she -- once
14 she was placed in handcuffs and we told her that it was
15 narcotics inside the vehicle.

16 Q. And did you -- have you had any prior experience before
17 this date with Ms. McNaughton?

18 A. I believe this encounter was my first.

19 MR. CUTHBERTSON: No further questions at this time.

20 THE COURT: Mr. Frick, in direct response to any of the
21 Court's questions, do you have anything of this officer?

22 MR. FRICK: Just to clarify.

23 PRETRIAL RECROSS EXAMINATION

24 PRESTON DAVIS BY MR. FRICK:

25 Q. You said you had issues with -- you had dealt with Mr.

1 Outen before, but not Ms. McNaughton?

2 A. I know this was the first time that I'd met with Ms.
3 McNaughton.

4 Q. Okay.

5 A. Mr. Outen, I don't know if this -- if I'd met him
6 previously or not, we've encountered each other.

7 Q. Okay. Okay. So you don't know whether you've met with
8 him in his vehicle before?

9 A. This was the first time I've pulled this vehicle over.

10 Q. First time?

11 A. I know that when I've pulled him over in the past, it's
12 different vehicles.

13 Q. Okay.

14 A. It's not in that vehicle.

15 Q. And one of the things you said was reason for suspicion
16 is 'cause she was looking around the vehicle?

17 A. Yes, sir. Like she was -- she was faced towards me and
18 when I asked her about anything, she would look over to the
19 truck.

20 Q. Okay. All right. Thank you, sir.

21 THE COURT: You can step down, sir. Thank you.

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. Let's take a short break before we
24 continue with any pretrial on this issue. The clerk is
25 telling me that we have a member of the jury panel who does

1 not speak English and so that would make it somewhat
2 difficult. Doesn't speak English, then probably has some
3 difficulty -- not complete, but some difficulty in
4 understanding English. It would appear that we would need
5 to excuse that juror.

6 MR. CUTHBERTSON: No objection from the State, Your
7 Honor.

8 THE COURT: Okay.

9 MR. FRICK: No objection.

10 THE COURT: Okay.

11 MR. FRICK: You can cut him loose.

12 (Whereupon, discussion was held off the record.)

13 MR. FRICK: Judge?

14 THE COURT: Yes.

15 MR. FRICK: Before we break, my client indicated that
16 she had an issue regarding representation she'd like to take
17 up with the Court. I don't know if you want to do that now.
18 I just told her I would make the Court aware of that, so --

19 THE COURT: Yeah. I mean, if she wants to testify for
20 purposes of this in camera pretrial hearing,---

21 MR. FRICK: Yes, sir.

22 THE COURT: ---I'll give her more -- every opportunity
23 to do so. Let's go ahead and take that up after we do jury
24 qualification and selection, then.

25 MR. FRICK: I mean, she wants -- she has an issue

1 regarding legal representation.

2 THE COURT: Oh, okay. All right. Okay. Well, we need
3 to deal with that now then. Okay.

4 All right. Ms. McNaughton, stand and I need to swear
5 you in and then I'll be glad to hear from you on the issue
6 of legal representation. Ms. McNaughton, raise your right
7 hand.

8 (Oath administered by the Court)

9 THE COURT: Okay. You can put your hand down, but
10 remaining standing if you don't mind. All right. You're
11 the defendant in this case, Jennifer Blair McNaughton. I'll
12 be glad to hear from you.

13 MS. MCNAUGHTON: My concern is not that -- he seems to
14 be a very adequate attorney. It's that he only received my
15 case just recently. He's actually the third public defender
16 that I've had. This event happened over three years ago and
17 we actually haven't -- I really haven't even gotten to
18 discuss with him my version of -- 'cause I know there's
19 always, you know, my version and their version and then
20 there's what they say is the truth, but I know that I
21 haven't gotten to really explain to him---

22 THE COURT: Okay.

23 MS. MCNAUGHTON: ---my side of the case.

24 THE COURT: Sure.

25 MS. MCNAUGHTON: And he's -- he's done an outstanding

1 job for the time frame that he's had, but we only met less
2 than a week ago and I just don't feel like for a charge this
3 substantial, that that's adequate time to -- I mean, I'm not
4 an attorney, but I don't feel like that's adequate time. I
5 guess based on that and the fact that we're proceeding even
6 though I'm having concerns, that's what causes me to
7 believe that I might need to retain a counsel, another
8 counsel.

9 THE COURT: Well, I've known Mr. Frick for a long time
10 and I'm not saying this just because he's standing in front
11 of me,---

12 MS. MCNAUGHTON: That's all right.

13 THE COURT: ---but I can tell you he's an excellent
14 attorney, extremely experienced, been doing this a long
15 time. Secondly, he's made no indication to me that he feels
16 like he needs additional time in order to prepare for this
17 case. Thirdly, if I deny the motion to suppress, and I have
18 no idea how I'm going to rule on the issue, but if I deny
19 the motion to suppress, we're not starting this case until
20 tomorrow. So there'll be ample time for you to sit down
21 with Mr. Frick and relay to him your version of what took
22 place, your position, whatever -- anything else you want to
23 tell him. So I'm going to deny your request and we will
24 proceed forward.

25 Certainly, if I grant the motion to suppress, then that

1 -- pretty much the case is over with, but Mr. Frick's going
2 to stay on as your attorney. Certainly, after we get a jury
3 qualified and picked, then there'll be ample time to talk
4 with him, either this afternoon, this evening. If you need
5 more time in the morning, I'll certainly allow for that too.
6 Okay?

7 MS. MCNAUGHTON: So I can't retain other counsel?

8 THE COURT: Well, I'm not going to allow you to do that
9 with this case being on the trial docket and being called to
10 trial. It is a '22, a 2022, case so it's got some age on it
11 and certainly if you had wanted to retain a private
12 attorney, then you had more than enough time to do that.

13 MS. MCNAUGHTON: I wasn't aware that he would be my
14 third public defender---

15 THE COURT: Yeah.

16 MS. MCNAUGHTON: ---and that he would have less than a
17 week. Although, he has done a fantastic job in the time
18 frame that he has.

19 THE COURT: Yeah.

20 MS. MCNAUGHTON: I do feel like I want a private
21 attorney. I don't want to go with the public defender
22 anymore.

23 THE COURT: Well, he hasn't -- Mr. Frick has made no
24 indication to me that he needs a continuance or any more
25 time to prepare for your case. So, again, I'm going to keep

1 Mr. Frick on it and we're going to proceed forward. Okay?

2 Thank you.

3 All right. Be a short recess and we'll get the jury
4 panel in and we'll proceed forward.

5 MR. CUTHBERTSON: Your Honor, may we approach just very
6 quickly?

7 THE COURT: Sure.

8 (Whereupon, a Bench conference was held off the record,
9 out of the hearing of the court reporter.)

10 THE COURT: Let's take a short little recess and I
11 guess just bring the panel in.

12 (Whereupon, a brief recess was observed from 2:20 P.M.
13 until 2:52 P.M.)

14 (Whereupon, the jury panel entered the courtroom at
15 2:52 P.M., and roll call and general qualification of the
16 jury panel was held.)

17 THE COURT: Okay. We're back on the record. I'm told
18 that all the members of the jury panel are back in the
19 courtroom.

20 Ladies and gentlemen, this first case that's being
21 called for trial is the *State of South Carolina versus*
22 *Jennifer Blair McNaughton*.

23 Ms. McNaughton, if you would just please stand, face
24 the panel for just one brief second.

25 (Whereupon, the defendant stands, as instructed.)

1 THE COURT: There you go. You can have a seat. Thank
2 you, ma'am.

3 Ms. McNaughton has been charged and indicted with one
4 criminal offense. I'm going to read the indictment to you,
5 but before I do let me explain to you what an indictment is.
6 An indictment is a document that gets us into court where we
7 are today and it also puts the defendant and the defendant's
8 attorney on notice of the charge that the State intends to
9 try her on. The indictment is not -- the indictment is not
10 proof of any guilt on the defendant's part. Again, it's the
11 mechanism to get us into court today and to put notice or to
12 give notice to the defendant and her attorney. So the fact
13 that she's been indicted in this case cannot be used against
14 her and, once again, it is not proof of any guilt on her
15 part, but I'm going to read the indictment to you so you'll
16 know what the charge is about. It is trafficking in
17 methamphetamine 10 grams or more, but less than 28 grams and
18 it reads as follows: that Jennifer Blair McNaughton did in
19 Lancaster County, South Carolina, on or about January 5th,
20 2022, did knowingly sell, manufacture, deliver, purchase or
21 bring into the state or provided financial assistance or
22 otherwise aided, abetted, attempted or conspired to sell,
23 manufacture, deliver, purchase or bring into the state, or
24 knowingly did actually or constructively possess or did
25 knowingly attempt to become in actual or constructive

1 possession of 10 grams or more, but less than 28 grams of
2 methamphetamine, in violation of Statute 44-53-
3 375, subsection C(1), Code of Laws for South Carolina as
4 amended.

5 Right now, these are merely allegations and the burden
6 of proof is on the State to prove these allegations to you
7 and I'll explain a lot more in detail about that.

8 So I'm going to ask you a series of questions about
9 this case. The same rules apply. If you need to respond to
10 a question or questions and you're reluctant to do so in
11 front of everybody, I'll speak with you privately and
12 there are several questions that I'll be asking you that I
13 will direct you not to respond in front of everybody, but do
14 so privately. Okay? But if you do respond where you're
15 seated, once again, please speak up loud and clear so that
16 everyone can hear you.

17 Any member of the jury panel related by blood or
18 marriage, either now or formerly to the defendant, Ms.
19 McNaughton? I'm not going to give her full name. Her full
20 name's Jennifer Blair McNaughton. I'll just refer to Ms.
21 McNaughton. Anybody -- any member of the jury panel related
22 by blood or marriage, either now or formerly, to Ms.
23 McNaughton? If so, please stand.

24 (No one stands)

25 THE COURT: Any member of the jury have or had in the

1 past a close personal or social relationship with Ms.
2 McNaughton? If so, please stand.

3 (No one stands)

4 THE COURT: I'm going to read to you a list of
5 potential witnesses in this case. I say potential because
6 they may or may not testify: Investigator Preston Davis,
7 Lancaster County Sheriff's Office; Lieutenant Ed Lockhart,
8 Lancaster County Sheriff's Office; Investigator Khoury
9 Hammond, with SLED. That's the South Carolina Law
10 Enforcement Division, SLED. Investigator Scott Williamson
11 with Lancaster County Sheriff's Office; Sergeant Kerry
12 Aldridge, Lancaster County Sheriff's Office; Willie Smith
13 III, with SLED; Ann Horton with Lancaster County Sheriff's
14 Office.

15 Any member of the jury panel related by blood or
16 marriage, either now or formerly, to any of those people I
17 just named? Or any member of the jury panel have or had in
18 the past a close personal or social relationship with any of
19 those people I've just named? If so, please stand.

20 Okay. All right. I've got one. Name and number, sir?

21 JUROR: Sixty-one, Jason Faile.

22 THE COURT: Okay. And you're related or know, close
23 relationship with any of those witness?

24 JUROR: It's not close. I just know Preston.

25 THE COURT: Sir?

1 JUROR: I just know Preston.

2 THE COURT: You know Preston. Would you consider
3 having a close personal or social relationship with Preston
4 Davis?

5 JUROR: No, sir.

6 THE COURT: Okay. Thank you. You can have a seat.
7 Okay. I've got one. Yes, ma'am; name and number?

8 JUROR: 184. It was Kerry Aldridge.

9 THE COURT: Aldridge?

10 JUROR: Uh-huh.

11 THE COURT: Do you consider yourself having a close
12 personal or social relationship with Officer Aldridge?

13 JUROR: No. I haven't seen him in like a --

14 THE COURT: Okay. All right. Thank you. Have a seat.

15 All right. I'm going to give the attorneys involved in
16 this case an opportunity to introduce themselves. I know
17 these attorneys very well and I can tell you -- and I can't
18 say this about every lawyer that appears in my court, but I
19 can say it about these three lawyers. They are excellent
20 lawyers and I'm sure will do a very good job in this case.

21 I'll allow the State to proceed first.

22 MR. CUTHBERTSON: Julian Cuthbertson for the State.

23 MS. EASLER: Kaitlyn Easler for the State.

24 THE COURT: Defense?

25 MR. FRICK: Good afternoon, ladies and gentlemen. My

1 name is William Frick. I practice criminal law in
2 Lancaster, Chester and Fairfield County.

3 THE COURT: Any member of the jury panel ever been
4 represented by any of the attorneys involved in this case or
5 anyone in their respective offices? If so, please stand.

6 (No one stands)

7 THE COURT: Any member of the jury panel related by
8 blood or marriage, either now or formerly, or have or have
9 in the past a close personal or social relationship with any
10 of the attorneys involved in this case or anyone in their
11 respective offices? If so, please stand?

12 (No one stands)

13 THE COURT: Any member of the jury panel already formed
14 or expressed any opinion about any issue or matter involved
15 in this case? If so, please stand.

16 (No one stands)

17 THE COURT: Any member of the jury panel aware of any
18 bias or prejudice towards either the State or the defendant
19 in this case? If so, please stand.

20 (No one stands)

21 THE COURT: Is there any member of the jury panel who
22 is a member of or a contributor to any group which has as
23 its primary concern the promotion of law enforcement or
24 victims' rights and these groups would include, certainly
25 not limited to, and I'll give you the acronyms, MADD, SADD,

1 or CAVE, Innocence Project, South Carolina Law Enforcement
2 Association, Fraternal Order of Police, or any organization
3 such as those, a member of or a contributor to? If so,
4 please stand.

5 (No one stands)

6 THE COURT: Any member of the jury panel have any bias
7 or ill will towards either prosecutors, law enforcement or
8 defense attorneys? If so, please stand.

9 (No one stands)

10 THE COURT: Any member of the jury panel ever served as
11 a Guardian ad Litem in any particular legal case? If so,
12 please stand.

13 (No one stands)

14 THE COURT: Any member of the jury panel ever worked
15 for, served as a volunteer or served on the board of
16 directors or in any other capacity associated with any
17 organization advocating defendants' or prisoner rights?
18 Ever worked for, volunteered, or served on the board of any
19 such organization. If so, please stand.

20 (No one stands)

21 THE COURT: Any member of the jury panel ever received
22 services -- well, I'm going to hold off on that one and that
23 would be one where I'll ask for you to come down and speak
24 with me privately.

25 Any member of the jury panel who's ever served

1 previously on a jury in either State or Federal Court in a
2 criminal case? If so, please stand. Ever served on a jury
3 in a criminal case, State Court, Federal Court.

4 And you don't need to tell us the nature of
5 the case, but do you recall the -- first, give us your name
6 and number.

7 JUROR: Travis Glenn, 76.

8 THE COURT: Okay. And can you tell us the verdict that
9 your jury reached in that case?

10 JUROR: Guilty.

11 THE COURT: Guilty? Okay. Thank you. You can have a
12 seat.

13 Any member of the jury panel ever been a witness in a
14 criminal case, regardless of whether or not the case went to
15 a trial? Ever been a witness in a criminal case. If so,
16 please stand.

17 (No one stands)

18 THE COURT: Any member of the jury panel or any of your
19 immediate family members ever serve or sought employment in
20 law enforcement in any capacity, deputy sheriff, trooper or
21 constable, military police, border patrol, probation officer
22 and the like? Any member of the jury panel or any of your
23 immediate family members.

24 Okay. Let's go ahead and start in front. Sir, your
25 name and number?

1 JUROR: Jacob Mcleod, 121.

2 THE COURT: And yes, sir.

3 JUROR: Military Police in the Marine Corps.

4 THE COURT: Is that you?

5 JUROR: Yes, sir.

6 THE COURT: Okay. All right. Would that affect your
7 ability to be fair and impartial to both sides in this case?

8 JUROR: No, sir.

9 THE COURT: All right. Have a seat.

10 Ma'am, name and number?

11 JUROR: I'm Erika Debonis, 52. My stepdad was the
12 Chief of Police for Bergen County, New Jersey.

13 THE COURT: Okay. Would that in any way affect your
14 ability to be fair and impartial to both sides?

15 JUROR: No, sir.

16 THE COURT: Thank you. Have a seat.

17 Ma'am, name and number?

18 JUROR: Kathy Lewis(ph). My cousin is an officer
19 now.

20 THE COURT: Your husband is currently an officer?

21 JUROR: My cousin.

22 THE COURT: Your cousin?

23 JUROR: Yes, sir.

24 THE COURT: Okay. Would that affect your ability in
25 any way to be fair and impartial?

1 JUROR: No, sir.

2 THE COURT: All right. Thank you.

3 Ma'am, name and number?

4 JUROR: My number is 33. My husband's retired law
5 enforcement and my father-in-law.

6 THE COURT: Okay. Would that in any way affect your
7 ability to be fair and impartial?

8 JUROR: No.

9 THE COURT: Thank you.

10 Ma'am, right behind there?

11 JUROR: Emily McNeely, retired U.S. Probation Officer,
12 Western District of North Carolina.

13 THE COURT: Okay. All right. The fact that you're a
14 retired probation officer, would that in any way affect your
15 ability to be fair and impartial to both sides?

16 JUROR: No.

17 THE COURT: Thank you, ma'am.

18 And, ma'am, in the back, name and number?

19 JUROR: Wendy Alcock, number 1.

20 THE COURT: Okay.

21 JUROR: My husband's a retired Salt Lake City Police
22 Department and FBI.

23 THE COURT: Okay. Would that in any way affect your
24 ability to be fair and impartial to both sides?

25 JUROR: No.

1 THE COURT: Okay. Thank you, ma'am.

2 Any member of the jury panel ever work for or sought
3 employment with a prosecutor's office? In South Carolina we
4 call the prosecutor a solicitor. It's the same thing. Ever
5 worked for or sought employment with any prosecutor's
6 office. If so, please stand.

7 (No one stands)

8 THE COURT: Any member of the jury panel ever worked
9 for or sought employment with as a security guard or any
10 employment in the field of security? If so, please stand.

11 (No one stands)

12 THE COURT: Any member of the jury panel ever received
13 any law enforcement or legal training? If so, please stand.

14 (No one stands)

15 THE COURT: Any member of the jury panel or any member
16 of your immediate family ever worked for an attorney? If
17 so, please stand.

18 (No one stands)

19 THE COURT: Any member of the jury panel read or posted
20 anything about this case on social media, Facebook,
21 Instagram, and the like?

22 (No one stands)

23 THE COURT: Okay. All right. Let's do this: when we
24 form a line to speak to me privately, get in that line.
25 Okay?

1 Any member of the jury panel who has any reservations
2 about -- no matter how small that they may seem -- about
3 sitting as a juror in this case? Anybody have any
4 reservations?

5 (No one stands)

6 THE COURT: Would any member of the jury panel give
7 greater or lesser weight to the testimony of a police
8 officer merely because of his or her status as a police
9 officer, greater or lesser weight? If so, please stand.

10 (No one stands)

11 THE COURT: Would any member of the jury panel have any
12 difficulty in following the principle that a defendant on
13 trial, in a criminal trial, is presumed to be innocent and
14 must be found not guilty of the charge unless each and every
15 element, essential element of the offense charged, is proven
16 by the State beyond a reasonable doubt? And that reasonable
17 doubt standard will be fully explained to you at a future
18 point in time. Would anybody have any difficulty following
19 that principle? If so, please stand.

20 (No one stands)

21 THE COURT: I have seven questions that I'll be asking
22 you and I'll break them down in probably two groups, make
23 it a little bit easier to follow, that if you need to
24 answer, then you need to do so privately with me. So the
25 first group will start off with three questions. Okay?

1 I'll read them and then I'll read them again.

2 One, any member of the jury panel or any of your
3 immediate family members ever been a victim of a crime?

4 Two, any member of the jury panel ever received
5 services from a victims' advocate program such as Palmetto
6 Citizens Against Sexual Assault, Sister Care, State Office
7 of Victims Assistance?

8 And three, any member of the jury panel who suffers
9 from any condition that would make it difficult to give the
10 parties your full attention and fair consideration if you
11 were selected on the trial jury? I'll read those to you
12 again.

13 One, any member of the jury panel ever been a victim of
14 a crime?

15 Two, any member of the jury panel ever received
16 services from a victims' advocate program, such as Palmetto
17 Citizens Against Sexual Assault, Sister Care, the State
18 Office of Victims Assistance?

19 And three, any member of the jury panel who suffers
20 from a condition that would make it difficult to give the
21 parties your full attention and fair consideration if you
22 were selected on the trial jury?

23 So does anybody need to respond to either or some or
24 all of those three questions? If so, please stand.

25 Okay. All right. Now, I have the next group -- oh.

1 Okay. Come on, Lawyers, and we'll talk with him.

2 BAILIFF: Juror Number 90.

3 THE COURT: Come up a little closer. Your name?

4 JUROR: Rodney Hubbard.

5 THE COURT: Okay. Yes, sir. What do you need to tell
6 me?

7 JUROR: You mentioned personal crimes.

8 THE COURT: Ever been a victim of a crime?

9 JUROR: Yes; yes.

10 THE COURT: Okay. You were a victim?

11 JUROR: Yes.

12 THE COURT: Okay.

13 JUROR: Home robbery.

14 THE COURT: Home robbery. How long ago was that?

15 JUROR: Thirteen years.

16 THE COURT: Okay. The fact that you were a victim of a
17 home robbery thirteen years ago, would that affect your
18 ability to be fair and impartial to both side?

19 JUROR: No, sir.

20 THE COURT: Okay. Thank you. Stay with us.

21 JUROR: Okay.

22 THE COURT: This juror stays with us.

23 BAILIFF: Juror 144.

24 THE COURT: What's your name, ma'am?

25 JUROR: Lakeisha Garrison(ph).

1 THE COURT: Okay. And which question do you need to
2 respond to?

3 JUROR: It's for one, a victim.

4 THE COURT: You were a victim of a crime?

5 JUROR: No. My son was a victim. He was killed on
6 South Carolina ground---

7 THE COURT: Okay.

8 JUROR: ---anniversary(ph) and I don't think I would.

9 THE COURT: You think that would affect your ability to
10 be fair and impartial?

11 JUROR: Yeah. It will. It will. Yeah.

12 THE COURT: Okay. I'll excuse you. You're free to go.

13 JUROR: Thank you.

14 THE COURT: This juror's excused.

15 Y'all can just stay if you think -- y'all want to just
16 stay there if we get any others.

17 Okay. The next group will be four questions and I'll
18 do the same thing, I'll read them twice.

19 Any member of the jury panel or any of your immediate
20 family members ever been charged with any drug-related
21 offenses?

22 Any member of the jury panel or any of your immediate
23 family members ever been arrested by law enforcement in the
24 city or county of Lancaster?

25 Third, and member of the jury panel or any of your

1 immediate family members ever been prosecuted for a crime by
2 a solicitor's office or district attorney's office?

3 And four, any member of the jury panel have any
4 religious, philosophical, or moral reasons why you could not
5 find the defendant guilty if you believe that the defendant
6 had committed a crime? And to kind of further this
7 question, any member of the jury panel have any religious,
8 philosophical, or moral reasons, which would cause you to be
9 unable to, quote, "sit in judgment", end quote, of another
10 person.

11 Let me read through those four questions again. One,
12 any member of the jury panel or any of your immediate family
13 members ever been charged with any drug-related offenses?

14 Two, any member of the jury panel, any of your
15 immediate family members ever been arrested by law
16 enforcement in the city or county of Lancaster?

17 Three, any member of the jury panel or any of your
18 immediate family members ever been prosecuted for a crime by
19 a solicitor's office or district attorney's office?

20 And lastly, any member of the jury panel have any
21 religious, philosophical or moral reasons why you could not
22 find the defendant guilty if you believe he -- if you
23 believe the defendant had committed the crime?

24 And any member of the jury panel have any religious,
25 philosophical or moral reasons, which would cause you to be

1 unable to, quote, "sit in judgment" of another person?

2 Okay. I see two people standing. Anybody else need to
3 speak with me privately about any of the four questions?

4 Okay. All right. Form a line, please.

5 BAILIFF: Juror 135.

6 THE COURT: Your name, please, ma'am?

7 JUROR: Teresa Norman.

8 THE COURT: Okay. Yes, ma'am. What --

9 JUROR: My brother, he got arrested for drinking and
10 driving.

11 THE COURT: Okay. Would that in any way affect your
12 ability to be fair and impartial?

13 JUROR: No.

14 THE COURT: Okay. Thank you, ma'am. Stay with us.

15 JUROR: Okay.

16 BAILIFF: Juror number 24.

17 THE COURT: Okay. Yes, sir, your name?

18 JUROR: Jerry Brower(ph).

19 THE COURT: Okay, Mr. Brower(ph).

20 JUROR: My step-son got arrested when he came back from
21 Iraq for possession of a controlled substance.

22 THE COURT: Okay.

23 JUROR: I think it was something they shipped to him.

24 THE COURT: Okay. How long ago was that, roughly?

25 JUROR: 2003.

1 THE COURT: Okay. Would that in any way affect your
2 ability---

3 JUROR: No.

4 THE COURT: ---to be fair and impartial to both sides?

5 JUROR: No, sir.

6 THE COURT: Okay. Thank you. Stay with us, sir.

7 BAILIFF: Juror number 52.

8 THE COURT: Your name, please.

9 JUROR: Erika Debonis.

10 THE COURT: Yes, ma'am.

11 JUROR: My husband was arrested for DUI and possession
12 of marijuana in 2022,---

13 THE COURT: Okay.

14 JUROR: ---but he's clean now.

15 THE COURT: All right. Would that in any way affect
16 your ability to be fair and impartial to both sides?

17 JUROR: No, sir.

18 THE COURT: Thank you. Stay with us.

19 BAILIFF: Juror number 199.

20 THE COURT: Your name, please.

21 JUROR: Kathy Lewis(ph).

22 THE COURT: Okay. What would you like to tell me?

23 JUROR: My husband --

24 THE COURT: Get a little closer, please.

25 JUROR: My husband, before we got married, actually got

1 arrested for assault and battery. It was like in 2018/2019.

2 THE COURT: Would that in any way affect your ability
3 to be fair and impartial to both sides?

4 JUROR: No, sir.

5 THE COURT: Thank you. Stay with us.

6 BAILIFF: Juror number 95.

7 THE COURT: Yes, ma'am, your name?

8 JUROR: Yes, sir. My name is Arthenia Johnson and my
9 son was arrested several years ago with a drug charge.

10 THE COURT: Okay. All right. Would that in any way
11 affect your ability to be fair and impartial in this case?

12 JUROR: No, sir.

13 THE COURT: Thank you, ma'am. Stay with us.

14 BAILIFF: Juror number 27.

15 THE COURT: Yes, ma'am, your name?

16 JUROR: Annette Buchanan.

17 THE COURT: Yes, ma'am, Ms. Buchanan.

18 JUROR: My son has been convicted of drug charges.

19 THE COURT: Okay. How long ago was that, roughly?

20 JUROR: He get in trouble so many times, I can't --

21 THE COURT: Okay. All right. Would that affect your
22 ability to be fair and impartial?

23 JUROR: It doesn't.

24 THE COURT: You could be fair and impartial to both
25 sides?

1 JUROR: Yes.

2 THE COURT: Thank you, ma'am. Stay with us.

3 BAILIFF: Juror number 96.

4 THE COURT: Your name, please.

5 JUROR: Brittney Joiner.

6 THE COURT: Yes, ma'am.

7 JUROR: I have a sister who's out on bond. I have my
8 nephew who is currently locked up right now.

9 THE COURT: Okay. For drug offenses?

10 JUROR: No. Attempted murder.

11 THE COURT: Attempted murder?

12 JUROR: Uh-huh.

13 THE COURT: And what about your other one, drugs or
14 something else?

15 JUROR: No; same thing. Same charges.

16 THE COURT: Same?

17 JUROR: Uh-huh.

18 THE COURT: Okay. All right. Would that affect your
19 ability to be fair and impartial to both sides?

20 JUROR: No.

21 THE COURT: No? Okay. Thank you, ma'am. Stay with
22 us.

23 JUROR: Okay.

24 BAILIFF: Juror number 35.

25 THE COURT: Yes, sir.

1 JUROR: Older son, he's been convicted of a drug
2 charge.

3 THE COURT: Okay.

4 JUROR: And he's currently an addict of meth.

5 THE COURT: Okay. And how long ago was it when he was
6 convicted?

7 JUROR: It was when he was younger, but he's --

8 THE COURT: How long ago, roughly?

9 JUROR: Fifteen years.

10 THE COURT: Fifteen years ago?

11 JUROR: Uh-huh.

12 THE COURT: All right. Can you still be fair and
13 impartial to both sides?

14 JUROR: I don't think so with the meth part of it.

15 THE COURT: Okay.

16 JUROR: I think -- I think I wouldn't be able to.

17 THE COURT: Okay. You got what you wanted. You're
18 excused.

19 JUROR: Thank you.

20 BAILIFF: Juror number 77.

21 THE COURT: Hi. Your name?

22 JUROR: I'm Kerri Goodson.

23 THE COURT: Okay. Yes, ma'am.

24 JUROR: Hey. So I'm just clarifying, I guess, as far
25 as immediate family goes. My uncle was convicted.

1 THE COURT: Okay. How long ago was that?

2 JUROR: I don't even know. I was young. I just don't
3 know.

4 THE COURT: Can you still be fair and impartial to both
5 sides?

6 JUROR: Yes, sir.

7 THE COURT: Thank you, ma'am. Stay with us.

8 JUROR: Okay. Thank you.

9 BAILIFF: Juror number 66.

10 THE COURT: Okay. Yes, ma'am, your name?

11 JUROR: Serene(ph) Fisher.

12 THE COURT: Okay. Yes, ma'am.

13 JUROR: And when you asked about reading about it and
14 all of the --

15 THE COURT: Oh, yeah.

16 JUROR: Yeah.

17 THE COURT: Was it someone --

18 JUROR: So I'm an EMT and I follow Lancaster County
19 Sheriff, the police department, all of that. The other side
20 of that is I have close personal friend who completed drug
21 court in this county and we discussed the particulars of
22 that.

23 THE COURT: Okay. All right. So we got two things.
24 One, did you see a particular posting---

25 JUROR: Where -- yeah.

1 THE COURT: ---concerning this charge?

2 JUROR: When she was arrested. Yes.

3 THE COURT: Okay. Would that in any way affect your
4 ability to be fair and impartial?

5 JUROR: (Shaking head negatively) No.

6 THE COURT: Oh. Okay. And, now, secondly, you have a
7 --

8 JUROR: I have a close personal friend who completed
9 drug court in this county.

10 THE COURT: Okay. Okay. Would that affect your
11 ability to be fair and impartial?

12 JUROR: Yes.

13 THE COURT: It would? Okay. All right. I'll excuse
14 you. You're free to go. This juror's excused.

15 All right. One final question. Of course, with some
16 of you have who have spoken with me privately and maybe a
17 couple of you when you answered out there, I asked could you
18 still be fair and impartial, that's the key, ladies and
19 gentlemen. We want a jury that is comprised of people who
20 can be completely fair and completely impartial to both
21 sides, the State and the defendant, but if you believe
22 there's something else that I haven't covered that'll cause
23 you to say I don't think I can be completely fair and
24 impartial to both sides, then I need to know that. So if
25 that applies to anybody, please stand.

1 (No one stands)

2 THE COURT: Okay. Thank you very much.

3 All right. Does the State have any exceptions to the
4 Court's voir dire or any additional voir dire?

5 MR. CUTHBERTSON: No, Your Honor.

6 THE COURT: How about from the defense?

7 MR. FRICK: None from defense.

8 THE COURT: Okay. All right. Thank you.

9 What will happen next is -- and the computer will just
10 print out a certain number of names at random and then your
11 name will be called out. If your name is called out, or
12 your number, I know Lancaster likes to use numbers, then you
13 will stand and you will hear these lawyers say words
14 something like, please excuse the juror or seat the juror
15 for the trial of this case, or we accept the juror or we
16 don't accept the juror, words of that effect. If you are
17 accepted, then you'll come down and have -- be directed by
18 the bailiffs to have a seat in the jury box. If you're not
19 accepted after your name is called out, please don't take
20 that personally. Don't take personal offense to that.
21 Okay? These good lawyers have certain reasons for wanting
22 some people on the jury and reasons for not wanting others.
23 Okay? So don't take it personal.

24 All right. The strikes are five and five and we'll go
25 with two alternates and two and one on the strikes for the

1 alternates.

2 So just everybody be at ease for just a few moments
3 and then once -- I want the strike list provided to the
4 lawyers and then they can have a few minutes to kind of
5 review things before we start. Okay? So everybody be at
6 ease.

7 (Whereupon, court at ease)

8 MR. CUTHBERTSON: Your Honor, the State is ready to
9 proceed.

10 THE COURT: Okay. All right. Mr. Frick, you close?

11 MR. FRICK: One more minute.

12 THE COURT: Sure.

13 MR. FRICK: Ready, Judge.

14 THE COURT: You ready? Okay. All right.
15 Mr. Clerk.

16 THE CLERK: Yes, sir. Ladies and gentlemen, when I
17 call your number, if I could get you to stand, please.

18 JUROR 123.

19 MS. EASLER: Did you say one?

20 THE CLERK: 123. What says the State?

21 MR. CUTHBERTSON: Please present this juror.

22 THE CLERK: What says defense?

23 MR. FRICK: Please excuse the juror from the trial of
24 this case.

25 THE CLERK: You may have a seat. Thank you.

1 Juror number 33.

2 THE COURT: Just keep your seat, ma'am.

3 JUROR: Okay.

4 THE CLERK: What says the State?

5 MR. CUTHBERTSON: Please present this juror.

6 THE CLERK: What says the defense?

7 MR. FRICK: Please excuse the juror from the trial of
8 this case.

9 THE CLERK: You may have a seat.

10 Juror number 85. What says the State?

11 MR. CUTHBERTSON: Please present this juror.

12 THE CLERK: What says the defense?

13 MR. FRICK: Please seat the juror.

14 THE CLERK: Ma'am, come forward, please, and have a
15 seat in the jury box.

16 Juror number 77. What says the State?

17 MR. CUTHBERTSON: Please present this juror.

18 THE CLERK: What says the defense?

19 MR. FRICK: Please seat the juror.

20 THE CLERK: Ma'am, come down and please have a seat in
21 the jury box.

22 Juror 197. What says the State?

23 MR. CUTHBERTSON: Please present this juror.

24 THE CLERK: What says the defense?

25 MR. FRICK: Please seat the juror.

1 THE CLERK: Ma'am, come down and have a seat in the
2 jury box, please.

3 Juror number 3. What says the State?

4 MR. CUTHBERTSON: Please present this juror.

5 THE CLERK: What says the defense?

6 MR. FRICK: Please seat the juror.

7 THE CLERK: Come down, ma'am. Please have a seat in
8 the jury box.

9 Juror number 6. What says the State?

10 MR. CUTHBERTSON: Please present this juror.

11 THE CLERK: What says the defense?

12 MR. FRICK: Please excuse the juror from the trial of
13 this case.

14 THE CLERK: You may have a seat.

15 Juror 135. What says the State?

16 MR. CUTHBERTSON: Please present this juror.

17 THE CLERK: What says the defense?

18 MR. FRICK: Please seat the juror.

19 THE CLERK: Come have a seat in the jury box, please.

20 Juror 191. What says the State?

21 MR. CUTHBERTSON: Please present this juror.

22 THE CLERK: What says the defense?

23 MR. FRICK: Please seat the juror.

24 THE CLERK: Sir, come down and have a seat in the jury
25 box, please.

1 Juror number 42. What says the State?

2 MR. CUTHBERTSON: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. FRICK: Please seat the juror.

5 THE CLERK: Ma'am, come have a seat in the jury box.

6 Juror number 52. What says the State?

7 MR. CUTHBERTSON: Please present this juror.

8 THE CLERK: What says the defense?

9 MR. FRICK: Please excuse the juror from the trial of
10 this case.

11 THE CLERK: You may have a seat.

12 Juror 189. What says the State?

13 MR. CUTHBERTSON: Please present this juror.

14 THE CLERK: What says the defense?

15 MR. FRICK: Please seat the juror.

16 THE CLERK: Ma'am, come have a seat in the jury box.

17 Juror number 159. What says the State?

18 MR. CUTHBERTSON: Please present this juror.

19 THE CLERK: What says the defense?

20 MR. FRICK: Please seat the juror.

21 THE CLERK: Ma'am, come have a seat in the jury box,
22 please.

23 Juror number 175. What says the State?

24 MR. CUTHBERTSON: Please seat the juror.

25 THE CLERK: What says the defense?

1 MR. FRICK: Please seat the juror.

2 THE CLERK: Ma'am, come have a seat in the jury box,
3 please.

4 Juror number 174. What says the State?

5 MR. CUTHBERTSON: Please excuse this juror.

6 THE CLERK: Sir, you may have a seat.

7 Juror number 155. What says the State?

8 MR. CUTHBERTSON: Please present this juror.

9 THE CLERK: What says the defense?

10 MR. FRICK: Please seat the juror.

11 THE CLERK: If you'll come have a seat in the jury box,
12 please.

13 Juror number 90. What says the State?

14 MR. CUTHBERTSON: Please excuse this juror.

15 THE CLERK: You may have a seat.

16 Juror number 190. What says the State?

17 MR. CUTHBERTSON: Please excuse this juror.

18 THE CLERK: You may have a seat.

19 Juror number 114. What says the State?

20 MR. CUTHBERTSON: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. FRICK: Please seat the juror.

23 THE CLERK: Come have a seat in the jury box, please.

24 THE COURT: Okay. Two alternates, strikes one and two
25 for each one.

1 THE CLERK: Juror number 61. What says the State?

2 MR. CUTHBERTSON: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. FRICK: Please excuse the juror from the trial of
5 this case.

6 THE CLERK: Sir, you may have a seat.

7 Juror number 93. What says the State?

8 MR. CUTHBERTSON: Please present this juror.

9 THE CLERK: What says the defense?

10 MR. FRICK: Please seat the juror.

11 THE CLERK: Come forward, sir, to the jury box. You'll
12 be our alternate, first alternate.

13 Juror number 76. What says the State?

14 MR. CUTHBERTSON: Please present the juror.

15 THE CLERK: What says the defense?

16 MR. FRICK: Please seat the juror.

17 THE CLERK: Come forward, sir. You'll be our second.
18 I believe that's our jury, Judge.

19 THE COURT: Okay. Thank you, Mr. Clerk.

20 Congratulations, ladies and gentlemen, you have been
21 selected as the trial jury in this case. What I want you to
22 do is go back to the jury room for just a few minutes.

23 I'm going to caution you on something, and you'll hear
24 me say this throughout this trial, you cannot begin any
25 discussions about anything related to this case. I know you

1 don't know much about it, but as we start now and as we go
2 through this case, you cannot have any discussions about
3 anything related to this case. Those discussions cannot
4 begin until I tell you to begin those discussions and that
5 is when you start your deliberations in order to reach a
6 verdict in this case. So talk about anything else, get to
7 know each other, and we'll get you back out shortly. Okay?

8 (Whereupon, the jury exited the courtroom at 4:31 P.M.)

9 THE COURT: All right. Does the State have any
10 exceptions to jury selection?

11 MR. CUTHBERTSON: No, Your Honor.

12 THE COURT: And the defense?

13 MR. FRICK: None from the defense.

14 THE COURT: Okay. Ladies and gentlemen, I know that
15 some of you probably are a little disappointed you were not
16 selected and I'm sure that there are some of you that are
17 rather glad that you were not selected.

18 Let me tell you, service on a jury is a very high civic
19 responsibility. Some people say it is the highest civic
20 responsibility that we have, second only to serving in the
21 military, so juries play a very vital, important role in
22 our judicial system.

23 Now, this is Monday. I don't like to excuse the
24 remaining jury panel members for the remainder of the week
25 on Monday. Things happen; we might have to get you back.

1 So what I want you to do is after 6:00 today, either you
2 have been or will be provided before you leave, a number to
3 call and there will be a recorded message. Pretty certain
4 it will say to call back after 6:00 on Tuesday evening, but
5 just keep calling that number until, one, it tells you to
6 come back or, two, it tells you don't call anymore, you're
7 excused for the remainder of the week. Okay? So maybe I'll
8 see you back, maybe not, but don't forget to call that
9 number after 6:00 this evening. Have a good rest of your
10 day.

11 THE CLERK: Can I tell them one thing?

12 THE COURT: Sure. Yes; yes. The Clerk wants to tell
13 you one thing.

14 (Whereupon, the clerk addressed the jury pool regarding
15 work excuses, after which the jury pool exited the courtroom
16 at 4:33 P.M.)

17 THE COURT: Let me see the lawyers for just a minute,
18 please, up here. Doesn't need to be on the record.

19 (Whereupon, a Bench conference was held off the record,
20 out of the hearing of the court reporter.)

21 THE COURT: All right. While you're doing that, let's
22 bring the jury out and --

23 BAILIFF: I'll let them know, Judge.

24 THE COURT: We're going to start with the jury at 10:30
25 if I don't grant the motion to suppress, but we're going to

1 get back together at 10:00 in here in the morning.

2 BAILIFF: Are you ready for them?

3 THE COURT: Yes, sir. Okay.

4 BAILIFF: I brought them.

5 THE COURT: You're good. You're good.

6 BAILIFF: Jury coming in, Judge.

7 THE COURT: Okay. Thank you.

8 (Whereupon, the jury entered the courtroom at 4:38
9 P.M.)

10 THE COURT: All right. Let the record reflect the
11 jury's back in.

12 Ladies and gentlemen, as I indicated earlier, we're not
13 going to start this case until in the morning. I want you
14 back here at 10:30. I've got some matters to deal with the
15 lawyers in the morning, so be back here at 10:30.

16 Now, I've already instructed you, you cannot among
17 yourselves have any discussions about anything related to
18 this case. That also applies when you leave the courthouse.
19 Whoever you come into contact with, whether family members,
20 neighbors, friends, coworkers, whoever, don't have any
21 discussions with them about the case. You can say I've been
22 picked on a jury, but leave it at that.

23 And, also, and I'll go into a little bit more detail
24 about this in the morning, but don't go on the internet,
25 social media, anything like that to try to do any

1 independent research into this case. Stay away from it. I
2 don't know if there's going to be any media coverage through
3 the newspaper, radio or the like, but stay away from that as
4 well, but concerning the independent research, I'll explain
5 more about that in the morning why this is prevented. Okay?

6 So get a good night's rest. That's really important,
7 because what I'm going to tell you in the morning that it's
8 so important to be alert and attentive throughout this
9 entire trial, and if you haven't gotten good rest, then it's
10 going to be hard for you to do that. So get you a good
11 night's rest and we will see you at 10:30 in the morning.
12 Okay?

13 One other thing, too, and I'm going through some other
14 things in the morning, but just keep in mind that as we go
15 through this trial, I try to take a break no longer than an
16 hour and a half if we can, but if any time while we're in
17 this trial and you feel like a break is absolutely
18 necessary, all you have to do is raise your hand. That will
19 be the key for me to stop everything and allow the jury to
20 go back to the jury room and take a break. Okay? So keep
21 that in mind. All right. So with that said, --

22 (Whereupon, a juror raised their hand.)

23 THE COURT: Yes, ma'am.

24 JUROR: What does an average day look like? Since I
25 own my own business, I have to get coverage, so --

1 THE COURT: Well, starting at 10:30 is a little bit
2 later in the morning than we normally start, but quite
3 frankly, I don't like to go past 5:00 in the afternoon.

4 JUROR: Okay.

5 THE COURT: Now, if we have a particular witness that
6 we have to get through because they can't come back, we may
7 have to go past 5:00. Certainly, whenever I give you the
8 case to reach a verdict, you know, your deliberations could
9 go past 5:00, but other than that, I like to stop. We're
10 not going to do anymore work with the lawyers on this case,
11 it's 20 'til 5:00. So 5:00 is my target time to stop and no
12 earlier than 9:30 in the morning, we'll start. Okay?

13 Yes, ma'am.

14 JUROR: Is there any way that I can get a letter that
15 I've been selected so I can give to my manager, so --

16 THE COURT: All right. You need a work excuse?

17 JUROR: Where I work on my job, see, I --

18 THE COURT: Yeah. If you need a work excuse, 'cause
19 the clerk already indicated to the ones who were not
20 selected --

21 Okay. Ashley's on the ball. She's got the work excuse
22 so if anybody needs one, she'll just go back -- just go back
23 in the jury room and she can meet you back there. If you
24 don't need a work excuse, after the bailiff gives you
25 instructions about in the morning, you can take on off.

1 Okay?

2 Any other questions? All right. See you in the
3 morning. Have a good evening.

4 (Whereupon, the jury exited the courtroom at 4:40 P.M.)

5 THE COURT: Okay. Anything else for the record or
6 either off the record that we need to take up before we
7 adjourn for the day? State?

8 MR. CUTHBERTSON: Nothing from the State, Your Honor.

9 THE COURT: Defense?

10 MR. FRICK: Nothing from the defense.

11 THE COURT: Okay. All right. We'll see y'all at 10:00
12 in the morning. Have a good evening.

13 (Whereupon, court was adjourned at 4:42 P.M. and
14 reconvened on May 20, 2025 at 10:00 A.M.)

15 (END OF VOLUME I OF III)

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STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS
COUNTY OF LANCASTER CASE NO. 2022-GS-29-00739

STATE OF SOUTH CAROLINA,)
)
 Plaintiff,)
)
 -vs-) TRANSCRIPT OF RECORD
) (VOLUME II of III)
JENNIFER BLAIR MCNAUGHTON,)
)
 Defendant.)
_____)

May 20, 2025
Lancaster, South Carolina

B E F O R E:

Honorable Donald B. Hocker, Judge; and a jury.

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

Mr. Julian Cuthbertson
Assistant Solicitor
Ms. Kaitlyn Easler
Assistant Solicitor
Sixth Circuit Solicitor's Office
Attorneys for the Plaintiff
Lancaster, South Carolina

Mr. William Frick
Public Defender
Sixth Circuit Public Defender's Office
Attorney for the Defendant
Lancaster, South Carolina

Shannon E. McGilberry, CVR-M
Court Reporter

1 THE COURT: Okay. We're back on the record in the
2 *State versus McNaughton* case. I did talk with the lawyers
3 in chambers concerning the defense motion to suppress. I'm
4 going to give the lawyers an opportunity to put whatever
5 they want to on the record concerning this motion.

6 And, Mr. Frick, it's your motion---

7 MR. FRICK: Yes, sir.

8 THE COURT: ---so I'm going to allow you to go first.

9 MR. FRICK: Thank you, sir. Hold on. I'm just trying
10 to grab my case real quick.

11 THE COURT: Sure.

12 MR. FRICK: Judge, I think by this point you've
13 reviewed the videos. You see that the traffic stop is
14 initiated because of the taillight. You heard the
15 testimony of the house had been surveilled. It was based on
16 a Crime Stopper tip, if I recall correctly, but what you
17 didn't hear is that they were looking for Jennifer Blair
18 McNaughton. They were looking for Mr. Outen. You heard
19 that someone got in the vehicle. They didn't know who it
20 was. They didn't know whether or not anything illicit was
21 taken in 'cause they couldn't see who even got in the
22 vehicle. So we follow the vehicle. It does have the tail-
23 -- the third brake light is out, and I will concede that if
24 you've got three of them, all three of them got to work and
25 it is clear on the video that one is not working.

1 However, when we get to the vehicle, aside from her
2 being nervous, there is nothing else that indicates that
3 there is any criminal activity afoot. You see on the video
4 the doors are left open. Law enforcement is looking inside,
5 as they are trained to do, to see if they see anything in
6 plain sight. The testimony was he saw nothing in plain
7 sight. So there is nothing, other than her being chatty,
8 and I will tell you in dealing with Ms. McNaughton, that's
9 her. That's just the way she is. I'll also tell you
10 she's one hundred percent correct, once the blue lights are
11 behind you, I don't care who you are, you get nervous.

12 Coming up 200 this morning to come through Great Falls,
13 I had Great Falls law enforcement come right behind me. I
14 get a little nervous in Great Falls when that happens, even
15 with my experience. So I don't think nervousness in and of
16 itself is enough to indicate that there is criminal activity
17 afoot and I believe the *Frasier* case that I handed you up --
18 and just for the record I'll put the cite. I am looking at
19 *State versus Frasier*. That is 437 SC 625. They note that
20 Courts are looking less and less favorably or talking about
21 nervousness as an indication of criminal activity afoot.

22 Judge, also in the *Frasier* case, and I think you're
23 familiar with it, it's kind of similar to this. It's a
24 traffic stop based on suspicion of drug activity and there's
25 a third brake like that's out on that one and law

1 enforcement conducts a traffic stop and then searches the
2 individual and finds some drugs.

3 In this case, Ms. McNaughton has gotten out of the
4 vehicle, and I understand that, 'cause they -- when she
5 turned into Chandler's, she missed the entry and I think ran
6 up on the curb, which drew their suspicion. I understand
7 why they got her out of the vehicle. However, when they see
8 there's nothing -- nothing in plain sight, I don't think
9 they had any reason to prolong the traffic stop. At that
10 point he should have gotten the book, written a ticket,
11 written a warning, whatever's appropriate, hand her her
12 stuff and sent her on her way. I understand that she didn't
13 have her license on her, but they did find out who she was.
14 Later, not during this point, later they do find out that
15 her license was suspended at the time, but that wasn't the
16 reason for the stop. That wasn't known at the time. That's
17 known after she's already arrested. So that's not a factor
18 in the situation either. She hops in and out of the truck.
19 Law enforcement reaches into the truck, if you'll recall
20 from the video, trying to find information to confirm what
21 her identity is.

22 Judge, I will say I think they summed it up correctly
23 in *Frasier* when they said that this case in *Frasier*, it's
24 equally apparent that this is a drug stop masquerading as a
25 traffic stop.

1 Judge, I suggest that this is exactly the same thing in
2 this case. They were -- and it's all narcotics. Unlike in
3 *Frasier* where the stop is actually done by another member of
4 law enforcement who's not a member of narcotics, this stop
5 was done all by narcotics. So this was a drug stop. This
6 was a drug stop. It is a pretextual stop, which is legal,
7 but it is truly, as they said in *Frasier*, a drug stop
8 masquerading as a traffic stop. They had no articulable
9 suspicion other than nervousness. Yes, they were
10 surveilling a house, but the person that they had the tip
11 on, the person that they were looking for is not the person
12 that was driving the vehicle, so I don't think the stop was
13 appropriate.

14 Judge, I'll go ahead and argue on -- you want me to
15 argue on the consent at this time or just the stop?

16 THE COURT: Sure. Go ahead.

17 MR. FRICK: As far as the consent is concerned, Your
18 Honor, you see on there they ask her to search the vehicle.
19 She says I don't want you to. She said it a little
20 differently, but in summation she says I don't want you to
21 search the vehicle.

22 THE COURT: Said I'd rather you not,---

23 MR. FRICK: I'd rather you not.

24 THE COURT: ---verbatim.

25 MR. FRICK: Yes, sir. Then they continue to pry a

1 little further, as I think they can do, ask her if there's
2 any bombs, dead bodies or anything like that in there and
3 she says no, there's not. I guess you can, but, and I think
4 that but is very important, Your Honor, because that
5 qualifies her consent.

6 Judge, in *Davis versus United States*, that's at 512 US
7 452, the United States Supreme Court said, To invoke your
8 Sixth Amendment right to counsel, it's got to be unambiguous
9 or an unequivocal request for counsel. Judge, if it's got
10 to be unambiguous or unequivocal to invoke your Sixth
11 Amendment rights, it should be unambiguous and unequivocal
12 to invoke your -- to waive your Fourth Amendment rights. It
13 shouldn't be a different standard for different -- different
14 amendments, different parts of the Bill of Rights.

15 So, Judge, I suggest that her -- one, the traffic stop
16 was an invalid, prolongation of a stop for a taillight.
17 They had nothing but a hunch that there was some drug
18 activity going on. No real articulable reason for
19 prolonging the stop. And then the search, which ultimately
20 resulted in finding something in the vehicle, was a result
21 of not an ambiguous waiver of her Fourth Amendment rights.

22 As such, I think the stop should be suppressed and if
23 the stop is not suppressed, then the search should be
24 suppressed and the drugs should not be allowed as fruit of
25 the poisonous tree.

1 THE COURT: Thank you, Mr. Frick. Solicitor, you want
2 to put your position on the record?

3 MR. CUTHBERTSON: Thank you, Your Honor. Yes, sir.
4 The State believes that the prolonged stop was justified.
5 We rely on *State v. Corley*. I believe I provided that case
6 to you as well. The cite to it is 392 SC 125. It's a 2011
7 case. In this case, the defendant is seen at a known drug
8 location. He stays there for a few moments, exits that
9 location, is driving, officers are following him. He then
10 fails to use a turn signal, so the traffic violation. Upon
11 officers approaching that vehicle, he appeared nervous. He
12 lied about where he was. He ends up admitting that he had
13 bought drugs and so the officers search the vehicle and they
14 find those drugs. The whole interaction lasted no more
15 than just about ten minutes.

16 The State would argue that that is -- it's very similar
17 to what happened in this case. The defendant was seen
18 leaving a known drug house, as officers had received tips
19 that this was a known drug location, so they were sitting on
20 the house, surveilling the house, if you will. Similar to
21 the *Corley* facts, they knew it was a known drug house. So
22 officers had suspicion that drug activity was afoot so they
23 made a stop and, as defense said, it was a pretextual stop.
24 As he said, those are legal as long as you have a valid
25 reason to perform the stop to begin with.

1 As the witness stated, when the defendant was stopped
2 she quote/unquote "jumped the curb" before coming to a
3 rolling stop, as described by the officers. So it was
4 believed that she was either attempting to hide something in
5 the vehicle, some contraband or possibly even some drugs, or
6 she was attempting to flee from officers. This was the
7 justification for them prolonging the stop outside of the
8 initial stop, the traffic stop.

9 So the State contends that it was not prolonged in any
10 way, but if so, then it was justified due to her rolling --
11 jumping the curb and rolling a few -- few more feet before
12 she made the stop, especially when leaving a known drug
13 location. We do think it's different from -- we understand
14 that defense used *State v. Frasier*. We do think it's quite
15 different from that case in which there was essentially no
16 reason they should have been surveilling the defendant in
17 *Frasier* to begin with. He had just got off a bus, got into
18 a car. He was not coming from a known drug location, which
19 I think it's key in this case. That makes this case more
20 like *State v. Corley* than it does *State v. Frasier*. And in
21 our situation, from the stop to when the drugs were located
22 was under ten minutes, just like in *Corley*. These were --
23 this was not a long interaction between the two. They did
24 not stall for drug dogs or anything like that to come search
25 the vehicle. Consent was given and they went -- so they

1 went ahead and searched the vehicle.

2 As far as the consensual search goes, as we're all
3 aware, there's not really much direction on what valid
4 consent looks like or voluntary consent looks like. From
5 what I was able to research, a lean warn(ph), whether it was
6 -- the consent was under duress or whether it was coerced
7 and that's based on a totality of the circumstances, and in
8 this situation, at the time that she gave consent, she was
9 not in handcuffs. I believe the officer asked her one time
10 and I will say, when looking at the video earlier today, I
11 looked back and I was able to get the exact language that
12 the defendant used when asked about the traffic stop. I
13 believe the officer said, Do you mind if we search the
14 vehicle, and her response was, Why? Yes, I mind. Why do
15 you want to search the vehicle? And in response the officer
16 said, Just to make sure you don't have anything, no drugs,
17 no guns, no dead bodies or anything like that, and in
18 response she says, I'd rather you not, and pauses for maybe
19 two seconds and then says, but you can. There was no
20 intervening statement from law enforcement at that time.
21 She very quickly, essentially, denied consent and then gave
22 consent very, very shortly after with no other questions
23 being asked of her by law enforcement and I think that's
24 different from the *Frasier* case, 'cause in that situation he
25 -- Frasier was given a command to, essentially, put his

1 hands on the -- without getting too much into the facts of
2 *Frasier*, he was responding to a command from officers
3 rather than acting voluntarily and I think that was -- that
4 was one of the reasons why the case was decided like it was,
5 but in this case, officers -- the officer asked her one
6 time, Do you mind if we search the vehicle. We want to make
7 sure there's nothing in it, and she unequivocally said, I'd
8 rather you not, paused for a few seconds, said, but you can,
9 and I think that is -- that's voluntary - that's as a
10 voluntary as voluntary can get. So the State believes that
11 this was a consensual search and that the officers did have
12 reason to prolong the stop, in addition to the reason for
13 the stop being the broken taillight, broken brake light.

14 And just briefly on voluntariness, just one more or two
15 more points, is that she was able to take a phone call. I
16 think that's very -- in the body-camera footage that you
17 were able to see, one of the first things she does when she
18 gets out of the vehicle, her phone is blowing up. It's
19 blowing up and she mentions that, My phone is just ringing
20 off the hook. I think that was even one of the -- the
21 reason she said that she jumped the curb. She was able to
22 take a phone call. The doors were left wide open and so --
23 also for those reasons, we believe that the consent that she
24 gave was voluntary, not under duress, not under sort of --
25 not due to any sort of coercion, and due to the

1 circumstances, we believe it was voluntary.

2 THE COURT: Okay. All right. Thank you, Solicitor.
3 Mr. Frick?

4 MR. FRICK: Just very briefly, Your Honor, I did want
5 to point out that the defendant was advised of why the stop
6 actually occurred about three and a half minutes into the
7 stop. She's told, you know, as soon as they stop, she's not
8 advised oh, your brake light was out, 'cause in fact she
9 says, yeah. Why did y'all stop me? And they go oh, your
10 third brake light's out, but that's about three and a half
11 minutes into the video.

12 As far as voluntariness, because she said she consented
13 and she wasn't in handcuffs, Judge, she's surrounded by blue
14 lights. She's got officers that are not in regular
15 uniforms. They're in whatever they're wearing that day with
16 Flak jackets on, blue lights flashing. So I don't know
17 how somebody would feel that they felt like that they
18 couldn't say, yeah, you can search the car at that point.

19 As far as the reason why she jumped the curb, the
20 solicitor did point out, as I wanted to, she said oh, yeah,
21 my phone was ringing, and it is clear in the video her phone
22 is ringing. She, in fact, takes a phone call.

23 So for all those reasons, I do not believe that the
24 search was appropriate. I do not believe that the detention
25 was appropriate and the prolonging of the search obviously

1 violative of her Fourth Amendment rights and her
2 Constitutional Rights Under Article 1, Section 10 of the
3 South Carolina Constitution.

4 THE COURT: All right. Thank you very much.

5 Well, as I indicated to the lawyers in chambers, this
6 is a close case. It's not a 50/50 case that was alluded to
7 in *Frasier*, which of course, *Frasier* indicated that it is a
8 50/50 case and that it, you know, needs to go in favor of
9 the defendant, but nonetheless, it is a close case. And,
10 of course, the two factors that you've already argued, you
11 are aware of what I have to look at. One, did the police
12 have a reasonable suspicion of criminal activity to justify
13 a prolonging of the traffic stop, and while the case law
14 says there has to be more than a mere hunch, the standard is
15 less than a probable cause standard, less than a
16 preponderance of the evidence standard, a minimal level of
17 justification considering the officers level of experience
18 and training. I think Officer Davis indicated seven years,
19 thereabouts. And secondly, the -- whether or not the
20 consent to search was voluntary.

21 As I told the lawyers back in chambers, what takes this
22 case away from *Frasier* is that, basically, all you had in
23 *Frasier* was the defendant, after he got off the bus before
24 he got into the car, he's kind of scoping out the parking
25 lot, which they -- the officers felt like that was

1 suspicious, but here we have a surveillance of a known drug
2 house and a house that had been under surveillance prior to
3 this day in question. So I think without that, then I think
4 defense motion to suppress would be a whole lot stronger.
5 So I asked Officer Davis did he have a reasonable suspicion
6 of criminal activity and he said he did. One, that there
7 was a Crime Stoppers tip indicating drugs being sold at [REDACTED]
8 High Point Circle, which was occupied by Mr. Outen, who had
9 previous arrests for drugs, and I think there's some mention
10 by Ms. McNaughton that Mr. Outen was a boyfriend, possibly
11 living with him at that address. Again, the home had been
12 under surveillance previously for drug activity, and the
13 manner of driving whether -- certainly, Ms. McNaughton gives
14 her explanation why she drove up on the curb, sidewalk as
15 she did. Officers took that to be some sort of evasive
16 driving behavior and, also, while we all agree that just the
17 basic idea of being nervous is not a factor in determining
18 whether or not there's suspicion for criminal activity,
19 Officer Davis indicated this was a different kind of nervous
20 behavior insofar as Ms. McNaughton was constantly looking
21 at and around her car. So I give that a little weight, not
22 certainly a lot of weight, but a little weight, and so I
23 find that there was reasonable suspicion of criminal
24 activity to justify prolonging the initial traffic stop.

25 Now, concerning the consent to search, I do find that

1 it was voluntarily made, that there was no force or
2 coercion. Certainly, I understand the defense argument that
3 she was surrounded at night with blue lights and three
4 officers, but just the questioning of wanting to search the
5 car, explained, wanted to make sure that there's nothing in
6 the car such as drugs or guns or dead bodies, whatever. She
7 initially said, Rather you not, concerning the search, but
8 then a few seconds later she said, I guess you can. So
9 there was enough voluntariness, I believe, on her part to
10 justify my finding that the consent was voluntary and I
11 look at it a little different. I have to respectfully
12 disagree with you, Mr. Frick. Changing your mind insofar as
13 the consent, I look at that different than, you know, once a
14 defendant invokes his right to counsel, then that's it and I
15 don't think -- I think even if he says no, I don't want a
16 lawyer, I'm willing to talk, I think police are pretty much
17 locked in to not doing anything after the invocation of a
18 right to counsel, but just changing their mind on consent, I
19 look at that very, very differently.

20 So reasonable suspicion to prolong the traffic stop and
21 I find that the consent to search was voluntary; therefore,
22 the defense motion to suppress the drugs found is denied.

23 Anything else we need to take up with before we bring
24 the jury in?

25 Hopefully, -- is the jury all here?

1 BAILIFF: Yes, sir, Your Honor.

2 THE COURT: Okay. The jury's here. Anything else we
3 need to take up with on the record before we bring the jury
4 out and get started?

5 MS. EASLER: Do you want to address the matter
6 discussed regarding what I handed you earlier?

7 THE COURT: Yeah. All I'm going to do on that is I'm
8 just going to remind the jury of my instructions and make
9 sure that they -- tell them that there was a Facebook post
10 concerning this case, would not say who posted it, and just
11 make sure that none of the members of the jury saw that
12 Facebook posting and leave it at that.

13 MS. EASLER: Thank you, Your Honor.

14 THE COURT: All right. Okay.

15 Mr. Frick, anything from your side?

16 MR. FRICK: I don't think so, Judge.

17 THE COURT: Okay. Thank you. All right. Let's bring
18 the jury out.

19 BAILIFF: Yes, sir.

20 THE COURT: We probably need to get that flash drive
21 marked. I know that the video's going to come into
22 evidence, but that flash drive probably needs to be
23 separately marked as an exhibit for purposes of defense
24 motion to suppress, the one that was provided to me that we
25 looked at. So just during a break, just get it to the court

1 reporter, so that is just a separate exhibit for purposes of
2 the motion.

3 MADAM COURT REPORTER: Judge, would you like it marked
4 as a Court's Exhibit?

5 THE COURT: Yeah, Court's Exhibit, even though all
6 that's going to come into evidence anyway, with some
7 redactions by way of muting.

8 (Whereupon, the jury entered the courtroom at 10:45
9 A.M.)

10 THE COURT: Let the record reflect the jury's back in.
11 Good morning ladies and gentlemen.

12 JURORS: Good morning.

13 THE COURT: Hopefully, you're doing well, got some
14 rest and ready to get back to work. We've got a couple of
15 housekeeping matters. First, is you need to be sworn in as
16 the trial jury.

17 Mr. Clerk.

18 THE CLERK: If I could get you all to stand and raise
19 your right hand, please.

20 (Whereupon, the jury was duly sworn.)

21 THE COURT: Thank you. The second housekeeping matter
22 is I need to appoint a foreperson of the jury and if it is a
23 male, it's a foreman, makes sense. If it is a female, it's
24 a forelady, as we call her, and let me tell you the
25 responsibility of a foreperson of the jury. There's

1 basically three hats you have to wear. One, is I need -- if
2 there needs to be any communication with the Court during
3 the course of this trial or during deliberations and I need
4 somebody to be that communicator between the jury and the
5 Court. All communication has to be in writing and signed by
6 the foreperson. The second hat that a foreperson wears is I
7 need to have someone to make sure that all my instructions
8 are being followed. That's really everybody's
9 responsibility, but primarily the foreperson. And then
10 thirdly, once I give you the case to begin your
11 deliberations, then I need someone to organize and get those
12 deliberations started, count votes as you go along with the
13 deliberations and I'm confident that all 14 of you would
14 make excellent forepersons, but I can only have one. So I
15 am selecting Ms. Goodson. You are the forelady of the jury.
16 When you come back in after our morning break, you will
17 maintain that seat and you will always maintain that seat.

18 My two alternates, let me explain to you your role is
19 very important. It's not unusual that during the course of
20 a trial, and this is not going to be a lengthy trial, but
21 that one of the 12 has an emergency at home, becomes ill or
22 something of that nature and I have to excuse one of the 12,
23 then I need someone who has sat through that trial up until
24 that point to fill the shoes of the juror that I have
25 excused.

1 Now, certainly if I don't have to excuse anybody and
2 it's ready to begin for the jury deliberations, the
3 alternates do not get to participate in that. Okay? But
4 your role is very important. So you always maintain those
5 two seats. Forelady maintains that front seat and then
6 everybody else can sit wherever you want to. It's been my
7 experience that jurors kind of like to stay in the same
8 seat throughout the trial. It's kind of like you have your
9 same seat at church and, you know, nobody better sit in that
10 seat because that is your seat, but it's up to you how y'all
11 want to do that. Okay?

12 Now, I'm going to just give just a few preliminary
13 comments before the lawyers start with their opening
14 arguments and as I just touched on briefly yesterday, it's
15 so important that you remain alert and attentive throughout
16 this entire trial. It's really disappointing for me if I
17 look at the jury -- and I've got my eyes on you and will
18 have eyes on you throughout the trial -- to see someone
19 looking like they're not paying attention. I've even had
20 jurors fall asleep and that's not a good thing. So when you
21 go back to the jury room to begin your deliberations, even
22 with this being a short trial, you're not going to remember
23 everything that was presented to you, but collectively, your
24 memories are going to be pretty good. Okay? So just be
25 alert, be attentive, get a good night's rest at night.

1 Secondly, keep an open mind. Don't pass judgment early
2 on in the case. Wait 'til all of the evidence is in,
3 lawyers have made their closing arguments to you and at the
4 end of the case I will instruct you what the law is in this
5 case and how you are to use the law and apply the facts to
6 the law as I give it to you. So keep an open mind and don't
7 make any quick, early decisions in this case.

8 Recognize, and I'll get more into this later, but
9 recognize that Ms. McNaughton, as she sits here in this
10 courtroom, is presumed innocent by law and that presumption
11 of innocence remains with her unless the State presents
12 evidence proving the case against her beyond a reasonable
13 doubt standard.

14 The defendant has no burden whatsoever. The State has
15 the sole burden of this case. So just keep that in mind as
16 we go through the trial. Use your common sense. That's
17 always very helpful for juries to use your common sense as
18 you listen to the evidence presented to you and begin your
19 deliberations in the case.

20 Now, as I told you yesterday, I do not want you to go
21 on social media, go on the internet to do any research into
22 this case. You've got to stay away from that. Again, I
23 don't know if there's going to be any media account of this
24 case, but stay away from the radio, newspapers and those
25 sorts of things.

1 Now, there was a Facebook posting about this case
2 yesterday or last night and I just want to make sure that
3 none of you saw that Facebook posting. Okay. Okay.

4 The reason why I instruct jurors not to do any of this
5 independent research, because your verdict in this case has
6 to be based 100 percent on what is brought out in this
7 courtroom. So if you are doing some research on your own
8 and gathering information, while that information may very
9 well be erroneous, that's information that has not been
10 brought out in this courtroom for all of you to see and
11 hear, and I even had a case -- this has been several years
12 ago -- where three jurors disregarded my instructions and
13 Googled the defendant's name and received some information
14 and, luckily, we were able to head that off before it could
15 have really created a serious situation. So just don't do
16 it while this case is going on. Okay?

17 So with that said, the lawyers are going to give their
18 opening arguments to you. What they say to you is not
19 evidence. What they're going to do is just tell you what
20 they believe the evidence will show and their -- kind of
21 their views about this case. They're, as I told you
22 yesterday, they're very good lawyers and so I'm going to
23 give the State the opportunity to give their opening
24 argument first and then Mr. Frick will argue for the
25 defense.

1 Solicitor.

2 MR. CUTHBERTSON: Thank you, Your Honor. May it please
3 the Court.

4 Ladies and gentlemen of the jury, I promise not to take
5 too much of your time. That's because the facts in this
6 case, they're pretty straightforward.

7 The defendant, Jennifer McNaughton, is accused of
8 trafficking in methamphetamines during a traffic stop here
9 in Lancaster County. This occurred on January 5th of 2022.
10 But in plain English that simply means that she possessed a
11 large amount of methamphetamines.

12 As the State, it is our job to prove that to you beyond
13 a reasonable doubt and what that means -- I'll let the Judge
14 talk to you a little bit more about that, but to prove that
15 you'll hear from a few witnesses, each with different roles
16 in this case. Right now we only plan to call four
17 witnesses, but trials, they're fluid things so things can
18 change so just bear with me, but I will tell you about the
19 four that you definitely hear about.

20 The first one is Investigator Preston Davis. He was
21 the first one to arrive on scene. He will tell you what
22 caused the traffic stop, why he initiated this traffic stop
23 with this defendant. He will tell you about the
24 conversation he had and how that conversation led to a
25 search of the defendant's vehicle. Then you'll hear from

1 Investigator Khoury Hammond. He will tell you about his
2 role during the traffic stop. He will tell you where the
3 drugs were found and how they were found. He will tell you
4 a little bit more about what he did with those -- with those
5 drugs after he located them.

6 The third one you'll hear from would be Ms. Ann Horton.
7 She will be a relatively quick witness for us. She's an
8 evidence technician here at the sheriff's office and her job
9 was simply to receive those drugs and she will come and tell
10 you about that. Her job is to preserve all the evidence
11 that officers receive and preserve them for trial.

12 In her case, she will tell you how she received those
13 drugs and she will tell you the process in which she sends
14 those drugs to be tested to confirm that they are, in fact,
15 what the police say they are.

16 And last, for now, will be Investigator -- it will be
17 SLED Agent Mr. Willie Smith. He is the forensic analyst.
18 He works with the South Carolina Law Enforcement Division,
19 better known as SLED. Essentially, he tests drugs. That's
20 his primary purpose. He receives drugs from all over the
21 state. He will talk to you about the science that goes into
22 testing these drugs to confirm that they are what we presume
23 they are. Our investigators here with the sheriff's office,
24 they do a presumptive test on them when they're out on
25 scene,

1 but they ultimately have to send them down to Columbia to
2 get them tested to confirm that they are exactly what they
3 say they are.

4 The defense is going to come up here and try to
5 convince you that this thing was a -- possibly this thing
6 was a setup or that this whole thing is some sort of
7 illusion that didn't happen, but as the Judge mentioned, we
8 ask you to use your common sense. Like I said, this is a
9 straightforward case. The facts are simple and the State is
10 convinced that after hearing all the evidence, we are
11 convinced that you will find that Ms. Jennifer McNaughton
12 did possess a large amount of methamphetamines on January
13 5th, 2022. Thank you.

14 THE COURT: All right. Thank you, Solicitor.

15 Mr. Frick, are you ready for your opening, sir?

16 MR. FRICK: Yes, sir. Thank you, Your Honor.

17 Solicitor, ladies and gentlemen of the jury, it's still
18 morning. Good morning.

19 JURORS: Good morning.

20 MR. FRICK: I know everybody gets all nervous when they
21 get called to come to jury duty. You go oh, my God. I see
22 these cases. They're on TV. I'm going to be stuck here for
23 three weeks or more. One, I assure it doesn't work like
24 that in South Carolina. Occasionally, you get a case that
25 takes a while, but you're going to be here for the better

1 part of today and maybe we go into tomorrow, but that's what
2 you're looking at here. So take a deep breath. It's okay.
3 We're not going to sequester you and keep you locked away
4 from your family for days and days and days.

5 I want to tell you a quick story first. About a year
6 and a half ago, my wife brings home this little orange-
7 striped kitten. My daughter named her -- him Jelly Bean.
8 I have had cats all my life and I have never had an orange
9 cat. I did not realize that they are rambunctious and kind
10 of crazy, but Jelly Bean, being a good orange cat, is that
11 and one day my wife set the garbage bag out on the front
12 porch. I kind of live out in the country, three acres
13 between me and my neighbors. So we're out in a wooded area,
14 all manner of wildlife wanders through the yard.

15 Jelly Bean likes to chew on plastic bags. Every time I
16 bring the groceries home, I don't know what he does. The
17 first thing, he goes to the bread and starts chewing on the
18 package. So we know Jelly Bean likes to chew on packages.

19 Well, I was lazy that night when my wife put the
20 garbage bag on the front porch and I didn't take it around
21 and put it in the trash can. Jelly Bean -- didn't know
22 where he was. We assumed he was outside. Go outside the
23 next morning and there's trash all over my front porch. We
24 all blamed Jelly Bean. He chews on plastic bags, likely
25 suspect here. However, I got one of those little ring cams

1 on the front porch. So while we've accused Jelly, we go to
2 the video evidence. When we review the evidence, it appears
3 a nice friendly possum had come onto the front porch. So
4 while there was circumstantial evidence because of other
5 activity that Jelly Bean was the cause of this, he was not
6 the culprit.

7 Now, why do I tell you that story, ladies and
8 gentlemen? I tell you that story because that is an example
9 of how it works here. The State has accused Jennifer Blair
10 McNaughton of possessing a bunch of meth, rising to the
11 level of what we call trafficking, 10 to 28 grams in this
12 case. The State has to prove beyond a reasonable doubt that
13 Jennifer Blair McNaughton possessed those drugs and knew
14 that she had those drugs. The State has got to prove to you
15 beyond a reasonable doubt. I say that again because that's
16 an important standard. It's not like it is in some other
17 places where you're in civil court and it's more likely or
18 not. They have got to show you that there is no other
19 reasonable explanation and I'm going to harp on that again
20 when we get to closing, but I tell you what that means is
21 it's not probably, it's not maybe, it's not ehh, I don't
22 know. Could be. It's there's no other reasonable
23 explanation and we'll get to it as we go along, but I submit
24 to you that there is another reasonable explanation of
25 what's going on in this case, that she has been accused of

1 this, but they cannot support the evidence beyond a
2 reasonable doubt.

3 Now, what's your role in all this? You are the judge
4 of the facts. Judge Hocker up here is the judge of the law.
5 He's going to make sure -- he's kind of a referee, too.
6 There may be objections and he's going to rule on that; he
7 kind of referees that. He allows evidence in, says what can
8 and can't come in, what's appropriate for you to view in
9 this case, for you to know, because your -- your goal is to
10 look at this slice in time and determine the facts. That's
11 your job. Nobody can take that away. You can look at the
12 witnesses on that stand. You can look at the physical
13 evidence. You can look at whatever video evidence and you
14 can give it whatever weight you desire. You can say, I
15 don't believe a thing that guy said. You can say, well,
16 part of it's right, but this other part over here seems a
17 little hanky, or you can say, yeah, I believe that person
18 entirely. That's your job. You get to look at them. You
19 get to see their mannerisms. You get to see how they answer
20 questions and you get to determine, with your life
21 experience and common sense, what the facts of this case are
22 and no one can take that away from you.

23 And, again, I submit to you at the end of this case,
24 you will see that the evidence suggests that Ms. McNaughton
25 was in possession of these things, but just like Jelly Bean,

1 when you review the actual evidence, you will see that the
2 State has not met their burden and she is not guilty of this
3 offense.

4 Thank you for your time, attention and your service.

5 THE COURT: Thank you, Mr. Frick.

6 Solicitor, you ready to call your first witness?

7 MR. CUTHBERTSON: Yes, Your Honor.

8 THE COURT: You may proceed.

9 MR. CUTHBERTSON: The State calls Investigator Preston
10 Davis to the stand.

11 THE COURT: Officer, before you take your seat, place
12 your left hand on the Bible and raise your right hand.

13 (PRESTON DAVIS, being first duly sworn, was examined
14 and testified as follows):

15 THE COURT: Okay. Have a seat and after you take a
16 seat, state your name, please, sir.

17 THE WITNESS: Preston Davis.

18 DIRECT EXAMINATION

19 PRESTON DAVIS BY MR. CUTHBERTSON:

20 Q. How you doing today, Investigator Davis?

21 A. Good. How about you?

22 Q. I'm fine. Who do you work for?

23 A. Lancaster County Sheriff's Office.

24 Q. How long have you been with the office?

25 A. I've been employed with Lancaster County for seven

1 years.

2 Q. And what do you do for them -- or what were you doing
3 for them as of 2022?

4 A. Investigator for the drug task force.

5 Q. And what does that entail? What is your -- what do you
6 do for the drug task force?

7 A. We enforce the drug laws in Lancaster County. That
8 consists of conducting traffic stops, conducting controlled
9 purchases, conducting search warrants.

10 Q. Were you on duty January 5th of 2022?

11 A. Yes, sir.

12 Q. And where were you on that day?

13 A. I was in the area of High Point Circle off of Great
14 Falls Highway.

15 Q. Can you tell the jury what led you to that area?

16 A. We had received a Crime Stoppers tip that narcotics
17 were being sold at this address on High Point Circle. So we
18 went over that night to conduct surveillance on the location
19 to try to establish, you know, if narcotics were being sold.

20 Q. And you talked about the Crime Stoppers tips, how do
21 you receive those?

22 A. We primarily receive them on line. Anonymously through
23 on-line tips, we're sent those PDFs and kind of organize the
24 tips that way.

25 Q. And what did that make you believe about that location?

1 A. The tip was that narcotics were being sold out of that
2 location. So anytime that we get a tip, we conduct
3 surveillance on the location, you know, stop cars, if we
4 can, leaving the location, try to establish whether or not
5 drugs are, in fact, they are being sold there.

6 Q. So on that date, on January 5th of 2022, how long had
7 y'all been observing that home?

8 A. I'd probably been over there between 15 and 30 minutes.
9 It wasn't -- wasn't very long.

10 Q. All right. And on that day did you observe any cars
11 there at the time?

12 A. Yes, sir. I observed, I believe it was, a green Dodge
13 pickup truck in front of the residence.

14 Q. Had you seen that vehicle there before?

15 A. Yes, sir. I had seen it there before and I believe the
16 registration was registered to that address.

17 Q. So you're surveilling that home. What happens next?

18 A. Surveilling the home for a short amount of time and
19 then I see the green Dodge pickup on the roadway. It had
20 left the -- left the location, came off High Point Circle
21 and made a right onto Great Falls Highway.

22 Q. Did you see who got into that vehicle?

23 A. No, sir, I didn't. I couldn't see who got into the
24 vehicle and it was nighttime outside, so I couldn't -- I
25 couldn't see into the vehicle to see who was -- who was

1 inside.

2 Q. So what happens next? They leave the home?

3 A. Yes, sir. They leave the home. A vehicle approaches
4 the intersection of Great Falls Highway and Airport Road.
5 There's a stoplight there. The vehicle applied their brakes
6 to come to a stop at the stoplight. When the brakes were
7 applied, I observed that one of three brake lights were not
8 functioning, so I conducted a traffic stop on the vehicle
9 for the traffic violation.

10 Q. I'm going to show you what has been marked as State's
11 Exhibit Number 1.

12 (Whereupon, the referenced item was handed to the
13 witness.)

14 Q. Do you recognize that?

15 A. Yes, sir. That's the vehicle that I pulled over that
16 night.

17 Q. And can you show us where the -- for the reason for the
18 stop is? Can you see where the brake light is out on that
19 picture?

20 A. Yes, sir. Here at the top part of the cab
21 (indicating).

22 MR. FRICK: It hasn't been placed into evidence, yet,
23 Your Honor. He's showing it to the jury.

24 THE COURT: Right. He's identified it. So then,
25 Solicitor, you want to move that into evidence?

1 MR. CUTHBERTSON: Yes, Your Honor.

2 THE COURT: Okay.

3 MR. CUTHBERTSON: I apologize.

4 THE COURT: That's all right. All right. Mr. Frick,
5 State's 1; any objection?

6 MR. FRICK: No objection.

7 THE COURT: Without objection, number 1 into evidence
8 for the State. Now you can examine him.

9 MR. CUTHBERTSON: Yes, sir.

10 Q. Does this accurately and fairly depict what you saw
11 that night?

12 A. Yes, sir.

13 MR. CUTHBERTSON: Your Honor, permission to publish to
14 the jury.

15 THE COURT: Certainly.

16 (Whereupon, the referenced item was published to the
17 jury.)

18 Q. So can you explain to the jury kind of what the issue
19 was with that brake light?

20 A. Yes, sir. South Carolina requires that any brake light
21 on a vehicle must be working and the one there at the top of
22 the cab was, in fact, not working.

23 Q. Is that the reason you initiated the stop?

24 A. Yes, sir.

25 Q. When you approached that vehicle, who was in the

1 vehicle?

2 A. Jennifer McNaughton was the driver and sole occupant.

3 Q. Do you see the defendant in the courtroom? Do you see
4 Ms. McNaughton in the courtroom today?

5 A. Yes, sir.

6 Q. Can you identify her for the record?

7 A. Yes, sir. She's seated right over there beside Mr.
8 Frick.

9 Q. What is she wearing? What color's her shirt?

10 A. A pink shirt.

11 THE COURT: Let the record reflect he's identified the
12 defendant.

13 Q. So when you initiated that stop, did anything happen
14 with the vehicle that you thought was odd?

15 A. Yes, sir. After I observed the traffic violation,
16 called the traffic stop off with dispatch, activated my blue
17 lights. Ms. McNaughton made a -- I'm not sure if y'all are
18 familiar with Chandler's Paint and Body on Great Falls
19 Highway, but it's got, I guess what you would refer to is
20 like a U-shaped driveway. There's one entrance and then
21 there's a second entrance. In between them two entrances is
22 a sidewalk and kind of a steep hill to go down into the
23 parking lot. When I activated my blue lights, Ms.
24 McNaughton made a abrasive move to the right, jumped the
25 sidewalk, went down the hill, went into the parking lot and

1 came to a rolling stop instead of, you know, using one of
2 the two driveways to enter the parking lot to yield to law
3 enforcement.

4 Q. What did you think was going on?

5 A. Typically, when that kind of things happen, based off
6 the work that I do, typically, someone's either trying to
7 evade law enforcement or they're trying to conceal some type
8 of contraband inside the vehicle or weapons or, you know,
9 something along those lines.

10 Q. When you approached, did you speak to her?

11 A. Yes, sir. Yes, sir. I approached the driver's side
12 window and made contact there at the window with her.

13 Q. What happened after that?

14 A. You know, I kind of asked -- kind of asked Ms.
15 McNaughton what happened, why she jumped the curb, that kind
16 of thing, 'cause it seemed real strange. While I was
17 speaking with her, she continued to, you know, act nervous
18 and when I say nervous, I've done, you know, tons of traffic
19 stops and it's a different nervous than it was this night
20 'cause, typically, everybody's nervous around law
21 enforcement. This was an extreme case of nervousness.
22 Ultimately, asked Ms. McNaughton to step out of the vehicle,
23 because the truck was lifted and from my vantage point, I
24 couldn't see inside the vehicle. So for my safety, due to
25 her abrasive maneuvers, I didn't know if she had weapons or

1 what inside the vehicle to try to hurt me, so I asked her to
2 step outside the vehicle. When she did, we stood there
3 beside the truck and talked.

4 Q. What was her demeanor? How was she acting?

5 A. She was, you know, extremely nervous. She even told me
6 that she was nervous. She said that the presence of law
7 enforcement made her nervous, but as I said earlier, I felt
8 it was a different nervousness.

9 Q. At that time was she in any handcuffs?

10 A. No, sir.

11 Q. What happened after that?

12 A. I asked Ms. McNaughton for her driver's license. She
13 stated that she didn't have it. I asked her what her name
14 was. She provided me the name of Blair McNaughton. I asked
15 her if she had, you know, anything that would have her name
16 on it that I could confirm her identity with. She -- I
17 believe she tried to get back inside the vehicle to find
18 something. I asked her to get back out. I immediately
19 looked in there to see if I seen anything with her name on
20 it and I didn't see anything. Then she realized she had a
21 debit card or a credit card or something in her pocket with
22 her name on it. She handed me that and the name on the card
23 was Jennifer McNaughton, so I asked her, you know, the
24 discrepancy between Blair McNaughton and Jennifer McNaughton
25 and Blair's her middle name. So once we were able to

1 confirm her identity, I believe we ran her name through
2 dispatch to check her driver's license and all. I asked Ms.
3 McNaughton about her nervousness, asked her if we could
4 search the vehicle. She stalled a little. I asked her
5 again about searching the vehicle, if there was anything
6 illegal in there. She stated that there wasn't. While I
7 was speaking with her, she kept looking around, look inside
8 the vehicle and, typically, when that kind of stuff happens,
9 people think that there's something inside the vehicle they
10 don't want law enforcement to find. I asked her again, you
11 know, about anything being in there and asked her for
12 consent to search her vehicle and she stated that we could.
13 I then returned to my patrol vehicle to continue the traffic
14 stop while other investigators searched the vehicle.

15 Q. When you asked her for her consent to search the
16 vehicle, what was the response?

17 A. Initially she stated -- she kind of asked why we wanted
18 to search and seemed as if she didn't want us to search the
19 vehicle, but ultimately she told us that we could.

20 Q. Can you tell the jury about -- what is your policy, if
21 any you have, regarding stopping of vehicles?

22 A. We stop vehicles that, you know, violate traffic laws.

23 Q. So you mentioned you go and retrieve your warning book.
24 What happens next?

25 A. Yes, sir. I go back to my vehicle to get my warning

1 book out, also to look up her driver's license 'cause she
2
3 didn't have a copy of it so I had to find that to get her
4 information to put on the warning. While I'm doing that,
5 other investigators are searching the vehicle. When I come
6 back up, I was advised that they had located contraband,
7 located narcotics inside the vehicle and at that time I
8 believe Lieutenant Lockhart was putting Ms. McNaughton in
9 handcuffs.

10 Q. Were you aware if she tried to withdraw consent to
11 search at any time?

12 A. No, sir.

13 Q. How long would you say it took you from the stop of the
14 vehicle to locating the actual drugs?

15 A. Less than ten minutes. I'd say in the range of five to
16 ten minutes.

17 Q. And I just wanted to backup real quick. As far as the
18 -- you said the area of High Point Circle. Is that located
19 here in Lancaster County?

20 A. Yes, sir. It's here in Lancaster off of Great Falls
21 Highway.

22 Q. And in preparing for trial, or really in any case, were
23 you wearing a body camera?

24 A. Yes, sir. I was.

25 Q. So in preparing for trial, do you provide that evidence

1 to our office,---

2 A. Yes, sir.

3 Q. ---to the solicitor's office?

4 A. Yes, sir.

5 Q. I'm showing you State's Exhibit Number 2.

6 (Whereupon, the referenced item was handed to the
7 witness.)

8 Q. Do you recognize this? I know we talked about it
9 briefly.

10 A. Yes, sir.

11 Q. Have you had a opportunity to review your body camera
12 footage?

13 A. Yes, sir.

14 Q. Does it fairly and accurately depict what you saw on
15 that night,---

16 A. Yes, sir.

17 Q. ---what happened that night?

18 MR. CUTHBERTSON: The State moves -- the State asks to
19 move the body camera footage into evidence.

20 THE COURT: Okay. His body camera?

21 MR. CUTHBERTSON: His body camera, Preston Davis.

22 THE COURT: Okay. Mr. Frick?

23 MR. FRICK: No objection, Your Honor.

24 THE COURT: Okay. Number 2 into evidence for the
25 State. Has counsel reviewed and okay with the certain

1 portions that we talked about?

2 MR. FRICK: To be honest, since we had that
3 conversation, Judge -- I was speaking to my client.

4 THE COURT: Okay. All right. Then why don't we do
5 this: why don't we take a real short break, allow you to
6 review that,---

7 MR. FRICK: Thank you, Your Honor.

8 THE COURT: ---make sure that you're good with what the
9 solicitor has done.

10 MR. FRICK: Yes, sir. Thank you.

11 THE COURT: Ladies and gentleman, we're going to take a
12 short break, give Mr. Frick an opportunity to review the
13 video per their discussions with the Court and we'll get you
14 back out in just a minute. Okay? Remember my instructions,
15 no discussion about the case.

16 Madam Forelady, remember about your seat on the front.

17 MADAM FORELADY: Okay.

18 (Whereupon, the jury exited the courtroom at 11:18
19 A.M.)

20 MR. CUTHBERTSON: So, Your Honor, I don't know if this
21 needs to be on the record or not. On that flash drive we
22 have Investigator Davis's and Investigator Hammond's body
23 camera on this. We would ask that we could do 2-A and 2-B,
24 all in that same flash drive.

25 THE COURT: Okay. Is the State wanting to play the

1 other body cam, too?

2 MR. CUTHBERTSON: Yes, Your Honor. Once we have
3 Investigator Hammond up on the stand, we will ask to play
4 his body-cam footage.

5 THE COURT: Okay. So going to play Davis's and then
6 when Hammond testifies, he'll play his. So we can call it
7 2-A and 2-B. Okay. So as far as Davis's body cam, Mr.
8 Frick, you want to look at it and make sure where the State
9 intends to mute—

10 MR. FRICK: Yes, sir. We can.

11 THE COURT: ---is satisfactory.

12 MR. FRICK: Didn't get a opportunity after we talked.

13 THE COURT: That's okay. All right. Short break.

14 I'll be back in in just a minute.

15 (Whereupon, a brief recess was observed.)

16 THE COURT: What I'm going to do is tell the jury that
17 they will see or hear some muted portions of the video and
18 that they're to place no significance to that. Okay?

19 Are we ready for the jury to come back out?

20 MR. CUTHBERTSON: The State is ready?

21 THE COURT: Mr. Frick, you ready for the jury?

22 MR. FRICK: Yes, sir. Yes, sir, Judge.

23 THE COURT: Okay. Bring the jury out, please.

24 BAILIFF: Yes, sir.

25 (Whereupon, the jury entered the courtroom at 11:40

1 A.M.)

2 THE COURT: All right. Let the record reflect the jury
3 is back in.

4 Solicitor, the body-cam video is into evidence. Do you
5 intend to play it now?

6 MR. CUTHBERTSON: Yes, Your Honor. Move to publish it
7 to the jury.

8 THE COURT: Okay. Ladies and gentlemen, the body-cam
9 video of Officer Davis, there will be several portions that
10 will be muted. Place no significance to that fact, that
11 several portions will be muted when it's being played to
12 you, the jury.

13 You may proceed.

14 (Whereupon, the referenced item was published to the
15 jury.)

16 Q. I just have a few more questions for you, Investigator
17 Davis. In the video you asked, that stuff in the truck,
18 what is it? Did she give you a response?

19 A. Yes, sir. I believe that she said that she didn't
20 know, that it was probably meth.

21 Q. Did you field test that alleged meth there?

22 A. Yes, sir. It was field tested and returned a positive
23 result for meth.

24 Q. Were you involved in the weighing process of that --
25 that meth?

1 A. I imagine it was Investigator Hammond. I'm sure I was
2 present.

3 MR. CUTHBERTSON: No further questions at this time,
4 Your Honor.

5 THE COURT: Okay. Mr. Frick, any cross-examination of
6 this witness?

7 MR. FRICK: Yes, sir. Thank you.

8 CROSS-EXAMINATION

9 PRESTON DAVIS BY MR. FRICK:

10 Q. Investigator Davis, you said at the time of this
11 incident you were working for Lancaster County narcotics?

12 A. Yes, sir.

13 Q. Okay. So you were not a regular road deputy at the
14 time; correct?

15 A. Correct.

16 Q. Okay. And as I see in here, you're -- I think I can
17 see what you're wearing. There's another person with you.
18 That's Investigator Lockhart; correct?

19 A. Yes, sir. Lieutenant Lockhart.

20 Q. Okay. And he's with narcotics as well?

21 A. Yes, sir.

22 Q. In fact, all of the law enforcement that's out there on
23 this stop is narcotics; correct?

24 A. Yes.

25 Q. Okay. And y'all aren't wearing typical uniform. It

- 1 says Sheriff's Department up there.
- 2 A. Right. Yes, sir.
- 3 Q. I give you that. But you're not wearing -- like the
- 4 deputy over here is wearing---
- 5 A. Correct; correct.
- 6 Q. ---typical -- what a road deputy would wear?
- 7 A. Yes, sir.
- 8 Q. Okay. And you're wearing what I would call a Flak
- 9 jacket. Is that correct?
- 10 A. It's a outer vest. Yes, sir.
- 11 Q. Okay. Now, you said you were watching this house
- 12 'cause you got a Crime Stopper tip; correct?
- 13 A. Correct.
- 14 Q. Okay. Did you have any more information about that?
- 15 You said there were some drug sales. Were any names given
- 16 to you?
- 17 A. Yes, sir. The tip said that narcotics were being sold
- 18 at a location and named Charles Outen.
- 19 Q. Charles Outen?
- 20 A. Yes, sir.
- 21 Q. And that name comes up a couple of times, doesn't it?
- 22 A. Yes, sir. Her ex.
- 23 Q. That was her ex. Okay. And ultimately -- and he's, in
- 24 fact, the one who picks up the vehicle, isn't he?
- 25 A. Correct.

1 Q. And she said at some point in here he's the one who
2 does the maintenance on her vehicle; right?

3 A. Correct.

4 Q. Okay. 'Cause she's questioning about the brake light?

5 A. Yes, sir.

6 Q. Okay. So when y'all were looking at the house,
7 obviously you're interested in what's going on at the house,
8 but the information you had given is a Charles Outen?

9 A. Correct.

10 Q. Nothing about a Jennifer Blair McNaughton?

11 A. Not in that complaint. No, sir.

12 Q. Gotcha. And that was the reason why y'all were out
13 there that day; right?

14 A. Yes, sir.

15 Q. You said you were looking at the house for about 15 to
16 30 minutes?

17 A. I'd say I was in the area for about 15 to 30 minutes.
18 Yes, sir.

19 Q. Okay. About how far away were you from the house?

20 A. I was positioned somewhere on Great Falls Highway. I
21 can't remember exactly where. It wasn't in the immediate
22 area of the house, 'cause it's a residential area. Nowhere
23 really to sit in there.

24 Q. Okay. Okay. But you couldn't see who was getting in
25 the car and all that stuff?

- 1 A. No, sir.
- 2 Q. Couldn't see whether they had anything in their hand?
- 3 A. No.
- 4 Q. Okay. You just saw the car leave and then pursued the
- 5 vehicle after that?
- 6 A. Yes, sir.
- 7 Q. Okay. And, of course, it didn't have a brake light on
- 8 it; right?
- 9 A. Correct.
- 10 Q. Okay. Now, you said part of the reason you needed to
- 11 get her out of the vehicle is she made this abrupt turn into
- 12 Chandler's; right?
- 13 A. Yes, sir.
- 14 Q. Okay. And this was nighttime; correct?
- 15 A. Yes, sir.
- 16 Q. Now, I mean, 200 bypass is lit, but it's still
- 17 nighttime?
- 18 A. Yes, sir.
- 19 Q. Okay. And for those who haven't been by Chandler's, I
- 20 think you mentioned this, but just to reiterate, it's not --
- 21 it's not a flat curb the whole way; right?
- 22 A. Right.
- 23 Q. There's -- there's two entrances?
- 24 A. Yes, sir.
- 25 Q. And if you don't make one of those entrances, you're

1 going to run up on the curb; right?

2 A. Yes, sir.

3 Q. Okay. And you said -- you said she was acting nervous?

4 A. Yes, sir.

5 Q. This is what you observed; right?

6 A. Yes, sir.

7 Q. Okay. But you said this was a different nervous?

8 A. Yes, sir.

9 Q. Okay. All right. So you're an expert in nervousness?

10 A. I've encountered tons of people. Yes.

11 Q. Okay. And this is more nervous than you see most
12 people in your estimation?

13 A. Yes, sir.

14 Q. Okay. You said she was looking around the vehicle?

15 A. Yes, sir.

16 Q. Okay. But y'all had asked her for some kind of
17 identification; right?

18 A. Previously.

19 Q. Right.

20 A. Previously.

21 Q. Y'all were still looking for it, weren't you?

22 A. She had already provided it to me when I was asking
23 about searching the vehicle.

24 Q. Okay. Well, after you said you could search the
25 vehicle, she got led away, did she not?

1 A. While we were talking about searching the vehicle is
2 when I was talking about her looking around towards the
3 vehicle, inside the vehicle.

4 Q. Okay. But right after she says I guess so, but, she's
5 handed off to Lieutenant Lockhart, isn't she?

6 A. She said that we can and then she was asked to step to
7 the back of the vehicle.

8 Q. That's not my question. After she said, yeah, but,
9 then Lockhart takes her to the back of her truck, doesn't
10 he?

11 A. While we were searching the vehicle she was took to the
12 back of the truck. Yes, sir.

13 Q. Okay. Nothing's found on her person; correct?

14 A. Correct.

15 Q. Y'all did have body cameras, but these are -- these
16 were unmarked vehicles; correct?

17 A. Yes, sir.

18 Q. And by that I mean it's not a regular sheriff's car
19 that says deputy on the side of it, doesn't have a light
20 bar on -- the visible light bar on top?

21 A. Correct.

22 Q. And what kind of vehicle were you driving?

23 A. At that time, I was driving a Tahoe.

24 Q. Okay. And that's what you -- you're the one who
25 executed the stop; correct?

1 A. Yes, sir.

2 Q. Okay. How about Lieutenant Lockhart, do you know what
3 he had?

4 A. F-150.

5 Q. Okay. But other than the blue lights on there, there's
6 no indication that it is law enforcement?

7 A. Correct.

8 Q. Okay. Now, at what point do you tell her the reason
9 for the stop?

10 A. She takes a phone call about being stopped, says she
11 doesn't know why. She gets off the phone and asks why and I
12 tell her.

13 Q. Okay. But you don't inform her once you stop her? I
14 mean, it takes several minutes before she's informed of what
15 the reason of the stop is, isn't it?

16 A. Right. I was more concerned to why she jumped the
17 sidewalk at the start of the stop than telling her why I
18 stopped her.

19 Q. Right. And as you're talking to her, I mean, she opens
20 up the door at some point to get something for some
21 identification, hops in the vehicle; right?

22 A. Yes, sir.

23 Q. And you tell her don't do that; right?

24 A. Correct.

25 Q. In fact, you say I'll look in there for you; right?

1 A. Right.

2 Q. And did you?

3 A. I attempted to, but around that same time she pulled
4 the card out of her pocket.

5 Q. Okay. All right. But at that point the doors are
6 open; correct?

7 A. Right.

8 Q. Okay. And you can see in the vehicle; correct?

9 A. Right.

10 Q. Okay. And did you see anything illegal?

11 A. No, sir.

12 Q. Okay. So nothing is found until the search occurs?

13 A. Correct.

14 MR. FRICK: Beg the Court's indulgence for one
15 second, Judge.

16 THE COURT: Sure.

17 MR. FRICK: Thank you, sir. That's all the questions.

18 THE COURT: Any redirect, Solicitor?

19 MR. CUTHBERTSON: Just briefly, Your Honor.

20 REDIRECT EXAMINATION

21 PRESTON DAVIS BY MR. CUTHBERTSON:

22 Q. When you first saw this vehicle, where was it located?

23 A. At the house that the complaint was on.

24 Q. At the time you stopped, was anybody else in that
25 vehicle?

1 A. No, sir.

2 Q. At that time were you aware -- were you made aware of
3 where the drugs were located?

4 A. At the time of the stop?

5 Q. Yes.

6 A. I don't think anybody told me exactly. No.

7 Q. And what was she ultimately charged with?

8 A. Trafficking in methamphetamine.

9 MR. CUTHBERTSON: No further questions, Your
10 Honor.

11 THE COURT: Recross?

12 MR. FRICK: None from me.

13 THE COURT: You can step down, sir. Thank
14 you.

15 Next witness.

16 MR. CUTHBERTSON: Yes, Your Honor. The State calls
17 Investigator Khoury Hammond to the stand.

18 THE COURT: Okay. Officer, place your left on the
19 Bible,---

20 THE WITNESS: Yes, sir.

21 THE COURT: ---raise your right hand.

22 (KHOURY HAMMOND, being first duly sworn, was examined
23 and testified as follows):

24 THE COURT: Have a seat. When you take your seat, tell
25 us your name, please.

1 THE WITNESS: Yes, sir. My name is Khoury Hammond.

2 DIRECT EXAMINATION

3 KHOURY HAMMOND BY MR. CUTHBERTSON:

4 Q. I called you Investigator Hammond. What is your title
5 now?

6 A. Right now it's Special Agent with SLED Narcotics. I
7 made a transfer since this incident.

8 Q. All right. And at this time back in 2022, who were you
9 working for?

10 A. Lancaster County Sheriff's Office.

11 Q. And what was your title at this time?

12 A. I worked for the drug task force for the county as an
13 investigator.

14 Q. And what were some of your responsibilities there?

15 A. Controlled purchases, serving search warrants, sitting
16 on complaints, surveillance, stuff like that.

17 Q. And were you on duty the night of January 5th, 2022?

18 A. Yes, sir, I was.

19 Q. Was your vehicle marked with any --

20 A. No, sir. What I -- at that time was a black Durango.

21 Q. So please tell the jury how did you become involved
22 with the arrest of the defendant that day?

23 A. Yes, sir. I was actually involved in the search of the
24 vehicle. I was called over to the incident by Investigator
25 Davis. Once he received consent, we -- myself and Detective

1 Williamson, who's also on the drug task force, went inside
2 the pickup truck, began searching. Within a couple of
3 minutes, I found a pocketbook. It had a small coin purse
4 inside of it and that was where the methamphetamine was
5 located.

6 Q. So where was Ms. McNaughton when you first arrived on
7 the scene?

8 A. She -- I believe she's at the back of the vehicle
9 speaking with Investigator Davis and Lieutenant Lockhart.

10 Q. At that time was she in handcuffs? Could you tell?

11 A. I couldn't tell. I don't believe so.

12 Q. As far as searching vehicles goes, what is the protocol
13 that you all have for that?

14 A. Typically, there's not a protocol. Everybody's got
15 their own kind of ways. Myself, I usually try to go for a
16 bag first so I can go ahead and secure that bag, make sure
17 there are no weapons or anything in there, then I'll work
18 the whole car from front to back.

19 Q. Did you hear Ms. McNaughton make any statements while
20 you were searching the car?

21 A. I did not. No. I was inside the vehicle.

22 Q. After you found the meth, what did you do with it?

23 A. I placed it inside an evidence bag. Well, I let
24 Investigator -- Investigator Davis know and then I placed it
25 inside the evidence bag and took custody of it, along with

1 her cell phone that was seized at the time.

2 Q. Were you involved with the weighing process later on
3 down the line?

4 A. Yes, sir. So we like to usually narcotics and weigh it
5 and test in a controlled environment just 'cause exposure
6 -- somebody can't get exposed to whatever it is, especially
7 with Fentanyl nowadays. So we went back to the sheriff's
8 office after she was placed under arrest. I did field test
9 it and I did weigh the methamphetamine at the sheriff's
10 office.

11 Q. Can you identify what this is?

12 A. That is a BEST kit, a SLED BEST Kit, which we put drug
13 evidence into to send down to Columbia, and that is
14 methamphetamine inside that BEST Kit.

15 MR. CUTHBERTSON: The State would like this --

16 MR. FRICK: Objection. I don't think he's qualified to
17 say that's methamphetamine. They have a SLED agent coming
18 for that.

19 THE COURT: Right. He's already testified that he
20 field tested it. Let's leave it at that. You're going to
21 have the SLED analyst--

22 MR. CUTHBERTSON: Yes. He's here, Your Honor.

23 THE COURT: ---come in tell us what is in there. So
24 I'll strike that from the record at this time.

25 MR. FRICK: Thank you, Your Honor.

1 THE COURT: That last answer as to what the contents
2 were.

3 MR. CUTHBERTSON: The State would like this marked for
4 identification.

5 THE COURT: Okay. All right. For ID, number 3 for the
6 State.

7 MR. CUTHBERTSON: Beg the Court's indulgence.

8 THE COURT: Sure.

9 Q. So where did you find the drugs that you field tested
10 for meth?

11 A. In a pocketbook inside the front seat of the vehicle
12 and then inside that pocketbook was a small coin purse where
13 the narcotics was located.

14 Q. When you started searching the vehicle, how quickly did
15 you find those drugs?

16 A. A matter of minutes. I can't really recall how quick,
17 but it was pretty quick.

18 Q. Was anybody else searching with you?

19 A. Yes, sir. Detective Williamson is on the drug task
20 force with us.

21 Q. And these BEST Kits, can you tell the jury why we have
22 BEST Kits?

23 A. Yes, sir. BEST Kits are for narcotics evidence to be
24 sent down to Columbia to where they are tested by a chemist
25 or a analyst.

1 Q. Were you involved with the sealing and preparing of
2 this BEST Kit?

3 A. Yes, sir, I was. I sealed and placed it into evidence
4 that night, along with that cellphone.

5 Q. Were you wearing a body camera at the time?

6 A. Yes, sir, I was.

7 Q. And as a part of preparing for trial, do you typically
8 send those body cameras over to us?

9 A. Yes, sir.

10 Q. I'd like to show you what's been identified -- what's
11 been marked as State's Exhibit Number 2.

12 MR. CUTHBERTSON: As we spoke, would be--

13 THE COURT: Actually 2-B?

14 MR. CUTHBERTSON: ---2-B.

15 THE COURT: The flash drive contains both body-cam
16 videos so we -- Davis 2-A, Hammond 2-B.

17 MR. CUTHBERTSON: Correct, Your Honor. And I don't
18 want to take this out just for purposes of --

19 MR. FRICK: I'm not going to object, Judge.

20 MR. CUTHBERTSON: Thank you.

21 THE COURT: Sir?

22 MR. FRICK: He's got to take it out and it's going to
23 mess up the whole thing. I'm not objecting to the body cam
24 coming in.

25 THE COURT: Okay. All right. Very good.

1 And the same rules apply, ladies and gentlemen. If
2 there are any muting on this video, place no significance to
3 that.

4 Q. Okay. Have you had a chance to review the body cam in
5 preparation for trial?

6 A. Yes, sir.

7 Q. Does that fairly and accurately reflect what happened
8 that day?

9 A. Correct. Yes, sir.

10 MR. CUTHBERTSON: Permission to publish to the jury.

11 THE COURT: Sure.

12 MR. CUTHBERTSON: Beg the Court's indulgence, Your
13 Honor.

14 THE COURT: Sure.

15 (Whereupon, the referenced video was published to the
16 jury.)

17 MR. CUTHBERTSON: Beg the Court's indulgence, Your
18 Honor. This video should be brief, so if we can get it to
19 --

20 THE COURT: That's okay.

21 MR. CUTHBERTSON: -- to work.

22 (Whereupon, the referenced video was published to the
23 jury.)

24 Q. Special Agent Hammond, where were -- where were the
25 drugs located again?

1 A. A coin purse inside a purse, inside the vehicle, inside
2 the Dodge Ram.

3 Q. And in that -- not the coin purse, but in the purse,
4 the larger purse that you found, was there any other
5 identifying information and documents that would have told
6 you who it belonged to?

7 A. I do not recall right off the top.

8 Q. Well, we saw in the video that you put it in some black
9 box. Can you tell the jury what you were doing there?

10 A. Yeah. So every agent's assigned a -- it's basically a
11 narcotics box. It's where we keep evidence so it doesn't
12 float around in our car, get exposed to or break loose or
13 something like, or we lose it. So it's a standard to keep
14 it in that box to take it back to the office.

15 Q. You take it back to the office. What do you do with it
16 next?

17 A. We take it back to the office, we have a narcotics
18 table we bring it to. We break it out, get a test kit, pop
19 it in the test kit. Depending on what kind of narcotic it
20 is, that being methamphetamine, tested for positive from
21 meth, -- excuse me -- put in and it tested positive for
22 meth, and then once we did that, we weighed it. Once it
23 was weighed and we got weights and all that, we put in the
24 SLED BEST Kit.

25 Q. Once it goes into that SLED BEST Kit, what do you do

1 with it after that?

2 A. Once it goes --

3 Q. Once it's in the SLED BEST Kit---

4 A. Uh-huh.

5 Q. ---how does it get to SLED?

6 A. Our evidence custodian does it. We take it from our
7 office and walk it, basically, across the parking lot to an
8 evidence locker. We get a key for the evidence locker, lock
9 it and put the key in the evidence custodian box if nobody's
10 there.

11 MR. CUTHBERTSON: Beg the Court's indulgence.

12 THE COURT: Sure.

13 MR. CUTHBERTSON: Nothing further at this time, Your
14 Honor.

15 Mr. Frick, do you have any cross-examination?

16 MR. FRICK: Yes, sir.

17 CROSS-EXAMINATION

18 KHOURY HAMMOND BY MR. FRICK:

19 Q. Agent Hammond, when you looked into the vehicle, you
20 said you saw this purse?

21 A. Yes, sir.

22 Q. Did you take that purse?

23 A. Did I take the purse?

24 Q. Yes, sir?

25 A. No, sir. I didn't take the purse.

1 Q. Okay. And solicitor asked you about any other
2 identifying items in there. Did you see any driver's
3 license, anything with ID?

4 A. I can't recall, sir.

5 Q. Okay.

6 A. I don't want to tell you something that I can't
7 remember.

8 Q. Okay. All right. All right. But, I mean, we don't
9 have anything here today, do we?

10 A. What's that?

11 Q. You didn't bring anything here today, did you?

12 A. No, sir. No, sir.

13 Q. Okay. All right. So the answer is essentially, no, we
14 don't have that?

15 A. Correct.

16 Q. Okay. The coin purse, you did seize it? It's here.

17 A. Yes, sir.

18 Q. Okay. So that would be in evidence?

19 A. Yes, sir.

20 Q. Okay. Do you request any testing or did you request
21 any testing on this case?

22 A. For lab analysis. I put it on our evidence sheet.

23 Q. Okay.

24 A. Yes, sir.

25 Q. Okay. So --

1 A. And then it goes to our evidence technician and they
2 ---

3 Q. Send it down to SLED?

4 A. ---get it down to SLED. Yes, sir.

5 Q. Okay. Did you request any touch DNA? Did you request
6 any fingerprints, any other forensics?

7 A. No, sir. I did not.

8 Q. Okay. Did you find anything else in the vehicle?

9 A. No, sir.

10 Q. Just what was in that coin purse?

11 A. Yes, sir.

12 MR. FRICK: Okay. Thank you, sir. That's all the
13 questions I have.

14 THE COURT: Any redirect?

15 MR. CUTHBERTSON: Not from the State, Your Honor.

16 THE COURT: You can step down, sir. Thank you.

17 All right. We have one morning -- one witness for the
18 morning; correct?

19 MS. EASLER: Yes, Your Honor.

20 THE COURT: Ms. Horton. Is that Ms. Horton behind you?

21 MS. EASLER: Yes, sir.

22 THE COURT: All right. Call your next witness,
23 Solicitor.

24 MS. EASLER: The State calls Ann Hart to the stand.
25 Ann Hart.

1 THE WITNESS: Horton.

2 MS. EASLER: Horton. Sorry. Ann Horton to the stand.

3 THE COURT: All right. Place your left hand on the
4 Bible, raise your right hand.

5 (ANN HORTON, being first duly sworn, was examined and
6 testified as follows:)

7 THE COURT: Have a seat. Give us your name when you
8 take your seat, please.

9 THE WITNESS: My name is Ann Horton.

10 DIRECT EXAMINATION

11 ANN HORTON BY MS. EASLER:

12 Q. Thank you, Ms. Ann. I apologize. I got you mixed up
13 with an employee in our office.

14 A. That's okay.

15 Q. All right. Ms. Ann Horton, where do you work?

16 A. I work for Lancaster County Sheriff's Office.

17 Q. How long have you worked there?

18 A. Fifteen years, 9 months.

19 Q. That is a long time. What are your duties there?

20 A. I am the custodian of evidence and that involves when
21 a officer brings in any type of evidence and they place it
22 in a locker, or sometimes during the daytime, they will give
23 it to me. It is my job to make sure that that evidence is
24 in the same condition, ready to come to court or ready to go
25 to SLED for testing or ready for our crime scene

1 investigators to do testing, and to store that in a manner
2 that we can always find it.

3 Q. What do you mean same condition?

4 A. For instance, if a BEST Kit is turned in, it is my job
5 to check that BEST Kit, which is the drug evidence kit.
6 It's my job to make sure that it's all sealed and ready to
7 go to SLED and it stays in that same condition, it's not
8 tampered with. That's my job.

9 Q. How is drug evidence submitted to evidence in the
10 Lancaster County Sheriff's Office?

11 A. If an investigator wants that evidence to go to SLED to
12 be tested, he puts it in -- he or she puts it in a BEST Kit.
13 That stands for Best Evidence Sampling Test Kit. They put
14 it in there. They fill out a form that tells the analyst at
15 SLED what they want done, what they've collected, and they
16 describe it on there and then they do a chain of custody
17 form that shows that it came from them to me, that I'm
18 taking it to SLED. So they bring it in like that.

19 Q. Are you familiar with the drugs that have been talked
20 about in this case?

21 A. I am, just from having them submitted and filling out
22 my -- what we call a iLAB form. That is a form that I fill
23 out on the computer telling SLED that we're bringing this
24 item down to them to be tested and then I check it in when I
25 get there. So as far as that goes, I'm familiar with it.

1 Q. What evidence did you submit to SLED in this case?

2 A. I submitted a BEST Kit that was put in a locker by
3 Investigator Khoury Hammond and I took it to SLED to be
4 tested.

5 Q. I'm going to show you what has been identified as
6 State's Exhibit 3.

7 (Whereupon, the referenced item was handed to the
8 witness.)

9 A. Yes.

10 Q. Can you tell me what that is?

11 A. This is the way a BEST Kit comes back from SLED once
12 it has been analyzed. It is folded over and sealed in
13 another container and on the back it tells me -- I have
14 forms that it'll tell me what is actually accounted for in
15 this kit.

16 Q. Has it been -- is it sealed?

17 A. It is heat sealed.

18 Q. Has it been tampered with in any way?

19 A. It has not.

20 MS. EASLER: The State would move State's Exhibit 3
21 into evidence.

22 MR. FRICK: I don't think the proper foundation has
23 been totally laid in this --

24 THE COURT: Okay. Do we want to wait? I'm certainly
25 not trying to tell you how to try your case, Solicitor, but

1 do we want to wait until the SLED Analyst comes to identify
2 it and then move it in at that time?

3 MS. EASLER: That's fine.

4 THE COURT: Would that be okay?

5 MS. EASLER: Yes.

6 THE COURT: All right. Let's try it that way.

7 MS. EASLER: Okay.

8 Q. When you dropped it off at SLED, do you know what the
9 process is for that?

10 A. Yes. Each piece of evidence that I take to SLED, I
11 have to timestamp it when I get there at the time I went in.
12 I have to sign that I brought it in and then I lock it in a
13 locker just like our investigators or deputies lock it in a
14 locker for me to be the person to get out. I actually lock
15 it in a locker for the SLED person to get it out.

16 Q. Once it goes to SLED, how does it get back to your
17 office?

18 A. After the analyst is finished with it, one of my trips
19 that I go down to drop off evidence, they will return
20 evidence to me that has -- it's been analyzed and it's
21 complete, it's finished and then I bring it back and store
22 it.

23 Q. Where is it stored? In your office?

24 A. No. We have an evidence room that is -- it's under
25 lock and key. It takes my badge and a key to get in that

1 room where our evidence is stored.

2 Q. Does it remain there until trial?

3 A. Yes, it does.

4 MS. EASLER: No further questions at this time.

5 THE COURT: Mr. Frick, any cross-examination?

6 MR. FRICK: Yes, sir.

7 CROSS-EXAMINATION

8 ANN HORTON BY MR. FRICK:

9 Q. Ms. Horton, I think I ask you this question in every
10 trial, but I'm going to ask it again---

11 A. Okay.

12 Q. ---to be consistent. You don't go collect evidence, do
13 you?

14 A. I do not.

15 Q. Okay. You don't determine what testing is to be done
16 on it?

17 A. I do not.

18 Q. That is done by the officers; correct?

19 A. The officer. Yes, sir.

20 Q. Okay. And to your knowledge, SLED tests what they're
21 told to test, isn't that -- I'm not trying to make you a
22 SLED expert, but in your knowledge?

23 A. No. I think when the evidence goes down, really -- and
24 you'll have to ask the SLED evidence person or the analyst
25 about this, but I think they test for whatever drugs, just

1 kind of a blind test.

2 Q. Right.

3 A. They don't usually tell them what they have.

4 Q. Right. No. What I mean is any additional testing.

5 Say if -- SLED doesn't determine whether fingerprints or DNA
6 is going to be tested---

7 A. Okay.

8 Q. ---unless they're told; correct?

9 A. That's correct.

10 Q. Okay. Your job is to make sure, once it's gotten to
11 you, it's secured, taken to SLED and returned securely;
12 correct?

13 A. That's my job.

14 Q. Thank you, ma'am.

15 MR. FRICK: That's all the questions I have.

16 THE COURT: Any redirect, Solicitor?

17 MS. EASLER: No, Your Honor.

18 THE COURT: You can step down, ma'am. Thank you.

19 Okay. I think this probably would be a good time to
20 take our lunch break; correct?

21 MS. EASLER: Yes, Your Honor.

22 THE COURT: Okay. All right.

23 All right. Ladies and gentlemen, let's go ahead and
24 take our lunch break and let's be back here at 1:45, so
25 that'll give you an hour and fifteen minutes. Hopefully,

1 that'll be enough to get you a bite to eat. Remember all of
2 my instructions and we'll see you back at 1:45.

3 (Whereupon, the jury exited the courtroom at 12:28
4 P.M.)

5 THE COURT: I guess I should have asked when is the
6 SLED --

7 MS. EASLER: He's here.

8 THE COURT: Huh?

9 MS. EASLER: He's here.

10 THE COURT: Oh. Already here. Okay. All right. Good
11 deal. All right. Y'all have a good lunch.

12 (Whereupon, the proceeding was recessed at 12:30 P.M.
13 for lunch and reconvened at 1:51 P.M.)

14 THE COURT: All right. We ready for the jury? State?

15 MR. CUTHBERTSON: Yes.

16 THE COURT: Defense?

17 MR. FRICK: Yes, sir.

18 THE COURT: Ready for the jury?

19 MR. FRICK: Yes, sir. I'm ready, Judge.

20 THE COURT: Let's bring the jury in, please, sir?

21 (Whereupon, the jury entered the courtroom at 1:53
22 P.M.)

23 THE COURT: Let the record reflect the jury is back in.

24 Is the State ready to call its next witness?

25 MS. EASLER: Yes, Your Honor. The State calls Willie

1 Smith.

2 (WILLIE C. SMITH, III, being first duly sworn, was
3 examined and testified as follows):

4 THE COURT: Okay. Have a seat. When you have a seat,
5 give us your name, please.

6 THE WITNESS: My name is Willie C. Smith, III.

7 DIRECT EXAMINATION

8 WILLIE C. SMITH, III BY MS. EASLER:

9 Q. Thank you, Mr. Smith. Where are you employed, Mr.
10 Smith?

11 A. Currently, I'm not employed right now. I retired a
12 year and a half ago from the South Carolina Law Enforcement
13 Division.

14 Q. How long were you employed with the South Carolina Law
15 Enforcement Division?

16 A. Twenty-three years and seven months.

17 Q. What was your position there?

18 A. I was a senior chemist, senior criminalist, in the
19 Forensic Science Drug Analysis Department.

20 Q. What did you do in the drug analysis department?

21 A. In the drug analysis department, we receive evidence
22 from across the state and we would analyze it and determine
23 what it is and issue an official report.

24 Q. Can you tell us about your educational background and
25 your training?

1 A. I have bachelor of science degrees in biology and
2 chemistry from the University of South Carolina. I've taken
3 additional graduate course work for the purposes of drug
4 analyses. I went through the Criminal Justice Academy to
5 become a sworn law enforcement officer within the State of
6 South Carolina. I also attended seminars and lectures on
7 drug analysis and I went through a year of training to
8 become a certified analyst in drug analysis.

9 Q. Have you ever testified in court?

10 A. Yes, I have.

11 Q. Approximately how many times?

12 A. A hundred and ten times.

13 Q. Have you ever been qualified as an expert in the court?

14 A. Yes. All those 110 times.

15 MS. EASLER: Your Honor, at this time the State would
16 offer Willie C. Smith as an expert in the field of chemical
17 drug analysis.

18 THE COURT: Okay. And, Mr. Frick, do you have any
19 questions of this witness?

20 MR. FRICK: No further voir dire. No objection.

21 THE COURT: Okay. All right. I will find that this
22 witness, Willie Smith, III, is an expert in the area of drug
23 analysis.

24 Ladies and gentlemen, when the Court declares a witness
25 to be an expert in a particular field by virtue of

1 education, experience and the like, that expert opinion --
2 that expert will be allowed to offer opinions and the basis
3 for those opinions. Normally, witnesses, with a few
4 exceptions, witnesses cannot offer opinions in a case. They
5 can only testify as to what they saw, heard, that sort of
6 thing, but experts are a little different and are treated a
7 little different.

8 Now, just because I declare Mr. Smith as an expert in
9 the area of drug analysis, you give his testimony
10 whatever weight you believe that it deserves.

11 Solicitor.

12 MS. EASLER: Thank you.

13 Q. Can you tell us what the process is when you receive
14 evidence or drugs into SLED?

15 A. The way we set things up at the SLED forensics
16 laboratory is we issue BEST Kits, Best Evidence Sample
17 Testing Kits, and what these kits are tamper-indicative
18 kits where officers from state agencies across the State of
19 South Carolina can give the evidence to a laboratory in a
20 secure nature, and once it gets there, it goes to our login
21 department and I pick up the evidence from our login
22 department. I put it into my drug vault and inside the drug
23 vault, it stays there until I do my testing. I do my
24 testing, return it to the drug vault, and then I return it
25 to the login department, and then the login department

1 return it to the agencies.

2 Q. Can you tell us what procedures are followed to
3 maintain the integrity of these samples, these drugs?

4 A. Yes. We have a chain of custody that anytime anyone
5 touches that evidence, it's indicated on our chain of
6 custody and also our evidence. We examine the evidence
7 before we do any of our testing to make sure that the
8 evidence is sealed and secure.

9 Q. Are you familiar with samples by the def- -- that were
10 presented to you for a defendant, Jennifer McNaughton?

11 A. Yes. I did receive a BEST Kit in regards of this case
12 and it's BEST Kit Number B293859.

13 Q. And does that BEST Kit have a SLED lab number?

14 A. Yes. The corresponding SLED lab number that is
15 assigned to that case, which we do with every evidence
16 that's received by our agency, is L22-05080.

17 Q. And can you tell me what the incident date of that is?

18 A. The incident of this case is January 5th, 2022.

19 Q. What is contained in the BEST Kit.

20 A. Inside this BEST Kit that was sealed intact was the
21 evidence pouch and inside the evidence pouch there were two
22 separate plastic bags. Each of the plastic bags contained a
23 crystal substance.

24 Q. I'm going to show you what's been marked as State's
25 Exhibit 3.

1 (Whereupon, the referenced item was handed to the
2 witness.)

3 Q. Do you recognize that?

4 A. Yes. I do recognize this evidence.

5 Q. Can you tell the jury what that evidence is?

6 A. This evidence is for case number L22-05080 and
7 corresponding BEST Evidence Kit, testing number B293859, is
8 the evidence I did and tested in this case.

9 MS. EASLER: The State would move State's Exhibit 3
10 into evidence.

11 THE COURT: Mr. Frick?

12 MR. FRICK: No objection, Your Honor.

13 THE COURT: Without objection, Number 3 is into
14 evidence for the State.

15 Q. Now, Mr. Smith, when you looked at it, what did you
16 observe? Is it in the condition that you sent it back in?

17 A. Yes, because every time when I finish my testing and
18 the date that I did my testing on this case was 11/21/23, I
19 sealed it and initialed it at the bottom and that's still in
20 the same condition from when I did my testing on that date.

21 Q. How many items were submitted? Do you know?

22 A. Once again, it was a evidence pouch and inside that
23 evidence pouch was two plastic bags and each of the plastic
24 bags had a crystal substance in them.

25 Q. What tests did you perform?

1 A. For all our cases, especially in this case, it had a
2
3 crystal substance, I do a chemical test and then I do an
4 instrumental test and the chemical test identifies the
5 functional group of the substance that I'm looking for and
6 the second test, which is the instrumental test, it
7 identifies the substance on a molecular level.

8 Q. So what was the result of your test?

9 A. The first test day, which is on my report as item
10 1.1.1, which is the plastic bag containing a crystal
11 substance, was methamphetamine found, which is a Schedule II
12 drug and it had a weight of 13.09 grams.

13 Q. Did you test anything else in the bag?

14 A. No. I did not test anything else. I did have an
15 additional item where the threshold was met as far as the
16 weight goes and that, in my report, says the maximum
17 threshold has been met for the substance.

18 Q. Can you tell us what that means?

19 A. That means that as far as the charging goes, as far as
20 the law goes, that the maximum threshold has been met with
21 the first item. The second item only weighed 0.31 grams and
22 as far as threshold weight goes towards the law, it's
23 anything over 10 grams.

24 Q. Is there a significance to how much drug -- the drugs
25 weigh?

1 A. Yes. Just for -- you have like over a gram, over 10
2 grams, over 28 grams, as far as how the person is charged
3 and far as the threshold as far as the person is charged
4 for the drugs.

5 Q. And can you state to a reasonable degree of certainty
6 that the drugs you tested were methamphetamine?

7 A. As to doing a chemical test and an instrument test, I'm
8 100 percent sure that this substance is methamphetamine.

9 Q. And is the methods you used generally accepted among
10 the scientific community?

11 A. Yes. The type of testing that I use, most laboratories
12 around the world use a chemical test when they do they're
13 testing, and they use a instrumental test to identify
14 unknown substances, to identify it on a molecular level.

15 MS. EASLER: Please answer any questions the defense
16 may have. Thank you for your testimony.

17 THE COURT: Mr. Frick, anything?

18 MR. FRICK: Yes, sir.

19 CROSS-EXAMINATION

20 WILLIE C. SMITH, III BY MR. FRICK:

21 Q. Mr. Smith, do you have a copy of the chain of custody?

22 A. No, I do not.

23 Q. Okay. All right. I'm going to ask you to refer with
24 this.

25 MR. FRICK: I think we agreed to the chain of custody;

1 right?

2 MS. EASLER: Yes.

3 MR. FRICK: Okay. Were y'all going to move that into
4 evidence?

5 MS. EASLER: I was not.

6 MR. FRICK: Okay. I'll just not have him refer to it
7 then.

8 Q. If you don't mind, I'm going to kind of stand up here
9 with you so I can ask my questions.

10 A. All right.

11 Q. I'm not trying to get up all on you. Okay. Just so
12 I'm clear, item 1, that's the entire -- that's the entire
13 kit that's inside this sealed package; right?

14 A. Right. Item 1 is the actual BEST Kit. The way they
15 came up with the process of logging in the BEST Kit, they
16 login everything as item 1. They don't want to give a
17 description of what's inside the BEST Kit. They want to
18 leave that to their forensic chemist to identify what's
19 inside the BEST Kit, to determine what needs to be analyzed,
20 and then to do an inventory of the items.

21 Q. Okay. All right. Let me ask you this: can you tell
22 on this when the BEST Kit got submitted to SLED?

23 A. As far as I can tell, it would be 4/13/22, but that
24 would be up to the evidence control person there.

25 Q. Right.

1 A. But -- and also it would be up to the evidence person
2 to verify when the evidence was submitted.

3 Q. Right. I'm just --

4 A. Right.

5 Q. We all agree this is the SLED chain of custody.

6 A. That's correct.

7 Q. So it appears it was submitted to SLED April 13th of
8 '22?

9 A. It's not the official documentation.

10 Q. Okay.

11 A. It would have to be the evidence clerk from that agency
12 would have to testify---

13 Q. Okay.

14 A. ---as to when it was submitted to SLED.

15 Q. Okay. Okay. But as it goes through the process, it's
16 documented as to where it goes, and it goes through a couple
17 of different places; right?

18 A. Yes. I know what our chain of custody does. Where I
19 follow the chain of custody is when it gets in one of our
20 person's hands. Any person that touches the evidence at
21 SLED is on this chain of custody, from what they did with it
22 and from what they did to the packaging to the very end.

23 Q. And can you tell on this when it got to you?

24 A. Yes. When it got to me, you see my name. Madison
25 Willis. She gave me the evidence on 11/2/23. That's when

1 she picked it up from the back room and then I picked it up
2 from her on 11/2/23 at 9:36.

3 Q. Okay.

4 A. And I did my testing on the evidence, sealed it back
5 and like I said, you can see on here 11/21/23 that I
6 returned the evidence back. That's when I did my testing on
7 this date right here and I -- once I finish my testing and
8 everything was clear with our reports, because our reports
9 -- we'll do a technical and a peer review to make sure that
10 I'm not sending out anything wrong. Once I went through
11 that whole process, by 11/27/23, it went back down to login
12 department and that evidence will stay there until they
13 return it to the agency.

14 Q. All right. And then there's some other -- so -- just
15 to kind of sum this up. When you -- you opened up the
16 pouch; correct?

17 A. That is correct. I opened up the pouch on 11/21/23
18 and then it shows in the chain of custody when I cut the
19 official report and then from when the official report was
20 done and everything was going through the peer and technical
21 review with other analysts, making sure that I did
22 everything properly and correct, I was able to return it to
23 the login area.

24 Q. Okay. And when you opened it up, there was a -- it's
25 called a pouch. Is it this blue thing that we see in here?

1 A. Yes. It must be the blue thing.

2 Q. Okay.

3 A. Because I identify every single item that I receive
4 inside the BEST Kit.

5 Q. And that's what you identified as 1.1?

6 A. That is correct.

7 Q. Okay. And the reason why you call it 1.1 is because
8 the BEST Kit is one, and then a sub-line with that is what
9 came out of that BEST Kit. Is that fair?

10 A. That is correct. 'Cause if you could open up -- just
11 say if we decided to open up this BEST Kit, you would see
12 that I have that item labeled as 1.1.

13 Q. Okay. As far as that pouch, this blue pouch that's in
14 here that the stuff came out of, did you conduct any testing
15 on it?

16 A. No, I did not.

17 Q. To your knowledge, was any other testing done on it?

18 A. The only thing that was requested in this case was drug
19 analysis.

20 Q. All right. And then we've got a 1.1.1. That would be
21 one of these little baggies that were in there?

22 A. Right. Inside the pouch that was in here, there were
23 two separate plastic bags that contained crystal substances
24 and then I labeled it on my report as 1.1.1 and 1.1.2,
25 'cause the pouch is labeled as 1.1 and inside that pouch

1 were the two plastic bags, 1.1.1. and 1.1.2.

2 Q. And the testing was done on 1.1.1?

3 A. That is correct.

4 Q. Okay. But there was no need to do any further testing,
5 as you've reached the threshold. Is that what your
6 testimony is?

7 A. That is correct. The item 1.1.1 had a weight of 13.09
8 grams. Since the next item wasn't going to get me to 28
9 grams, I just could stop my testing at that one item,
10 because the other item only weighed 0.31 grams.

11 Q. Okay. Now, Mr. Smith, you've -- you conduct your work
12 in a lab on Broad River Road in Columbia; correct?

13 A. Yes.

14 Q. Well, conducted. Congratulations on your retirement.

15 A. Yes. Thank you.

16 Q. You don't go out into the field and collect evidence;
17 correct?

18 A. No. The only way we receive evidence is sealed in a
19 way that the evidence is sealed before my analysis.

20 Q. Okay. And when items are submitted to SLED in general,
21 with your knowledge of working at SLED for a couple of
22 decades, SLED conducts the testing that they're asked to do.
23 Is that fair?

24 A. That is correct. Anytime they request -- if I needed
25 to send it to another department, I send it to another

1 department, but in this case only drug analysis was
2 requested in this case.

3 Q. Thank you, sir.

4 MR. FRICK: That's all the questions I have.

5 THE COURT: All right. Any redirect, Solicitor?

6 MS. EASLER: Just briefly.

7 THE COURT: Sure.

8 REDIRECT EXAMINATION

9 WILLIE C. SMITH, III BY MS. EASLER:

10 Q. Mr. Smith, do you have any control over how long it
11 takes for the drugs to get to you at SLED?

12 A. No. We just receive the evidence when the agency
13 brings it in.

14 Q. What about how long it takes once it gets to SLED?

15 A. It all depends on the system and how it works. Some
16 solicitor's office want their evidence test faster. Some,
17 takes a while. We have tens of thousands of cases. Some
18 cases take a short amount of time. Some cases take a long
19 amount of time. And at the time before that, we had five
20 analysts testing drugs for the whole state of South
21 Carolina, which is a very low number. So we do the best we
22 can with the amount of people we had working drugs.

23 Q. I am going to show you -- prior to -- when Mr. Frick
24 was questioning you, you spoke about your report.

25 A. Yes.

1 Q. Can you tell me a little bit about what you're talking
2 about, a report?

3 A. Every time we receive evidence at the South Carolina
4 Law Enforcement Division, we -- regardless of what the
5 evidence is, once we finish our examination, we always issue
6 an official report as to what our results are from the
7 findings of that case.

8 Q. And in this case, did you do that?

9 A. Yes, I did.

10 Q. Would our office have been provided a copy of that?

11 A. Yes. We give all the requesting agencies a copy of our
12 official report.

13 Q. I'm going to show you what will be marked as State's
14 Exhibit Number 4.

15 (Whereupon, the referenced item was handed to the
16 witness.)

17 Q. Do you recognize this?

18 A. Yes. This exhibit number 4 is the official report that
19 I issued in this case.

20 Q. Does that lay out the results of your test?

21 A. Yes.

22 Q. And what were the results of your test?

23 A. Once again, the first plastic bag, which is a plastic
24 bag containing crystal substance, was found to be
25 methamphetamine found, which is a Schedule II drug, and it

1 had a weight of 13.09 grams; and item 1.1.2, which was also
2 a plastic bag, which I said before the weight was 0.31
3 grams. I did not do any testing due to -- it says on the
4 report that the maximum attributed threshold has been met
5 with the substance based on indicative testing results
6 consistent with item 1.1. And what that means is, I did do
7 a chemical test on it to see the functional group that was
8 present to show it was similar, but I did not do a
9 instrumental test, the testing on a molecular level.

10 MS. EASLER: The State would move State's Exhibit 4
11 into evidence.

12 THE COURT: Mr. Frick?

13 MR. FRICK: Judge, I need to clarify something. On --
14 I'm sorry. I thought you were entering in this whole
15 section.

16 Judge, on State's 3, I would have to have that subject
17 to my previous objection that you've ruled upon.

18 THE COURT: Sure.

19 MR. FRICK: And I would have the same objection to the
20 drug analysis report.

21 THE COURT: All right. Subject to matters already on
22 the record, Number 4 into evidence for the State.

23 MS. EASLER: No further questions at this time.

24 THE COURT: Okay. Do you have any recross?

25 MR. FRICK: No additional.

1 THE COURT: You can step down, sir. Thank you.

2 THE WITNESS: Yes, sir.

3 THE COURT: You're free to leave the courthouse.
4 You're more than welcome to remain with us if you so like.

5 All right. The State have any further witnesses?

6 MR. CUTHBERTSON: No, Your Honor. The State rests.

7 THE COURT: Okay. All right. Ladies and gentlemen, I
8 have a legal matter that I need to take up with the lawyers,
9 so if you'll go back to the jury room and we'll bring you
10 out shortly. Okay?

11 (Whereupon, the jury exited the courtroom at 2:15 P.M.)

12 THE COURT: All right. Does the defense have any
13 matters for the record?

14 MR. FRICK: I do. I just want to clarify my last
15 objection. Obviously, my objection to the drugs were
16 subject to my motion to suppress.

17 THE COURT: Sure. Right.

18 MR. FRICK: I neglected initially to object to them. I
19 said no objection. I did not intend to waive my previous
20 objection, as we were trying to clarify on the record. I do
21 object to the admission of that subject to --

22 THE COURT: Subject to your motion to suppress.

23 MR. FRICK: Yes, sir.

24 THE COURT: And I think you probably would have been
25 protected anyways, but I know -- I know you and you want to

1 make sure that the record is clear.

2 MR. FRICK: I'm not sure. Yes, sir.

3 THE COURT: So certainly when you stated without
4 objection, that would have been subject to what has already
5 been on the record---

6 MR. FRICK: Yes, sir.

7 THE COURT: ---concerning your motion to suppress.

8 MR. FRICK: Thank you. Thank you.

9 Your Honor, next I would have a motion for a directed
10 verdict. Taking the evidence in the light most favorable to
11 the State, I do not believe that there is enough for this to
12 be sent to jury as a matter of fact. I think it can be
13 decided as a matter of law.

14 Judge, this is a, I would suggest, a constructive
15 possession if not a mere presence case. I do have case law
16 on mere presence. I'm looking at *State v. Heath*. That's
17 going to be 370 SC 326, where they state in fact, Mere
18 presence is insufficient to prove constructive possession.

19 As far as constructive possession, I am looking at the
20 case of -- and I apologize. I've not provided these to the
21 solicitor yet. I just got them over lunch myself. 408 SC
22 389, that's *State versus Dantzler*, where they say the
23 State's got to prove that the defendant had dominion and
24 control. Right to exercise dominion and control over the
25 evidence can be established by constructive or

1 circumstantial evidence.

2 Judge, the stuff was found in a purse. There's no
3 identification of whose purse it is. There is no further
4 identification from that. There's no subsequent testing on
5 the purse. There's no subsequent testing on the change
6 purse to determine any kind of identification. So this is
7 a constructive possession case 'cause it was -- nothing was
8 found on Ms. McNaughton. Taking all of that in light, I do
9 believe you can decide this as a matter of law and I would
10 ask you to direct a verdict of not guilty.

11 THE COURT: Okay. I think the -- Officer Davis test--
12 -- or it may have been Hammond. I can't remember, but the
13 -- probably Hammond 'cause he did the search, that the
14 pocketbook was found at the front passenger's seat. She was
15 operating the truck. So I think probably what your argument
16 does, it goes to the weight of the evidence and not the
17 existence of any evidence. So in light most favorable to
18 the State, I'm going to deny your -- deny your motion, and
19 what you're arguing may be -- we kind of chatted a little
20 bit back in chambers as far as the charge and we can get
21 into that in just a--

22 MR. FRICK: Yes, sir.

23 THE COURT: ---little bit.

24 MR. FRICK: Yes, sir.

25 THE COURT: Okay. All right. Now, let me -- if you'll

1 explain what Ms. McNaughton what -- I need to advise her
2 concerning testimony.

3 MR. FRICK: Yes, sir.

4 THE COURT: If you can kind of explain to her and let
5 me pull up a script, even though I probably should know this
6 by heart, but --

7 Did the State want to put anything on the record
8 concerning defense motion for a directed verdict? I'm sure
9 he didn't naturally agree with my ruling. But is there
10 anything you want to put on the record?

11 MS. EASLER: Yes, Your Honor, just briefly. The State
12 does agree with the ruling. However, in the video Ms.
13 McNaughton does state that the purse is hers and that would
14 be the only addition we would need.

15 THE COURT: Yeah. I believe that's right. Yes. She
16 did make that admission.

17 Okay. Ms. McNaughton, would you please stand and I
18 need to swear you in.

19 (Whereupon, the defendant was duly sworn by the Court.)

20 THE COURT: Okay. You can remain standing, but you can
21 put your hand down.

22 Ma'am, at this time I'm going to explain to you certain
23 of your rights. If you do not understand anything I say,
24 please let me know that. If you want me to explain anything
25 in more detail, please let me know that as well. Do you

1 understand that?

2 MS. MCNAUGHTON: Yes, sir.

3 THE COURT: Okay. We have reached the stage of the
4 trial where you may present your defense. You have the
5 right to claim the protections given to you by the Fifth
6 Amendment to the Constitution of the United States and this
7 Amendment states in part, No person shall be compelled in
8 any criminal case to be a witness against himself. This
9 means that you cannot be required to testify in this case.
10 You have the right to testify in your own behalf; however,
11 no one can make you testify. This is a personal right. No
12 one can waive this right except you. If you decide to
13 testify, you'll be subject to the same rules that govern --
14 that govern other witnesses and you may be examined and
15 cross-examined on any relevant issue in this case.

16 In addition, if you have any convictions involving
17 dishonesty or false statement or for crimes punishable by
18 imprisonment for more than one year and the Court determines
19 that the probative value of admitting this evidence
20 outweighs its prejudicial effect to you, the solicitor would
21 be able to introduce your record to attack your credibility.

22 If you decide to testify, this decision on your part
23 must be freely, voluntarily, and intelligently made with
24 knowledge of the protections given to you by the Fifth
25 Amendment and the consequences of your decision to testify.

1 If you decide not to testify, that also must be freely,
2 voluntarily, and intelligently made by you and if you decide
3 not to testify, I will specifically instruct the jurors that
4 they cannot give the fact that you did not testify any
5 consideration whatsoever and that there's to be absolutely
6 no prejudice to you because you did not testify. This
7 matter is left entirely up to you whether or not you
8 testify. I'm sure you've already talked extensively with
9 Mr. Frick concerning this matter, but the final decision is
10 left entirely up to you.

11 Have you understood what I've explained to you, ma'am?

12 MS. MCNAUGHTON: Yes, sir. But I would like some time
13 to discuss with my attorney about options.

14 THE COURT: Okay. Before you tell me whether or not
15 you're going to testify, you need a few minutes?

16 MS. MCNAUGHTON: Yes, sir.

17 THE COURT: Okay.

18 MR. FRICK: Judge, in all candor, we have not discussed
19 that.

20 THE COURT: Okay. All right.

21 MR. FRICK: We have not gone over that part.

22 THE COURT: Okay. Well, then certainly I'll give you
23 some time to talk with Mr. Frick now about that and then
24 we'll resume this examination. Okay? Everybody be at ease
25 for just a few minutes. Okay?

1 MR. FRICK: Thank you, Your Honor.

2 (Court at ease)

3 THE COURT: Okay. We are back on the record and, Ms.
4 McNaughton, if you would please stand and, certainly, you've
5 had an opportunity to talk with Mr. Frick about the issue of
6 you testifying or not. Have you made a decision on that
7 issue?

8 MS. MCNAUGHTON: No, sir. Actually, I -- we were
9 hoping maybe that we might be able to have some time to
10 think about it overnight possibly so I can---

11 THE COURT: Okay.

12 MS. MCNAUGHTON: ---come up with something and maybe
13 let him look at it-

14 THE COURT: Sure.

15 MS. MCNAUGHTON: ---and see if it's okay to make a
16 decision. I'm unsure about it.

17 MR. FRICK: Judge, I would ask if you would allow us to
18 ---

19 THE COURT: Sure.

20 MR. FRICK: ---make that final decision tomorrow
21 morning.

22 THE COURT: Okay.

23 MR. FRICK: We are -- we've had some spirited
24 discussions about the issue.

25 THE COURT: Okay.

1 MR. FRICK: And I think we'd like to continue to do
2 that.

3 THE COURT: That's fine.

4 MR. FRICK: I think we were teetering towards having
5 argue and charge in the morning anyway.

6 THE COURT: Yeah. We're not going to do this -- and
7 what I'd like to do, and I'll certainly give you until the
8 morning to --

9 MS. MCNAUGHTON: Thank you.

10 THE COURT: -- to let me know. What I would like to do
11 with the lawyers is work on the charge this afternoon and
12 pretty much have that squared away. So what I'm going to do
13 is bring the jury out, tell them that we're just going to
14 work on some things this afternoon. Have them come back
15 about 10:00 in the morning and then I've already talked to
16 the Clerk and we're going to feed them lunch, regardless
17 of whether or not the State -- I mean, the defense rests or
18 puts up Ms. McNaughton and so that's kind of my plan.

19 MR. FRICK: Thank you, Your Honor.

20 THE COURT: Is that okay with y'all?

21 MS. EASLER: Yes, Your Honor.

22 THE COURT: Okay. All right. So let's -- let's bring
23 the -- bring the jury out.

24 Even though the jury's coming in at 10:00, maybe you
25 can give me answer, Mr. Frick, by about 9:30?

1 MR. FRICK: Yes, sir. Will do.

2 THE COURT: Okay.

3 (Whereupon, the jury entered the courtroom at 2:58
4 P.M.)

5 THE COURT: All right. Let the record reflect the
6 jury's back in.

7 Ladies and gentlemen, here's the plan. We're going to
8 go ahead and adjourn for today and I want you back at 10:00
9 in the morning. We're going to work through some things to
10 determine whether or not -- the defense doesn't have to put
11 up any case because, again, they have no burden of proof,
12 but they're going to work through some things and so we'll
13 start back at 10:00 in the morning. I'm going to go ahead
14 and tell you that we're going to feed you lunch. Okay? And
15 hopefully everyone is good with Chick-fil-A and so
16 regardless of, you know, what we do in the morning,
17 noontime, we're going to feed you lunch. Okay? So just
18 plan on that. So you get to go home early today and we'll
19 see you in the morning at 10:00, and remember all of my
20 instructions and get some good rest and we'll see you in the
21 morning at 10:00. Okay? You're free to go.

22 (Whereupon, the jury exited the courtroom at 3:01 P.M.)

23 THE COURT: Okay. This isn't on the record. We'll put
24 on the record concerning the charge, whatever we, you know,
25 we need to.

1 (Whereupon, discussion was held off the record.)

2 THE COURT: All right. Solicitor Easler.

3 MS. EASLER: Thank you, Your Honor. It has come to our
4 attention that this -- Ms. Jennifer McNaughton posted
5 sometime during today about what's going on here in the
6 trial.

7 THE COURT: Okay.

8 MS. EASLER: She made another post last night. It was
9 very lengthy.

10 THE COURT: Right.

11 MS. EASLER: This could possibly prejudice the jury or
12 Ms. McNaughton and the State, if they have seen it. The
13 State would just ask Your Honor to advise her not to post
14 details about the case.

15 THE COURT: Okay. All right.

16 MR. FRICK: Judge, she and I did have a conversation
17 about that this morning. As an Officer of the Court, I'll
18 tell you it's my understanding she did post again this
19 afternoon, but she tells me she has removed it. Of course,
20 we all know that once it's up there, it kind of --

21 MS. MCNAUGHTON: I'll do better.

22 MR. FRICK: -- kind of hard to put that in the bag, but
23 I --

24 THE COURT: Yeah. I just think it would be better
25 'til this case is concluded---

1 MS. MCNAUGHTON: Yes, sir.

2 THE COURT: ---that, you know, you not post anything.

3 It could come back and---

4 MS. MCNAUGHTON: Right.

5 THE COURT: ---hurt you potentially.

6 MS. MCNAUGHTON: Yes, sir.

7 THE COURT: And so just -- I think the better course of
8 action is just to refrain from that. Okay?

9 MS. MCNAUGHTON: Yes, sir.

10 THE COURT: Thank you. All right. We'll chat just a
11 little bit.

12 (Whereupon, court was adjourned at 3:09 P.M. and
13 reconvened on May 21st, 2025 at 10:30 A.M.)

14 (END OF VOLUME II of III)

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STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS
COUNTY OF LANCASTER CASE NO. 2022-GS-29-00739

STATE OF SOUTH CAROLINA,)
)
 Plaintiff,)
)
 -vs-) TRANSCRIPT OF RECORD
) (VOLUME III of III)
JENNIFER BLAIR MCNAUGHTON,)
)
 Defendant.)
_____)

May 21, 2025
Lancaster, South Carolina

B E F O R E:

Honorable Donald B. Hocker, Judge; and a jury.

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

Mr. Julian T. Cuthbertson
Assistant Solicitor
Ms. Kaitlyn Easler
Assistant Solicitor
Sixth Circuit Solicitor's Office
Attorneys for the Plaintiff
Lancaster, South Carolina

Mr. William P. Frick
Public Defender
Sixth Circuit Public Defender's Office
Attorney for the Defendant
Lancaster, South Carolina

Shannon E. McGilberry, CVR-M
Court Reporter

1 THE COURT: All right. We're back on the record.

2 Mr. Frick, you're standing.

3 MR. FRICK: Yes, sir.

4 THE COURT: So you have a matter for the Court?

5 MR. FRICK: I do, Your Honor. Ms. McNaughton has
6 advised me she wishes to testify.

7 THE COURT: Okay.

8 MR. FRICK: I will tell you that she has some ADD
9 issues and she's trying to make sure she can keep herself on
10 task.

11 THE COURT: Okay.

12 MR. FRICK: So she is drafting an outline of what she
13 would like to say.

14 THE COURT: Sure.

15 MR. FRICK: I've advised her she can't read a speech up
16 there.

17 THE COURT: Right.

18 MR. FRICK: And whatever she takes up there, I have to
19 provide a copy to the solicitor's office,---

20 THE COURT: Sure; sure. Okay.

21 MR. FRICK: ---which we're fine with that. It's just
22 she's in the midst of doing that. She's been busily working
23 on that---

24 THE COURT: Okay.

25 MR. FRICK: ---since she got here this morning.

1 THE COURT: Sure.

2 MR. FRICK: She's asking for fifteen. I'll take
3 whatever the Court will allow.

4 THE COURT: All right. Ms. McNaughton, just please
5 stand.

6 MS. MCNAUGHTON: Okay.

7 THE COURT: Mr. Frick's correct? You have decided that
8 you will testify in this case?

9 MS. MCNAUGHTON: Yes, sir.

10 THE COURT: And that decision's been made freely,
11 voluntarily, and intelligently by you?

12 MS. MCNAUGHTON: I hope so. Yes, sir.

13 THE COURT: Ma'am?

14 MS. MCNAUGHTON: Yes, sir.

15 THE COURT: Okay. Thank you. All right. Well, I can
16 give you ten minutes. The jury's already been back there
17 fifteen. I'll give you ten minutes.

18 MS. MCNAUGHTON: Solicitor, you had a matter about a
19 flash drive or something?

20 MR. CUTHBERTSON: Yes, Your Honor. I just wanted to
21 enter in the flash drive with the videos that we watched for
22 the suppression hearing. I just wanted to enter that into
23 evidence.

24 THE COURT: I thought that was already marked as a
25 Court's exhibit. No?

1 MR. CUTHBERTSON: I know we spoke about it. I'm not
2 sure if we actually put it on the record.

3 THE COURT: Well, so we have two flash drives then. We
4 have one that was used for purposes of the motion to
5 suppress. That's Court's Number 1 and then we have another
6 flash drive as far as the body-cam videos that were played
7 to the jury; correct?

8 MR. CUTHBERTSON: Correct. But I'm not quite sure if
9 we had entered the suppression hearing flash drive as a
10 Court's exhibit.

11 THE COURT: Okay. Okay. That will be in, but as a
12 Court's Exhibit.

13 MR. CUTHBERTSON: Correct.

14 THE COURT: Okay. All right. Very good.

15 All right. We'll be at ease for a few minutes.

16 (Court at ease)

17 MS. EASLER: Your Honor, I laid a copy of the --

18 THE COURT: Is that right here?

19 MS. EASLER: Yes.

20 THE COURT: You're good with this. Julian's good with
21 this. William, have you looked at it yet?

22 MR. FRICK: I'm looking through it right now.

23 THE COURT: Well, like I said, we'll take a break
24 between closing and charge. So if you --

25 MR. FRICK: Judge, I reviewed it when she was typing it

1 up.

2 THE COURT: You did.

3 MR. FRICK: I think it's fine.

4 THE COURT: Okay. Very good. All right. We ready
5 for the jury?

6 MR. FRICK: Let me go get Ms. McNaughton.

7 THE COURT: Okay.

8 (Whereupon, Mr. Frick exited the courtroom and returned
9 with the defendant.)

10 MR. FRICK: Does the Court need a copy of this as well
11 or just provide a copy to the solicitor?

12 THE COURT: I don't want one. Just make sure that the
13 State has it.

14 (Whereupon, a discussion was held off the record
15 while Mr. Frick obtained copies of the referenced document.)

16 THE COURT: Okay. Let's bring the jury out, please.

17 BAILIFF: Yes, sir.

18 (Whereupon, the jury entered the courtroom at 10:33
19 A.M.)

20 THE COURT: And let the record reflect the jury is back
21 in.

22 Good morning, ladies and gentlemen.

23 JURORS: Good morning.

24 THE COURT: Okay. The State rested yesterday. Now
25 we're going to turn it over to the defense. Mr. Frick.

1 MR. FRICK: Thank you, Your Honor. Defense would call
2 Jennifer Blair McNaughton.

3 THE COURT: Okay. Come around, please, ma'am.

4 (JENNIFER BLAIR MCNAUGHTON, being first duly sworn, was
5 examined and testified as follows):

6 THE CLERK: Please state your name for the record.

7 THE WITNESS: My name is Jennifer Blair McNaughton.

8 DIRECT EXAMINATION

9 JENNIFER BLAIR MCNAUGHTON BY MR. FRICK:

10 Q. Ms. McNaughton, you've got a piece of paper up there in
11 your hand. You wanted to organize your thoughts. Is that
12 correct?

13 A. Yes, sir. Yes.

14 Q. Okay. Okay.

15 A. I have ADD so I'm kind of all over the place sometimes--
16 --

17 Q. Okay.

18 A. ---so I apologize in advance for that.

19 Q. All right. So you wanted to address the jury. What do
20 you want to tell them about this situation?

21 A. There was a -- there are a lot of things that weren't
22 very clear to me and I know what the situation is, so going
23 through the trial. So I just wanted to clarify a
24 few things. I lived at that address that they were
25 watching. I was dating the guy, Charlie, at one time. We

1 were kind of stuck together because of COVID and it was an
2 abusive relationship. I wanted out of it. I desperately
3 wanted out of it. I called the police umpteen times because
4 he was physically assaulting me; got to where it was on a
5 daily basis, actually. He sold drugs. He did. I begged
6 him everyday, everyday for like a year and a half, I was hit
7 because I was so against it.

8 MR. CUTHBERTSON: Your Honor, we would object to that.
9 I mean, that's not really relevant to the issue of
10 trafficking.

11 THE COURT: Well, you think you could maybe tie things
12 in with her instead --

13 THE WITNESS: I'll stop that line if you tell me to.

14 Q. Well, let's stick more to this particular case. Okay?

15 A. I'll stop -- okay. I'll stop with -- but Charlie had
16 full access to my vehicle. He had full access to my purse.
17 I say in the video that that's my change purse, but I hadn't
18 used that change purse in I couldn't tell you how long. I
19 just know I wasn't using it at that time. So I'm not --
20 Charlie worked for the police. He worked for them. I know
21 he was an informant for them. He told me that himself. So
22 he had involvement with them and we had a bad relationship.
23 We were fighting over the home. We wanted to keep -- once
24 COVID was over, we both wanted the home. We both wanted to
25 keep it. So in the video I think you heard that -- we heard

1 different things when you weren't in here, but I think you
2 heard that I was -- he was moving out. We had decided that
3 I was going to stay there. Well, he was very unhappy about
4 that. So I believe -- this is my belief -- that if I went
5 to jail and I couldn't get out of jail, then he got the home
6 and everything in it. Also with that video, he didn't have
7 a driver's license for about 10 or 15 years and I didn't
8 know that insurance had lapsed, but my insurance had lapsed,
9 but the police were aware of that because they left a ticket
10 in my vehicle and they gave him the keys to my truck. He
11 got to drive my truck home with no insurance on
12 the vehicle and without a driver's license, but, again, he
13 worked for them. So when -- another thing that you didn't
14 see in the video that was in the video was -- was in the
15 event was they knew his telephone number when they asked who
16 picked up -- who did I want to pick up the vehicle, I only
17 knew his number by heart. He knew that. So I was only
18 going to call -- I didn't know anybody else to call. I had
19 no one. That was another reason why I was so vulnerable to
20 this guy was because I have nobody, no family, no friends
21 around here and with COVID, you were kind of isolated from
22 everybody anyway. But they finished his telephone number.
23 That's how -- and they knew, they're familiar, the name
24 thing. They said I gave them the name Blair McNaughton. I
25 wasn't trying to be deceptive. By no means was I trying to

1 be deceptive. They knew my name was Blair. In fact, in the
2 video they call Charlie and say, Charlie, Blair's being
3 arrested. So they were familiar with me by the first -- by
4 my name, by the name that I go by, Blair. I wasn't trying
5 to deceive them. Also, in the vehicle, when I'm looking in
6 the vehicle and I turn back around, I wasn't trying to hide
7 anything. I was trying to look for something with my name
8 on it. I discovered that my card was in my pocket, but the
9 nervousness came from Charlie had threatened me on a regular
10 basis with setting me up with the police. So I was
11 concerned about that. That's was what I was nervous about,
12 that that was -- because of the tumultuous fighting between
13 us over the house, I felt impending doom all of the time. I
14 felt like -- it was a regular threat. It wasn't just a
15 physically threatening relationship; it was an emotionally
16 threatening relationship. It was terrorizing. Everyday of
17 our relationship was terrorizing and I -- he was a different
18 person then than he is now.

19 MR. CUTHBERTSON: Your Honor, I would object the same
20 -- for the same reason. This issue is --

21 THE COURT: I'll allow it to go on a little bit more.

22 Try to kind of keep it to this event, but go ahead --

23 Q. Ms. McNaughton, let's --

24 A. All right.

25 Q. Let's kind of get back to the particular case. Okay?

1 A. Yeah. It just -- it just -- I wanted to give you some
2 background and some understanding of why he would do that to
3 me, why anybody would do that to me. I don't -- I know that
4 those drugs were not mine. They were not -- I did not have
5 these drugs in my vehicle. I would never drive with that
6 -- that much drugs. That's foolish. Anybody would know
7 that. I don't know the particulars of how those drugs got
8 in my vehicle, but I know that I did not put those drugs in
9 my vehicle. I know that much. If you'll give me just a
10 moment to -- I want to look over my notes to make sure I
11 don't forget anything. And the curb jumping. There were --
12 I was getting like four phone calls at the time. That's why
13 I was -- again, I'm ADD. In fact, my sister was diagnosed
14 with her ADD because of her driving record. It was
15 distracting to me to have the phone ringing off the hook
16 because I don't talk on the phone while I'm driving and I --
17 I can't believe I answered the phone while I was in the
18 middle of a stop. That was incredibly rude. I wasn't
19 trying to be disrespectful to the officers. I just -- when
20 I saw the blue lights behind me and I had just pulled out,
21 he was -- Charlie was responsible for the maintenance on
22 the vehicle for the most part. So he had -- he had complete
23 control over whether or not that light was out. I had --
24 it's behind me. I had no way of knowing that, but it would
25 have been very easy for him to do something to that light so

1 that I could be pulled over. He did a number of things to
2 me throughout the course of our relationship that -- that
3 led me to believe me to believe that that was 100 percent
4 possible and I know that's just my suspicion and -- but it's
5 important to know that because my life is on the line and I
6 -- I haven't been able to get my life back together because
7 of this charge, because this has been pending. I'm in --
8 I'm in a tandem. I'm just floating because I can't get a
9 job. I can't do anything. I can't drive. I can't do
10 anything until this is handled. But looking at prison, I
11 know that it's an -- I do feel like it's a miscarriage of
12 justice because I'm a moral person. I'm a very devout
13 Christian and I was so adamantly against him selling drugs.
14 I was so against that. I'm not a perfect person. I'm not
15 saying I haven't ever done drugs, but I know that those
16 drugs in that vehicle were not put there by me. I can say
17 that with absolute surety. Let me see what else. Oh. I
18 wanted to bring up, too, that my purse was searched. It
19 begins in my purse. That was a very -- it was disconcerting
20 to me was that I didn't see a video with the officer walking
21 up to my vehicle and clearly searching my purse. The
22 search -- the video begins in my purse with the officer
23 searching and rummaging through it. I would feel better
24 and I would hope you would, too, making a decision about my
25 future, if you saw the officer clearly do that. The fact

1 that he's already moving through my purse like that and
2 there's no video evidence of -- there's no complete control
3 of the situation from the standpoint of the defense. We
4 can't absolutely say that -- I don't want to accuse an
5 officer of anything. I certainly don't want to do that, but
6 I would feel much more comfortable if I were you if you
7 could see that. If you could see that there was no way that
8 someone else didn't put those drugs there and it's a matter
9 -- for me it's a matter of principle, because if that is
10 the case, if that happened, I'm not the only person that
11 it's happened to and I'm not going to be the last person
12 that it happens to. There's going to be other people that
13 -- that fall subject to that, that fall prey to being
14 vulnerable in that kind of situation. I had a particularly
15 dangerous situation where I lived with a police informant
16 and I was aware of it, but --

17 MR. CUTHBERTSON: Your Honor, that is -- again, that is
18 not really relevant to the charge at hand.

19 THE COURT: Try to bring it back into this event, Ms.
20 McNaughton, please.

21 THE WITNESS: Yes, sir. Yes, sir.

22 A. I also wanted to bring up there were other officers
23 there. I would like to have seen the officers' records to
24 see if there were any -- if there'd been any other
25 complaints that are similar to my complaint. I'm sorry.

1 I'm just looking at my notes.

2 THE COURT: Take your time. You're fine.

3 A. Also, I wanted to bring --

4 THE WITNESS: Well, you said to stay on the event. Can
5 I bring up that Charlie's currently on probation? He's
6 about to be offered it and he's now gotten his license back.

7 THE COURT: Let's not get into that.

8 THE WITNESS: Okay. Yes, sir.

9 A. I know there was two in the video. You weren't -- you
10 didn't see it, but there was a bystander that at the time of
11 my arrest, he was calling out that he didn't feel like -- it
12 was that obvious that the arrest was questionable. So I
13 don't know the gentleman's name, but he supposedly posted it
14 on Facebook. He was there at the time the officers had --

15 MR. CUTHBERTSON: Your Honor, again, --

16 THE COURT: All right. Keep it to this event, please,
17 ma'am.

18 THE WITNESS: Yes, sir.

19 MR. FRICK: Judge, I would say on that that is in the
20 video. They do address that person. There is one point
21 where, I think it's Officer Davis, when he goes to get his
22 book,---

23 THE COURT: Okay.

24 MR. FRICK: ---he says, hey, boss. Can I help you?
25 And so he does address that person in that video.

1 THE COURT: Okay. All right. Well, then I'll allow
2 her to get into that. Yeah.

3 THE WITNESS: I just didn't know the gentleman's name.

4 THE COURT: I do remember that now.

5 A. But he was walking by and he -- he just -- he felt like
6 that -- he was videotaping. He said he was positing it on
7 Facebook at the time and I think the officers asked him to
8 stop, but I would have tried to find the gentleman if I knew
9 who he was, but he was just a random bystander walking by.
10 Oh. And the consent, I wanted to address that, too. There
11 were several officers speaking to me at one time. I know
12 that -- I would say I've never given consent for any officer
13 to search my vehicle, because to me it just leads to -- it
14 just is not a good idea in my opinion. I'm a -- I'm big on
15 personal liberties and privacy and I take those rights very
16 seriously. So I typically -- no, I know I've never given
17 consent, but there were officers -- several officers
18 speaking to me at one time. So I don't know exactly who was
19 asking me what, but it's -- you can clearly see in the video
20 or hear in the video there's a couple of people talking to
21 me at one time. So I don't know what question I was
22 answering, but I know if I had -- if I did have 13 grams of
23 drugs in my car, why would I give them consent to search my
24 vehicle? That doesn't make any sense. I'm a reasonably
25 intelligent person so I just don't see how I would -- that

1 doesn't make any sense. I think -- I think that's -- I've
2 addressed most of the issues that I saw personally that I
3 wanted to address, and he gets his closing argument, but I
4 felt like when my life's on line, that I needed to address
5 you personally. I needed to show you a little bit about who
6 I am and tell you that I am a very, very devout Christian.
7 I take my faith very, very seriously and, in fact, the --
8 largely, the reason that that gentleman and I were involved
9 and I stayed involved is because he didn't believe in God
10 when we first met. He does believe in God now. I tried to
11 show him how to behave like a Christian, how to be that
12 person every day. Every day I tried to do that and no
13 matter what he did to me, I tried to maintain that. I tried
14 not to retaliate. I tried to be an honest, legal person to
15 the best of my ability and I -- I'm not without fault. I
16 will be the first to admit that, but I'm not guilty of this.
17 I'm not guilty of this crime. I did not put those drugs in
18 my vehicle and it's a miscarriage of justice for someone who
19 is willing to point the finger at other people to go free
20 and for someone who was against -- against that to be put in
21 prison. It's -- it is a total miscarriage of justice and I
22 do believe that wherever God leads me, that I can do his
23 will and that he can bring good from others' evil, but I
24 would rather not. I'd rather not have to do that for
25 prison. So if any of you are Christians, I just ask that

1 you pray that God will lead your heart to do and make the
2 decision that -- you know, think about this situation and
3 think about what I've said and what Mr. Frick has pointed
4 out and decide for yourself whether you -- where does God
5 lead your heart and if you do that, I will --

6 MR. CUTHBERTSON: Your Honor, --

7 A. -- I'll accept whatever. Thank you. I'm sorry.

8 THE COURT: Okay.

9 MR. FRICK: I think she's concluded, Judge.

10 THE COURT: Think she's finished with that part. Mr.
11 Frick, any questions that you have?

12 MR. FRICK: I have none additional.

13 THE COURT: Okay.

14 Q. Ms. McNaughton, have you covered what you wanted to
15 address?

16 A. I believe so. I believe so.

17 Q. Okay.

18 A. And thank you for presenting this.

19 Q. Thank you, ma'am. Please answer any questions the
20 solicitor has.

21 THE COURT: Solicitor?

22 MR. CUTHBERTSON: We would ask if we could discuss
23 something outside the presence of the jury before cross-
24 examination.

25 THE COURT: Okay. All right. Ladies and gentlemen, we

1 have a legal issue that I need to discuss with the lawyers
2 outside your presence. So if you'll go back to the jury
3 room. We'll get you back out shortly. Thank you.

4 (Whereupon, the jury exited the courtroom at 10:51
5 A.M.)

6 THE COURT: Okay. Solicitor.

7 MR. CUTHBERTSON: Your Honor, in her testimony she
8 mentioned parts of the video that were redacted. So we
9 would ask that we could play the whole video for the jury.

10 THE COURT: Okay. All right. Just help me a little
11 bit. What portion -- I know that we did mute. Our
12 redaction was by way of muting portions of the video and --

13 MR. FRICK: Judge, there were portions that I requested
14 that be redacted regarding him working for law enforcement.
15 I didn't -- I just didn't feel that that was necessarily
16 something I wanted the jury to hear. I guess Ms. McNaughton
17 disagreed with that and---

18 THE COURT: Yeah.

19 MR. FRICK: ---part of what she wanted to testify
20 about---

21 THE WITNESS: Yes.

22 MR. FRICK: ---and that's her prerogative, but that was
23 part of what we played --

24 THE COURT: Okay.

25 MR. FRICK: -- or we omitted. I --

1 THE COURT: See, y'all are going to have to figure it
2 out as far as, you know, what was muted and what she brought
3 out in order for the State to play those muted portions.
4 See, I was not privy necessarily to what was being muted.
5 Y'all know, I don't. So I'm just going to have to rely on
6 you guys to agree that whatever was muted that she brought
7 out in her direct examination, therefore, it can be played,
8 but I don't know what those are.

9 MR. FRICK: Judge, I think there was one portion -- she
10 has an additional charge that she was on bond for when
11 they're talking about her license. She was charged with a
12 hit and run that's still pending.

13 THE COURT: Right. I remember that.

14 MR. FRICK: I think that should be redacted. Other
15 than that, I don't necessarily what else would be redacted,
16 given the testimony.

17 MS. EASLER: So, Your Honor, we're fine leaving the
18 hit-and-run charge redacted. However, we would request that
19 the remainder of the video be entered. She talked several
20 times about Mr. Outen being an informant, that he planted
21 stuff on her, as well as the fact that the drugs were
22 methamphetamine and she gave --

23 THE COURT: I mean, whatever she opened up the door on
24 concerning what was muted, then that can be played, but once
25 again, I've got to rely on y'all because I don't know what

1 was muted or what was being said in the muted parts.

2 MR. FRICK: Right.

3 MS. EASLER: And, Your Honor, there is a portion -- she
4 stated that the officers had his phone number. At the very
5 end of the video you can see her giving the officers the
6 number, as well as Mr. Outen coming up and kissing her and
7 hugging her. We would like the opportunity to bring that
8 into evidence.

9 THE COURT: Okay. Yeah. I mean, I think that based on
10 her testimony, I think that would be -- that would be
11 permissible and so are we saying we're going to play the
12 whole thing--

13 MS. EASLER: Yes.

14 THE COURT: ---with the exception of her reference in
15 the video about having the hit-and-run pending charge? Is
16 that what I'm hearing?

17 MR. FRICK: Yes, sir. I think --

18 MS. EASLER: That's what I believe, Your Honor.

19 THE COURT: Okay.

20 MR. FRICK: I think that's where we are.

21 THE COURT: Okay. All right. Any --

22 MS. EASLER: We have one other matter, Your Honor. She
23 did bring up the fact that they had domestic abuse issues in
24 their past. The State intends to bring up the fact that she
25 does have a domestic violence conviction on her record and

1 the victim in that case is Charlie Outen.

2 THE COURT: Okay.

3 MR. FRICK: What's the date of that conviction?

4 THE COURT: Yeah.

5 MS. EASLER: Give me one second.

6 THE WITNESS: Do I get an opportunity to address that?

7 MR. FRICK: No.

8 THE WITNESS: Sorry.

9 MS. EASLER: 2020.

10 MR. FRICK: Is it Magistrate Court?

11 MS. EASLER: Yeah. CDV third.

12 MR. FRICK: I see it. July 2020, third degree.

13 Judge, I would object on that. I don't think it's
14 probative of truthfulness. I don't think it's -- I mean,
15 it's a 30-day offense, so it doesn't fall under the one-year
16 rule--

17 THE COURT: Yeah.

18 MR. FRICK: ---and I don't think a conviction for DV is
19 probative for truthfulness and I don't think it qualifies
20 under 608.

21 THE COURT: Yeah. Let me just -- let me just -- I
22 always have to kind of take a look at the rule on that. I'm
23 kind of inclined not to allow it in, but let me just --
24 always like to look at that rule again. I don't have the
25 rules memorized like you guys do.

1 MR. CUTHBERTSON: Your Honor, we say that it's relevant
2 due to the fact that she -- the defendant is trying to say
3 that Charlie Outen was abusive to her when her record would
4 show otherwise, at the very least, a mutual combat, for lack
5 of a better term, but --

6 THE COURT: Yeah.

7 (Whereupon, an off-the-record discussion was held
8 between Mr. Frick and the witness.)

9 MR. FRICK: I'm sorry, Judge. I didn't meant to talk
10 to her while she's on the stand. I apologize.

11 THE WITNESS: Sorry.

12 THE COURT: Under 609, I'm not going to allow any
13 evidence of that domestic violence conviction and I think
14 probably -- I'm not trying to tell you how to try your case,
15 Solicitor, but I think to maybe avoid playing the whole
16 video again, just ask her questions, isn't it true that you
17 said such and such on the video and then we'll see her
18 response. If she denies it, play the video. If she admits
19 it, then that's fine. I'm just trying to avoid having to
20 play that whole video again.

21 MR. CUTHBERTSON: Well, Your Honor, we would ask if we
22 could at least play the last, maybe -- it should be the last
23 five or --

24 THE COURT: Well, do that in a reply case as opposed
25 with her. Let's just -- you can just do that in a rebuttal

1 case. Okay?

2 MR. CUTHBERTSON: Okay.

3 THE COURT: All right. But no evidence of that DV
4 third conviction.

5 Okay. All right. So you ready for the jury?

6 MR. CUTHBERTSON: One moment, Your Honor.

7 THE COURT: Sure.

8 MR. CUTHBERTSON: Yes, Your Honor. We're ready for the
9 jury.

10 THE COURT: Okay. And once we conclude the testimony,
11 would you guys be ready to go straight into closing once
12 we've finished testimony?

13 MR. FRICK: I am.

14 THE COURT: Okay. Solicitor?

15 MR. CUTHBERTSON: Yes, sir, Your Honor. We're ready.

16 THE COURT: Okay. Good. All right. Let's bring the
17 jury out.

18 (Whereupon, the jury entered the courtroom at 11:00
19 A.M.)

20 THE COURT: All right. Let the record reflect the
21 jury's back in.

22 Ladies and gentlemen, I understand maybe one of you had
23 requested to have pen and paper, take some notes. I
24 typically tell juries at the very beginning of the case
25 that I don't allow note taking and the reason why I don't

1 allow it -- some judges do, I don't -- 'cause I have found
2 that oftentimes when you're taking notes, you're paying more
3 attention to the note taking than you are listening to
4 what's going on in the courtroom. So I don't allow note
5 taking. Okay? Thank you very much.

6 Solicitor, you ready for your cross-examination?

7 MR. CUTHBERTSON: Yes, Your Honor.

8 CROSS-EXAMINATION

9 JENNIFER BLAIR MCNAUGHTON BY MR. CUTHBERTSON:

10 Q. I know you don't want to be here, so just bear with me.
11 I only have a few questions for you. You told officers you
12 were living at High Point Circle. Is that correct?

13 A. Yes, sir.

14 Q. You also told officers that this Charlie Outen was not
15 living with you at the time. Is that correct?

16 A. We were in the process of him moving out. His sister
17 lived across the street, so it was one of those situations
18 where all of his belongings were still there. He was there
19 whenever he wanted to be. He was not when he didn't want to
20 be, you know, it was just depended on it. So technically
21 he did still live there. He was in the process of moving
22 out. I believed that he was hoping that I would be in jail
23 and that's why he didn't remove any of his belongings. He
24 would be returning to the home. That's the only thing I
25 could -- only conclusion I could come to because he didn't

1 move anything out including his clothes.

2 Q. But you told officers he wasn't -- he had not been
3 staying there lately. Is that correct?

4 A. It's been three years.

5 MR. CUTHBERTSON: Your Honor, it's a yes or no
6 question.

7 THE COURT: You can give your yes or no answer, then
8 you can offer an explanation, but first answer the question--
9 --

10 THE WITNESS: Okay.

11 THE COURT: ---then if you want to explain, you can.

12 A. I'm sorry. Could you repeat the question?

13 THE COURT: Repeat the question, Solicitor.

14 Q. You mentioned -- you told officers that he had not been
15 staying with you lately at High Point Circle. Is that
16 correct?

17 A. If I said that, then he hadn't been.

18 Q. Okay. Where were you going that night?

19 A. I was going to the store to cash in lottery tickets and
20 to pay my rent.

21 Q. Okay. And you were stopped for your taillight; that's
22 correct?

23 A. Yes, sir.

24 Q. Okay. Was anyone in the car with you?

25 A. No, sir.

1 Q. And when officers stopped you, I think you admitted
2 your phone was just ringing and ringing. Is that correct?

3 A. Yes, sir. Yes, sir.

4 Q. And you actually answered the phone one of those times;
5 correct?

6 A. Yes, I did and to my -- to my dismay. I can't believe
7 I answered the phone around the police officers.

8 Q. And you told -- in that call somebody told you they
9 were waiting at your house. Is that correct?

10 A. They were supposed to be coming over. A friend was
11 coming over to help me with something. Yes.

12 Q. So you jumped in the car and even grabbed your purse
13 and brought it with you. Is that correct?

14 A. I don't -- I don't -- you mean when I got it -- when I
15 left that night?

16 Q. When you left that house that night, you grabbed your
17 purse with you?

18 A. Honestly, I don't remember exactly how -- I don't --
19 it was three years ago. I mean, I'm assuming that's what I
20 did, but I couldn't tell you right now for sure.

21 Q. Well, your purse was in the car. Is that correct?

22 A. Right; right. But I don't know whether it was already
23 in my vehicle or whether I grabbed it.

24 Q. And these -- this drug, these methamphetamines were
25 located in that purse. Is that correct?

1 A. I'm not sure where the officers said they found it.
2 That's where they said they found it.

3 Q. That's where the officer said they found it. Would you
4 agree with that?

5 A. Yeah. The officer said that that's where he found it.

6 Q. And you mentioned -- who did you call to come get your
7 car?

8 A. I called Charlie. That's the only telephone number
9 that I knew by heart.

10 Q. And I believe in your testimony earlier you mentioned
11 that you wouldn't drive, quote, "with that many drugs in the
12 car." Is that correct? Is that what you said?

13 A. No. I would never drive with that. I wouldn't drive
14 with any drugs in the car, but I certainly --

15 Q. But I think -- I think you said not with that amount of
16 drugs. Is that correct?

17 A. No. I would never drive with that -- that's a
18 tremendous amount of drugs. I wouldn't drive with any
19 amount, but I certainly wouldn't drive with that amount.

20 MR. CUTHBERTSON: One moment, Your Honor.

21 THE COURT: Sure. Take your time.

22 Q. And you just mentioned that's the only phone number --
23 Charlie's was the only phone number you knew by heart, but
24 you had your phone on you at the time; correct?

25 A. Yes, but I didn't have it in my custody anymore. I was

1 in handcuffs, I believe.

2 Q. So you believed that this Charlie guy was the one who
3 planted the drugs on you. Is that correct?

4 A. No, sir. I don't know -- I don't know how those drugs
5 got in my vehicle, but I know that they didn't get in my --
6 that vehicle by me.

7 Q. But the drugs were located in your purse; correct?

8 A. That's what the officer said, that he found them.

9 MR. CUTHBERTSON: Beg the Court's indulgence.

10 THE COURT: Sure.

11 Q. At the time the drugs were found, officers asked you
12 what these drugs were; correct? Is that correct?

13 A. I believe they did. Yes, sir.

14 Q. And even before seeing it, you were able to identify
15 that these drugs were methamphetamines. Is that correct?

16 A. Well, that's what he had involvement with.

17 Q. Who is he?

18 A. Charlie.

19 Q. But you just said a moment ago that you didn't believe
20 that he planted them on you. Is that correct?

21 A. Sir, I don't -- I don't know how they got in my
22 vehicle. All I know is that I did not have them in my
23 vehicle. I did not put them in my vehicle.

24 MR. CUTHBERTSON: No further questions, Your
25 Honor.

1 THE COURT: Mr. Frick, any redirect?

2 MR. FRICK: Yes, sir.

3 REDIRECT EXAMINATION

4 JENNIFER BLAIR MCNAUGHTON BY MR. FRICK:

5 Q. Blair, talking about your purse, you said you didn't
6 know whether you picked it up or whether you left it in the
7 truck. Isn't that what you just testified to?

8 A. Yes, sir.

9 Q. Was it unusual for you to leave your purse in your
10 truck?

11 A. No. That wasn't unusual. I often did that. I just
12 came and go -- I'd come and go. I'd leave it in the truck
13 sometimes.

14 Q. Okay.

15 A. Not all the time, but sometimes.

16 Q. Would you typically leave your truck locked or
17 unlocked?

18 A. My truck is never locked.

19 Q. Never locked?

20 A. Never locked. No, sir.

21 Q. Okay. And if you had locked it, Charlie had keys,
22 didn't he?

23 A. He'd get mine if he didn't have a set.

24 Q. Okay.

25 A. I don't remember at that time whether he had a --

1 Q. I'm going to show you what's been marked State's Number
2 3 and what I'm asking you to look at is this little item
3 right here. You see that?

4 (Whereupon, Mr. Frick showed the referenced exhibit to
5 the witness.)

6 A. Yes.

7 Q. That's the coin purse we've been talking about?

8 A. Right.

9 Q. Is that your coin purse?

10 A. It is mine. Yes.

11 Q. Now, you said something in the video that you hadn't
12 seen that thing in years. Isn't that what you said?

13 A. No. Actually it was months. I haven't seen it -- I
14 hadn't seen it in months.

15 Q. Okay. But you hadn't seen it in a while?

16 A. No. No, sir, I hadn't.

17 Q. You were surprised when you saw that?

18 A. Yes. I was actually surprised to see it. I hadn't --
19 like I said, I hadn't seen it in a while, so --

20 Q. Okay. Solicitor asked you about your phone. When they
21 were asking you about who you wanted to come pick up your
22 car, that's when you gave them Charlie's name; correct?

23 A. I can't remember exactly, but if you say so, yes, sir.

24 Q. Okay. Okay. But at that time you were in handcuffs
25 and they had taken your phone. Isn't that true?

1 A. Yes, sir. I believe so.

2 Q. And the solicitor asked you -- asked you about what the
3 drugs were and I think you explained it, but I just want to
4 clarify this. You believe that if drugs were found in your
5 car, it'd likely be meth. Isn't that correct?

6 A. I don't -- I wasn't sure, but that would -- because of
7 his involvement, that would have been the most likely. I'd
8 assume it would have been --

9 Q. Because of what Charlie does?

10 A. Right.

11 Q. Okay. Thank you, ma'am.

12 MR. FRICK: That's all the questions I have.

13 THE COURT: Solicitor, any recross?

14 MR. CUTHBERTSON: Nothing further, Your Honor.

15 THE COURT: Okay. You can step down, ma'am.

16 THE WITNESS: Thank you.

17 THE COURT: Mr. Frick, any further witnesses or
18 anything on your case?

19 MR. FRICK: The defense rests, Your Honor.

20 THE COURT: Okay. Does the State have any rebuttal
21 case?

22 MR. CUTHBERTSON: No, Your Honor.

23 THE COURT: Okay. All right. The evidentiary record
24 in this case is now closed.

25 Ladies and gentlemen, what we have left to do is the

1 lawyers will make their closing arguments to you. We'll
2 probably take a short little break after that and then bring
3 you back in and I will give you the instruction on the law
4 in this case.

5 I understand that lunch will be delivered around 12:30
6 so we'll probably time it out pretty good to be finished
7 with this and then lunch and you can deliberate while you're
8 eating lunch or eat the lunch and deliberate, however you
9 want to do it. That does not matter. Okay?

10 All right. The lawyers informed me that they would be
11 ready to start their closing.

12 MR. FRICK: I just have a matter for the record I
13 need to --

14 THE COURT: Okay.

15 MR. FRICK: I need to renew my directed verdict motion--

16 THE COURT: Right.

17 MR. FRICK: ---and renew all the previous objections.

18 THE COURT: So noted for the record and denied. Thank
19 you very much, Mr. Frick.

20 Solicitor, are you ready to go first? As we discussed
21 yesterday, solicitor will put their closing in full,
22 defense closing in full, then the solicitor -- you can come
23 back up and respond to any new matters brought out by
24 defense in their closing.

25 MR. CUTHBERTSON: Yes, Your Honor. Just briefly, I'd

1 like to see if I can -- I have a PowerPoint.

2 THE COURT: Sure.

3 MR. CUTHBERTSON: Hopefully this doesn't give me any
4 issues.

5 THE COURT: Is there a reason, when that first comes
6 up, the old Judge on the Bench is the -- I'm just wondering,
7 'cause I noticed that yesterday.

8 MR. CUTHBERTSON: Okay. Thank you, Your Honor. May it
9 please the Court?

10 THE COURT: Certainly.

11 MR. CUTHBERTSON: Ladies and gentlemen of the jury,
12 thank you for your time. We knew it would be a short day.
13 I knew it'd be a short trial for you all. We had the four
14 witnesses, like I mentioned to you before.

15 This is *State versus Jennifer McNaughton*. Of course,
16 as you know, she's been charged with trafficking in
17 methamphetamines.

18 So first I want to talk to you a little bit about the
19 law. I know it's not the most exciting part of the trial
20 and -- but I'm happy to go over it with you. The law for
21 trafficking in methamphetamines -- and you'll have to -- I
22 won't go through all of this, the person who normally
23 sells, manufactures, delivers or purchases in
24 methamphetamines. You can read it briefly if you would
25 like, but I think the part that we primarily need to focus

1 on will be this part here (indicating) and that she was
2 knowingly in actual or constructive possession or knowingly
3 attempted to become in actual or constructive possession of
4 10 grams or more of methamphetamines. That's the law that
5 you should apply to this case and the Judge will talk to you
6 a little bit more about it.

7 So first I sort of want to break this -- break this
8 piece down for you. It first talks about -- the first part
9 here is possession, actual or constructive possession and
10 as far as possession goes, mere presence of drugs is not
11 enough in and of itself, so there has to be some other
12 things that you have to look at as far as possession goes.
13 Actual possession is physical custody. Of course, as you
14 see there, somebody actually holding the drugs that will be
15 -- that's one thing. And constructive possession in which
16 they had dominion or control or the right to exercise
17 dominion and control over either the meth or the property
18 itself. So to be more than just mere presence, you have to
19 -- the individual has to have some sort of control over
20 these drugs. She has to have some sort of dominion or
21 control over the meth and the State would contend that in
22 this case, Jennifer McNaughton did have control over these
23 drugs.

24 Very briefly. Reasonable doubt. You've heard a lot
25 about reasonable doubt. It's the kind of doubt that leaves

1 you firmly convinced of the defendant's guilt.

2 Now, the Judge will kind of give you a little bit more
3 information on reasonable doubt. I just wanted to keep it
4 short and sweet here for you. Something that leaves you
5 firmly convinced. There's other ways that people like to
6 define it, but I think this is the best way.

7 Direct and circumstantial evidence. You've heard a lot
8 of evidence today, or yesterday, as we went through all of
9 our witnesses. Direct evidence is evidence that proves the
10 existence of a fact. Circumstantial evidence is a chain of
11 facts that indicate another fact. Example I like to use is
12 it snows overnight and you're at your home and the next
13 morning it snows and you come outside and you can see
14 footprints in your -- on the snow on your -- in your lawn.
15 That would be circumstantial evidence to say that somebody
16 walked across your lawn; right? When the direct evidence
17 would be a situation where you would see the person, you
18 know, walking across your lawn. I'm trying to get through
19 this for you pretty fast so that we can talk about the facts
20 of our case.

21 Criminal intent. In this case it will be the intent to
22 possess methamphetamines and that is determined by you, the
23 jury. As you know we cannot necessarily tell what a person
24 is thinking. We weren't there with them in the time. We're
25 not in their minds, but we can infer from the circumstances

1 surrounding the case, that -- what that person may have been
2 thinking at the time or what they intended to do.

3 I believe defense talked about -- talked to you earlier
4 about witness credibility. It's essentially the
5 believability of the evidence or a witness. You can believe
6 all or none or some of what a witness has told you. So we
7 leave that in the hands of you all to make the ultimate
8 determination.

9 So I want to go back through some of our witnesses,
10 some of the folks that came before you. First, we had
11 Investigator Preston Davis. He told you that he received
12 complaints at the address [REDACTED] High Point Circle, which is
13 where Ms. McNaughton would have been living. He saw a
14 vehicle leave that location, of course, and he pulls her
15 over on Great Falls Highway due to a defective brake light.
16 He gave you all of that testimony. I believe you saw in the
17 video where he asked Ms. McNaughton to step out of the
18 vehicle and later on she gives consent to search -- she
19 gives consent to search her vehicle.

20 Next, we had Investigator Hammond come before you. He
21 was the one who searched the car and, yes, it was a -- it
22 was a very brief video. You could see where he found the
23 drugs that were there in the coin purse. I mean, he
24 testified the coin purse was located in that larger bag,
25 and on the stand Ms. McNaughton claimed that larger bag was

1 hers.

2 We had two more witnesses. They were pretty quick
3 witnesses. Ann Horton. She simply came before you and told
4 you that she had -- she received the meth and how -- she
5 walked you through that process and how she receives it from
6 the sheriff's office and how she preserved it, ultimately,
7 for trial after sending it off to be tested with SLED and
8 then we heard from Willie Smith who told you about how they
9 test these drugs and how they weigh them and I just want to
10 remind you that the meth weighed 13.09 grams.

11 So I really want to get into the criminal intent 'cause
12 that's really what we have to prove is that she intended to
13 possess these drugs. I think that's the -- one of the
14 bigger -- bigger issues at hand, and there's some things to
15 consider. Like I said, as far as intent goes, you have to
16 -- since we can't jump into somebody's head, we have to sort
17 of consider all the circumstances surrounding -- surrounding
18 their conduct to determine what their intent was at the
19 time. So first we start off with the drug complaints at the
20 home.

21 As Investigator Davis testified, we have Crime Stoppers
22 tips, individuals, civilians like you and I, who live here
23 in Lancaster County. They're allowed to -- I believe,
24 through the sheriff's office website they can submit a
25 complaint if they are seeing suspicious -- suspicious things

1 going on. So that is the reason they were sitting on the
2 home, had already been informed by others in the community
3 that they believed some sort of drug activity was going on
4 in the home.

5 I believe Ms. McNaughton, as she testified at the time,
6 she was the only one living at the home. She mentioned that
7 her -- this Charlie -- this Charlie fellow that we're just
8 now hearing about, she mentioned that he was in and out, in
9 and out, but she told officers at the scene that day that
10 she was the only one living in that home.

11 Her phone was ringing off the hook. Now, I'll say
12 infer what you want to with that information, but her phone
13 was ringing and ringing. On top of that, somebody waiting
14 at her home, waiting for her to come back. You can only
15 infer as to why her phone was ringing and people were
16 waiting for her, especially a house with -- that has already
17 been told to officers that there was some sort of drug
18 activity going on. So you can only imagine. I'll leave it
19 up to you to infer as to why her phone may have been ringing
20 off the hook and why she had people waiting at her home.

21 A little bit more as far as the criminal intent goes is
22 that she said the car was hers. She -- like, again, this
23 Charlie fellow that we're just now hearing about apparently
24 did maintenance on the car, so she says. Apparently, may
25 not be the greatest maintenance man if the brake light was

1 out, which was the reason for the stop. She was the only
2 one in the car at the time. That was the -- nobody else was
3 in there with her. The bag belonged to her. She mentioned
4 that. She admitted to that. I mean, so the coin purse
5 belonged to her. She admitted to that as well. I don't
6 know too many folks who would carry a purse, but not have
7 their -- everything in there with it, I mean, the coin
8 purse. It is sort of mind boggling to me to understand how
9 you don't take your wallet with you, your coin purse,
10 whatever sort of money when you go out, and she also
11 testified that she would leave her purse in her car,
12 unlocked. We all live here in Lancaster County. I think
13 that the first thing we advise folks to do is to lock your
14 cars and especially if you're going to leave it unlocked,
15 there's no reason really to leave your purse in there. I
16 mean, you're just asking for trouble, and the State finds it
17 highly unlikely that some random individual -- we already
18 asked her if she thought it was Charlie. She informed us
19 that she knows Charlie is involved with drugs, involved with
20 meth, but it's highly unlikely that some random person who's
21 not -- some random person off the street would come take 13
22 grams of meth, open her car door while sitting in her
23 driveway, put drugs in her coin purse, put the coin purse in
24 her -- in her larger bag and then leave -- and then just
25 leave from the scene as is. I mean, it's highly likely

1 that, if anybody was to know that your car door was
2 unlocked, they would just open it up, take your whole purse
3 and go on about their business. I mean, I think it's very
4 unlikely that they would just go in and plant drugs on you
5 and go on about your business.

6 We just ask you to use your common sense. We know that
7 she was already in possession of the meth. It was in her
8 purse, in her bag. She claimed responsibility of both of
9 those things. So that's why I mentioned to you before that
10 the biggest concern would be whether she intended to do so
11 and the State contends that she did. She definitely
12 intended to possess this methamphetamines.

13 As I mentioned, it's highly unlikely that these drugs
14 were planted on her, as she likes for you all to believe.
15 There's not many situations where somebody would put that
16 amount of drugs in your -- in your purse that's already in
17 your car and not want to steal your purse. I mean, I think
18 that is the -- the biggest issue here and it is mind
19 boggling. And so I will say after hearing all the evidence,
20 which you heard from Investigator Davis, Investigator
21 Hammond, and our two other evidentiary witnesses, and we
22 would ask that you use your common sense and find Ms.
23 McNaughton guilty of trafficking in methamphetamines beyond
24 a reasonable doubt. Thank you.

25 THE COURT: Thank you, Solicitor.

1 Mr. Frick, are you ready for your closing, sir?

2 MR. FRICK: I believe, so, Your Honor.

3 THE COURT: Okay.

4 MR. FRICK: I'm going to try it from counsel table.

5 It's the first time I've done that, usually come up here,
6 but I'm testing it this morning, which guarantees it will
7 not work now.

8 THE COURT: That's --

9 MR. FRICK: All right. We'll see how it goes. If I've
10 got to switch it up, we'll switch it up.

11 I used to stand up here without any notes whatsoever
12 and just recite all the facts of the case and, well, you see
13 me wearing reading glasses and, you know, I got old. I
14 can't remember anymore. So I use this PowerPoint as my
15 notes and I always pick on solicitors for using notes in
16 their closings, but here I am doing it, so.

17 All right. You well know what we're here for. This is
18 kind of a place-holder card just so we can get the -- Ms.
19 McNaughton is charged with trafficking methamphetamines, as
20 you all well know, too, and I will reiterate to you and the
21 Judge is going to give you the law here in a little bit, but
22 I'm going to give you what my summation of what it is.

23 The State's got to prove beyond a reasonable doubt,
24 meaning that there's no other explanation. They got to
25

1 do it with credible evidence, which I tell you is believable
2 evidence and remember, as I told you and will tell you
3 again, you get to decide what you want to believe. You get
4 to decide whether you think the sky is blue outside. Y'all
5 can argue over that if you want to. You're the ones who get
6 to decide the facts of this case and what credibility you
7 want to give whatever evidence and they've got to prove that
8 she knowingly possessed and I say that's very important,
9 because you've got to know that the stuff is there and that
10 she had constructive possession.

11 You've heard -- there's two things, they're actual and
12 constructive possession. My example is always that pair of
13 glasses is right there. We can all grab it so we all
14 possess it. That's constructive possession. Well, but it
15 still requires knowledge and just 'cause you're near
16 something don't mean that that's enough for you to be guilty
17 of it. Mere presence is not enough. I'll get to that a
18 little bit later. And, again, I've been through this and
19 probable cause, I suggest to you, is not going I think she
20 probably knew those were there. I probably knew she --
21 those drugs were there. I don't know. I was just kind of
22 looking at her and I -- I don't know. I just feel like
23 maybe she did it. No, ladies and gentlemen. The standard
24 is there can't be any other reasonable explanation. Is
25 there another reasonable explanation? Oh, and another

1 thing, you're going to hear in the Judge's charge, even if
2 it looks suspicious, if you think this whole thing is just
3 kind of fishy, that's not enough. They've got to have more
4 than that to get over reasonable doubt.

5 Now, this is Jelly Bean (displaying photo). Remember
6 the story I told you the other day. Little cat, my little
7 orange cat, that likes to chew on plastic bags and I got the
8 trash strewn all over my yard and I'm blaming Jelly Bean
9 until we looked and found out, lo and behold, it wasn't him,
10 but I submit to you even if I'd walked out the door that
11 morning and he's sitting beside the trash bag, that's his
12 mere presence. That's not enough to convict little Jelly
13 Bean of destroying the trash bag and making a mess on my
14 front porch. Is there any other reasonable explanation?
15 Yes. Drugs got there somehow, but they're in the car.

16 Now, we'll get to the video in a second. I'm not
17 necessarily saying that law enforcement put it there.
18 That's not necessarily what I'm saying. However, you get to
19 decide what you think happened in this case. Did someone
20 else put it there? Did Charles put it there? Well, who is
21 the tip about? Now, the solicitor makes a big deal that,
22 oh, she was staying at that address, but what did the law
23 enforcement officer tell you the tip said. Drugs being sold
24 by Charles Outen, not Jennifer McNaughton. They didn't have
25 her name at the time. The tip was about Charles. Who

1 maintained her vehicle? She told you. Charles maintained
2 her vehicle and I agree, he ain't doing a real good job if
3 he's letting the brake light go out, but he was the one who
4 had access to the vehicle. Who made the tip? Well, it's an
5 anonymous tip. Maybe there's some way in which Charles
6 decided he was going to do this. I don't know, ladies and
7 gentlemen, you don't either, because we don't know what even
8 the tip was. We just heard that there was this tip that
9 drugs are being sold out of this address by Charles Outen.
10 So there's a lot of speculation as to what was really going
11 on with that.

12 Now, you've got the videos. I'm not going to show you
13 the whole video, but I want to show you a little clip here.
14 When Blair's taken out of the car, they found the drugs in
15 the car -- I'm looking upside down -- and I hope I don't
16 blow your ears out when I do this, but this is her reaction
17 when they tell her.

18 (Whereupon, a portion of the State's Exhibit Number 2
19 was published to the jury.)

20 It was within five minutes of me leaving my house and
21 she's surprised. Why are you all of a sudden -- oh, and
22 it's the narcotics. These are not regular police officers.
23 These are not road deputies making a traffic stop. These
24 are narcs that are making a drug stop on this car based on
25 it leaving a house that they had a tip on. Why do they know

1 all this information? That's for you to determine, ladies
2 and gentlemen. But listen to what she says on this. Okay?
3 They asked her, it's yours, ain't it? She goes, no. Then
4 she admits, well, the bag, the purse, that's mine.

5 Now, it would have been difficult to do, but she could
6 have said I don't even know how that purse got there, but
7 she said, no, the purse is mine, and then she says, now that
8 change purse, I mean, that's mine, but I ain't seen it in a
9 long time.

10 Ladies and gentlemen, I submit to you that her reaction
11 right here is genuine. She doesn't pause. She doesn't
12 hesitate. She says I haven't seen that thing. That's a
13 genuine shock reaction that this thing is in her car and she
14 doesn't know where it came from. I submit to you today when
15 she took the stand, she told you the truth, the good, the
16 bad and the ugly. Notice, I didn't try to stop her. I
17 wanted her to tell her side of the story and she did. I
18 submit to you she told you the truth and she was surprised,
19 shocked that night and she continued to be shocked and
20 surprised. She never said that the drugs were hers. She
21 never said that that coin purse was in her purse, and guess
22 what? They never did anything to confirm anything. Fact,
23 they testified, well, we didn't get anything out of her
24 purse to prove the identification of the purse. We didn't
25 send this little thing off for any additional testing, which

1 they could have done, and we probably answered that final
2 question today with her testimony, she told you it was her
3 purse. She's owned up to that.

4 Let's talk about the search. Ms. McNaughton addressed
5 that a little bit in her testimony, but I want to show you a
6 little bit about this. When does this video begin? And I'm
7 going to show you a snippet. I'm not going to show you the
8 whole thing, about 40 seconds of it.

9 The search is happening, the purse has been found, but
10 you don't see all that on the camera. This is when it
11 starts. The change purse has already been found. If you
12 watch a little bit past this -- I didn't put it on this
13 snippet, but once he's done searching this car, the change
14 purse is in the floorboard. So was it actually in the
15 purse? We don't know because the video doesn't start until
16 after we found everything.

17 (Whereupon, a portion of State's Exhibit Number 2 was
18 published to the jury.)

19 Again, a little bit further than that, once he closed
20 the glove box out, you see the coin purse is actually laying
21 in the floor.

22 What else don't you have? I touched on this a little
23 bit, but I asked -- I asked Ann Horton. I asked -- who's
24 been with evidence in Lancaster County for a long, long
25 time, and I asked the SLED agent, could they request

1 additional testing? Yes, they could. They could ask for
2 fingerprints. They could ask for DNA. They can ask for any
3 number of things to try to prove something. They know she
4 has said that ain't mine. So one day we're going to come in
5 this courtroom and it's going to be them saying it is hers
6 and her saying it ain't mind, but we didn't bother to get
7 any additional evidence to prove either way. We've made our
8 arrest. We've made our conclusion. I submit to you, ladies
9 and gentlemen, they're so confident, they didn't even test
10 all the evidence. They tested one baggie said, oh, we got
11 enough. Made an arrest. We got it.

12 So, ladies and gentlemen, there are a lot of questions
13 here. There's a lot of speculation. This is not a simple
14 open-and-shut case. How did the drugs get there? I can't
15 tell you. It ain't my job to. It's their job to, but what
16 I can tell you is they have not given you enough evidence to
17 prove conclusively beyond a reasonable doubt that Jennifer
18 McNaughton had them.

19 Let's go through -- this is a snippet of the charge
20 that the Judge is going to give you. So this isn't the
21 whole thing. This is a little part that I want to point out
22 to you and the main part I want to point out is we're not
23 talking about selling, cultivating, delivering, purchasing,
24 that's no. That's not what any of that is. It's down at
25 the bottom. It's the knowingly in actual or constructive

1 possession. Knowingly. You have to know the stuff is
2 there. Have they proven to you that she had knowledge? I
3 submit to you they have not. And, again, possession
4 requires more than mere presence. Sitting in the cab of a
5 pickup truck, not knowing that there's a bag of meth beside
6 you does not make you guilty. They also have to prove that
7 you had intent to have the substance, too.

8 Ladies and gentlemen, I know when you first look at it,
9 it seems like a simple thing. They make a traffic stop,
10 drugs found in the cab. She's the only person there, but
11 have they truly proven beyond a reasonable doubt or is this
12 just like Jelly Bean and the trash bag, and it's speculation
13 and there's circumstantial evidence and maybe it's
14 suspicious, but that's not enough.

15 Ladies and gentlemen, have they truly proven to you
16 beyond a reasonable doubt that Jennifer Blair McNaughton
17 knowingly possessed trafficking levels of methamphetamine in
18 that truck? I submit to you no, they have not. They have
19 not reached their burden and she is not guilty.

20 Ladies and gentlemen, thank you very much for your
21 time, your attention and your service.

22 THE COURT: Thank you, Mr. Frick.

23 Solicitor, do you have any reply argument that you
24 would like to offer today?

25 MR. CUTHBERTSON: Yes, briefly, Your Honor.

1 Ladies and gentlemen of the jury, do we truly not -- do
2 we truly believe that she did not know that she had these
3 drugs in her purse? It's her purse, she said so. It's her
4 car, she said so. They have to be her drugs.

5 What else is there to test? The defense came up
6 briefly and mentioned that nothing else was tested. She
7 claimed the coin purse was hers. She claimed the purse was
8 hers and we know the car was hers, so what other evidence
9 would there be to test? By her own admission, the coin
10 purse was hers. The drugs were found in this coin purse.
11 Use your common sense. Like I said briefly to -- like I
12 said to you earlier, it is very unlikely that someone would
13 break into her car or open the door to her car, since she
14 leaves it unlocked, with her purse in it. It's very
15 unlikely that somebody would break into her car and plant 13
16 grams of meth in her car. If anything, and we all know,
17 anybody wants to steal something, anybody wants to break
18 into your car, they're taking all your personal belongings.
19 They're taking your purse. They're taking everything in it
20 and they very well would have taken 13 grams of meth if they
21 were -- if they were -- if that was in the car.

22 I want to talk to you about the search. The defense
23 came to you and wants to have all this fight about the body-
24 camera -- body-camera footage. I remember there was a time
25 when we didn't have body cameras. Right? You had to use

1 your, what we call, believability. You would judge each
2 witness based on the credibility. They would have to sit up
3 in front of you, no video was played and you'd just have to
4 determine whether or not you wanted to believe them, and
5 even now we're at a time where everybody's -- everybody's --
6 officers are using body cameras. They're still human;
7 right? Like things happen. Things malfunction. Sometimes
8 they forget to turn them on. Sometimes the videos are
9 deleted before they should be, but they're human.

10 Ladies and gentlemen, it's pretty simple, it's pretty
11 straightforward. She's already told us the car was hers.
12 She already told us that the purse was hers. She already
13 told us that the coin purse was hers.

14 Ladies and gentlemen of the jury, we -- we beg and
15 plead of you that there is no way that she did not know that
16 the meth was in her purse. The defendant got up here
17 earlier and tried to say that she leaves her purse in her --
18 in her car, unlocked. As we all know, many people -- we
19 don't go anywhere without our purse; right? It's very rare
20 that we leave it in the car. We're taking some of our
21 personal belongings. Most times people have a purse
22 sometimes. You might have some other sort of bag that you
23 take your personal belongings in, but she wants you to
24 believe that she just leaves her purse in her car and that
25 somebody came in and planted 13 grams of meth in her purse.

1 Again, I beg and plead of you to use your common sense.
2 The car was hers. The purse was hers. The drugs were hers.
3 Thank you.

4 THE COURT: All right. Ladies and gentlemen, we are
5 going to take a very short break and then we'll bring you
6 back out. I'll charge you the law in this case, take about
7 20 minutes and then, hopefully, your lunch will be here and
8 you can eat lunch, begin your deliberations, however you
9 want to handle that. Okay? Go back to the jury room.
10 We'll get you back out shortly.

11 (Whereupon, the jury exited the courtroom at 11:44
12 A.M.)

13 THE COURT: Okay. We'll be in a short recess.

14 (Whereupon, a brief recess was observed.)

15 THE COURT: Yeah. Ask them to bring the jury in.

16 (Whereupon, the jury entered the courtroom at 11:58
17 A.M.)

18 THE COURT: Okay. Let the record reflect the jury is
19 back in.

20 Ladies and gentlemen, I now will charge you the law
21 applicable to this case. You must consider the charge as a
22 whole and not focus on some portions to the exclusion of
23 others.

24 Once again, the indictment charges the defendant with
25 trafficking in methamphetamine 10 grams or more, but less

1 than 28 grams. I remind you the fact that the defendant was
2 arrested, charged and indicted in this case is not evidence
3 in this case and cannot be considered by you as evidence of
4 guilt in this case, nor does it create any presumption or
5 inference of guilt. This document is simply the formal
6 written instrument which contains the charge made against
7 the defendant. It is a formal document by which this case
8 is brought into this Court.

9 The defendant has pled not guilty to the indictment and
10 that plea puts the burden on the State to prove the
11 defendant guilty. A person charged with committing a
12 criminal offense in South Carolina is never required to
13 prove himself or herself innocent. I charge you that it is
14 an important rule of law that the defendant in a criminal
15 trial, no matter what the seriousness of the charge may be,
16 will always be presumed to be innocent of the crime for
17 which the indictment was issued unless guilt has been proven
18 by evidence satisfying you of that guilt beyond a reasonable
19 doubt. This presumption of innocence does not end when you
20 begin your deliberations, but it accompanies the defendant
21 throughout the trial unless you reach a verdict of guilt
22 based on evidence satisfying you of that guilt beyond a
23 reasonable doubt.

24 The presumption of innocence is like a robe of
25 righteousness placed around the shoulders of the defendant,

1 which remains with the defendant unless it has been stripped
2 from the defendant by evidence satisfying you of the
3 defendant's guilt beyond a reasonable doubt. The
4 presumption of innocence is not mere legal theory. It is
5 not just a legal phrase. It is a substantial right to which
6 every defendant is entitled unless you, the jury, are
7 satisfied from the evidence of the defendant's guilt beyond
8 a reasonable doubt.

9 Once again, the State has the burden of proving the
10 defendant guilty beyond a reasonable doubt. Some of you may
11 have served as jurors in civil cases where you were told
12 that it is only necessary to prove that a fact is more
13 likely true than not true, such as, by the greater weight or
14 the preponderance of the evidence. In criminal cases,
15 however, the State's proof must be more powerful than that.
16 It must be beyond a reasonable doubt. Proof beyond a
17 reasonable doubt is doubt that leaves you firmly convinced
18 of the defendant's guilt.

19 Now, there are very few things in this world that we
20 know with absolute certainty and in criminal cases the law
21 does not require proof that overcomes every possible doubt.
22 If, based on your consideration of the evidence, you are
23 firmly convinced that defendant is guilty of the crime
24 charged, you must find the defendant guilty. If, on the
25 other hand, you think there's a real possibility the

1 defendant is not guilty, you must give the defendant the
2 benefit of the doubt and find her not guilty.

3 Now, I remind you, ladies and gentlemen, that during
4 this trial you and I have had certain duties to perform. As
5 the trial judge, it is my responsibility to preside over the
6 trial of this case and I also have the duty to rule on the
7 admissibility of the evidence offered during this trial.
8 You are to consider only the competent evidence before you.
9 If there was any testimony ordered stricken from the record
10 in this case during this trial, you must disregard that
11 testimony. You are to consider only the testimony which has
12 been presented from the witness stand and the exhibits which
13 have been made a part of the record in this case and any
14 stipulations of counsel.

15 I have the additional duty to charge you the law
16 applicable to this case. As the presiding Judge, I am the
17 sole judge of the law of this case and it's your duty as
18 jurors to accept and apply the law as I now state it to you.

19 If you already have any ideas of what the law is or
20 what the law ought to be and it does not agree with what I
21 now tell you that the law is, you must abandon your idea
22 because you are sworn to accept the law and apply the law
23 exactly as I state it to you.

24 In every case tried in this Court before a jury, the
25 jury becomes the sole and exclusive judge of the facts in

1 the case. A trial judge cannot intimate, state, comment on
2 or make any statement to a trial jury about the facts in the
3 case. Since you, the jury, are the sole judge of the facts
4 in this case, you are not to infer from what I have said
5 during the progress of this trial, in ruling upon the
6 admissibility of evidence or otherwise, or anything that I
7 say now during the course of this instruction to you, that I
8 have any opinion about the facts in this case. The law does
9 not allow me to have an opinion about the facts in this
10 case. This is a matter solely for you, the jury, to
11 determine. As jurors, it is your duty to determine the
12 effect, value and weight of the evidence presented during
13 this trial.

14 Now, Madam Forelady and ladies and gentlemen of the
15 jury, there are two types of evidence which are generally
16 presented during the trial or a trial, direct evidence and
17 circumstantial evidence. Direct evidence directly proves
18 the existence of a fact and does not require deduction.
19 Circumstantial evidence is proof of a chain of facts and
20 circumstances indicating the existence of a fact. Crimes
21 may be proven by circumstantial evidence. The law makes no
22 distinction between the weight or value to be given to
23 either direct or circumstantial evidence; however, to the
24 extent the State relies on circumstantial evidence, the
25 circumstances must be consistent with each other and, when

1 taken together, point conclusively to the guilt of the
2 accused beyond a reasonable doubt. If these circumstances
3 merely portray the defendant's behavior as suspicious, the
4 proof has failed. The State, once again, has the burden of
5 proving the defendant guilty beyond a reasonable doubt and
6 this burden rests with the State regardless of whether the
7 State relies on direct evidence, circumstantial evidence, or
8 some combination of the two.

9 Now, necessarily, ladies and gentlemen, you must
10 determine the credibility of witnesses who have testified in
11 this case and the evidence presented. Credibility simply
12 means believability. It becomes your duty as jurors to
13 analyze and to evaluate the witnesses and the evidence and
14 determine the credibility of the witnesses and the evidence.

15 In determining the credibility of witnesses who have
16 testified in this case, you may believe one witness over
17 several witnesses or several witnesses over one witness.
18 You may believe a part of testimony of a witness and reject
19 the remaining part of the testimony of that same witness.
20 You may believe the testimony of a witness in its entirety
21 or reject the testimony of a witness in its entirety. You
22 may consider whether any witness has exhibited to you any
23 interest, bias, prejudice, or other motive in this case.
24 You may also consider the appearance and manner of a witness
25 while on the witness stand.

1 Now, in order to establish criminal liability, criminal
2 intent is required. For example, the mental state required
3 to be proven by the State for a particular crime might be
4 purpose, intent, knowledge, recklessness or criminal
5 negligence. Criminal intent must be proven by the State
6 beyond a reasonable doubt. Criminal intent is always a
7 matter that must be determined by the jury from the
8 circumstances surrounding the situation.

9 Now, there's no way to prove intent to a mathematical
10 certainty. There's no way medical science can dissect a
11 person's brain and determine what the person had in mind, so
12 the law says that criminal intent may be inferred from the
13 circumstances shown to have existed. This is how you make a
14 determination of whether or not the element requiring intent
15 was present. It's not necessary to establish intent by
16 direct and positive evidence, but intent may be established
17 by inference in the same way as any other fact, by taking
18 into consideration the acts of the parties and all the facts
19 and circumstances of the case. Criminal intent is a mental
20 state, a conscious wrongdoing. It is up to you to determine
21 what the defendant intended to do based on the circumstances
22 shown to have existed.

23 Now, once again, the defendant is charged with
24 trafficking in methamphetamine. The State must prove beyond
25 a reasonable doubt the defendant knowingly sold,

1 manufactured, cultivated, delivered, purchased, brought into
2 the state, provided financial assistance or otherwise,
3 aided, abetted, attempted or conspired to sell, manufacture,
4 cultivate, deliver, purchase or bring into the state, was
5 knowingly in actual or constructive possession, knowingly
6 attempted to come in actual or constructive possession of
7 methamphetamine. The State must also prove beyond a
8 reasonable doubt, ladies and gentlemen, that the amount of
9 the methamphetamine was 10 grams or more, but less than 28
10 grams.

11 Actual possession means that the methamphetamine was in
12 the actual physical custody of the defendant. Constructive
13 possession means that the defendant had dominion and control
14 or the right to exercise dominion or control over either the
15 methamphetamine itself or the property on which the
16 methamphetamine was found. Mere presence at the scene where
17 the drugs were found is not enough to prove possession. The
18 defendant's knowledge and possession may be inferred when a
19 substance is found on the property under the defendant's
20 control; however, this inference is simply an evidentiary
21 fact to be taken into consideration by you, along with the
22 other evidence in this case and to be given the weight you
23 decide it should have.

24 I'm going to talk about mere presence. Possession
25 requires more than mere presence. Mere presence where the

1 controlled substance is found is not sufficient to convict
2 without more. Evidence that an individual is present at the
3 time a controlled substance is found or located is not in
4 and of itself sufficient proof that the individual had
5 actual or constructive possession of the controlled
6 substance.

7 Proof of constructive possession by the
8 defendant requires that the State show beyond a reasonable
9 doubt that the defendant had dominion and control over the
10 controlled substance or had the right to exercise dominion
11 and control over the controlled substance. Stated in other
12 terms, the State must prove beyond a reasonable doubt that
13 the defendant had both the power and intent to control the
14 disposition or use of the controlled substance; controlled
15 substance, meaning the methamphetamine.

16 Now, ladies and gentlemen, there are two possible
17 verdicts in this case: not guilty and guilty, and your
18 verdict, ladies and gentlemen, must be unanimous among the
19 twelve of you.

20 Now, I'm going to come down in just a minute, Madam
21 Forelady, and show you the verdict form that you have to
22 complete. It's very simple.

23 In the event that during your deliberations there is a
24 split in the vote, the Court does not at any time want to be
25 informed of the actual split by number in the vote if one

1 does exist. And lastly, ladies and gentlemen, I realize
2 that what I've just read to you is a lot. So I'm going to
3 provide this jury charge, as we call it, to you for the jury
4 to use in whatever manner, if any, you want to use it.

5 I'm going to come down and I'm going to show you how to
6 fill out the verdict form. Again, it's very simple.

7 (Whereupon, the Court approached the jury.)

8 This is just the identification of the case, *State of*
9 *South Carolina versus Jennifer Blair McNaughton*, Verdict
10 Form. This is the indictment number, and it reads, We, the
11 jury, unanimously find the defendant on the charge of
12 trafficking methamphetamine 10 grams or more, but less than
13 28 grams, and you will put your initials on the appropriate
14 verdict, whether it's not guilty that you find or guilty
15 that you find. You will sign it and it's already been dated
16 today.

17 Now, what I want to do, I want all 14 of you to go back
18 to the jury room. Do not begin your deliberations yet. I
19 want to talk with the lawyers one more time to make sure
20 that they have no additions or exceptions to the jury
21 charge.

22 If the bailiff brings to you the verdict form, a copy
23 of my charge, and the exhibits in this case, that will be
24 your cue for two things to happen. The two alternates will
25 need to exit the jury room and they will provide a place for

1 you to eat your lunch. You can't leave the courthouse until
2 I excuse you. Okay? And, secondly, you can begin your
3 deliberations at this time.

4 And as I told you earlier, you can eat lunch while
5 you're deliberating. If you want to eat lunch first and
6 then deliberate, that's totally up to you. If at any time
7 during the deliberations a member of the jury has to use the
8 restroom, stop your deliberations, 'cause deliberations have
9 to take place completely in the presence of all 12 of you.
10 Okay? All right. So go back to the jury room. Don't start
11 deliberating yet. Okay?

12 (Whereupon, the jury exited the courtroom at 12:12
13 P.M.)

14 THE COURT: All right. Does the State have any
15 exceptions or additions to the Court's charge?

16 MR. CUTHBERTSON: No, sir, Your Honor.

17 THE COURT: And from the defense?

18 MR. FRICK: None from Defense.

19 THE COURT: Okay. All right. We're off the record.
20 Just lawyers come up and just make sure we got all the
21 exhibits together, please.

22 (Whereupon, the proceeding was recessed at 12:12 P.M.
23 for lunch and reconvened at 1:38 P.M.)

24 THE COURT: The jury have a couple question. One, they
25 wanted to know the time of the arrest/stop and the lawyers

1 have indicated that that's not in evidence, so I will tell
2 the jury that that's not in evidence. Agree, State?

3 MR. CUTHBERTSON: Yes, Your Honor.

4 MS. EASLER: Yes.

5 THE COURT: Defense?

6 MR. FRICK: I do not recall that being in evidence. I
7 know there was some discussion. You can see on the video
8 that it's nighttime.

9 THE COURT: Right.

10 MR. FRICK: I don't think anybody said a specific time.

11 THE COURT: Okay. And, secondly, they wanted to watch
12 both videos. So what's going to be played are the portions
13 of the videos that was played to the jury during the course
14 of the trial and the State will do the same muting as was
15 done during the trial. Correct, State? Correct?

16 MR. CUTHBERTSON: Yes, Your Honor.

17 THE COURT: Okay. Defense?

18 MR. FRICK: Yes, sir. That's my understanding. I
19 think -- I mean, we talked about undoing that, but that
20 wasn't done in the trial.

21 THE COURT: Right.

22 MR. FRICK: So I think we've got to go with what was
23 previously --

24 THE COURT: What we did. Okay. All right. Let's
25 bring the jury out, please.

1 (Whereupon, the jury entered the courtroom at 1:42
2 P.M.)

3 THE COURT: Okay. Let the record reflect the jury's
4 back in.

5 Ladies and gentlemen, how was the Chick-fil-A lunch?
6 Was it good?

7 JUROR: It was great. Yes, sir. Thank you.

8 THE COURT: Okay. All right. You have asked for the
9 time of the arrest/stop. That is not in evidence so I
10 cannot provide that to you.

11 Secondly, you requested to view the videos that was
12 played for you during the trial and we're going to do that.
13 They had a little technical difficulty as my note indicated,
14 but they got it up and running and so, Solicitor, you want
15 to take care of that, please?

16 MR. CUTHBERTSON: Yes, sir.

17 (Whereupon, State's Exhibit Number 2-A was published
18 to the jury.)

19 MR. CUTHBERTSON: Your Honor, that was all we showed
20 showed for the first video.

21 THE COURT: Okay. Is that for the first video?

22 MR. CUTHBERTSON: That was it for the first video.

23 THE COURT: Okay. All right. Then do the second one.

24 (Whereupon, a portion State's Exhibit Number 2 was
25 published to the jury.)

1 THE COURT: Okay.

2 All right. Ladies and gentlemen, if you'll go back to
3 the jury room and continue with your deliberations.
4 Appreciate your hard work.

5 (Whereupon, the jury exited the courtroom at 1:55 P.M.
6 and court was in recess from 1:55 P.M. until 3:10 P.M.)

7 THE COURT: Okay. It's my understanding that the jury
8 has reached a verdict. Anything we need to put on the
9 record before we bring the jury out to receive the verdict?
10 State?

11 MR. CUTHBERTSON: No, Your Honor.

12 THE COURT: Defense?

13 MR. FRICK: None from the defense.

14 THE COURT: All right. Let's bring the jury out,
15 please.

16 BAILIFF: Yes, Your Honor.

17 (Whereupon, the jury entered the courtroom at 3:10
18 P.M.)

19 THE COURT: Okay. Let the record reflect the jury's
20 back in.

21 Madam Forelady, without telling me what the verdict is,
22 have you reached a verdict in this case?

23 MADAM FORELADY: Yes, sir, we have.

24 THE COURT: And is the verdict unanimous among the 12
25 of you?

1 MADAM FORELADY: Yes, sir, it is.

2 THE COURT: All right. If you'll take the verdict
3 form, fold it and hand it to the bailiff, please.

4 (Whereupon, the verdict form was handed to the bailiff
5 and handed to the Court.)

6 THE COURT: Mr. Clerk, if you would publish the
7 verdict.

8 THE CLERK: Yes, sir.

9 Your Honor, this is *State of South Carolina versus*
10 *Jennifer Blair McNaughton*, case number 2022-GS-29-739. We,
11 the jury, unanimously find the defendant on the charge of
12 trafficking in methamphetamine, ten grams or more, but less
13 than 28 grams, guilty; signed Forelady this date, May 21st,
14 2025.

15 Ladies and gentlemen, if this is your verdict, so say
16 you all by the raising of your right hand.

17 THE COURT: All right. Let the record reflect that all
18 12 hands have been raised.

19 Mr. Frick, do you want individual polling of the jury?

20 MR. FRICK: Yes, sir.

21 THE COURT: Okay.

22 Mr. Clerk, if you could handle that for me, please.

23 THE CLERK: Ladies and gentlemen, when I call your
24 number, if you will raise your right hand, please.

25 Juror Number 85. Was this your verdict?

1 JUROR #85: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR #85: Yes.

4 THE CLERK: Thank you. Juror number 77. Was this your
5 verdict?

6 JUROR #77: Yes, sir.

7 THE CLERK: And is your -- I'm sorry. And is this
8 still your verdict?

9 JUROR #77: Yes, sir.

10 THE CLERK: Thank you. Juror 197. Was this your
11 verdict?

12 JUROR #197: Yes, sir.

13 THE CLERK: Is this still your verdict?

14 JUROR #197: Yes, sir.

15 THE CLERK: Juror number 3. Was this your verdict?

16 JUROR #3: Yes, sir.

17 THE CLERK: Is it still your verdict?

18 JUROR #3: Yes.

19 THE CLERK: Thank you. Juror number 135. Was this
20 your verdict?

21 JUROR #135: Yes.

22 THE CLERK: Is this still your verdict?

23 JUROR #135: Yes.

24 THE CLERK: Thank you. Juror number 191. Was this
25 your verdict?

1 JUROR #191: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR #191: Yes.

4 THE CLERK: Thank you. Juror number 42. Was this your
5 verdict?

6 JUROR #42: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR #42: Yes.

9 THE CLERK: Thank you. Juror number 189. Was this
10 your verdict?

11 JUROR #189: Yes.

12 THE CLERK: Is this still your verdict?

13 JUROR #189: Yes.

14 THE CLERK: Thank you. Juror number 159. Was this
15 your verdict?

16 JUROR #159: Yes.

17 THE CLERK: Is this still your verdict?

18 JUROR #159: Yes.

19 THE CLERK: Thank you. Juror number 175. Was this
20 your verdict?

21 JUROR #175: Yes.

22 THE CLERK: Is this still your verdict?

23 JUROR #175: Yes.

24 THE CLERK: Thank you. Juror number 155. Was this
25 your verdict?

1 JUROR #155: Yes.

2 THE CLERK: Is this still your verdict?

3 JUROR #155: Yes.

4 THE CLERK: Thank you. Juror number 114. Was this
5 your verdict?

6 JUROR #114: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR #144: Yes.

9 THE CLERK: Did I miss anyone? Thank you.

10 THE COURT: All right. Thank you, Mr. Clerk.

11 Madam Forelady and ladies and gentlemen of the jury,
12 your verdict of guilty in this case does not matter to me.
13 If you had reached a verdict of not guilty, that would not
14 have mattered to me. What matters to me is that my jury
15 performs its duties conscientiously, efficiently and you
16 have done that. I told you at the very outset that, you
17 know, I keep my eyes on the jury to make sure that you're
18 paying attention, remaining alert and attentive and you have
19 done that. You spent several hours in deliberation, so
20 you've put some -- you put some work and some thought into
21 it and I appreciate that. Thank you very much for your jury
22 service. It's not easy sitting on a jury. I think you've
23 already realized that, but I hope it was a good learning
24 experience for you, at least you've learned some things,
25 experienced some things that you maybe had not experienced

1 before coming in here on Monday.

2 What I like to do with my juries is just to meet with
3 them back in the jury room for a few minutes with the clerk
4 or both clerks, not to talk about the case, just to find out
5 what we do good here. Do you have any suggestions, any
6 constructive criticism that you think would -- we could
7 improve on? We always are wanting to try to do better to
8 make sure that Lancaster County has a great and productive
9 judicial system. So we like to be complimented, but we
10 surely would like to hear of any ideas that you think that
11 we could, you know, use to make a better system here.

12 So with that said, just go back to the jury room. I
13 will be back there in just a minute with the clerks and talk
14 with you for a minute and then we'll let you go home.

15 (Whereupon, the jury exited the courtroom at 3:16 P.M.)

16 THE COURT: Okay. I want to take just a very short
17 break. I'm going to talk with the jury. Kristen and Mike,
18 if you'll go with me, and then we'll proceed into the
19 sentencing phase of this case. Okay? Just a few minute
20 break and, Ms. McNaughton, remain where you are.

21 (Whereupon, a brief recess was observed.)

22 THE COURT: Sure.

23 MR. FRICK: Your Honor, first I want to renew all my
24 motions and objections--

25 THE COURT: Sure.

1 MR. FRICK: ---as previously ruled upon. At this time
2 defense would request a new trial in this matter,
3 specifically given our motion for suppression of evidence
4 and any other objections that were made during the trial.
5 I think that warrants our ability to have a new trial in
6 this case.

7 THE COURT: Okay. All right. So noted for the record
8 and denied and if you want to further elaborate on a motion
9 for new trial to protect the record, I'll give you the
10 standard ten days.

11 MR. FRICK: Thank you, Your Honor.

12 THE COURT: You don't have to take it, but if you want
13 it, you got it.

14 MR. FRICK: Yes, sir. Thank you, Your Honor. One
15 additional motion I would ask, would the Court consider
16 setting aside the verdict in its capacity as the 13th juror?

17 THE COURT: Okay. Respectfully denied on that.

18 MR. FRICK: Thank you, Your Honor.

19 THE COURT: All right. We'll get started. Some of the
20 jury members wanted to sit in for sentencing after I invited
21 them and so we're just waiting for them to get into the
22 courtroom.

23 (Whereupon, court at ease)

24 THE COURT: Okay. We are back on the record in the
25 sentencing phase of the case of *The State versus Jennifer*

1 *Blair McNaughton* concerning the issue of sentencing. I'll
2 let the State go first with anything you want to state on
3 the record concerning sentencing.

4 MR. FRICK: Do you want us to approach the rail or --

5 THE COURT: You can stay right there if you care to.

6 MR. FRICK: That's fine.

7 THE COURT: Understanding that this -- the statutory
8 sentencing range on this offense is three to ten years and
9 \$25,000. So Solicitor?

10 MR. CUTHBERTSON: Yes, Your Honor. As you were made
11 aware, we did make an offer and offered for her to plead to
12 seven years. So the State would stand firm and now we're
13 understanding it's a recommendation, of course, with you
14 ultimately having the decision, we would stand firm in the
15 recommendation of seven years for Ms. McNaughton. This is
16 primarily in speaking with -- due to speaking with law
17 enforcement. They have made me aware that they are still
18 getting complaints, even 'til this day, of Ms. McNaughton
19 and her boyfriend, I guess you could say, Mr. Charlie Outen,
20 that they are still involved in drug activity. So for those
21 reasons, we would stand firm in our seven years as a
22 recommendation to the Court.

23 THE COURT: Two questions, Solicitor. There's no -- I
24 assume no pending charges against Ms. McNaughton as it
25 relates to what law enforcement has informed your office?

1 MR. CUTHBERTSON: That is my understanding.

2 THE COURT: Okay.

3 MR. CUTHBERTSON: Yes, sir, no pending charge. Would
4 you like to hear her criminal record?

5 THE COURT: Yeah. Well, that was going to be my second
6 question is -- and, you know, based upon previous
7 discussions, I'm aware of a little bit, but tell me exact
8 year and conviction.

9 MR. CUTHBERTSON: Yes, Your Honor. We have a 2003,
10 open container; we have a 2015, open container; 2015,
11 possession of a controlled substance, schedule I and
12 schedule II; a 2016 driving under suspension; and a 2020
13 domestic violence in the third degree.

14 THE COURT: DV third?

15 MR. CUTHBERTSON: Yes, sir.

16 THE COURT: Yeah. Okay. All right. Thank you. Do
17 you have a sentencing sheet handy?

18 MR. CUTHBERTSON: Yes, Your Honor.

19 THE COURT: Okay. Mr. Frick,---

20 MR. FRICK: Thank you, Your Honor.

21 THE COURT: ---I'll turn it over to you, sir.

22 MR. FRICK: Judge, Ms. McNaughton is 43 years old,
23 from Lancaster, lifelong resident here. You heard her
24 record, Judge. She's got one conviction in General Sessions
25 Court and that's something that carries six months and she

1 received a time served sentence on that. So this is a
2 person who has certainly not found any difficulties such as
3 this and with all due respect to my friends in the narcotics
4 unit, I ain't met a narc yet that didn't say, well, my
5 clients were still slinging dope when they don't have a
6 warrant.

7 THE COURT: Right.

8 MR. FRICK: So I appreciate the question that you asked
9 about that, but that's the issue I always have with that.

10 Judge, I've read the statute. I have searched for
11 something that would allow this Court to suspend this
12 sentence because we went to trial on this matter, 'cause I
13 advised my client, if they want to give you seven and it
14 carries ten, that's not a heck of a lot of difference. We
15 may as well take our chances with the jury.

16 THE COURT: Right.

17 MR. FRICK: That's why we went forward here today.

18 THE COURT: Right.

19 MR. FRICK: Now, Ms. McNaughton maintains her
20 innocence. She maintains she did not know that these drugs
21 were in her vehicle and I think there is a reasonable
22 suspicion that they could have been placed there by someone
23 else. Now, nonetheless, the jury has spoken on that matter,
24 but I ask the Court to take all of that in consideration. I
25 ask you to take in consideration her lack of prior record.

1 The fact that this is a person who, one, is going to end up
2 with a fairly serious felony on her record after having
3 nothing but misdemeanors. The fact that it is a non-
4 suspendable sentence. If Your Honor can find any way that
5 you deem it -- that you can suspend it, I would ask you to
6 do so, but I have no case law to give you.

7 THE COURT: Right.

8 MR. FRICK: I'm reading the statute and it says shall
9 not be suspended.

10 THE COURT: Right.

11 MR. FRICK: So while I personally think in this
12 situation that is a -- I will use Ms. McNaughton's words, a
13 miscarriage of justice, I think our hands are tied on that.
14 But, Judge, I think a minimal sentence in this circumstance
15 is appropriate. The level is 10 to 28. The SLED report
16 has it at 13. So I -- someone with no prior record who just
17 found herself in an unfortunate situation on this particular
18 day. I am requesting whatever lenience you can show us in
19 this matter. Do you want to speak? (Addressing the
20 defendant)

21 MS. MCNAUGHTON: Yes. Yes, I would, sir. Whatever --

22 THE COURT: Let me just remind you you're still under
23 oath, Ms. McNaughton, 'cause you did testify earlier today.

24 MS. MCNAUGHTON: Yes. Yes, sir.

25 THE COURT: So, yeah, I'll be glad to hear anything and

1 everything you want to tell me.

2 MS. MCNAUGHTON: Yes, sir. If you could find a way --
3 if you could find a way to suspend the sentence, whatever
4 bond -- whatever requirements that you require of me, I will
5 -- I will be glad to do for court, because, as he said, the
6 felony on my record is -- it's going to be so detrimental to
7 me anyway, but I really do -- I really am against the sale
8 of drugs. I really am genuinely against it. I genuinely am
9 against it. I know that that is a prison sentence, which is
10 why I was so against it, but whatever you deem appropriate,
11 I will, of course, -- I will, of course, respect, but I
12 would -- if you can find a way to suspend the sentence, then
13 you will not be disappointed by my performance.

14 THE COURT: All right. Well, this has been presented
15 to me before and I'm not aware of any basis, case law or
16 otherwise, that allows me to suspend a sentence in light of
17 the mandatory language in the statute and it's very clear
18 that none of the sentence can be suspended and I'm not aware
19 of any other avenue that I can take to even consider a
20 suspension of the sentence. The statute is about as clear
21 as clear can be and so --

22 MS. MCNAUGHTON: Can you just --

23 THE COURT: If I were inclined to want to try to help
24 you along those lines,---

25 MS. MCNAUGHTON: Yes, sir.

1 THE COURT: ---I just can't. Okay?

2 Let me ask you this, Ms. McNaughton -- and, of course,
3 when the jury comes back with a verdict, then I take that
4 100 percent whichever way it goes, guilty or not guilty.
5 That's just a -- and the verdict that the jury reached is
6 guilty and that's what I consider.

7 My question to you, ma'am, is you've used
8 methamphetamine in the past 'cause you even admitted to that
9 on the stand.

10 MS. MCNAUGHTON: Yes, sir.

11 THE COURT: When's the last time you've done any drugs,
12 especially meth, but any drugs?

13 MS. MCNAUGHTON: I will say that I have a -- I do have
14 an addiction to it. That's why I asked him if rehab was a
15 possibility.

16 THE COURT: All right. Do you consider having a meth
17 habit a problem?

18 MS. MCNAUGHTON: Yes. I do consider that a problem.

19 THE COURT: Okay. All right. And when -- let me ask
20 you this: when is the last time you've used meth?

21 MS. MCNAUGHTON: I have used it this week.

22 THE COURT: This week?

23 MS. MCNAUGHTON: Yes, sir. That's why I say I do -- I
24 do acknowledge that I do have addiction. I acknowledge that
25 freely. That's whether it's a prison sentence, that's why I

1 said I would follow any --

2 THE COURT: Yeah.

3 MS. MCNAUGHTON: -- any request that you have, because
4 I do need to get help for that, but I don't --

5 THE COURT: Well, there is an Addictions Treatment Unit
6 at SCDC. I'm not suggesting that that works for everybody -
7 --

8 MS. MCNAUGHTON: Right.

9 THE COURT: ---who is screened for that, but they do
10 have that there and I have -- in talking with the lawyers
11 back in chambers and they informed me, I guess, maybe on
12 Monday as we were kind of discussing this case and I
13 indicated to them, after I kind of got some of the facts
14 presented to me, I told both the solicitors and Mr. Frick
15 that if there is a guilty verdict, I would certainly go
16 lower than the offered seven years and --

17 How many jail credit days we have? Probably not a
18 whole lot, but --

19 MR. FRICK: Eight days is what I'm reading.

20 THE COURT: Eight?

21 MR. FRICK: Yes, sir.

22 THE COURT: Okay.

23 MR. FRICK: And, Judge, I did tell Ms. McNaughton I
24 would ask for this. Since she has been on bond for this
25 matter since '22, we would ask you to consider potential of

1 a delayed report, maybe in a couple of days. She's not
2 asking for an extended period of time, just a little bit of
3 time.

4 MS. MCNAUGHTON: No. I always show up -- show up for
5 things.

6 THE COURT: I generally don't do that and I know you're
7 asking because your client asked you to. I generally
8 don't do that. I have found that that oftentimes creates
9 more problems than anything positive, but Solicitor, what is
10 your position on that request?

11 MR. CUTHBERTSON: We agree with Your Honor that most
12 times that doesn't end up as we all intended, so we would
13 object to the delayed reporting.

14 THE COURT: You know, from all indications -- I know
15 what law enforcement has told the solicitor's office -- from
16 my perspective it appears that you're a user more so than a
17 dealer. Okay? I may be completely wrong, but that's kind
18 of how I'm viewing this and your admission that you need
19 some help because you're a user, of course, that kind of
20 puts a little more validity into the jury verdict, but
21 that's just an observation that I'm making. But given the
22 fact that your prior record is fairly nominal, first --
23 well, you had that possession of a controlled substance back
24 sometime ago, ten years ago, I think my sentence is
25 appropriate.

1 Again, given the fact that the statute prevents me from
2 suspending any of the sentence, the sentence of the Court
3 is, Ms. McNaughton, that you be committed to the State
4 Department of Corrections for a period of three and a half
5 years, and credit for eight days of pre-trial confinement.

6 Sheriff, take her into custody, please. Best of luck
7 to you, ma'am.

8 MS. EASLER: Your Honor, the State would ask that she
9 be -- she do ATU as well.

10 THE COURT: Right. And I just mentioned that, but I
11 didn't write it on the sentencing sheet.

12 Okay. Just when you get your things together, I just
13 want to see the lawyers back in chambers for just a minute.

14 THE COURT: Back on the record in *The State versus*
15 *Jennifer Blair McNaughton*. When I imposed the three-and-a-
16 half year sentence, I failed to also order the mandatory
17 fine of \$25,000, so that is so ordered and I have correctly
18 put that on the sentencing sheet. Thank you.

19 (Whereupon, court was adjourned at 3:52 P.M.)

20 (END OF VOLUME III OF III)

21
22
23
24
25

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

HENRY D. MCMASTER
Governor



MARK A. KEEL
Chief

November 22, 2023

Khoury Hammond
Lancaster County Sheriff's Office
P.O. Box 908
Lancaster, SC 29720

DRUG ANALYSIS
SLED LAB: L22-05080
Your Case No: 2200742
Incident Date: 1/5/2022
[S] Jennifer McNaughton

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Item: 1 BEST Kit B293859

Item: 1.1 Evidence bag containing pouch

Item: 1.1.1 Plastic bag containing crystal substance.

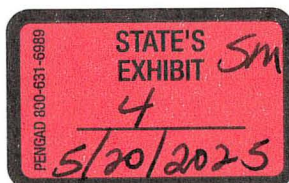
RESULTS:

Methamphetamine (C-II) found in the sample tested; 1 tested. Net weight: 13.09 +/- 0.01 grams (202.00 +/- 0.15 grains). Confidence level for the weight is 99.7%.

Item: 1.1.2 Plastic bag containing crystal substance.

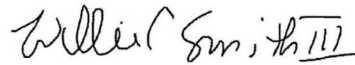
RESULTS:

The maximum attainable statutory threshold has been met for this substance based on indicative testing results consistent with item 1.1.1. Item was not subjected to confirmatory testing; 1 tested.



This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.

Technical records supporting the conclusions in this report are available upon request. Afford sufficient time for production.



Willie C. Smith, III
Forensic Scientist



November 22, 2023
L22-05080

Page 3 of 3

Supplement to Analysis for Controlled Substance

I, Willie C. Smith, III, am a Forensic Scientist employed by the South Carolina State Law Enforcement Division (SLED), certified by SLED as a Forensic Scientist qualified to perform testing and analysis for controlled and/or dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

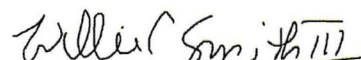
I have 23 years and 5 months experience as a Forensic Scientist. During that period, I have been qualified as an expert witness and testified in court no less than 104 times. I have received the following training as a Forensic Scientist.

B.S. Chemistry, University of South Carolina, Columbia, SC, 1995
B.S. Biology, University of South Carolina, Columbia, SC, 1991
Drug Enforcement Administration, Forensic Chemist Seminar, 2004
Training in Forensic Drug Analysis, South Carolina Law Enforcement Division, 2001
Basic Law Enforcement Training, South Carolina Criminal Justice Academy, 2000

I tested the above item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

☒ Chemical Test	☐ Gas Chromatography
☐ Microscopic Exam	☐ Mass Spectrometry
☒ Infrared Spectroscopy	☐ Physical Test
☐ Visual Examination	☐ Published Literature

Forensic Scientist


Willie C. Smith, III

Date: November 22, 2023



DOCKET NO. 2022-GS-29- 739 ✓

The State of South Carolina
County of Lancaster

FILED
OFFICE OF CLERK
OF COURT
2022 APR 21 AM 9:57
CLERK OF COURT
LANCASTER, SC

COURT OF GENERAL SESSIONS

APR 21 2022 TERM

THE STATE
vs.

Jennifer Blair McNaughton

Indictment for

Trafficking in Methamphetamine
10 grams or more but less than 28
Grams

SC Code: § 44-53-375(C)(1)
CDR Code: 0450
Class: Felony, E

WITNESSES

Davis/Black - LCSO #22-0742

S. Williamson

ja

ARREST WARRANT NUMBER/DOA

2022A2910100020 (DOA-1-6-22)

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: APR 21 2022

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

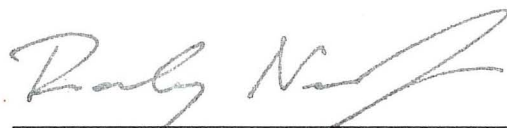
INDICTMENT

At a Court of General Sessions, convened on APR 21 2022,
the Grand Jurors of Lancaster County present upon their oath:

TRAFFICKING IN METHAMPHETAMINE 10 GRAMS OR MORE BUT LESS THAN 28 GRAMS

That Jennifer Blair McNaughton did in Lancaster County, South Carolina, on or about January 5, 2022, knowingly sell, manufacture, deliver, purchase, or bring into this State, or provided financial assistance or otherwise aided, abetted, attempted, or conspired to sell, manufacture, deliver, purchase, or bring into this State, or knowingly did actually or constructively possess or did knowingly attempted to become in actual or constructive possession of ten grams or more but less than 28 grams of Methamphetamine, in violation of § 44-53-375(C)(1), *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.



Randy E. Newman, Jr., SOLICITOR

STATE vs.

Jennifer Blair Mcnaughton

AKA: Jennifer Blair
Mcnaughton, Jennifer Blair
Mcnaughton

RACE: W SEX: F DOB: [REDACTED]

SSN: [REDACTED]

) INDICTMENT/CASE#: 2022GS2900739

) AW#: 2022A2910100020

) Date of Offense: 01/05/2022

) S.C Code§: 44-53-0375(C)(1)(a)

) CDR Code #: 0450

) Range of Offense: (NLT 3 YEARS TO 10 YEARS & \$25,000)

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: Traff Meth/Cocaine Base 10g but <28g 1st Offense

Range of Offense Pled: (NLT 3 YEARS TO 10 YEARS & \$25,000)

In violation of § 44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0450

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated ☐ Recommendation

/s Julian Cuthbertson 106214

Solicitor SC Bar #

/s William P. Frick 69739

Attorney for Defendant

69739

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
for a determinate term of 3 1/2 days/months/years/Time Served ☐ YOANTE _____ years and/or shall pay a fine
of \$ 25,000; provided that upon the service of _____ days/months/years/Time Served and or payment
of \$ _____ plus costs and assessments as applicable*; balance is suspended with probation for _____ months/years
and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC
_____ days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

- ☐ PTUP _____
- ☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ SAC/MHC if necessary
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
- ☐ Other: _____

☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))

§14-1-206 (Assessments 107.5%)
§14-1-211 (A)(1) Conv. Surcharge Fine/Costs and Assessments are to be paid to the Clerk
§14-1-211 (A)(2)(DUI Surcharge) of Court within _____ days/months
§56-5-1995 (DUI Assessment)
§56-1-286 (DUI Breath Test)
§14-1-212 (Law Enforcement Funding)
§14-1-213 (Drug Court Surcharge)
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)
§50-21-114 (BUI Breath Test Fee)
§56-5-2942(J) (Vehicle Assessment)
3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk during
probation and shall be collected before any other fees

☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution	\$	
FINE:	\$	<u>25,000.00</u>
	\$	<u>26,875.00</u>
	\$	<u>100.00</u>
	\$	
	\$	
	\$	
	\$	<u>25.00</u>
	\$	<u>150.00</u>
	\$	
	\$	
	\$	
	\$	<u>1,564.50</u>
	\$	

\$40
TOTAL \$ 53,714.50

/s Michael Watkins

Clerk of Court/Deputy Clerk

Shannon McGillberry
Court Reporter

2167
Judge Code

5/21/25
Sentence Date

[Signature]
Presiding Judge

SCCA217B
01/27/2025

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

RECEIVED

Jun 18 2026

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of June, 2026.