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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Horry County

Honorable Bryan S. Doby, Circuit Court Judge

DAVID HAROLD CAMPBELL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-001210

APPENDIX

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
		2016-GS-26-00536
COUNTY OF HORRY	)	2017-GS-26-00942
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	
	)	May 15-17, 2017
DAVID HAROLD CAMPBELL,	)	
	)	
Defendant.	)	

B E F O R E:

Honorable Thomas A. Russo
Horry County Courthouse
Conway, South Carolina

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

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Kay H. Richardson
Circuit Court Reporter

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1 **(MAY 15, 2017 - DAY ONE - 12:25 P.M.)**

2 VOIR DIRE:

3 THE COURT: All right. Solicitor, if you'd like to call
4 the first case?

5 MR. ERVIN: Your Honor, this is State of South Carolina
6 versus David Campbell. Mr. Campbell has been indicted for
7 trafficking cocaine and failure to stop for a blue light.

8 THE COURT: All right, sir.

9 Ladies and gentlemen, you've heard the Solicitor call the
10 first case. It's the State of South Carolina -- State of
11 South Carolina versus David Harold Campbell. Mr. Campbell is
12 charged under these indictments. Now, let me explain to you
13 briefly, an indictment, ladies and gentlemen, it's simply,
14 it's a piece of paper that carries the official charge that a
15 person is accused of. It is not in any way evidence against
16 the Defendant. In this case of Mr. Campbell is not considered
17 to be truthful of the allegations it contains. It is just the
18 allegations that the State has made against Mr. Campbell. It
19 will be the State's duty to prove the elements of these
20 indictments beyond a reasonable doubt. To these charges or to
21 these indictments, Mr. Campbell has pled not guilty and that
22 plea of not guilty places upon him the presumption of
23 innocence and it will be the State's duty to attempt to prove
24 each and every element of these charges beyond a reasonable
25 doubt.

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VOIR DIRE

7

1 I am going to read to you what the allegations are in
2 these indictments so that you'll have an understanding and be
3 able to answer some questions that I will have for you. But
4 as I told you, and I reiterate, these are, at this stage,
5 these are allegations that the State has made against Mr.
6 Campbell.

7 Now, indictment 2016-GS-26-536 is an indictment charging
8 Mr. Campbell with failure to stop for a blue light. The
9 allegations in that indictment are that David Harold Campbell
10 did in Horry County on or about November the 30th of 2015,
11 while operating a motor vehicle on a road, street, or highway
12 of the State of South Carolina did refuse and fail to stop his
13 motor vehicle when signaled to do so by a law enforcement
14 vehicle by means of a siren and/or flashing lights, in
15 violation of Section 56-5-750, Subsection (b)(2) of the South
16 Carolina Code of Laws, 1976, as amended.

17 Indictment 2017-GS-26-942 charges Mr. Campbell with the
18 offense of trafficking in cocaine in an amount of more than 10
19 grams, but less than 28 grams and that, that allegation is
20 that David Harold Campbell did in Horry County on or about
21 December the 1st of 2015, knowingly sell, deliver, purchase or
22 bring into this state or did aid, abet, attempt, or conspire
23 to sell, deliver, purchase, or bring into this state or was in
24 actual or constructive possession or attempted to become in
25 actual or constructive possession of a quantity of cocaine in

1 the amount of more than 10 grams, but less than 28 grams. The
2 same being a controlled substance all within the meaning of
3 the Section 44-53-370 of the South Carolina Code of Laws, as
4 amended. Such possession not having been authorized and being
5 a violation of 44-53-370, Subsection (e)(2)(a) of the South
6 Carolina Code of Laws, as amended.

7 Those are the allegations that have been made against Mr.
8 Campbell to which he has pled not guilty. Now, that's based
9 on that little bit of information I have given you, is there
10 any member of the jury panel who knows anything about this
11 case involving the Defendant, Mr. David Harold Campbell? If
12 so, please stand.

13 (REPORTER'S NOTE: No response.)

14 THE COURT: Thank you, there are none.

15 Now, I'm going to have the attorneys stand and introduce
16 themselves, ladies and gentlemen. I'm gonna start with the
17 State, let them introduce themselves and then I'll recognize
18 the Defense Counsel.

19 MR. ERVIN: My name is Gray Ervin. I'm the Assistant
20 Solicitor with the Fifteenth Circuit Judicial office here in
21 Horry County.

22 MR. CARAKER: Good morning, ladies and gentlemen, my name
23 is David Caraker. I'm Senior Assistant Solicitor for the
24 Fifteenth Judicial Circuit.

25 MR. MARTIN: Morgan Martin. I practice law here in Horry

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VOIR DIRE

9

1 County. I've got an office on Third Avenue.

2 MR. LONG: Good morning, I'm Russell Long. I practice
3 here in Horry County. My office is actually in Myrtle Beach.

4 THE COURT: All right. Folks, let me begin with Mr.
5 Ervin and Mr. Caraker. Is there any members of the jury panel
6 who are related by blood, connected by marriage or who have
7 any close business or personal relationship with either one of
8 these attorneys or who has ever been either represented,
9 represented by or prosecuted by either one of these gentlemen?
10 If so, please stand.

11 (REPORTER'S NOTE: No response.)

12 THE COURT: Thank you. There are none.

13 You've met Mr. Martin and Mr. Long. Are there any
14 members of the jury panel related by blood, connected by
15 marriage or have any close business or personal relationship
16 with or who has ever been represented by either Mr. Martin or
17 Mr. Long or any member of their law firm? If so, please
18 stand.

19 JUROR 9: Judge, I work for FedEx. I deliver to Mr. Long
20 at his home and business.

21 THE COURT: All right. And this Juror Number 9?

22 JUROR 9: Yes, sir.

23 THE COURT: Is that correct, Mr. ---

24 JUROR 9: Arambula.

25 THE COURT: Arambula. Mr. Arambula, the fact that you

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VOIR DIRE

10

1 deliver for FedEx to Mr. Long's both his office and home
2 addresses, would that in any way affect your ability to give
3 both the State and the Defense a fair and impartial trial?

4 JUROR 9: No, sir.

5 THE COURT: Thank you, sir. You may have a seat.

6 Yes, sir; your name please?

7 JUROR 352: I was represented by Mr. Martin a few years
8 ago.

9 THE COURT: Okay. Give us your name?

10 JUROR 352: William Saunders, 352.

11 THE COURT: All right. And, Mr. Saunders, was -- does
12 Mr. Martin still represent you or has that matter been
13 concluded?

14 JUROR 352: Yeah, like four or five years ago, at least.

15 THE COURT: Okay. The fact that Mr. Martin has
16 represented you in a previous matter, would that in any way
17 affect your ability to listen to the evidence and give both
18 the State and the Defendant a fair and impartial trial?

19 JUROR 352: No, sir.

20 THE COURT: Thank you, sir. You may have a seat.

21 Anyone else?

22 (REPORTER'S NOTE: No response.)

23 THE COURT: All right. Mr. Campbell, if I could get you
24 just to stand and face the jury for a moment and let them get
25 a look at you and then I'll get you to have a seat.

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VOIR DIRE

11

1 Thank you, sir.

2 Ladies and gentlemen, this is Mr. David Harold Campbell.
3 Is there any member of the jury panel who is related by blood,
4 connected by marriage, or who has any close business or
5 personal relationship with Mr. Campbell? If so, please stand.
6 (REPORTER'S NOTE: No response.)

7 THE COURT: Thank you. There are none.

8 Folks, that question I just asked you as it related to
9 Mr. Campbell, that's the same question I'll be asking as it
10 relates to these names that I'm about to call out. I'm gonna
11 call out several names. These are folks that are possible or
12 potential witnesses. These are people that may or may not
13 appear in court and testify in this trial. That question that
14 I asked you, are you related by blood, connected by marriage
15 or have any close business or personal relationship, that's
16 the question that I'll be asking as it relates to these names.
17 As I go through these names and, if you hear a name and that
18 question applies, go ahead and stand, but if you would,
19 continue to listen because I have several names I'm going to
20 call out and it may be that you know more than one of these
21 individuals.

22 The following are possible or potential witnesses that
23 may testify during the course of this trial. Jeremy Crews;
24 Jeremy Neely; Bo Sauls; Steven -- is it?

25 MR. ERVIN: Rhew.

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VOIR DIRE

12

1 THE COURT: Rhew?

2 MR. ERVIN: Yes, sir.

3 THE COURT: Steven Rhew; Sharon Lilly; Courtney Johnson;
4 David Campbell; Felicia Williams; and is it ---

5 MR. LONG: Aliga.

6 THE COURT: Aliga Campbell. Is any member of the jury
7 panel related by blood, connected by marriage or have any
8 close or business relationship with any of those folks? If
9 so, please stand.

10 (REPORTER'S NOTE: No response.)

11 THE COURT: Thank you. There are none.

12 Is there any member of the jury panel who is a
13 contributor, either by way of financial resources or
14 volunteering of your time, a contributor to any organizations
15 that have -- that have as its purpose the support of law
16 enforcement or state government? Some examples of that would
17 be MADD, Mothers Against Drunk Drivers; SADD, Students Against
18 Drunk Drivers; CAVE, Citizens Against Violence; Fraternal
19 Order of Police; the South Carolina Trooper's Association;
20 South Carolina Sheriff's Association, any of those types of
21 organizations. Is there any member of the panel that is a --
22 is a contributor by either financial means or a volunteering
23 of your time?

24 And, sir, can I get your name, please?

25 JUROR 50: Chris Britton, Juror Number 50.

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VOIR DIRE

13

1 THE COURT: All right. And, Mr. Britton, the fact that
2 you are a contributor to any number of those possible
3 organizations, would that in any way affect your ability to
4 give both the State and the Defense a fair and impartial
5 trial?

6 JUROR 50: No, it wouldn't.

7 THE COURT: Thank you very much, sir, you may have a
8 seat.

9 Your name, sir?

10 JUROR 195: Glenn Ingling, Juror Number 195.

11 THE COURT: All right. And, sir, the fact that you are a
12 contributor to any of those organizations, would that in any
13 way affect your ability to be fair and impartial giving both
14 the State and the Defense a fair trial?

15 JUROR 195: Well, I have not contributed, but both my
16 brothers are both in law enforcement, retired.

17 THE COURT: Okay. And I was gonna ask that question, but
18 I'll go ahead. So, both of your family members have been
19 involved in law enforcement?

20 JUROR 195: Yes, federal, state and county.

21 THE COURT: All right, sir. The fact that you have that
22 relationship, would that in any way affect your ability to
23 give both the State and the Defense a fair trial?

24 JUROR 195: I believe it would.

25 THE COURT: All right. And that was Juror Number?

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VOIR DIRE

14

1 JUROR 195: 195.

2 THE COURT: 195. Mr. Ingling, I'm gonna get you to have
3 a seat, but I'm gonna excuse you from participation in this
4 matter, sir.

5 Ladies and gentlemen, that was gonna be my next question.
6 Is there any member of the jury panel or member of your
7 immediate family who has either currently or in the past has
8 been employed by any state or local law enforcement operation,
9 whether it be Sheriff, police department, SLED, FBI, any types
10 of those organizations? If so, please stand.

11 All right. I'm gonna start over here and work my way
12 across.

13 Ma'am, your name please?

14 JUROR 415: Sandra Vella, Number 415, I believe.

15 THE COURT: All right. Ms. Vella, how does that apply to
16 you, ma'am?

17 JUROR 415: My brother is former Deputy Sheriff in
18 Calhoun, Georgia, and also in the Secret Service, spent 30
19 years in the Secret Service.

20 THE COURT: All right.

21 JUROR 415: And my nephews both are county -- one county
22 sheriff and one also secret service.

23 THE COURT: All right. And Ms. Vella, the fact that you
24 have those relationships in your family, would that in any way
25 affect your ability to give both the State and the Defense a

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VOIR DIRE

15

1 fair trial?

2 JUROR 415: No, sir.

3 THE COURT: Thank you, ma'am. You may have a seat
4 Ma'am, your name, please?

5 JUROR 112: Lauren Esquibel, 112.

6 THE COURT: All right. Ms. Esquibel, how does that apply
7 to you, ma'am?

8 JUROR 112: My father is a former cop and my uncle is a
9 cop.

10 THE COURT: All right. And would that in any way affect
11 your ability to give both the State and the Defense a fair
12 trial?

13 JUROR 112: No, sir.

14 THE COURT: Thank you, ma'am. You may have a seat.
15 Sir, your name, please?

16 JUROR 409: Nicholas Turner, 409.

17 THE COURT: All right. And, Mr. Turner, how does that
18 apply to you, sir?

19 JUROR 409: My cousin is a State Trooper.

20 THE COURT: All right. And, sir, the fact that you have
21 a cousin that works with the Highway Patrol, would that in any
22 way affect your ability to give both the State and the Defense
23 a fair trial?

24 JUROR 409: No, sir.

25 THE COURT: Thank you, sir. You may have a seat.

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VOIR DIRE

16

1 Ma'am, your name please?

2 JUROR 205: Ebony Johnson, Juror 205.

3 THE COURT: All right. Ms. Johnson, how does that apply
4 to you, ma'am?

5 JUROR 205: My brother is a police officer with the City
6 of Myrtle Beach.

7 THE COURT: All right. And would that in any way affect
8 your ability to give both the State and the Defense a fair
9 trial?

10 JUROR 205: No, sir.

11 THE COURT: Thank you very much, ma'am.

12 JUROR 171: Kyle Hayden, 171.

13 THE COURT: All right. Ms. Hayden, how does ---

14 JUROR 171: My uncle is an Putnam County Sheriff, New
15 York State.

16 THE COURT: Okay.

17 JUROR 171: And my friend is the Dutchess County Sheriff
18 in New York State.

19 THE COURT: All right. Would that, ma'am, in any way
20 affect your ability to listen to the evidence and give both
21 the State and the Defense a fair trial?

22 JUROR 171: No, I don't think so.

23 THE COURT: Thank you very much, ma'am. You may have a
24 seat.

25 JUROR 9: Jose Arambula, Number 9.

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VOIR DIRE

17

1 THE COURT: Yes, sir.

2 JUROR 9: My father-in-law just retired from J. Reuben
3 Long, and my brother in-law used to be with Horry County
4 Police.

5 THE COURT: All right, sir. Would that in any way affect
6 your ability to give both the State and the Defense a fair
7 trial?

8 JUROR 9: No, sir.

9 THE COURT: Thank you, sir. You may have a seat.
10 Ma'am, your name?

11 JUROR 351: 351, Jodi Sartino.

12 THE COURT: All right.

13 JUROR 351: My nephew lives in Alaska is in corrections.

14 THE COURT: Okay, ma'am. And would that in any way
15 affect your ability to be fair and impartial?

16 JUROR 351: No.

17 THE COURT: Thank you very much.

18 Ma'am, your name, please?

19 JUROR 104: I'm not sure if this counts. Erica Dontell,
20 104 and my husband works for the Coroner's office.

21 THE COURT: That's fine. Would that in any way affect
22 your ability to be fair and impartial?

23 JUROR 104: No, sir.

24 THE COURT: Thank you, ma'am.

25 Folks, as you can tell by my questions, when a question

1 is applied, I've always had a follow-up question and the
2 follow-up question is always would that situation in any way
3 affect your ability to be fair and impartial and the reason
4 for that I hope is obvious. Anytime we select a jury in the
5 Circuit Court, whether it be for a criminal case or a civil
6 case, our purpose and our intent is to be able to impanel a
7 group of folks that can set aside those experiences that
8 they've had outside the courtroom, listen carefully to the
9 evidence that is presented during the course of this trial,
10 and base your decision solely upon the evidence that you here
11 in this courtroom and on nothing else and give both the State
12 and the Defendants a fair and impartial hearing. That's our
13 purpose; that's our goal. And I could probably ask you
14 questions all afternoon to determine if there's any situation
15 that would cause you to not be able to be fair and impartial,
16 but maybe the easiest way is to simply ask is there any member
17 of the jury panel who for any reason feels that you would not
18 be able to give both the State and the Defendant a fair and
19 impartial hearing? If so, please stand.

20 All right, ma'am, your name, please?

21 JUROR 262: Shevone McCleod, 262.

22 THE COURT: All right, Ms. McCleod, you want to come
23 forward and let me have the attorneys come forward?

24 (REPORTER'S NOTE: A bench conference was held off the record
25 in the presence of but out of hearing of the Jury Venire.)

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JURY SELECTION

19

1 THE COURT: All right. Any further questions on voir
2 dire from the State?

3 MR. ERVIN: No, sir.

4 THE COURT: Anything further from the Defense?

5 MR. LONG: Not from the Defendant, Your Honor.

6 JURY SELECTION:

7 THE COURT: All right. Ladies and gentlemen, let me
8 explain to you how we go about selecting juries here in
9 General Sessions Court. Your names were selected out of the
10 whole jury panel. I think there's 35 of you. Your names were
11 selected randomly. It was just a random draw and your names
12 were placed upon this list that I have. Now, that list that
13 your names came off of, that was in alphabetical order. This
14 is a random draw. It just pulled your names randomly out of
15 that main list and created another list and when it created
16 the other list, there was no order to it. In other words,
17 there's no -- there's no alphabetical order or anything here;
18 your names just appear on this list. I may -- I may've been
19 the jury panel and been Tommy Russo, Juror 134 in the main
20 panel. I may appear on this list as Tommy Russo, Number 14.
21 There's no -- there's no order to it, it's just completely
22 random.

23 So, there's 35 names here, your names, and Madam Clerk is
24 going to start with the first name on this list and she's
25 gonna call that name out. If your name is called, I would ask

1 that you come forward. Please bring with you any personal
2 belongings that you may have brought to the courtroom with you
3 because I don't know if you're gonna have a seat back in the
4 panel or if you're gonna be seated over here. But here's
5 what's gonna happen, she's gonna call the first name on this
6 list. That person will come forward, come up here in front of
7 the bench and just face the back of the courtroom like I'm
8 doing and just stand here. Madam Clerk will first ask of the
9 State words to this effect: What say you for the State? And
10 the State has two options. They can either excuse and if they
11 excuse you, you'll go have a seat back in the audience or they
12 can present you. If they present you, you'll just remain
13 standing. She'll then inquire of the Defense: What say you
14 for the Defense? And the Defense has two options. They can
15 either excuse you and if they do, you'll go back and have a
16 seat in the audience or they can seat you, and if they seat
17 you, then you'll come around and have a seat in the jury box.

18 Now, we'll go through that process until we've selected
19 12 jurors. And, as I said earlier, there's no way of knowing,
20 number one, whether your name is gonna even be called and if
21 it is called, whether or not you're gonna be seated or
22 excused. So, please bring with you any personal items that
23 you brought to court when you came this morning. Okay?

24 All right. The State ready to proceed with jury
25 selection?

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JURY SELECTION

21

1 MR. ERVIN: Yes, Your Honor.

2 THE COURT: Defense ready?

3 MR. LONG: Yes, sir.

4 THE COURT: All right. Madam Clerk?

5 COURT REPORTER: Madam Clerk, I need a strike sheet,
6 please.

7 CLERK: 434, Corey Williams.

8 THE COURT: All right, Mr. Williams, that's good. You
9 can just turn and face the back. There you go, sir, that's
10 perfect.

11 CLERK: What say the State?

12 MR. ERVIN: Please excuse the juror.

13 THE COURT: All right, Mr. Williams, you may go back and
14 have a seat in the audience.

15 CLERK: 409, Nicholas Turner.

16 What say the State?

17 MR. ERVIN: Please present the juror.

18 CLERK: Defense?

19 MR. LONG: Please seat Mr. Turner.

20 CLERK: Please be seated in our jury box.

21 9, Joselito ---

22 JUROR 9: Arambula.

23 CLERK: Arambula.

24 What say the State?

25 MR. ERVIN: Please present the juror.

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JURY SELECTION

22

1 CLERK: Defense?

2 MR. LONG: Please seat Mr. Arambula.

3 CLERK: Please be seated in our jury box.

4 430, Barbara Whitehorst.

5 What say the State?

6 MR. ERVIN: Please present the juror.

7 CLERK: Defense?

8 MR. LONG: Please seat Ms. Whitehorst.

9 CLERK: Please be seated in the jury box.

10 149, Paula Graves.

11 What say the State?

12 MR. ERVIN: Please present the juror.

13 CLERK: Defense?

14 MR. LONG: Please seat Ms. Graves.

15 CLERK: Please be seated in the jury box.

16 262, Shevone McCleod.

17 What say the State?

18 MR. ERVIN: Please excuse Ms. McCleod.

19 CLERK: You're excused from this particular case.

20 422, Roslyn Ward.

21 What say the State?

22 MR. ERVIN: Please seat Ms. Ward.

23 CLERK: Defense?

24 MR. LONG: Seat Ms. Ward.

25 CLERK: Please be seated in our jury box.

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JURY SELECTION

23

1 352, William Saunders.
2 What say the State?
3 MR. ERVIN: Please excuse the juror.
4 CLERK: You're excused from this particular case.
5 104, Erica Dontell.
6 What say the State?
7 MR. ERVIN: Please seat Ms. Dontell.
8 CLERK: Defense?
9 MR. LONG: Seat Ms. Dontell.
10 CLERK: Please be seated in our jury box.
11 337, Teresa Rice.
12 What say the State?
13 MR. ERVIN: Please present Ms. Rice.
14 CLERK: Defense?
15 MR. LONG: Please excuse the juror.
16 CLERK: You're excused from this particular case.
17 60, Rosalyn Callahan.
18 What say the State?
19 MR. ERVIN: Please present Ms. Callahan.
20 CLERK: Defense?
21 MR. LONG: Seat Ms. Callahan.
22 CLERK: Please be seated in our jury box.
23 29, Robert Bedell.
24 What say the State?
25 MR. ERVIN: Please present Mr. Bedell.

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JURY SELECTION

24

1 CLERK: Defense?
2 MR. LONG: Swear Mr. Bedell.
3 CLERK: Please be seated in our jury box.
4 41, Robert Blair.
5 What say the State?
6 MR. ERVIN: Please present Mr. Blair.
7 CLERK: Defense?
8 MR. LONG: Seat Mr. Blair.
9 CLERK: Please be seated in our jury box.
10 224, Nicholas Koonce.
11 What say the State?
12 MR. ERVIN: Please seat Mr. Koonce.
13 CLERK: Defense?
14 MR. LONG: Seat Mr. Koonce, please.
15 CLERK: Please be seated in our jury box.
16 251, Christina Lunetta.
17 What say the State?
18 MR. ERVIN: I'm sorry, Madam Clerk, what number?
19 CLERK: 251.
20 What say the State?
21 MR. ERVIN: Please seat Ms. Lunetta.
22 CLERK: Defense?
23 MR. LONG: Seat Ms. Lunetta.
24 CLERK: Please be seated in our jury box.
25 171, Kyle Hayden.

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JURY SELECTION

25

1 What say the State?

2 MR. ERVIN: Please seat Ms. Hayden.

3 CLERK: Defense?

4 MR. LONG: Please excuse Ms. Hayden from the trial of
5 this case, Your Honor.

6 CLERK: You're excused from this particular case.

7 284, James Montgomery.

8 What say the State?

9 MR. ERVIN: Please seat Mr. Montgomery.

10 CLERK: Defense?

11 MR. LONG: Seat Mr. Montgomery, please.

12 CLERK: Please be seated in our jury box.

13 THE COURT: All right. There will be two alternates;
14 that would be one and two on each alternate.

15 CLERK: Okay. 93, Zachary Cowl.

16 What say the State?

17 MR. ERVIN: Please excuse Mr. Cowl.

18 CLERK: You're excused from this particular case.

19 414, Admir Vasconcelos.

20 What say the State?

21 MR. ERVIN: Please present Mr. Vasconcelos.

22 CLERK: Defense?

23 MR. LONG: Madam Clerk, can you give me that number
24 again?

25 CLERK: 414.

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1 MR. LONG: Please seat the juror.

2 CLERK: Please be seated in the jury box.

3 362, Faye Silvia.

4 What say the State?

5 MR. ERVIN: Please seat Ms. Silvia.

6 CLERK: Defense?

7 MR. LONG: Please seat Ms. Silvia.

8 CLERK: Please be seated in the jury box.

9 THE COURT: All right. Are there any motions regarding
10 jury selection from the State?

11 MR. ERVIN: No, Your Honor.

12 THE COURT: Anything from the Defense?

13 MR. LONG: Yes, sir, Your Honor.

14 THE COURT: All right. Y'all want to just come up
15 quickly and we'll go on from there.

16 (REPORTER'S NOTE: A bench conference was held off the record
17 in the presence of but out of hearing of the Jury Venire.)

18 BY THE COURT:

19 THE COURT: All right. Ladies and gentlemen in the
20 panel, I'm gonna excuse you now and with the instruction
21 please call that number after 6 o'clock this evening and
22 follow whatever instructions you get on that recording. Okay?

23 Y'all are excused.

24 (REPORTER'S NOTE: Jury Venire excused and exits courtroom.)

25 THE COURT: And the members of the panel here, I'm gonna

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BY THE COURT

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1 excuse you in just a moment as well. I've got a few other
2 instructions that I need to send you away with and we'll do
3 that in just a moment. Let these folks kind of clear out.

4 I'll just go ahead and begin. Ladies and gentlemen, as
5 you recall, when you were first brought up here and we went
6 through the jury questions and everything and I told you that,
7 you know, our purpose is to impanel a group of folks that can
8 be fair and impartial giving both the State and the Defense a
9 fair trial and to decide this case based solely upon the
10 evidence that is presented here in court and that's -- that's
11 what we're going to do. And the only way we can do that is
12 this, whenever you're not in the courtroom or here in this
13 controlled environment -- I'm about to excuse you to go home
14 or wherever you choose to go. It's very important that you do
15 everything within your power to protect your ability to remain
16 fair and impartial. A quick way of telling you this would
17 simply be to say this to you, when you -- when you return
18 tomorrow morning, you shouldn't know one thing about this case
19 that you don't know right now. In other words, you're not to
20 have any conversation with anybody outside the courtroom about
21 this case. Now, that becomes somewhat difficult when you go
22 home and you're around your family, friends and loved ones
23 because they're probably gonna be curious as to whether or not
24 you were selected to be on a case. You can tell them that you
25 were and that you need to be back in the morning. Now they're

1 gonna be curious and they're gonna want to know -- if they're
2 anything like my wife, they're gonna want to know who does it
3 involve, what does it involve. Saying something as innocent
4 as, well, it involves a young man by the name of Mr. Campbell,
5 David Harold Campbell, or it involves a fellow who is accused
6 of trafficking in cocaine or failure to stop for a blue light.
7 Something as innocent as simply stating what the charge is or
8 who the Defendant is could possibly illicit a response that
9 may compromise your ability to be fair and impartial. So, the
10 only way to protect that is to do this. If your friends,
11 family or loved ones are curious, you can tell me them, yes, I
12 was selected to be on a panel, I have to be back tomorrow, but
13 I can't tell you anything about the case. I can't tell you if
14 it's a civil case or criminal case; I can't tell you anything
15 about it. I'm under restriction by the Court to not talk
16 about it at all, but you can tell them if they'll be patient,
17 that when the case is over, you can then share everything with
18 them. Okay? So you just have to ask them to be patient,
19 allow you to do your work and not ask you any additional
20 questions about the trial.

21 The other thing is this, we live in a day and age now
22 where these things that we call cell phones are really pocket
23 computers and they have the entire world at their disposal.
24 It was -- it would be very improper and it's very important
25 that you do not attempt to do any private or personal

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1 investigation into the allegations of this case. Don't try to
2 go on the web and type in anything and find out anything, that
3 would be highly improper. Your oath as jurors in this case
4 will be to decide this case based solely upon the evidence
5 presented in this courtroom. The burden of proof rests on the
6 State to prove the Defendant guilty and you must base your
7 decision solely upon the evidence that is presented during the
8 course of this trial and not on anything else. So, please do
9 not do any private investigation or looking into these
10 matters.

11 As a matter of fact, I will tell you this, when you leave
12 here, just put this case out of your mind. The only thing
13 that you should remember is that you got to be back here
14 tomorrow morning at 9:30. Okay? I'm gonna ask you to be back
15 at 9:30 and when you come back, if you'll report up here and
16 there will be a Bailiff or a Deputy that can escort you back
17 into the jury room.

18 Now, I'm gonna excuse you, but instead of going out this
19 door, I'm gonna ask you to follow the Bailiff and she's gonna
20 show you where your jury room is and let you get a look at
21 that and then when you come back tomorrow, you'll report here.

22 Okay. I love coming to Horry County; you don't get this
23 in Florence. I'm not trying to bust Florence's chops, but we
24 -- they're gonna have breakfast for you in the morning if
25 you'd like to have that. So, if you want to come a little

1 early and have time to eat your breakfast if you'd like to
2 have it, you can do that. In Florence we tell you to eat
3 before you come, but that's very kind and we really appreciate
4 that. So, they'll have something for you whether it be
5 biscuits or pastries or whatever; they'll have something for
6 breakfast, coffee. So, if you want to partake of that, come a
7 little bit early, but I need you -- we'd like to start the
8 trial at 9:30. Okay?

9 So, now, the last thing and it goes back to what I was
10 talking about earlier. I tell juries you are not to have any
11 conversation with anybody about the case, that includes
12 amongst yourselves. Now, sometimes a jury will look at me a
13 little odd like well like I thought that's what we were
14 supposed to do. Well, you are, but not until all of the
15 evidence has been presented, the attorneys have had an
16 opportunity to address you with their closing remarks and I've
17 given you the charge on the law. It is only after you have
18 all of that, that it is appropriate for you to have any
19 conversation about the case. So, when you reconvene here and
20 have breakfast or any time you're back in the jury room, do
21 not discuss the case at all. Okay? No discussions until I
22 tell you it's appropriate.

23 So, if everyone else will remain seated, ladies and
24 gentlemen, I'll get you to follow the Bailiff out. You'll see
25 where your jury room is, get a look at that and then you're

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1 excused and I'll ask you to be back by 9:30.

2 (REPORTER'S NOTE: Jury exits courtroom. 1:06 P.M.)

3 THE COURT: All right. Now, we need to put anything on
4 the record?

5 MR. LONG: I think I should put my *Batson* issue on the
6 record, Your Honor.

7 THE COURT: Yeah, and I think that's appropriate. When
8 we have -- right after jury selection, Mr. Long raised a
9 question as to the State's selections under *Batson*. We had a
10 short bench conference and the State gave its reasons for the
11 strikes that it gave, which I think satisfied the Defense, but
12 I would like to put that on the record so that the record will
13 be complete.

14 Mr. Long?

15 MR. LONG: Thank you, Your Honor. Thank you very much. I
16 want to point out first that we had 107 potential jurors, 16
17 of which were African American, 4 of which were black males to
18 start. So, we started with a very shallow pool of what my
19 client would consider his peers. The Solicitor struck three
20 in the main strikes -- I'm not talking about the alternate
21 strike -- but they struck three. One, or the third, was Mr.
22 Martin's former client. The first two strikes were Number
23 434, Mr. Corey Williams, and Number 262, Ms. Shevonne McCleod;
24 both appear to be African American or listed in the jury
25 strike list as black female and black male.

1 THE COURT: Okay.

2 MR. LONG: I inquired under *Batson* of the Solicitor to
3 supply the Court with non-racial reasons for those two
4 strikes. The reasons were given which I found to be
5 satisfactory. I think the Court would find to be
6 satisfactory, but I do feel like it needed to be put on the
7 record.

8 THE COURT: Yes.

9 MR. LONG: The reason given for Number 434 was that he
10 was -- the Solicitor was concerned about the depth of his
11 education. He only went to the 9th grade in high school and
12 he had prior arrests; I think a DUI arrest from the past.

13 MR. ERVIN: That's correct.

14 MR. LONG: I think that's an adequate reason for the
15 strike, non-racial. And then 262, Ms. McCleod, remember she
16 was the lady that appeared early on and indicated she couldn't
17 judge people, and then Your Honor correctly advised her that
18 she wasn't here to judge a person, she was here to judge the
19 evidence presented by the State and was to actually judge the
20 State's case, not Mr. Campbell.

21 THE COURT: Right.

22 MR. LONG: And I think that caused the Solicitor some
23 concern and she in fact had prior arrests and maybe a
24 conviction as well. So, we found that to be an adequate
25 reason for that strike, non-racial, and therefore we didn't

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1 insist that the Judge rule on those two matters.

2 THE COURT: All right. And, Mr. Ervin, you concur with
3 that assessment?

4 MR. ERVIN: I do, Your Honor and just to be clear for the
5 record, that DUI for Mr. ---

6 THE COURT: Williams.

7 MR. ERVIN: --- Williams was in 1991. And, obviously,
8 Your Honor heard the other -- Juror Number 262 state what she
9 did on the record, which did give the State great pause in her
10 ability to be fair.

11 THE COURT: All right. All right. And I would concur
12 with Mr. Long. Based upon the reasons given by the State, I
13 think they were race neutral, gender neutral and I think they
14 were appropriate strikes.

15 We will then -- I think we talked about it. We're gonna
16 take a recess now. How about 2:30, does that give everybody
17 enough time?

18 MR. ERVIN: Yes, sir.

19 THE COURT: All right. We'll be back up here at 2:30 and
20 then we'll take up any matters we have pretrial that we can do
21 at that point in time.

22 MR. ERVIN: Thank you, Judge.

23 MR. LONG: Thank you, Your Honor.

24 MR. MARTIN: Thank you, Your Honor.

25 THE COURT: Thank you, folks.

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1 (RECESS - 1:10 P.M.)

2 *****OFF THE RECORD*****

3 (On the Record - 2:34 P.M.)

4 MOTIONS:

5 THE COURT: Thank you, folks, please have a seat.

6 MR. MARTIN: Judge?

7 THE COURT: Yeah.

8 MR. MARTIN: Mr. Campbell is coming, but we would waive
9 his presence as far as starting this process that we're in
10 today, so everybody is not sitting here waiting.

11 THE COURT: All right. That's fine. We can do that.

12 All right. So, what do we need to take up? Y'all --
13 what have we got, pretrial matters?

14 MR. ERVIN: Number 1, I have, Judge, I guess we could
15 call the responding officer, reporting officer, Jeremy Crews,
16 here today. Mr. Crews has an unfortunate circumstance being
17 arrested for DUI a few months ago. I did let Russell Long
18 know that when it happened. It has not resulted in a
19 conviction. Obviously, I contend that it does not involve
20 dishonesty. It's not relevant to this case. It occurred in
21 2017 and this case occurred in 2015. I just hope there would
22 be no mention of that whatsoever by the Defense.

23 THE COURT: I don't see where it's relevant unless you --
24 I mean, I don't know. This officer was involved in a 2015
25 case, I don't know that anything done in 2017 would be

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1 relevant to these issues, but ---

2 MR. MARTIN: Well, we haven't talked about that. I don't
3 know that the timing is the whole significance. The question
4 would be -- I'll tell you what, if you will, let us think
5 about that.

6 THE COURT: All right. That's fine.

7 MR. MARTIN: He's not testifying today and maybe ---

8 MR. ERVIN: It may be -- because -- I mean there's no
9 ground for them to bring up. It's not a conviction.

10 THE COURT: Right. I would tend to agree with you, but
11 I'm gonna give them an opportunity to -- we'll know by the end
12 of the day whether or not that's gonna be something that will
13 be an issue.

14 MR. MARTIN: That's right. That's right.

15 THE COURT: Okay. We'll give you an opportunity to think
16 about it.

17 Anything else -- well, obviously, there's other things,
18 but -- what's next?

19 MR. ERVIN: I anticipate they will challenge the legality
20 of the stop. I told, Your Honor, earlier I intend to admit at
21 least a portion of the video running from Mr. Crews' patrol
22 car, the recording showing the chase and then some statements
23 that have been made in that ---

24 THE COURT: All right.

25 MR. ERVIN: --- and I believe they are relevant and I

1 intend to admit those if they are ---

2 THE COURT: Okay.

3 MR. ERVIN: --- admitted by Your Honor.

4 THE COURT: Let me just ask because that just may be the
5 next thing we need to deal with. Is there anything else that
6 we need to deal with that's not as -- that's not gonna be as
7 involved because I understand that's gonna be a little bit
8 involved because of the length of it?

9 MR. MARTIN: Well, we do have a motion to
10 dismiss/suppress the seizure of Mr. Campbell at the time he
11 was arrested.

12 THE COURT: Okay.

13 MR. MARTIN: And I -- and I do think that probably will
14 take some time because it's a warrantless search, seizure,
15 whatever it was there. So, I think that requires the State to
16 establish the legality of it, but that may take a little time.
17 And we do have -- we would object to the admissibility of any
18 of the portions of this tape that's got other than -- and
19 dependent upon your ruling of the legality of the stop, maybe
20 all of it.

21 THE COURT: Right.

22 MR. MARTIN: But certainly at least the aspect after the
23 chase ends and the arrest is affected, we would object to the
24 introduction of that portion of that tape. But you're gonna
25 have to see it and feel your way through that I think.

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1 THE COURT: All right. So, we can deal with the motion
2 to dismiss -- according to what I have, the motion here ---

3 MR. ERVIN: Your Honor, can we just put on the record the
4 Defendant did enter the courtroom?

5 THE COURT: Okay. Yeah.

6 MR. CAMPBELL: I'm sorry about that, sir, I was using the
7 restroom.

8 THE COURT: That's fine, Mr. Campbell. Just so the
9 record is clear, Mr. Campbell is present and we'll proceed.

10 The motion based on the arresting officers not having the
11 constitutional statutory jurisdiction to affect this
12 stop/seizure/arrest within the city limits of Myrtle Beach.

13 Solicitor, I'll let you proceed with that.

14 MR. ERVIN: Your Honor, as to the -- I guess I'll take up
15 the constitutional authority. Under South Carolina Code
16 Section 17-13-30, I'm sorry, -40, Section (b), the police --
17 and, again, we're dealing with the county officers here. The
18 actual seizure did not occur, we concede, until they were in
19 the city limits of Myrtle Beach, but they saw a traffic
20 violation occur prior to that. They actually were watching
21 the house and they were conducting surveillance in the county,
22 in their proper jurisdiction, but their surveillance and
23 subsequent attempt to stop and subsequent arrest of the
24 Defendant did lead them into the City of Myrtle Beach. But
25 17-13-40, Section (b) does give the county police authority to

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1 go into a city jurisdiction to affect a seizure, an arrest.

2 THE COURT: Well, I was going to ask -- and I guess maybe
3 I shouldn't assume anything. I've always assumed that
4 sheriff's Deputies, county deputies had countywide
5 jurisdiction and that you're not ---

6 MR. ERVIN: Your Honor, that would be our position.

7 THE COURT: They're not precluded from acting within the
8 city limits although I think a lot of times they defer to City
9 law enforcement if it's a city matter.

10 MR. ERVIN: Sure. Their initial actions in this case did
11 stem from surveillance that was in the county, in Horry County
12 and it took them into the city. So, obviously they didn't
13 pull off of that, rightfully so. They affected the seizure
14 and later arrest in the City of Myrtle Beach. Our position is
15 they had authority to do it anywhere in the county.

16 THE COURT: Mr. Martin, do they not have a countywide
17 authority?

18 MR. MARTIN: Well, first of all, I -- our position in
19 court is they do not.

20 THE COURT: Okay.

21 MR. MARTIN: And I'll tell you, I've tried to find an
22 enabling act for the Horry County Police Department, which is
23 where I think it begins. I haven't been able to put my hands
24 on that. And then in addition to that, whether there or not
25 there is jurisdiction, I know would depend on any agreement

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1 between the City of Myrtle Beach and the county.

2 You are right, normally the county doesn't go into the
3 city and police.

4 THE COURT: All right.

5 MR. MARTIN: And I would take the position, absence
6 evidence to the contrary, that the Horry County Police
7 Department does not have jurisdiction in and of itself and
8 without the cooperation of the Myrtle Beach Police Department
9 in affecting the stop, to go there and do a search, arrest, or
10 seizure. So, that's the first position. Is I think they have
11 to establish the jurisdiction for the authority for their
12 actions in doing that. I would take the position that 17-13-
13 40 does not answer this problem and maybe that's one of the
14 reasons they need to present testimony as to what happened,
15 because the discovery that we were presented in the case says
16 nothing about any investigation, watch, violation outside the
17 City of Myrtle Beach. So, I don't know what -- I'm not sure
18 where that comes from. That's not in any of the discovery we
19 have been given.

20 And even if it is, that's -- that -- I'll have to read it
21 here, but I believe that's when you are already in hot pursuit
22 statute and they were not that. And I'd say at least they
23 need to establish compliance with the jurisdiction
24 requirements including 17-13-40. There's nothing in the
25 record doing that now.

1 THE COURT: All right.

2 MR. ERVIN: Your Honor, even assuming this incident
3 started in the City of Myrtle Beach, these officers, county
4 officers, have jurisdiction to affect the seizure and later
5 arrest this Defendant regardless where they were in the city
6 limits. They were in Horry County when it happened and 17-13-
7 40 does speak to their jurisdiction to cross ---

8 THE COURT: Could I get a copy of that?

9 MR. ERVIN: Yes, sir.

10 THE COURT: Do you have a copy of the statute?

11 MR. MARTIN: Judge, I've got it here, but my computer is
12 getting ready to die.

13 THE COURT: But let me ask this, if you know. Is, is
14 there any type of statutory provision or anything that
15 provides -- and there may not be. I'm just asking because
16 it's always been my belief or understanding that Sheriff's
17 deputies had countywide jurisdiction.

18 MR. ERVIN: That's our position, Your Honor.

19 THE COURT: Well, it would be mine and it's yours, but
20 where is it?

21 MR. ERVIN: These are not Sheriff's deputies; they're
22 county police, which we're the only county in the State to
23 have a separate ---

24 THE COURT: All right. That may be a different beast; I
25 don't know.

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1 MR. MARTIN: Well, let me tell you the way I look at it.
2 First of all, whatever the -- whatever the basis for the
3 jurisdiction they have to do what they did in the City of
4 Myrtle Beach needs to be entered into the record. Okay?
5 Everybody says, well it is. Well, is it and why is it, and is
6 that correct. Secondly, we are dealing with the county
7 police. The Sheriffs have constitutional authority and the
8 county police does not; they have statutory authority. And
9 there is statutory authority for creation of the Horry County
10 Police Department. But, I believe the statute you got refers
11 to the Sheriff officers, frankly. And there has to be some
12 sort of agreement, memorandum or enabling statute for the
13 Horry County Police Department, which would set forth its
14 jurisdiction and its limitations. That is what -- that's what
15 I believe. And I would move to suppress the search, the
16 seizure, and any of this evidence from this point on until
17 they -- and they have the burden of proof under South Carolina
18 case law to establish the legality of a warrantless seizure or
19 search. So, that's my position. I've made the motion;
20 they've got to establish the legality of it.

21 THE COURT: Okay. Well, there -- just one issue you
22 raised. This statute says that when the police authorities of
23 a county are in pursuit. So, I don't think that -- I don't
24 think that restricts it to a Sheriff's deputy.

25 MR. MARTIN: Well, and then so that then raises the

1 question, if that is the case ---

2 THE COURT: It still raises the question?

3 MR. MARTIN: Yeah.

4 THE COURT: Right.

5 MR. MARTIN: Again, it still doesn't answer the question
6 about the Horry County Police Department's legality. I think
7 it needs to be established. I know normally people don't ask
8 for that, but I am asking for it and I've made a motion to
9 suppress based on that fact.

10 Secondly, there's no evidence in the record, as there is
11 no record yet ---

12 THE COURT: Yeah.

13 MR. MARTIN: That they were in pursuit of anybody or what
14 was happening. As a matter of fact, since we're there, the
15 discovery that was presented to us does not -- unless there's
16 something they sent that we didn't get, does not suggest
17 pursuit out of the county into the city. It talks about the
18 basis for the stop being generated in the city. And so if
19 there is discovery which has not been produced to us, and
20 that's another problem we would find, and we don't think they
21 ought to be able to utilize any testimony, statements of --
22 pertaining to matters that occurred when the discovery they
23 presented has led us up until this point in time, not to be
24 aware of anything other than what is in the discovery they
25 presented us.

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1 Now, I don't know what -- these officers are here and
2 they can testify and tell us what the deal was, but I think
3 it's incumbent upon the State to establish all of that through
4 testimony ---

5 THE COURT: All right.

6 MR. MARTIN: --- since we have raised the issue of the
7 legality of the seizure and search.

8 MR. LONG: Your Honor, to be clear, you asked earlier how
9 we were gonna split up the work. I have no idea how we're
10 gonna split up the work. If at any point, obviously, I'm
11 hopping up when I shouldn't be, you can hit me over the head,
12 but they -- the discovery that we were given, the
13 investigative report, the warrants, and any statements by made
14 police officers, reports done by police officers, begin with
15 on November 30th of 2015 in the Myrtle Beach section of Horry
16 County, responding officer attempted to stop a car for failure
17 to signal. That's where it starts. We have no idea before
18 that statement was just made in this courtroom that they were
19 watching a house out in the county and/or somewhere else or
20 were investigating something else and therefore then got in
21 behind our client. We don't have anything in our discovery
22 that indicates any of that. All we have is someone is trying
23 to stop David Campbell for failing to use a signal in the
24 Myrtle Beach section of Horry County.

25 MR. ERVIN: Your Honor, anything that happened prior to

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1 the beginning of this report, our position is irrelevant. The
2 probable cause to stop Mr. Campbell started for the failure to
3 signal or the violation of 56-5-2150. Anything that happened
4 before that, I've had to delve into simply to answer their
5 jurisdictional issue. But as far as the State's concerned,
6 the probable cause to affect a seizure and subsequent stop and
7 arrest of this Defendant occurred when he did fail to signal,
8 committed a traffic violation.

9 THE COURT: All right. And ---

10 MR. ERVIN: He did not commit that prior to anything that
11 was written in this report. That's why this report starts at
12 that point.

13 THE COURT: I understand that, but I guess their position
14 is that, based on the information they have, that that
15 offense, the offense, failure to signal, occurred within the
16 city limits, not out in the county.

17 MR. ERVIN: And again, I would argue that they had
18 authority to go anywhere in the county.

19 THE COURT: Well, you're gonna have to give me some
20 authority that they do have that because I'm completely
21 unfamiliar with the county police. I know, or I say I know,
22 I'm pretty confident sheriff's deputies have countywide
23 jurisdiction.

24 MR. ERVIN: Did the ---

25 THE COURT: But this -- and I realize, this doesn't

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1 address that issue. This addresses -- it says when the police
2 authorities of a county, which would be county police, are in
3 pursuit of an offender for a violation of a county ordinance
4 or statute of this state committed within the county, the
5 authorities may arrest the offender with or without a warrant
6 at a place within the county or a place within the -- within
7 an adjacent county.

8 So, what I guess you're saying is that the violation, the
9 failure to signal, is a violation of a county ordinance or
10 statute?

11 MR. ERVIN: A state statute 56-5-2150, yes, sir.

12 THE COURT: And that it was committed within the county?

13 MR. ERVIN: Correct.

14 THE COURT: In this case, Myrtle Beach?

15 MR. ERVIN: Yes, sir. And I guess I would say the
16 language of the constitution that vests that authority in the
17 Sheriff's Department, surely the intent would be -- I don't
18 know when that was written -- I don't have it in front of me
19 -- but the county police is the only police department in the
20 state that is split, but they have the same rights and
21 protection or at least I argue they should have the same
22 rights and protection as any Sheriff's Department vested with
23 the authority under the constitution.

24 THE COURT: And I'm assuming your position is that
25 because the statute reads for a violation of a county

1 ordinance or statute of this state committed within the county
2 and I'm guessing your position is that within the city doesn't
3 include within the county?

4 MR. MARTIN: Well, you are correct. I mean, he -- as I
5 understand, we filed the motion. He has raised the issue,
6 well, that any jurisdictional defect is cured by the statute
7 you have in hand there, Section 17 whatever it is.

8 MR. ERVIN: Your Honor, I would argue this is not a
9 jurisdictional defect. We do not have a defect. They have
10 jurisdiction anywhere in this county to affect a stop for a
11 state statute violation.

12 THE COURT: Right. I mean, that's your position; I get
13 that.

14 MR. MARTIN: But to enter the City of Myrtle Beach, which
15 is as he says -- he brought that statute out as a cure for a
16 jurisdictional defect of the Horry County Police officers
17 doing what they did in the City of Myrtle Beach, they have a
18 right to pursue from one jurisdiction to another. The problem
19 that I've got with that is, is there is -- and I would add, I
20 mean, I guess would ask at this point in time, that discovery
21 be produced as to any violation that was witnessed into the
22 county which caused them to come into the city?

23 THE COURT: Well, that's not their position.

24 MR. MARTIN: Well, I believe it is.

25 THE COURT: No, I believe their position is and you

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1 correct me if I'm wrong, now. Their position is that, that
2 it's a violation that was observed by a county officer within
3 the City of Myrtle Beach.

4 MR. MARTIN: That's not what I understood him to say
5 because that statute there is not relevant.

6 MR. ERVIN: That's what I said.

7 THE COURT: I mean, I do believe that is what he said
8 that the county officer, while performing his duties, observed
9 the violation within the city limits and then proceeded to
10 make the stop.

11 MR. MARTIN: Then we're back to square one where I was to
12 start with. Then we don't need that statute there. The
13 question is do they have -- does Horry County Police
14 Department have the authority to police in the City of Myrtle
15 Beach.

16 THE COURT: If a county police has countywide
17 jurisdiction, they have authority.

18 MR. MARTIN: I don't know that they do and that's my
19 question to you. And I don't think the Court can assume that
20 the Horry County Police Department has countywide jurisdiction
21 unless there is evidence of that into the record. Because I
22 know they go in there and they arrest sometimes but, by and
23 large, they do not enforce laws, traffic or otherwise, in the
24 City of Myrtle Beach. Now, maybe there's an agreement between
25 the city and the county that they do that maybe, but I -- but

1 I've been unable to find that. I've asked the county for it;
2 they've not produced it to me and so what I'd like to see is,
3 is if we do have in this particular case, as best I can
4 determine, I think all these gentlemen are Horry County police
5 officers. We've got four Horry County police officers that
6 are in the City of Myrtle Beach affecting a warrantless search
7 and seizure, that's what it amounts to, and I question their
8 jurisdiction to do that. And, they are not constitutionally
9 afforded the same privilege the sheriff is.

10 THE COURT: I'm gonna get -- hold on for just a minute
11 and I'm not trying to be rude, but ma'am, it's very -- I
12 realize that -- you, yes, ma'am. I realize that -- I realize
13 you have some relationship with the Defendant, I don't know
14 what it is and I don't really care, but Mr. Martin and Mr.
15 Long are outstanding lawyers and they don't need a cheerleader
16 back there. So, I need you to stop all your gesturing. Okay?
17 It's just distracting. So, let's stop doing that.

18 Go ahead, sir, I'm sorry.

19 MR. MARTIN: Well, I think I'd stated, I just -- I -- it
20 was a warrantless search ---

21 THE COURT: I know. I got it. I get where we're at.
22 Folks, there's got to be something that establishes the county
23 police's jurisdiction. What ---

24 MR. ERVIN: As Mr. Martin and Mr. Long ---

25 THE COURT: I don't want to hear what you think. I want

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1 ---

2 MR. ERVIN: They're the moving party in this. The burden
3 of proof is on them to show that the county police do not have
4 jurisdiction.

5 MR. MARTIN: No, sir.

6 THE COURT: It's your motion.

7 MR. MARTIN: I would disagree with that because ---

8 THE COURT: It's your motion. Your position is the
9 county police do not have jurisdiction within the city limits.

10 MR. MARTIN: And let me say this, and let's preface it
11 upon the fact there's an illegal search and seizure. So, I
12 will make an oral motion at this time to the extent I need to
13 that we would move to suppress the search and the seizure for
14 lack of probable cause. And certainly, under that motion, it
15 is a warrantless search and seizure and under South Carolina
16 case law, then the State has the burden of producing evidence
17 to establish the ---

18 THE COURT: And they're gonna put up their officers ---

19 MR. MARTIN: That's right.

20 THE COURT: --- who are gonna testify as to the -- the
21 violation that he observed ---

22 MR. MARTIN: That's right.

23 THE COURT: --- in his pursuit of that violation.

24 MR. MARTIN: And that's the way it works. So -- but in
25 addition to that though, I do think -- that's one thing. In

1 addition to that and as a preface to it and maybe as a part of
2 it, in other words, my opinion is the search could it be --
3 the seizure and/or search could be illegal based on lack of
4 probable cause to do so. Now, he says there's a turn signal
5 and all of that, well they got to do more than say that, they
6 got to produce evidence of it, what the officer says. And
7 then secondly, that even if that is there, that they have to
8 establish the jurisdictional capacity of the officers who
9 conducted the seizure or the search to do the same. So, I do
10 believe that they have the burden of proof on that because
11 it's an illegal search and seizure.

12 THE COURT: Well, they clearly have the burden of proof
13 to establish jurisdiction in any criminal case.

14 MR. MARTIN: Yeah and that's my point.

15 MR. ERVIN: May we approach, Judge, everybody?

16 THE COURT: Yeah; uh-huh (affirmative response).

17 (REPORTER'S NOTE: A bench conference was held off the
18 record.)

19 MR. ERVIN: Your Honor if we can -- I don't know if you
20 want to ---

21 THE COURT: If there's something we can proceed while
22 they're doing that, let's go ahead and do that.

23 MR. ERVIN: To address their lack of probable cause
24 motion ---

25 THE COURT: Right.

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1 MR. ERVIN: I can have one of my officers ---

2 THE COURT: That's fine. All right.

3 MR. ERVIN: The State would call Steven Rhew.

4 THE COURT: All right, sir, if you'd please come around
5 to be sworn.

6 CLERK: Please raise your right hand?

7 STEVEN RHEW, HAVING BEEN SWORN

8 TESTIFIES AS FOLLOWS:

9 CLERK: Please state your full name and spell your first
10 and last name for the Court?

11 MR. RHEW: My name is Steven Rhew, and my first name is
12 spelled S-T-E-V-E-N, last name is Rhew, R-H-E-W.

13 DIRECT EXAMINATION OF STEVEN RHEW BY MR. ERVIN:

14 Q: Officer Rhew, where do you currently work?

15 A: Horry County Police Department

16 Q: How long have you been there?

17 A: Nine years.

18 Q: Do you have any special training or certification?

19 A: I do.

20 Q: What is that?

21 A: I've been through South Carolina Highway Patrol School,
22 DEU basic narcotic investigator, a couple of other kind of
23 classes for the DEA and other federal entities, and a couple
24 of other classes.

25 Q: What was your position at Horry County Police on November

1 30th, 2015?

2 A: I was on the ATF Gang Task Force.

3 Q: And basically what did your duties include?

4 A: Narcotics offenses, drug offenses, weapons offenses, any
5 kind of thing that leads back to violent offenders.

6 Q: As it relates to the incident involving Mr. Campbell,
7 what was your involvement? How did it begin?

8 A: That day we were driving through the Socastee area and we
9 went to Ranchette Circle area at which time we noticed Mr.
10 Campbell was sitting in a car that was backed in to a house.

11 As we drove the circle of Ranchette Circle, by the time we
12 came back, he exited shortly after we did right behind us.

13 Q: Okay. And so you say you saw this Defendant at
14 Ranchette, you were responding to ---

15 A: Narcotics complaints.

16 Q: Narcotics complaints.

17 A: Yes, sir.

18 Q: What did you after you saw this Defendant?

19 A: We exited the area. He was behind us and at some point
20 in time between there and 17 bypass, we ended up behind Mr.
21 Campbell, at which time we began to follow him into the city
22 limits of Myrtle Beach.

23 Q: And did you witness a traffic violation committed by this
24 Defendant?

25 A: I did.

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1 Q: What was that?

2 A: He did not use a blinker when making a right-hand turn
3 from Pine Island onto Seaboard Street.

4 Q: And at some point, did you call for another officer to
5 ---

6 A: We did, we called for a marked unit, which was Officer
7 Crews.

8 Q: All right. And are you familiar with the point in time
9 when Officer Crews got behind this Defendant?

10 A: It was shortly thereafter. He had -- after he made the
11 right-hand turn, he made a quick U-turn and went right back to
12 Seaboard Street where he came from, excuse me, Pine Island
13 from where he came from. At which time, he got closer to 17
14 and Officer Crews was able to get behind him.

15 Q: So, how many traffic violations did you witness in total?

16 A: I witnessed two before Officer Crews was able to get
17 behind him.

18 Q: Did he commit -- did this Defendant commit another
19 traffic violation?

20 A: He did once Officer Crews got behind him.

21 Q: All right. And did you personally observe the, we'll
22 call it the chase, after Officer Crews ---

23 A: I did.

24 Q: --- activated his blue lights and siren?

25 A: Yes, sir.

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1 Q: Where were you in relation to this Defendant's car and
2 Officer Crews' car during that chase?

3 A: Mr. Campbell was first, Officer Crews was second, and we
4 were the third vehicle involved in the chase.

5 Q: Okay. Thank you, Officer Rhew. Please answer the
6 Defenses' questions.

7 CROSS EXAMINATION OF STEVEN RHEW BY MR. MARTIN:

8 Q: Officer Rhew, let me ask you, on this day, who were you
9 traveling with?

10 A: I was with Detective Neely and Detective Sauls.

11 Q: In what kind of automobile?

12 A: It was a Chevy pickup truck that is unmarked.

13 Q: Is it equipped with a blue light and siren?

14 A: It is.

15 Q: Is it equipped with a video camera?

16 A: It is not.

17 Q: Why is not equipped with a video camera?

18 A: It's an undercover vehicle used for undercover
19 surveillance. A camera sitting right in the view of the
20 public would give it away as a police vehicle.

21 Q: So, that's the reason is you are afraid the camera will
22 give away the purpose of the vehicle?

23 A: At times it could, yes.

24 Q: Where is the camera in the marked police cars?

25 A: In the front windshield.

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1 Q: The front windshield?

2 A: Uh-huh (affirmative response).

3 Q: And this particular vehicle you didn't have any camera of
4 any sort?

5 A: No, sir.

6 Q: And the three of you were in it and you were in the
7 Socastee area doing what?

8 A: Just surveillance of random known drug areas.

9 Q: Okay. And you began to follow Mr. Campbell at some point
10 in time?

11 A: Yes, sir.

12 Q: Why?

13 A: He, like I said, he was backed in in a known drug area.
14 Most people don't back their vehicles in and sit in the
15 vehicle. As soon as we went around and as we were leaving he
16 exited after he was able, I assume, to get a view of us.
17 He exited shortly after behind us.

18 Q: Where was -- let me ask you this?

19 A: Uh-huh (affirmative response).

20 Q: Did you file a written report of your activities that day
21 in connection with Mr. Campbell?

22 A: I did not.

23 Q: You did not?

24 A: No, sir.

25 Q: Why not?

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1 A: Because the initial reason for the stop was the blinker
2 at which time Officer Crews is behind him and witnessed it
3 from that point on.

4 Q: Okay. And I'm asking because I don't know. You're not
5 required to make a report of your activities that day in
6 connection with this case?

7 A: No, because the case began and ended with Officer Crews',
8 the initial reason for the stop.

9 Q: Well, I guess what I'm saying it began with you reporting
10 to Officer Crews the violation that you say occurred?

11 A: Uh-huh (affirmative response).

12 Q: So, it began with you. You're not required by county
13 policy to file any sort of report of your activities?

14 A: Not that I'm aware of, no, sir.

15 Q: Do you ever do it or you've never file one?

16 A: I file a report if I -- if I do a case; it's my report,
17 yes, sir.

18 Q: All right. So, how do you define if it's your case?

19 A: Officer Crews handled the case himself; he's the one who
20 went and got warrants and ---

21 Q: Let me go on through with you on that. You followed --
22 you say you followed him to -- you or one of the officers
23 asked Officer Crews to stop Mr. Campbell; is that right?

24 A: Yes, sir. We advised him of the violation and he wished
25 to stop him he could.

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1 Q: You advised him of the violation?

2 A: Uh-huh (affirmative response).

3 Q: And where was Mr. Crews when you radioed him?

4 A: You would have to ask him.

5 Q: Well, I'm asking you if you know. Were you in the City
6 of Myrtle Beach when you notified him of the traffic
7 violation?

8 A: Yes, sir.

9 Q: All right. And so how long did it take him to get to
10 you?

11 A: 30 or 45 seconds if I had to guess.

12 Q: All right. And was it -- was he -- had you been in any
13 communication with him prior to the time that you notified him
14 of the traffic violation?

15 A: To be honest, I'm not sure.

16 Q: Were y'all -- well, so maybe you did, maybe you didn't;
17 you don't know?

18 A: There may have been a prior conversation at the office or
19 something to explain to -- at the time he was on street crimes
20 and explained to him that -- or to the street crimes -- he
21 knew we were going to the Socastee area.

22 Q: All right. That's what I want to know.

23 A: Okay.

24 Q: When did you -- what conversation, if any, did you have
25 with him about what was happening in the Socastee area and

1 what he did in Myrtle Beach?

2 A: I don't recall. I just -- I told you I don't recall.

3 Q: And you don't have a report of what you did?

4 A: No, sir.

5 Q: All right. But, Officer Crews got involved because you
6 and the officers that you were with called him, correct?

7 A: Yes, sir.

8 Q: And you said that you might have briefed him before,
9 since it's a street crimes matter, about what you were gonna
10 be doing in Socastee that day?

11 A: We prefer that if we do a traffic stop to have a marked
12 unit with us in case a chase does happen, there's a marked
13 unit there.

14 Q: Okay. Okay, all right. That's what I want to know.
15 When you went down to Socastee that day, were you looking for
16 David Campbell?

17 A: No, sir.

18 Q: All right. But you did before you went down to Socastee,
19 talk with Officer Crews about what you were gonna be doing
20 that day?

21 A: I don't remember if Officer Crews was in the office when
22 we talked about it, or to be honest, if there was a
23 conversation, but normally in that kind of thing if we're
24 gonna be working with street crimes, we will advise in what
25 area of the county we're gonna be in.

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1 Q: All right.

2 A: I don't remember the exact conversation and who was or
3 was not in the office at the time.

4 Q: Working with street crimes means what to you?

5 A: That if we're working and we need a car stopped that they
6 can stop it for us.

7 Q: All right. In layman's terms, you guys, you're -- what
8 would your -- were you strictly in the narcotics work for the
9 Horry County Police Department?

10 A: The ATU Gang Task Force falls under the narcotics
11 division.

12 Q: All right. And so when the three of you went out that
13 day, y'all were looking for drug or working on drug matters?

14 A: Drug or violent gang members, anything of those sorts,
15 yes, sir.

16 Q: And it would be routine to get with the officer, a patrol
17 officer, to say we're gonna be in this area doing this; if we
18 call you, we might need some help.

19 A: Yes, sir.

20 Q: Okay. All right. And what you do is you wait and see if
21 you can see the traffic violation to give that officer a
22 reason to stop him?

23 A: Yes, sir.

24 Q: Why don't you stop him?

25 A: Like I said, we prefer to have a marked unit to avoid

- 1 later on in court for him to be able to say I didn't -- I
2 didn't know it was a police officer, people could have thrown
3 random blue lights in their vehicle. It takes that element of
4 unknowing out of the situation to have a fully marked officer
5 stop a vehicle.
- 6 Q: Okay. And were you wearing a body camera?
- 7 A: I was not.
- 8 Q: Why not?
- 9 A: At that time, the detectives are not required to wear
10 body cameras and have them activated.
- 11 Q: Are they required to now?
- 12 A: I'm not sure to be honest.
- 13 Q: Are you required to now?
- 14 A: I am because I'm a patrolman now.
- 15 Q: You're a patrolman now. Do you know whether or not the
16 detective doing what you were doing at that time are required
17 to now?
- 18 A: They were not.
- 19 Q: They are not now?
- 20 A: They may or may not be now; I'm not sure.
- 21 Q: But you weren't at the time?
- 22 A: No, sir.
- 23 Q: You didn't have a body camera on?
- 24 A: No, sir.
- 25 Q: None of the officers with you had a body camera on?

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- 1 A: No, sir.
- 2 Q: All right. And so what you did was you followed Mr.
- 3 Campbell back into Myrtle Beach, you observed you say and
- 4 traffic violation, which was what?
- 5 A: He was not using a blinker.
- 6 Q: Not using a blinker?
- 7 A: Yes, sir.
- 8 Q: Okay. And you notified Mr. ---
- 9 A: Crews.
- 10 Q: --- Crews, who happened to be right there?
- 11 A: Uh-huh (affirmative response).
- 12 Q: And he got in behind Mr. Campbell?
- 13 A: Yes, sir.
- 14 Q: All right. And then you got in behind him?
- 15 A: Yes, sir,
- 16 Q: And then this chase that's on video, you were behind
- 17 Officer ---
- 18 A: Crews.
- 19 Q: --- Crews the entire time?
- 20 A: Yes, sir.
- 21 Q: All right. And when, when, when Mr. Campbell was
- 22 apprehended ---
- 23 A: Uh-huh (affirmative response).
- 24 Q: --- what role did you play in that?
- 25 A: At that time, I was the driver of the, the pickup truck

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1 at which time, I was not able during the chase to put my, my
2 vest on and all that kind of stuff to get prepared to chase
3 somebody. So, whenever we were able to finally -- where it
4 came to an end, Detective Neely and Detective Sauls were able
5 to get out of the vehicle and continue to chase him. I was
6 not; I had to stay by the vehicle so I could have time to put
7 on my stuff on for safety.

8 Q: And where did you park the vehicle?

9 A: It was close to his. I'm don't -- I can't remember if it
10 was on the Ocoola side or the Sandysgate side of his vehicle,
11 but it was parked by his vehicle.

12 Q: So you don't, again, you don't know where you parked the
13 vehicle?

14 A: I believe it was on the Ocoola -- it was right where he
15 wrecked at and we parked near there, right where he wrecked,
16 the same entrance to Sandysgate where he wrecked at.

17 Q: You parked there?

18 A: Yes, sir.

19 Q: So, the -- so, what you can see on the video tape is that
20 Mr. Campbell's car is here, Officer Crews pulls in behind him
21 in that driveway, I guess to the Sandysgate Apartment. And so
22 what you're saying is you would have been behind Mr. Crews'
23 car?

24 A: Not at that time we weren't, because Officer Crews --
25 during the chase, Mr. Campbell ran from the vehicle. Officer

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1 Crews drove his vehicle around to the first building where Mr.
2 Campbell was running to to get closer to him with the vehicle
3 instead of parking and then exiting and trying to catch up to
4 him.

5 Q: So, what I'm trying to figure out is where did you park?

6 A: That entrance to Sandygate.

7 Q: The -- that entrance to Sandygate that these two entered
8 into?

9 A: Yes.

10 Q: And then did you get -- you didn't exit the vehicle?

11 A: I did, eventually, yes, sir. I just did not have time to
12 ---

13 Q: When you exited the vehicle, what did you do?

14 A: They had already detained Mr. Campbell and also already
15 found the narcotics at the time.

16 Q: Who detained Mr. Campbell?

17 A: Officer Crews and Detective Neely.

18 Q: Crews and Neely?

19 A: Yes, sir.

20 Q: All right. You didn't witness that?

21 A: I did not.

22 Q: When, when you parked the automobile and Detective -- the
23 other two Detectives with you were Sauls and ---

24 A: Neely.

25 Q: --- Neely. What did they do and where ---

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1 THE COURT: Hold up. We're going a little, I think,
2 beyond the purpose of this hearing.

3 MR. MARTIN: Well, I think my argument to you would be
4 the actions in connection with the arrest may be relevant to
5 the argument that I have, but I'm just about at the end of
6 that course.

7 THE COURT: All right. I'll give you a little more
8 leeway, but we're gonna need to wrap it up.

9 BY MR. MARTIN:

10 Q: You say that Neely and Sauls exited the vehicle to go
11 help with the arrest?

12 A: Yes, sir. Officer or Detective Neely was the first one
13 out of the vehicle; he was in the front passenger seat. There
14 was -- it was a newer vehicle to us. We were not a hundred
15 percent familiar with the child safety locks and Officer and
16 Detective Sauls was actually momentarily stuck in the backseat
17 trying to get out of the vehicle. So, Neely was maybe a
18 couple of seconds ahead of Officer -- of Detective Sauls
19 getting out of the vehicle. Like I said, I couldn't chase
20 after Mr. Campbell because I wasn't able to have my vest on or
21 my full-size gun like I needed on for -- per department
22 policy. So, I had to equip myself before I can take part in
23 any the actual arrests or anything like that. By the time I
24 had done that it was ---

25 Q: If the two of them were behind Officer Crews ---

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1 A: In the foot portion of it, no, sir. You'll have to talk
2 to them for their exact route of how they went and everything,
3 but no, they were not directly behind Officer Crews.

4 Q: So, they didn't follow directly behind him?

5 A: No, sir.

6 Q: They got out of their automobile after he had parked and
7 got out of his, I guess?

8 A: I don't know the exact time when everybody got out second
9 for second, but Officer Crews and Neely and Officer Sauls were
10 all in different times getting out and doing their part of
11 detaining ---

12 Q: Did you memorialize anywhere in writing the turn signal
13 failure by Mr. Campbell?

14 A: I didn't.

15 Q: Did, did you guys call that in by radio to Crews that
16 there had been a turn signal violation?

17 A: I would assume that's how we contacted him to advise him.

18 MR. MARTIN: That's all I have at this time, Judge.

19 THE COURT: Anything further of this witness?

20 MR. ERVIN: Just one question.

21 REDIRECT EXAMINATION OF STEVEN RHEW BY MR. ERVIN:

22 Q: Officer Rhew, is it fair to say that the reason you did
23 not write something in a report or memorialize anything is
24 because Officer Crews' report encompassed your whole
25 involvement in this case?

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STEVEN RHEW - REDIRECT BY ERVIN

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1 A: Yes, sir.

2 Q: Thank you.

3 THE COURT: All right. Thank you, sir, you may step
4 down.

5 MR. MARTIN: Well, I don't want to belabor, but wait one
6 second.

7 THE COURT: Hold on. Go ahead, have a seat.

8 MR. MARTIN: I don't want to belabor it, but I believe
9 that the examination -- well, I want to be sure on. I want --
10 I want to be sure that Officer is satisfied that answer -- and
11 I'll tell you, the reports that we have don't have all that
12 information in them. Okay? And I do think it's an important
13 part of this and, as we try this case, that none of these
14 officers besides Crews, apparently issued any sort of written
15 report of their activities that day. And I can tell you as an
16 officer of the court, and I think that Gray would agree with
17 me that discovery they provided us does not give the
18 information that Detective Neely here has -- not Neely --
19 Crews. No, it's not Crews either.

20 THE COURT: This is Rhew.

21 MR. MARTIN: Mr. Rhew. Rhew, I'm sorry, that Detective
22 Rhew has and I want that blanket statement.

23 RECROSS EXAMINATION OF STEVEN RHEW BY MR. MARTIN:

24 Q: Have you read the discovery report of Patrolman Crews in
25 this case?

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STEVEN RHEW - RECROSS BY MARTIN

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1 A: I've read over his report, yes, sir.

2 Q: All right. That doesn't cover all of the information and
3 the activity of you that you just testified to, does it?

4 A: It doesn't, but the initial stop by the -- by using the
5 turn signal. Everything else before that, I don't see the
6 relevancy of it to this case.

7 Q: Well, let me just say to you, all I'm looking for is
8 whether you see the relevancy of it or not, when you answered
9 his question that his report covers everything, that's not
10 accurate, is it?

11 A: The probable cause begins at the not using the blinker
12 and that is where the case begins.

13 Q: Well, again, I'm not asking you about probable cause
14 specifically, and I'm not trying to belabor it, but you
15 testified about going down into Socastee ---

16 A: Yes, sir.

17 Q: --- about seeing or following Mr. Campbell?

18 A: Yes, sir.

19 Q: About your plans for that day when you went out and you
20 probably had conversations with Crews, that you observed him
21 without that, and you called him, that you guys followed
22 behind him ---

23 A: Yes, sir.

24 Q: --- on the way there, and these other two officers jumped
25 out and one couldn't get out; all of that is not in his

1 report, is it?

2 A: Not that I'm aware of, no, sir.

3 Q: Okay. That's all I got.

4 THE COURT: All right. Thank you, sir, you may step
5 down.

6 MOTIONS:

7 MR. ERVIN: Your Honor, would you like to take up the
8 jurisdictional issue here?

9 THE COURT: Well, I need to look at whatever it is you
10 had printed out; you got a copy of that?

11 MR. LONG: I did; yes, sir.

12 THE COURT: All right. Let me look at it. You got a
13 copy for me?

14 MR. LONG: Your Honor, maybe if I could respond, even
15 though I guess I'm responding to the presentation of this
16 Attorney General's opinion. In 1994, Gerald Whitley, who is
17 now our Chief Magistrate, was the Chief of Police. He was --
18 they were -- there was a conflict obviously between the Horry
19 County Police, the Chief of Horry County Police, and the Horry
20 County Sheriff as to who would do what and who was responsible
21 or who was allowed to do certain things. Judge Whitley, or
22 Chief Whitley at the time, was in the process of attempting to
23 confiscate and recover pistols as part of when they made an
24 arrest and the pistol was recovered. And so they asked Travis
25 Medlock, our Attorney General in 1994, for an Attorney

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1 General's opinion and the last paragraph, although this
2 opinion is just based, is just really basically setting out
3 that Chief Whitley had the authority as the Horry County
4 Police to confiscate pistols. The last paragraph, the
5 conclusion, actually helps our position, and I'll read it.
6 It's the opinion of this office that due to the unique
7 circumstances existing in Horry County since 1959, pistols
8 confiscated in the non-municipal areas of Horry County, due to
9 a violation in criminal statutes involving weapons, should be
10 turned over to the Chief of the Horry County Police. So, that
11 would exclude the Horry County -- the Chief of the Horry
12 County Police from confiscating pistols in the municipal areas
13 of Horry County and therefore would be illustrative of our
14 position.

15 THE COURT: You've got to read the entire letter though,
16 Mr. Long.

17 MR. LONG: I understand, but the conclusion is that the
18 -- that the Chief of Police should have the authority to
19 confiscate pistols in the non-municipal areas of Horry County.

20 THE COURT: Okay. And that's all well and good and
21 that's fine.

22 MR. LONG: That's it. That's all -- that's all this
23 opinion ---

24 THE COURT: Well, it's not all the opinion says. It's
25 not all that opinion says. It says on Page 2 under Act Number

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1 21 of 1959, it talks about powers of the county policemen that
2 were specified in Subsection 9, which provides in part, all of
3 the county policemen shall have over the entire county, the
4 same rights, powers, and authority as sheriff's deputies,
5 sheriffs and constables and to make arrests for violation of
6 criminal laws in this state. County policemen are authorized
7 to serve summons, complaints, to seize property, to serve
8 warrants, and attachment, and it goes on. So, it seems to
9 give county policemen countywide jurisdiction to enforce the
10 laws.

11 MR. LONG: So, the authority is not this letter, but the
12 authority is Section 9 of Act Number 21 of the 1959 General
13 Assembly.

14 THE COURT: I'm just reading what it says here. The
15 Police Commission, which by Subsection 2 of that Act was
16 granted exclusive jurisdiction with the magistrates, to serve
17 the magistrate's process, patrol and police the county in such
18 places, points and sections at such times as directed by the
19 chief of the county police. And then it goes further and says
20 the powers of those county policemen, which are specified
21 under Subsection 9, provides in part, all of the county
22 policemen shall have over the entire county, the same rights,
23 powers and authority as sheriffs, deputy sheriffs and
24 constables to make arrests for violation of criminal laws in
25 this state, and then it goes further and talks about other

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1 things they have power to do.

2 MR. MARTIN: Judge, I believe -- and my computer has gone
3 dead on me, but your clerk could Westlaw and search it. I
4 believe that that statute, the statutory scheme that this
5 opinion was based on was repealed by the state legislature in
6 the last few years and obviously replaced with something else.
7 But again, I don't believe this can be the basis for it
8 because I believe this statute has been repealed. And that's
9 what the research I did indicated.

10 In trying -- and I'll have to tell the Court, I didn't
11 get to thinking about all this until this weekend. In
12 contacting the county this morning, I cannot find under county
13 ordinance section the ordinance that is the enabling
14 legislation for the Horry County Police Department. Because
15 under Home Rule, it was sent to the county and the county was
16 supposed to enact the enabling legislation. I haven't been
17 able to locate a copy of that. I also talked with David
18 Jordan, who is the County Attorney, to see is there an
19 agreement with the City of Myrtle Beach which may detail one
20 way or the other what the agreement is for the county police
21 to police in the city. I would think those two documents, the
22 current enabling statute and any agreement between the city
23 and the county would be the basis for whatever, and they may
24 well have it, but I haven't been able to find it. I don't
25 believe -- I'm pretty sure that this code section has been

1 repealed and is no longer effective.

2 THE COURT: What she found that was repealed was Section
3 23-31-190 which is that code section dealing with the
4 regulation of pistols and the confiscation as provided for
5 under that code section. She's still looking for something
6 regarding Act Number 21 of 1959.

7 It doesn't ---

8 MR. MARTIN: Judge, I don't ---

9 THE COURT: It doesn't appear to me that it should be so
10 impossible to find out what the jurisdiction is of the county
11 police.

12 MR. MARTIN: Well ---

13 THE COURT: This doesn't say anything.

14 MR. MARTIN: --- and I just started trying to find out
15 over the weekend researching here and -- has anybody got a
16 cord that I crank this thing up with?

17 THE COURT: What have you got there?

18 MR. MARTIN: It's an iPad. Again, I do -- I don't want
19 to belabor it, but I do want to tell you that -- and I could
20 be wrong, but as an officer of the Court, I believe that the
21 statutory scheme that the county police operated under
22 initially and back here have been repealed and replaced with
23 something different and I believe that's correct. I could be
24 wrong, but I believe that's correct. So, I don't know that
25 this statute here we're talking about is definitive.

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1 Something out there is, I just, but apparently, it's in the
2 archives of the county over there and they can't find it for
3 me apparently.

4 THE COURT: Let's just take a short recess and I'll look
5 at this.

6 (RECESS - 3:39 P.M.)

7 *****OFF THE RECORD*****

8 (On the Record - 4:03 P.M.)

9 THE COURT: All right. In the absence to anything to the
10 contrary, I believe that Act Number 21 of 1959 where the
11 General Assembly created the Horry County Police Commission
12 and that unit and where it sets forth that the county
13 policemen shall have over the entire county the same rights,
14 powers and authority as sheriffs, deputy sheriffs, and
15 constables to make arrests for violations of criminal laws
16 throughout the county. That's controlling, as least as far as
17 I'm concerned in the absence of something to the contrary.
18 Now, if something to the contrary is discovered, we'll
19 certainly deal with that. So, at least at this time, based on
20 what's been presented to the Court, I do find that there was
21 jurisdiction to establish at least the actions of the county
22 police to this point. Now, I realize that we also have their
23 statements. There's other issues with regards to the video
24 from Officer Crews' vehicle that there's obviously objections
25 to, so we need to proceed with regards to that.

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1 MR. ERVIN: The State would call Jeremy Crews.

2 THE COURT: All right. Mr. Crews, if you'd please come
3 around to be sworn, sir.

4 JEREMY CREWS, HAVING BEEN DULY SWORN,
5 TESTIFIES AS FOLLOWS:

6 CLERK: Please state your full name and spell your first
7 and last name for the Court.

8 MR. CREWS: Jeremy Alan Crews, J-E-R-E-M-Y, last name is
9 C-R-E-W-S.

10 DIRECT EXAMINATION OF JEREMY CREWS BY MR. ERVIN:

11 Q: Good afternoon, Officer Crews.

12 A: Good afternoon.

13 Q: Where do you currently work?

14 A: D.R. Horton.

15 Q: Where did you work on November 30th, 2015?

16 A: Horry County Police Department.

17 Q: What were your -- what was your position there?

18 A: I worked with the Street Crimes Unit.

19 Q: And what -- basically what did that duty entail?

20 A: We did drug complaints, any kind of drug interdiction, we
21 dealt with a lot of wanted subjects, high crime areas,
22 anything like that.

23 Q: Is it accurate to say that you would conduct traffic
24 stops that the plainclothes guys called in to you?

25 A: Yes.

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1 Q: Is that what you did on this incident?

2 A: Yes.

3 Q: Where did you first see David Campbell's vehicle?

4 A: He was on the -- he was on Pine Island Road going --
5 attempting to make a right-hand turn onto Oak Forest.

6 Q: When Officer -- which officer radioed you that this
7 Defendant had made a traffic -- had committed a traffic
8 violation?

9 A: I don't remember who was actually on the radio, I
10 remember there was -- I knew they were all three in a vehicle.
11 They first advised that the vehicle was going northbound just
12 to try to get a marked unit close by.

13 Q: Let me stop you. Northbound on what?

14 A: 17 Bypass.

15 Q: Okay. And so you did get behind him and you said you saw
16 his vehicle first on Pine Island?

17 A: Yes.

18 Q: Did you witness a traffic violation?

19 A: Yes, when he was making -- he was in the number two lane
20 when he was getting over into the right-hand lane into the
21 turn lane and didn't use his turn signal. The light where he
22 was at was red and he didn't stop on red when he made the
23 right-hand turn.

24 Q: When did you activate your lights and siren?

25 A: Probably 50 feet from the intersection, probably.

- 1 Q: Okay. Was your car equipped with an in-car camera?
- 2 A: Yes, it was.
- 3 Q: Can you explain to Your Honor how that works?
- 4 A: The in-car camera, once you activate your lights and
- 5 siren or activate just lights, the in-car camera kicks on. It
- 6 kicks back a minute, the minute before that does not have
- 7 sound, it just has the video recording.
- 8 Q: Does it turn on automatically or do you control it?
- 9 A: It turns on automatically once you hit your lights.
- 10 Q: Are you able to pause it?
- 11 A: No, you can only stop it.
- 12 Q: Are you able to erase it?
- 13 A: No.
- 14 Q: Is this recording made in the normal course of business
- 15 while you're on duty?
- 16 A: Yes.
- 17 Q: What happens to those recordings that are made during the
- 18 shift?
- 19 A: It was a wireless unit that we had, so when you pull up
- 20 to precinct or at the main police department, it automatically
- 21 uploads.
- 22 Q: Is that done automatically?
- 23 A: Yes.
- 24 Q: How long is a recording stored?
- 25 A: I don't know the exact timeframes. When you label cases,

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1 there's a certain amount of days that they're timed -- they're
2 stored before they're purged out.

3 Q: You don't remember in 2015 how long it was stored?

4 A: No.

5 Q: Can you make a copy of it?

6 A: To burn a -- can I burn a copy of it? Yes.

7 Q: And that is usually for court?

8 A: Yeah, when we send the case files, yes.

9 Q: Do you have the ability to alter it in any way?

10 A: No.

11 MR. ERVIN: Your Honor, I have not marked this.

12 THE COURT: Let's go ahead and just premark it as a
13 State's exhibit for identification purposes at this point.

14 STATE'S EXHIBIT NUMBER 1

15 MARKED FOR IDENTIFICATION

16 BY MR. ERVIN:

17 Q: Officer Crews, I'm handing you what has been marked as
18 State's Exhibit 1 for ID purposes. Do you recognize that?

19 A: Yes.

20 Q: As what?

21 A: It was -- I think it was a redacted version of the video
22 that I watched.

23 Q: You have reviewed that?

24 A: Yes.

25 Q: And as far as you can tell, is that the same video that

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1 was taken from your patrol car on November 30th, 2015?

2 A: Yes.

3 Q: Has it been altered in any way?

4 A: No.

5 Q: Except for the redaction?

6 A: Yeah, nothing video/audio-wise, just the actual
7 shortening of it.

8 Q: Do you know when that recording starts?

9 A: When it -- like when it acti ---

10 Q: The very beginning of it?

11 A: The beginning is when I'm making a left-hand turn off of
12 Seaboard onto Pine Island. There's no -- there's a minute --
13 about a minute -- I think it's a minute before audio and video
14 kicks on and then when my lights kick on and then the sound
15 kicks on.

16 Q: All right.

17 MR. ERVIN: Your Honor, I would ask to move this into
18 evidence for purposes of this hearing.

19 THE COURT: All right. We'll -- for purposes of the
20 hearing, I'll allow you to play it.

21 MR. ERVIN: Permission to publish?

22 THE COURT: Yes, sir. And this is the redacted copy that
23 Defense counsel has as well?

24 MR. ERVIN: Yes, sir.

25 THE COURT: Okay.

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1 *******OFF THE RECORD*******

2 (REPORTER'S NOTE: State's 1 published - not transcribed
3 herein.)

4 **(On the Record.)**

5 BY MR. ERVIN:

6 Q: Officer Crews, did you -- was that you that Mirandized --
7 initially Mirandized this Defendant?

8 A: Yes, sir.

9 Q: You heard your voice doing that in this video?

10 A: Yes, sir.

11 Q: After that, did you personally question the Defendant at
12 all about anything?

13 A: No, sir. I think when he was coughing up, somebody gave
14 -- Officer Sauls was asking him -- Detective Sauls was asking
15 him if he'd swallowed anything and somebody had given me a
16 water bottle and I was giving him water while he was seated in
17 the back of the car.

18 Q: Did you ask him anything about the incident?

19 A: No, sir.

20 Q: Did you hear or were you present and observe any other
21 officer there asking him anything about this incident?

22 A: No, sir.

23 Q: Now, when you hear your voice or other voices in that
24 video, does that necessarily mean that you're right there
25 where the Defendant is seated in your patrol car?

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1 A: No, sir.

2 Q: So, you could be 20 feet away and you still hear your
3 voice in the video?

4 A: Uh-huh (affirmative response); yes, sir.

5 Q: Thank you, Officer Cruse.

6 THE COURT: All right. Cross?

7 MR. LONG: Thank you, Your Honor.

8 CROSS EXAMINATION OF JEREMY CREWS BY MR. LONG:

9 Q: Officer Crews, were you working with this team on this
10 day?

11 A: I believe during that day there was maybe might've been
12 communication that they were working in the area. Usually,
13 they're -- we both fall under -- the street crimes and the
14 gang task force both fall under the narcotics division. If
15 anybody is gonna make any stops for them that are any kind of
16 relation to what they're working, then it's gonna be probably
17 a street crimes officer.

18 Q: So, they were a gang team, you were street crimes, you're
19 both under narcotics?

20 A: Uh-huh (affirmative response).

21 Q: And you're both in the same area?

22 A: It depends during the day.

23 Q: When they were in Socastee watching this house and saw
24 what they believed to be David Campbell back then, were they
25 communicating with you then?

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1 A: We were all on our own channel, yeah.

2 Q: Okay. So, they were -- what did they say?

3 A: They sent somebody -- one of three in that vehicle had
4 said they were -- observed a vehicle, they were following it
5 northbound on 17 to try to get a marked unit closer. I
6 believe when they made a right-hand turn down Pine Island, I
7 was a little bit behind them. I got off on Harrelson, right
8 there by the Burger King, by the mall. I made a left
9 northbound on Seaboard and they were advising me that he did
10 not signal when he made that right-hand turn from Pine Island
11 south on Seaboard. And then they advised me had did a U-turn
12 there, heading back north on Seaboard and then he made a left
13 turn to get back on Pine Island back towards the bypass. So,
14 I was coming up to that light when they had already made that
15 left turn on Pine Island heading back towards the bypass.

16 Q: And you didn't see him make a left turn onto Pine Island?

17 A: No, sir.

18 Q: And again, so at the point where you made your left turn
19 onto Pine Island, you had not seen his vehicle at all?

20 A: I think it was from a distance because they -- I was
21 stuck in traffic. If you see the beginning of my video right
22 there, there was a couple of cars passing but it was from a
23 distance, though.

24 Q: Okay. So, and Officer Rhew's testimony is not accurate
25 in relation to your then. He indicated that you were behind

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1 David Campbell and they were behind you, when in fact they
2 were behind David Campbell when they made a right-hand turn
3 off of the bypass onto Pine Island Road and you were trying to
4 catch up?

5 A: When he was behind me was when -- they fell in behind me
6 when I initiated my blue lights right there beside Best Buy.

7 Q: And so then answer my question. So, it's true that they
8 were behind David Campbell when he made a right-hand turn off
9 of the bypass onto Pine Island Road?

10 A: Yes.

11 Q: And you were not?

12 A: No.

13 Q: And at that moment when you made your left-hand turn off
14 of Seaboard onto Pine Island, how much conversation had you
15 had with the team over the radio?

16 A: They advised me he was going northbound, they advised me
17 he turned on Pine Island, they advised me he was turning south
18 on Seaboard, and then they had a traffic infraction there when
19 he made ---

20 Q: Okay, perfect. So, when they advised you he was going
21 north on the bypass, did they tell you that he had broken the
22 law in any way?

23 A: No.

24 Q: But they still wanted you to chase him down?

25 A: No, no. They wanted to get a marked unit in the area.

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1 Q: But he hadn't broken the law yet?

2 A: No.

3 Q: And then he made a right-hand turn off of the bypass onto
4 Pine Island and they didn't tell you that he broke the law
5 there either?

6 A: No, sir.

7 Q: But you continued to pursue to get to him even though he
8 hadn't broken the law?

9 A: I was driving the speed limit heading north on the bypass
10 and I got off on Harrelson.

11 Q: And then you made a left-hand turn off of Harrelson onto
12 Seaboard?

13 A: Yes.

14 Q: At that moment, you didn't know if David Campbell had
15 violated the law?

16 A: I think about that time they had -- he had made a right-
17 hand turn that -- they had called out that he didn't use his
18 signal making a turn off -- a right-hand turn off of Pine
19 Island south on Seaboard, and then they advised me he did a U-
20 turn. So, about that time, when I was making a left onto
21 Harrelson was when they had a traffic infraction on him.

22 Q: Since they didn't tell you that he failed to use a signal
23 off of the bypass onto Pine Island, can we assume that he did
24 use a signal off of the bypass onto Pine Island?

25 A: That's not where he didn't signal. He didn't signal when

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- 1 -- they advised me he didn't signal when he turned off of Pine
2 Island south onto Seaboard.
- 3 Q: So, we're to believe that he used a right-hand -- signal
4 for a right-hand turn and then immediately did not use a
5 signal for a right-hand turn?
- 6 A: I wasn't there to see that.
- 7 Q: Okay. And in fact when this video starts, you said it
8 was a one-minute backup. When the video starts, you still
9 hadn't seen his vehicle?
- 10 A: When the video starts?
- 11 Q: With a minute backup before you hit your blue lights?
- 12 A: Uh-huh (affirmative response).
- 13 Q: You had -- when the video begins, you still had not seen
14 David Campbell's vehicle?
- 15 A: When I was sitting at that light from the distance to the
16 left I could see they were heading towards Best Buy. I mean,
17 it was a good distance.
- 18 Q: They were headed?
- 19 A: The black truck that they -- that the detectives were in
20 and then the vehicle that they were behind.
- 21 Q: So, they were right behind him?
- 22 A: Yes.
- 23 Q: Okay. And then you caught up to him at the intersection
24 of Oak Forest Lane and Pine Island where Best Buy is, correct?
- 25 A: Yes, yes.

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1 Q: He made a right-hand turn there?

2 A: Uh-huh (affirmative response).

3 Q: He used his signal there?

4 A: When he got over into the turn lane, he didn't have his
5 signal on. And then where the -- the light he was looking at
6 was red, he made a right without stopping completely on red.

7 Q: But he used a signal?

8 A: No. When he got over -- because he was sitting -- the
9 light was red, he was sitting in stopped traffic right there.

10 Q: Okay. And he put his right-hand blinker on?

11 A: No, he got over into the lane without using his signal.

12 Q: So, you think he moved from left lane to right lane
13 without a signal and then put his signal on to make a right-
14 hand turn?

15 A: He was in the number two lane.

16 Q: So, from two lane to one lane, he failed to use a signal
17 but then he put a signal on to make a right-hand turn?

18 A: He didn't go to one lane, he was in two lane and he went
19 over to the right-hand turn lane.

20 Q: That's one lane, right?

21 A: Two lanes are -- if you're in a road going straight, the
22 number one lane is the left lane, number two is the right
23 lane.

24 Q: Okay. So, he went from the far right-hand lane to the
25 turn lane without a signal?

1 A: Yes.

2 Q: But did signal for his right-hand turn?

3 A: When he was going through the light, I didn't see a
4 signal.

5 Q: Back to the video. You told the Judge that video camera
6 comes on upon activation of the blue lights and has a one-
7 minute backup. Do you have the ability to activate it
8 yourself manually?

9 A: You can.

10 Q: Okay. Were you wearing a body camera?

11 A: Yes.

12 Q: All right. And did you provide the video of this arrest
13 from that camera?

14 A: I don't remember if I actually had the video or not. We
15 had just got those body camera videos.

16 Q: How do they work? How do they kick on? How do they
17 operate?

18 A: Body cam videos, that was the period when the county was
19 just going to body cams. You know, when I went to call out
20 the stop, basically, you have to initiate your lights in your
21 vehicle, then you've got double tap it twice, I believe. It's
22 been a little while since I used one of those. You double ---

23 Q: Did you do that?

24 A: I do not recall if I did that or not. And if I did, I
25 don't recall when I actually hit it. I don't recall if I did

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1 it right at the start of the stop or when. I don't recall,
2 sir.

3 Q: All right. And when you finally caught up to -- let's
4 fast forward to Sandysgate.

5 A: Okay.

6 Q: You get to Sandysgate, you drive around David's vehicle
7 and you jump out and you go on foot. Right?

8 A: Uh-huh (affirmative response).

9 Q: And you, in fact, are the person who grabbed him and
10 tackled him and took him -- what did you do, take him to the
11 ground?

12 A: No, that was not me at first.

13 Q: Okay. Who was who at first?

14 A: In the video, when I go around the vehicle, you see the
15 Defendant running around the side of the building. I took my
16 vehicle around the backside of the building to keep him from
17 running farther into the back of Sandysgate.

18 Q: Right.

19 A: I'm assuming when he saw my vehicle coming up behind him,
20 what he did was he ran into the breezeway. The breezeway runs
21 east to west basically beside Joe White.

22 Q: Right.

23 A: He ran into the breezeway, started to go to the other
24 side. I had jumped out of my car. I couldn't tell if he had
25 ran -- because there was a couple of cars that were parked,

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1 you see how I run around, take like a wide angle, when I came
2 around the front of that last car, you see me run around to
3 the right. Detective Sauls and Neely were grabbing him to
4 actually end up detaining him.

5 Q: Okay. So, you didn't grab him?

6 A: I went there to assist but I was not the first one that
7 actually grabbed him.

8 Q: Right. Have you ever seen a report written by any of the
9 people that actually arrested him?

10 A: No, sir.

11 Q: Do you know if they made one at all?

12 A: Not to my knowledge.

13 Q: And based on your testimony, they were behind him the
14 entire time, they're the ones that said he failed to use a
15 signal and they're the ones that placed him under arrest,
16 correct?

17 A: Well, I was there assisting with the arrest, yes. I mean
18 -- but I wasn't -- you asked if I was the first one to put my
19 hands on him, no.

20 Q: Right. And when you -- I hear your voice when you
21 arrested him, you said they were behind you and they saw you
22 fail to use a signal. Is that what you told him?

23 A: Yeah, that was the initial -- you know, how I made
24 contact or where we had an initial one traffic violation on
25 him.

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1 Q: Okay. And then I also hear you say on video, when you're
2 talking to the other officers standing around and you kind of
3 -- actually, you must've been in great shape because you're
4 not that out of breath after everything you've gone through,
5 and you're saying -- I hear you say, narcotics was watching
6 him and I got a radio -- I got called and I got in and I went
7 to the area. That's correct, right? Narcotics was watching
8 him.

9 A: I might've said watching him. I don't know exactly what
10 it was.

11 Q: And then while standing around the hood of your car,
12 Officer Rhew comes around with what looks like, I would assume
13 is his cell phone? It's a cell phone?

14 A: Uh-huh (affirmative response).

15 Q: And he's showing it to everybody and everybody is kind of
16 watching, and he showed it to you. What was that? What did
17 you see?

18 A: I do not recall that.

19 Q: You don't know what it was?

20 A: No.

21 Q: Do you know if what it was was provided to me in
22 discovery?

23 A: I do not recall.

24 Q: Did you hear the -- where David is screaming from the
25 backseat something about being by Bob's fence in a red cup,

1 that's down by the road, it's in that -- it's beside Bob's
2 fence. You heard all that?

3 A: Like on the video or myself at the scene?

4 Q: Both?

5 A: On the video, yes. In the scene, that is my in-car
6 camera that's recording that, so I didn't hear him.

7 Q: But you heard him screaming here, right? He's screaming
8 that pretty loud?

9 A: There was a large crowd gathering near from where the
10 video is to the left of where my vehicle, there was people
11 gathering, some people were trying to, you know, walk up to my
12 vehicle and moving away, so he was screaming through the
13 closed window trying to talk to people.

14 Q: Okay. You never saw David Campbell with narcotics in his
15 possession?

16 A: No, not in his possession.

17 Q: You never saw David Campbell throw anything?

18 A: No.

19 Q: And you were how close behind him on foot?

20 A: I wouldn't say I was too close because I -- when he ran
21 around the building, he went into the breezeway, and you hear
22 me key up and I think I said, ran into the alley. I don't
23 remember how I mentioned, it was so quick. I said, he ran
24 into the alley. And when I ran around that car, Officer or
25 Detective Sauls and Neely had him -- trying to get him

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1 detained at the entrance to the breezeway.

2 Q: Okay. I'm going to show you the beginning of the video
3 and I want to ask Ms. Root to help me out and come hit play.
4 It might not be Ms. Root. I'll trust her. And so what -- I
5 want you to watch the beginning of this. We're gonna watch
6 the beginning of this. We're going back to whether or not he
7 used his signal in your presence.

8 A: Okay.

9 (REPORTER'S NOTE: Portion of State's 1 video published - not
10 transcribed herein.)

11 Q: Can you pause it, please?

12 Right there. Now, this truck right here ---

13 A: Uh-huh (affirmative response).

14 Q: That's Horry County police officers?

15 A: Yes.

16 Q: That's the team?

17 A: Yes.

18 Q: They've been behind him the whole time?

19 A: Uh-huh (affirmative response).

20 Q: From Socastee?

21 A: Yes.

22 Q: This is David Campbell?

23 A: Yes.

24 Q: With his right-hand blinker on?

25 A: Uh-huh (affirmative response).

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1 Q: Do you agree?

2 A: Yes.

3 Q: All right. Play it, please.

4 (REPORTER'S NOTE: Portion of State's 1 video published to the
5 Court - not transcribed herein.)

6 Q: Stop, please.

7 There was two black pickup trucks, was it the first one
8 or the second one?

9 A: You've have to go back a second.

10 Q: Can we back up?

11 A: The second one.

12 Q: This one right here?

13 A: Yes.

14 Q: So, this is your car. You went past them and they pulled
15 in behind you?

16 A: Yes.

17 Q: And both of you pursued him to Sandysgate apartments?

18 A: Usually, with the policy as far as Horry County goes, I
19 don't know how it's changed now, but if there's an unmarked
20 unit, they can assist in a chase because they usually want two
21 vehicles, an unmarked vehicle will assist in a chase until
22 another marked vehicle -- and there were a couple of marked
23 vehicles trying to get there, but it went so quick that they
24 couldn't get there.

25 Q: So, how long did you work for Horry County?

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1 A: Nine years.

2 Q: During your nine years, had you ever been involved in
3 another case where police officers were following a Defendant
4 before you were involved, followed the Defendant the whole
5 time you followed them, and in fact were the people who took
6 that person into custody, not do a report of their activity?

7 A: We -- I took the case, so that's why I basically obtained
8 the warrants and everything, so I took full custody of the
9 case.

10 Q: But yet there were three other police officers that were
11 in full custody of the case that didn't do a report?

12 THE COURT: I tell you what we're gonna do. We're not
13 gonna try this case twice.

14 MR. LONG: I understand.

15 THE COURT: The issue we're dealing with now is the
16 admissibility of this video. All of this has nothing to do
17 with that.

18 MR. LONG: I agree.

19 THE COURT: So, let's get to the issues.

20 MR. LONG: And I -- again, Judge, you know as a trial
21 lawyer, every chance I get to find out what he's gonna testify
22 to later and I appreciate you slowing me down. But this is my
23 first chance to find out what occurred.

24 THE COURT: I understand.

25 MR. LONG: Okay. That's all I have. Thank you.

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JEREMY CREWS - REDIRECT BY ERVIN

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1 THE COURT: Anything on redirect?

2 REDIRECT EXAMINATION OF JEREMY CREWS BY MR. ERVIN:

3 Q: Officer Crews, as far as your report, to your knowledge,
4 your report encompasses all relevant aspects of this case as
5 what you saw, as what was told to you by any of the other
6 assisting officers; is that correct?

7 A: Yes.

8 Q: So, in your opinion, is there a reason for them to do a
9 supplemental report?

10 A: Not if my report encompasses everything.

11 THE COURT: And, again, folks, we're going beyond the
12 admissibility of this video. You're gonna get all -- every
13 opportunity to try to the case.

14 MR. ERVIN: Thank you, Judge.

15 BY MR. ERVIN:

16 Q: Officer Crews, do you have any doubt that one of these
17 officers told you he saw a traffic violation committed by this
18 Defendant?

19 A: No doubt.

20 Q: And that was prior to your blue lights being activated,
21 correct?

22 A: Yes; uh-huh (affirmative response).

23 Q: Thank you, Officer Crews. That's all.

24 THE COURT: All right. Thank you, sir. You may step
25 down.

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1 MOTIONS:

2 MR. ERVIN: Your Honor, as to the Defendant's statements
3 that were made, you heard Officer Crews Mirandize him in the
4 video. You also heard him testify that he did not interrogate
5 him about this incident at all, asked him no questions except
6 for if he needed water because he heard him choking. We have
7 Rule 801(d)(2) obviously allows the Defendant's statements to
8 come in as non-hearsay. I also have for Your Honor *State v.*
9 *Good*. It is a South Carolina Court of Appeals case, 417
10 S.E.2d 643. Basically admitted, and I'll quote, Under the
11 well-recognized exception to the hearsay rule that permits an
12 out-of-court admission of a criminal defendant -- there are
13 other aspects of that case, but... I also have *Pennsylvania*
14 *v. Muniz*. It's United States Supreme Court, 496 U.S. 582.
15 It's a rather lengthy opinion, Your Honor, but on Page 604 of
16 the opinion, I'll quote, Muniz' incriminating utterances
17 during this phase of the video tape proceedings were voluntary
18 in the sense that they were not elicited in response to
19 custodial interrogation. Again the State's position is there
20 was no interrogation. These officers did not ask him any
21 questions other than if he needed water, did not elicit any,
22 any information from the Defendant on the incident in
23 question.

24 Finally, Judge, we've got *State v. Turner*. This is a
25 South Carolina Supreme Court case from 2007, 641 S.E.2d 436,

1 and it's pretty much directly on point, Your Honor. In that
2 case, there were two -- we'll call them Defendants, seated in
3 the backseat of a police car. They talk to each other and it
4 was recorded. This Supreme Court opinion, which was very
5 short, and I'll quote, An individual does not have a
6 reasonable expectation of privacy while being held in a police
7 vehicle and thus there was no Fourth Amendment violation here.
8 They did not address the fact that or the question of
9 interrogation. They just said there was no Fourth Amendment
10 protection afforded to the lack of privacy in a vehicle.

11 So, it is our position that all statements made by the
12 Defendant subsequent to his arrest that are included in this
13 redacted video should be admitted.

14 THE COURT: All right.

15 MR. ERVIN: Thank you, Judge.

16 THE COURT: Mr. Martin or Mr. Long?

17 MR. MARTIN: Judge, we would believe that, first of all,
18 the portion of the video after the car has come to a stop
19 should be -- should not be admitted because from that point
20 on, the majority of what you hear is unintelligible and you
21 can't tell what they're saying. There's a word here, a word
22 there. We take the position that because of the poor quality
23 of the audio that the parts that are unintelligible, except
24 for a word here or there certainly should be excluded because,
25 number one, I don't know how unintelligible statements or

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1 conversation can be relevant. And then, secondly, even if it
2 is relevant, it may well be more prejudicial than probative
3 under Rule 403. That, specifically when it comes to that part
4 of the video where he sounds like he is coughing or about to
5 throw up or trying to throw up and they're saying did you
6 swallow anything, did you swallow anything, we need to know, I
7 believe that's prejudicial to him. If there's -- if once
8 again, it's unclear what is happening but the only implication
9 that they may make out of that would be that they're trying to
10 say we believe he swallowed some drugs, therefore he had some
11 drugs. And there's no indication that that was the case;
12 that's simply Officer Sauls, I believe they said, repeatedly
13 saying did you swallow something, did you swallow something.
14 That's not relevant to the charges pending against him. It's
15 unclear what is happening at that time. And, thus, we would
16 think it's not relevant. Once again, it would be more
17 prejudicial than probative.

18 If the business about somebody set me up, a Mexican,
19 amigo, wetback, that kind of -- same thing. It's not
20 relevant. If anything, it's more prejudicial than probative.
21 It's not -- again, it has no bearing on this particular case
22 whether or not he did or did not have drugs on him at the
23 time.

24 The conversation about in a red solo cup down the road --
25 I heard -- I believe Mr. Ervin says he thinks in the back he

1 said he thought he was talking about drugs. I can't discern
2 that from the tape, but it sounds to me like that Mr. Ervin is
3 thinking that is there somewhere, so I'm thinking, well, he
4 may argue that. I can't hear it. Of course my hearing is not
5 good; maybe you heard him. I don't know why in the world he'd
6 be screaming out at that point in time about a red cup with
7 drugs in it. But, again, I would take the position that
8 that's not relevant. It's more prejudicial than it is
9 probative of the issues for which he's indicted. And we
10 believe for that reason that in its totality from the time
11 they officer runs around the building, that it ought to be
12 excluded. As far as him making incriminating statements which
13 would, I guess, be the reason that they would have to admit
14 any of this, I don't hear that. I don't hear him making
15 incriminating statements. The one -- and I'll go ahead and
16 address it, because I'm sure they will, the idea that he said
17 he saw me throw it, it sounds to me, the best I can hear, he
18 says that he says he saw me, which is different from, oh, my
19 goodness, he saw me throw it. So, I don't think that it's
20 admissible from the standpoint that it's an incriminating
21 statement. I would agree with him, I don't know that any of
22 these statements are in response to the question. But, I
23 think even though it may be admissible from that standpoint,
24 it's inadmissible as to relevancy and more prejudicial than
25 probative.

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1 THE COURT: All right.

2 MR. ERVIN: Your Honor, the quality goes to the weight
3 not the admissibility. Everyone, myself included, that
4 reviewed this, it was clear to them what this Defendant said
5 at a certain portion of this redacted video. They can
6 certainly argue that he said different but, again, I think
7 that goes to weight and not the admissibility. This Defendant
8 knew he was being recorded. The window was let down for him,
9 it was an unseasonably warm day on November 30th that day, so
10 the officers did let the window down to let him get some air
11 and there were a bunch of his people walking by and he was
12 talking to them, among them were police officers.

13 THE COURT: But the part where he's choking and gagging
14 and the officers asked him did you swallow something, did you
15 swallow something, we need to get EMS if you did, and all this
16 stuff, what relevance is that to any issue in this case other
17 than what Mr. Martin believes the State would like to do and
18 that is to make people believe he's swallowed ---

19 MR. ERVIN: Yes, sir. And I would contend because he was
20 seen throwing a bag of what was later determined to be
21 cocaine, and he was coughing like that, they needed to do
22 something to protect themselves, protect the Department,
23 protect the Defendant for his health, they needed to make sure
24 that he didn't ingest cocaine, to see if they needed EMS. So,
25 that's why they were asking.

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1 THE COURT: Well, I mean, no, I don't have any problems
2 with them asking or anything of that nature, but what
3 relevance is any of that to the issues of this case.

4 MR. ERVIN: Your Honor, I don't know if it's completely
5 relevant and if Your Honor pleases, I'll concede to leave that
6 out. I've included in that -- that in the redacted copy to
7 argue about it but I'm not gonna fight you on it.

8 THE COURT: Yeah, and I -- I think the part of the
9 coughing and did you swallow something, I don't know that
10 that's relevant. Let's see.

11 MR. ERVIN: Your Honor, and ---

12 THE COURT: The part ---

13 MR. ERVIN: I'm sorry.

14 THE COURT: Go ahead. I'll address what Mr. Martin said.
15 There are actually two instances where there was a comment to
16 the effect of he saw me -- he seen me throw that, and I have
17 it time-stamped at 13:27 on mine. That's the statement that
18 the State does wish to have admitted and I believe it's clear,
19 he seen me throw that shit, I'm F'd up.

20 THE COURT: I wrote that down. You had it at 13:28?

21 MR. ERVIN: --- 7, yes, sir.

22 THE COURT: I've got it at 13:40, but I was a little off
23 in what ---

24 MR. ERVIN: I don't know if ---

25 THE COURT: But, yeah, that part of it, I wrote down, I

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1 heard that and then I think at -- the -- at 14:03 or in that
2 range is when he says -- he says he seen me throw it.

3 MR. ERVIN: Yeah.

4 THE COURT: But he does then say, man, I F'd up.

5 MR. ERVIN: Yes, sir. And so to address what Mr. Martin
6 said, there were two specific distinct times when he said
7 something to the effect of he seen me throw it. And again,
8 I'll concede the second time at 14 -- what you had, 14:06 or
9 so ---

10 THE COURT: Yeah.

11 MR. ERVIN: That's when Mr. Campbell said he said he saw
12 me. And again, that is different but that's a weight issue,
13 not admissibility issue.

14 THE COURT: All right. What about all that chatter about
15 -- I wrote down -- I didn't write it all down -- he was
16 hollering -- there was some hollering to a maybe fellow named
17 T or something of that nature, in a red cup by the vacant area
18 -- all that red cup chatter.

19 MR. ERVIN: Well, in my review of the tape, I heard at
20 the very beginning of that, I got dope, in a very low voice.
21 I got dope. And then there's talk about a red cup by Bob's
22 fence. And the State believes that he wanted someone to go
23 pick his stash up because he knew he was arrested.

24 THE COURT: I got that somewhere around 14:41.

25 MR. ERVIN: Yes, sir. And it's mentioned again around

1 the 18 minute mark at the end of it.

2 THE COURT: All right.

3 MR. ERVIN: I believe that is relevant.

4 THE COURT: I'm going to ---

5 MR. MARTIN: Judge, I got one comment on that -- and
6 again, I don't hear that. Okay? I don't know whether you
7 heard it. If he says, I've got dope, clearly, that's one
8 thing. But I -- I can't -- I don't hear that. But -- and so,
9 therefore, I don't think it's clear that's what's said and I
10 think it's more prejudicial than probative, but beyond that,
11 let's say he -- if the statement is, I do have dope in a red
12 cup down by a vacant lot, that's not relevant to this charge.
13 That's evidence of another crime which would be inadmissible
14 unless you could tie it to this particular criminal offense.
15 It's just -- it's not -- again, it's not relevant. It's
16 speculative as to what he is saying, speculative as to what is
17 there, but it's not speculative to that -- it's not necessary
18 to convict him of the drug charge for which he's charged. It
19 would be evidence of another crime. For had they found drugs
20 there, they would have issued a second warrant. So, I believe
21 that that alone is the basis for its exclusion.

22 MR. ERVIN: Your Honor, the Defendant is accused of
23 throwing cocaine, seen by one person, a key witness. If he's
24 telling someone, not in response to any interrogation, he's in
25 custody and telling someone, I got dope I need you to go

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1 retrieve in red cup by Bob's fence, that's certainly relevant
2 and the ---

3 THE COURT: How is that relevant to any issue in this
4 case that he was in possession of the drug seized here? I do
5 think -- I tend to agree with Mr. Martin that it certainly
6 could possibly be evidence of some other crime had law
7 enforcement found a red cup, found dope in it, and could tie
8 him to that through that statement.

9 MR. ERVIN: Yes, sir.

10 THE COURT: But I'm not sure -- here's the thing. I just
11 -- I'm trying to keep the issues in this trial to the facts
12 and circumstances surrounded in this, in this situation. I
13 agree with you as to the other items. I don't think the
14 coughing and the hacking thing is relevant. And, so I'd
15 exclude that.

16 I'm not -- and I don't believe the -- I think -- and I
17 didn't hear the part that said I got dope. He maybe well have
18 said it but, again, that's a whole nother crime, that's a
19 whole nother issue. So, I don't think any of that red cup
20 chatter is relevant to any issue here. The other stuff, the
21 saw me throw it, said he saw me throw it, I F'd up, man, I F'd
22 up, Mexican's trying to set me up; I think all that's
23 relevant. But I don't think the coughing and the did you
24 swallow something stuff is and I don't think the red cup stuff
25 is. So, I would exclude those two items and allow the balance

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1 of it to go forward.

2 MR. ERVIN: Your Honor, I will have my IT wizard clean
3 that disc up.

4 THE COURT: You're the wizard ---

5 MR. ERVIN: So, just to be clear, the -- obviously the
6 first part, the attempt to stop, the chase ---

7 THE COURT: From what I -- from -- I've got -- everything
8 is fine. I think the first time I saw -- and I could be wrong
9 here, but I wrote down at 14:10:30, somewhere around there, is
10 where they first start the, did you swallow something, and
11 he's coughing and carrying on.

12 MR. ERVIN: Yes, sir.

13 THE COURT: That goes to somewhere around 11:38 to 11:50.
14 And then it cuts and goes to about the throwing stuff. I have
15 -- I don't really have the beginning part of the red cup
16 conversation but you can find that obviously.

17 MR. ERVIN: Yes, sir. 14:30 or so.

18 THE COURT: Yeah. All right.

19 MR. ERVIN: Yes, sir. Thank you.

20 THE COURT: All right. What's next?

21 MR. ERVIN: Your Honor, I would like a clarification,
22 since it is almost close of business about Mr. Crews' ---

23 THE COURT: I'm not aware that there is any relevance of
24 that to this case, but I was gonna be open-minded in case you
25 came up with ---

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1 MR. LONG: No, I -- Judge, I'd indicated this to the
2 Solicitor all along, I can't see the relevance of it. There's
3 no reason for us to get into it. The way that he answered the
4 questions about, you know, where are you employed and how long
5 were you there; he was able to answer those without it
6 becoming an issue.

7 THE COURT: I think so.

8 MR. LONG: I mean, we didn't know if he was gonna create
9 an issue himself from the witness stand or not but ---

10 THE COURT: Sure.

11 MR. LONG: But I definitely -- as long as he testifies
12 that way, there shouldn't be a question for the jury.

13 THE COURT: Okay. All right.

14 Anything further from the State for -- before we
15 recognize the Defense for anything else?

16 MR. ERVIN: Your Honor, I would make a motion to remand
17 the Defendant into custody during trial, and I do that knowing
18 that the jury has not been sworn. So, I think I know the
19 answer to my motion but I'll make it anyway.

20 THE COURT: Sure. Well, you know, that's kind of the old
21 sort of putting both ways kind of thing. We, you know, we
22 don't swear the jury and attach jeopardy in case there's
23 something that occurs during the course of this preliminary
24 stuff. But, I think once the jeopardy attaches, then you
25 certainly have a basis for your motion, so I would

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1 respectfully deny that at this point. However, on that issue
2 -- and let me just address that just, you know, briefly.

3 Mr. Campbell, the -- and I'm not suggesting in any way
4 that you would do this, I'm just -- I say this to all
5 defendants in every case if they're out on bond. You
6 understand that the case is scheduled to proceed first thing
7 in the morning.

8 MR. CAMPBELL: Yes, sir.

9 THE COURT: You have every right to be here and to assist
10 your counsel in your defense, but if you choose to not return,
11 you understand that the trial will proceed in your absence.
12 In other words, it doesn't prevent the trial from going
13 forward; it's just you give up the right to be present and
14 assist.

15 MR. CAMPBELL: Sir, I understand that.

16 THE COURT: Okay. All right. So, well, I won't go any
17 further with regards to that, just, you know, I can tell you
18 know unless something changes, we're gonna be scheduled to
19 start at 9:30. So, but you be here whenever your lawyers tell
20 you, sir. Okay?

21 MR. CAMPBELL: Yes, sir.

22 THE COURT: All right. Anything further from the State
23 then before we recognize the Defense for anything in addition?

24 MR. ERVIN: No, sir, Judge. Thank you.

25 THE COURT: Is there anything from the Defense --

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1 anything further we need to take up from the Defense?

2 MR. MARTIN: Judge, I don't think so.

3 THE COURT: All right. Well, here's the thing. I'll be
4 here before 9:30, so if y'all -- if anything comes up, if you
5 need to talk to me, that's fine. But, we will stay on that
6 schedule that we earlier discussed with the jury and we'll
7 plan on starting at 9:30. Okay?

8 MR. ERVIN: Yes, sir.

9 THE COURT: All right. Court will be in recess until
10 that time.

11 MR. LONG: Yes, sir. Thank you.

12 MR. ERVIN: Thank you, Your Honor.

13 (RECESS - 5:06 P.M.)

14 END OF DAY ONE.

15 *****OFF THE RECORD*****

16 (On the Record.)

17 MAY 16, 2017 - DAY TWO - 9:41 A.M.

18 BY THE COURT:

19 THE COURT: You know, at some point, when we get to the
20 video, obviously it's piece-meal; it's not an hour and twenty
21 minutes. So, I need -- I feel like I need to tell the jury --
22 explain to the jury that, that the original video, because it
23 is just on and it's just left on throughout all of the
24 procedure that there was much of that that counsel for both
25 the State and the Defense got together and wanted to present

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1 to the jury the relevant portions and that's why they'll see
2 the break in that so that they'll understand that's what's
3 going on. Does that work for y'all?

4 MR. LONG: Yes, sir.

5 MR. ERVIN: Yes, sir.

6 THE COURT: Okay. Is there anything from the State then
7 that we need to take up before we bring the jury out?

8 MR. ERVIN: No, sir.

9 THE COURT: Anything from the Defense?

10 MR. LONG: No, Your Honor, we're ready.

11 THE COURT: Okay. Gentlemen, if you'd bring the jury
12 out, please.

13 (REPORTER'S NOTE: Jury enters courtroom. 9:44 P.M.)

14 THE COURT: All right. Ladies and gentlemen, welcome
15 back. I hope everyone had a good evening and you're ready to
16 get started. Before I address you with a few opening remarks.
17 I'm gonna ask you to give Madam Clerk your attention and she's
18 gonna place you under your oath for your role as jurors in
19 this case.

20 CLERK: Please stand and raise your right hand.

21 (REPORTER'S NOTE: Jury duly sworn.)

22 CLERK: If you agree with this statement, you can be
23 seated.

24 THE COURT: Folks, a couple of preliminary matters before
25 we get started is I just want to share some things with you.

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1 It's very important throughout the course of the trial that
2 you're as comfortable as you can be. So, if at any time, I
3 mean, I don't know how much control we have over the
4 temperature in here, but if we have any control, let us know
5 if we need to look at that and we'll try to accommodate you
6 with that. Of course, it's difficult, we got a whole group of
7 folks, you know, someone may be hot, someone else may be cold,
8 but we'll try to find that happy medium there.

9 Also, and this goes to the point of being comfortable.
10 Throughout the course of the trial as witnesses take the stand
11 and testify and things are going on, if at any time any member
12 of the jury needs to take a break, do not hesitate to either
13 get the bailiff's attention or get my attention and we'll stop
14 and we'll take a break. There is -- there is -- rarely will
15 there be anything that goes on in here that we can't stop,
16 take a break and pick up where we left off. So, if you need a
17 break, don't hesitate to let us know, you know, I'll give you
18 an example. There are times, you know, sometimes Mother
19 Nature calls and we need to answer the call, right? But maybe
20 you think, you know what, I'll wait and we'll let that witness
21 finish. Well, it may be a lengthy witness and, and then you
22 get to the point where you're starting to think, I wonder how
23 much longer they're gonna be testifying, maybe I shouldn't
24 have waited, and your thoughts are on that issue and they're
25 not on what's being testified to. So, let's not even get

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1 there. If you need a break, anybody, raise your hand and get
2 my attention; we'll take a break. We can always start back
3 where we left off. Okay?

4 If you can't hear a witness or one of the attorneys or
5 the Court, do not hesitate to let me know, Judge, we didn't
6 hear that or I didn't get that, and we'll have that person
7 repeat whatever it was that they said. Okay?

8 Now, you folks are having an opportunity that in all
9 candor, most people don't have. You're having the opportunity
10 here this week to sit in on an actual jury trial. Most folks,
11 their experience with jury trials is what they've seen on
12 television or read in books or what they've seen in the
13 movies. And we know what those trials are all about; it's all
14 about entertainment. They're full of high drama and intense
15 action. Now, while any number of those things could occur
16 during this trial, it's important that you keep in mind that
17 this trial is not for your entertainment. This trial is a
18 fundamental part of our democracy. Unlike books and movies
19 and television, during the course of this trial, you may find
20 that things, they may go slow, it may be very deliberate,
21 sometimes it may be repetitive; in other words, it's very
22 different from the television and the movies and the stuff
23 that Hollywood presents. This courtroom is a place of honor
24 that is dedicated to the protection and to the preservation of
25 citizen's rights through what many have called the greatest

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1 justice system ever created. The attorneys that appear before
2 you, they are advocates for their clients and for the parties
3 they represent. But first and foremost, they are officers of
4 the Court, sworn to uphold the integrity and the fairness of
5 our judicial system. You should expect them to be
6 professional, competent and ethical in the performance and the
7 representation of their clients' interests.

8 Now, you've just taken an oath to try this case and to
9 reach a fair and a just verdict and so you are also expected
10 to be professional, reasonable and ethical in the performance
11 of your duties. I have no doubt that you will do that and I
12 want to thank you for your contribution to our criminal
13 justice system here in Horry County.

14 Now, this is not, what I'm sharing with you right now,
15 this isn't a charge on the law, but I will give you a charge
16 on the law at the end of the case before you retire to
17 deliberate. But what I'm going to do right now is just kind
18 of go through some things to explain to you what's gonna occur
19 during the next several hours or days so you'll be able to
20 follow along with what we're doing.

21 In this case, Mr. Campbell is charged by an indictment.
22 He's charged with the criminal offense of trafficking in
23 cocaine and failure to stop for a blue light. The elements of
24 those crimes, I will explain to you later when I give you my
25 charge on the law. But as I told you yesterday, the

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1 indictment is simply the charge by which this case is brought
2 into court and it is not in any sense evidence of any of the
3 allegations that are contained in those indictments. Mr.
4 Campbell has pled not guilty to those indictments and the
5 State therefore has the burden of proving each of the elements
6 of the indictments beyond a reasonable doubt. It's gonna be
7 your duty to determine whether or not the State has met that
8 burden. Your purpose as jurors is to find and to determine
9 the facts of this case. You are the sole judges of the facts
10 in this case. If at any time, I make any comment about the
11 facts or the testimony or the evidence that's presented, you
12 must disregard those comments because only you, the jury, can
13 decide what the facts are of this case. You are to determine
14 those facts from the testimony that you hear from the
15 witnesses who take the stand and any other evidence that may
16 come in during the course of the trial. It is up to you to
17 determine what inferences that you feel may be properly drawn
18 from that evidence. It is especially important that you
19 perform your duty of determining the facts diligently and
20 conscientiously. Because ordinarily, there's no way for the
21 Court to correct an erroneous determination of facts by a
22 jury.

23 Now, on the other hand, but with the same emphasis, the
24 same law that makes you the judges of the facts, makes me the
25 judge of the law. The law as given to you by the Court is the

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1 only law that you may consider. You must accept it and you
2 must follow it even though you may disagree with it. I'm not
3 allowed to tell you or make any comments to you about what I
4 think about the facts or the evidence in this case and you're
5 not allowed to disagree with me about what the law is or what
6 you think the law should be. Your job is to take the law as I
7 give it to you and apply it to the facts as you find the facts
8 from the testimony and the evidence that is produced during
9 the course of the trial.

10 Now, folks, until I advise you that it's appropriate,
11 you're not to have any conversation with anybody about the
12 case. You're not to begin your deliberations in any way and,
13 as I told you yesterday, that even means amongst yourselves.
14 As we take breaks throughout the trial and you step back into
15 the jury room, you're not allowed to have any conversation
16 about anything that is occurring during the course of this
17 trial until I tell you that it is appropriate to do so. It is
18 very important throughout this case to keep an open mind and
19 that you do not decide any issue until all of the evidence has
20 been presented, the parties have had an opportunity to make
21 their closing arguments to you and I've given you the
22 instruction on the law. Now, it is your solemn responsibility
23 to determine the guilt or the innocence of the Defendant and
24 your verdict must be based solely on the evidence as it is
25 presented to you during the course of this trial and on the

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1 law as I give to you.

2 Now, in just a moment, I'm gonna recognize the Solicitor
3 for his opening statement. Typically, what you'll hear in an
4 opening statement is what the State believes the evidence is
5 going to show. Once they've concluded their opening
6 statement, I'll recognize the attorney for the Defense and
7 they may also make an opening statement if they choose to,
8 although they're not required to.

9 What is important to understand about the opening
10 statements is this. What any of the attorneys may say to you
11 is not evidence. It is merely their contention as to what
12 they believe the evidence may show. The evidence in this case
13 that you're gonna have in which to decide this matter will be
14 presented to you by the testimony of witnesses who are placed
15 under oath and take the witness stand and then any other
16 exhibits or any other items that may come into evidence during
17 the course of the trial.

18 Now, from time to time during the trial, you may hear one
19 of the attorneys say something along these lines: Judge, we've
20 got a matter of law we need to take up with the Court or Your
21 Honor, may we approach the bench. If I can resolve a matter
22 of law up here at the bench and have you remain where you are,
23 I'll do that. But, sometimes the issue of law is maybe a
24 little bit more in depth than what I can handle up here at the
25 bench and so I may ask you to step back into the jury room.

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1 Sometimes when I'm dealing with a matter of law, it requires
2 me to make some comment about the evidence or the testimony in
3 connection with that ruling. Well, as I told you earlier, I'm
4 not allowed to influence you in any way about the facts or the
5 evidence in this case. So to protect you from those comments,
6 I may ask you to step back into the jury room, let me resolve
7 that matter of law and then bring you back out and we'll pick
8 up where we left off. Okay?

9 Now, in determining what the true facts are in this case,
10 you are going to have to decide whether or not the testimony
11 of a witness is believable. It's going to be my
12 responsibility to rule as a matter of law whether certain
13 testimony is admissible or not, but once testimony is allowed
14 into this record, whether or not you believe it, is solely up
15 to you to decide. In deciding whether to believe a witness,
16 you have the right to consider the interest of a witness, the
17 bias of any witness, the opportunity for the witness to have
18 seen the matters and the things about which that witness
19 testifies as well as the way the witness acts on the witness
20 stand. You have the right, folks, to consider anything that's
21 in this record that will assist you in evaluating the
22 testimony of witnesses. That means that it is your duty to
23 pay close attention to all of the witnesses and to all of the
24 evidence. Observe the witnesses, listen carefully to the
25 witnesses, to the attorneys as well as to the Court. Pay

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OPENING BY ERVIN

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1 close attention to everything that is presented during the
2 course of this trial so that at the end of all the testimony
3 and all of the evidence, after the attorneys have had an
4 opportunity to address you with their closing remarks and I've
5 given you the charge on the law, you will then be in a
6 position to step back into the jury room and then for the
7 first time, begin your deliberations.

8 Now, before I turn it over to the attorneys, let me first
9 inquire from the State, are there any objections or exceptions
10 to the Court's opening remarks?

11 MR. ERVIN: No, Your Honor.

12 THE COURT: From the Defense?

13 MR. LONG: No, sir.

14 THE COURT: All right. Thank you, gentlemen. Now,
15 ladies and gentlemen, if you'll please give counsel your
16 undivided attention as they address you with their opening
17 remarks.

18 Solicitor?

19 MR. ERVIN: May it please the Court?

20 THE COURT: Yes, sir.

21 OPENING BY ERVIN:

22 MR. ERVIN: Evasion, that's why we're here, ladies and
23 gentlemen. Evasion is defined as an act or instance of
24 escaping or avoiding something. In this case, this Defendant,
25 David Campbell, not once, not twice, three times committed an

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OPENING BY ERVIN

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1 act of evasion. He ran from the police in his vehicle, he ran
2 from the police on foot, he threw drugs hoping that these
3 officers would not find them; three acts of evasion.

4 On November 30th, 2015, Officer Jeremy Crews attempted to
5 stop the Defendant in his vehicle for a traffic violation.
6 The Defendant was the only occupant in that car. As soon as
7 Officer Crews got behind the Defendant, the Defendant took
8 off, sped up, accelerated at a high rate of speed trying to
9 get away from him, evasion. This chase went down Seaboard
10 Street onto 10th Avenue onto Oceola Street and into Sandygate
11 apartment buildings in the City of Myrtle Beach. The
12 Defendant's car hit a curb, spun out, and was undrivable, so
13 he took off on foot trying to get away from Officer Crews once
14 again, evasion. The Defendant ran around the building. I'll
15 have a map later to show you exactly where we're talking
16 about. The Defendant ran around the building into the
17 breezeway that came into the middle of the apartment complex,
18 the first one there right beside Oceola Street, trying to get
19 away from Officer Crews. He exited the breezeway. At this
20 point, backup officers had arrived. Officer Jeremy Neely was
21 coming from the opposite side of the breezeway and made eye
22 contact with the Defendant. The Defendant saw Officer Neely,
23 realized he had nowhere else to go, he turned around, he threw
24 two bags up onto the second floor of that apartment building.
25 Officer Neely saw him. Officer Bo Sauls recovered those bags

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OPENING BY LONG

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1 immediately after this Defendant was arrested by Officer
2 Neely. It will be clear to you that this Defendant was in no
3 mood to be caught and held accountable for his actions and
4 crimes he committed that day.

5 Ladies and gentlemen, the time for evasion is over and
6 now is the time to hold him accountable. After we present the
7 evidence and you hear the witnesses, you will have plenty to
8 fully support your decision to find David Campbell guilty
9 beyond a reasonable doubt of trafficking cocaine and a failure
10 to stop for a blue light.

11 I thank you for your service and your attention.

12 THE COURT: Thank you, sir.

13 OPENING BY LONG:

14 MR. LONG: Ladies and gentlemen, again, I'm Russell Long,
15 and Morgan Martin and I have the privilege of being in Court
16 today and representing the interest of David Campbell. David
17 and Morgan and I, along with the Solicitor, chose the 14 of
18 you to sit here during this trial. Our goal is to get this
19 done today, but I can't promise that; we may go into tomorrow
20 with this case. We chose you because out of a 107-some people
21 that we had to choose from, you, on behalf of the State and on
22 behalf of us, were exactly the kind of people that we thought
23 would give the attention to this case that it deserves. I get
24 to do this; 25 years I've gotten to do this and obviously it's
25 one of my favorite things in the world to do. I like to play

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1 golf, but I like to try cases just as much. For lawyers it
2 can be, you know, somewhat of a game, somewhat of an event,
3 and for lawyers that are as familiar with each other as we
4 are, it's like a friendly game, like a friendly game of tennis
5 or a friendly game of golf. We have one of the more friendly
6 Judges in the world and a fair Judge that's gonna sit with us
7 and we're all very cordial and very friendly, but don't
8 mistake that we disagree completely about the facts of this
9 case.

10 David Campbell did something terribly wrong in November
11 of 2015 when he ran from Officer Jeremy Crews in his vehicle
12 and did try to evade. We'll submit to you, there's a reason
13 for that evasion other than the ones that they've come up
14 with. I've heard jurors say in the past that they -- they
15 don't like to be in a position to judge other people. In
16 fact, the good book says not to judge, and we're always taught
17 by our parents that it's better not to judge other people,
18 just to live your life the way you should. I will tell you
19 that your job is not to judge David Campbell at all. That is
20 not your job. In fact, in a summary of what the Judge told
21 you in his opening remarks, that's exactly what he was telling
22 you was that you're not here to judge David; you're really
23 here to see if the State of South Carolina can prove an
24 allegation.

25 You see, when the police hauls someone to jail, they are

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OPENING BY LONG

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1 accusing him of something. They believe that they did
2 something, but they must prove that. That flag, those flags,
3 our constitution, every single thing that this country was
4 founded on, the absolute beginning of the rock, of the
5 foundation of this country is this, that the government,
6 before they can put you behind bars, must prove to your peers,
7 the ones that you choose to sit and listen and to make certain
8 that they can in fact prove beyond a reasonable doubt that a
9 crime was committed before the government can stick someone
10 away behind bars. And fortunately, we have you to help sit
11 and judge the State's case and see what they did to, to
12 investigate this matter and see what they bring to you as
13 proof. They have the almighty power of the government at
14 their backs. They have millions of ways to, to bring people
15 to court and to prove, and we're gonna see, in this case, all
16 of those things. They're gonna show you numerous pieces of
17 evidence. They're gonna show you a video. And, we chose you
18 because we knew you would sit and judge the State's case, not
19 the lawyers, not the police officers. Everybody involved in
20 this case is doing a job from the very first contact the
21 police had with David Campbell to this very last closing
22 remark by the Solicitor that you'll hear. Nothing but
23 professional people on both sides of this and, in fact, in
24 this entire courtroom.

25 We want you to know that we appreciate the fact that you

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1 are those 14 people that are gonna sit and listen to this and
2 wait until the absolute end of this case before you pass
3 judgment on the State's case. If at the end of this case, you
4 think that the State of South Carolina has proven to you
5 beyond a reasonable doubt that David Campbell did in fact
6 break the law, then it's your job to find him guilty. It's
7 also your job, though, and very importantly so, to make
8 certain that you don't do that unless you are thoroughly and
9 completely convinced.

10 Thank you for your time.

11 THE COURT: Thank you, Mr. Long.

12 All right. The State may call your first witness?

13 MR. ERVIN: The State calls Jeremy Crews.

14 THE COURT: All right. Mr. Crews, if you'd please come
15 around and be sworn.

16 CLERK: Please raise your right hand and place your left
17 hand on the Bible.

18 JEREMY CREWS, HAVING BEEN SWORN

19 TESTIFIED AS FOLLOWS:

20 CLERK: Please state your full name and spell your first
21 and last name for the Court.

22 MR. CREWS: First name is Jeremy, last name is Crews, J-
23 E-R-E-M-Y and C-R-E-W-S.

24 DIRECT EXAMINATION OF JEREMY CREWS BY MR. ERVIN:

25 Q: Good morning, Officer Crews?

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JEREMY CREWS - DIRECT BY ERVIN

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- 1 A: Good morning.
- 2 Q: Officer Crews, can you tell the jury your current
3 occupation?
- 4 A: I work for D.L. Horton as a construction superintendent.
- 5 Q: At one point, were you with Horry County Police
6 Department?
- 7 A: 2007 or February 2007 until December 2015.
- 8 Q: Officer Crews, what was your position on November 30th,
9 2015?
- 10 A: I worked in the Street Crimes Division.
- 11 Q: And what were your typical duties in Street Crimes?
- 12 A: We were a marked unit as under the Narcotics Division.
13 We did drug interdiction, felonies, traffic stops, looking for
14 wanted people, if we had any complaints of high crime areas,
15 we were placed in those areas.
- 16 Q: Did you have any special training and/or certifications?
- 17 A: I'm radar and LIDAR certified. I've been ---
- 18 Q: Let me stop you there. As far as radar certified, what
19 does that entail? What are you able to do with that
20 certification?
- 21 A: That entails operating a radar. Basically, you have to
22 visually estimate speeds before you actually confirm it with a
23 radar unit.
- 24 Q: Did you have a radar equipped in your vehicle on November
25 30th, 2015?

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JEREMY CREWS - DIRECT BY ERVIN

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1 A: Yes.

2 Q: Was it operating?

3 A: Yes.

4 Q: And were you involved in an incident involving this
5 Defendant, David Campbell, that day?

6 A: Yes, I was.

7 Q: Were you requested by some other officers to initiate a
8 traffic stop on Mr. Campbell's vehicle?

9 A: Yes.

10 Q: You were in an unmarked patrol, correct?

11 A: Yeah, I was in an unmarked Dodge Charger.

12 Q: Where did you first see the Defendant's vehicle?

13 A: He was heading westbound on Pine Island Road coming up
14 towards Oak Forest Lane.

15 Q: When did you activate your blue lights and siren?

16 A: I had just made a right-hand turn onto Oak Forest, maybe
17 50 -- 50 or a little more feet from the intersection.

18 Q: Officer Crews, was your patrol car equipped with an in-
19 car camera?

20 A: Yes, it was.

21 Q: Would you explain to the jury how that works generally?

22 A: When you -- you can activate it by your body camera or if
23 you hit the lights on the vehicle, it kicks back a certain
24 amount period of time and that period is not sound recorded,
25 but once you hit your lights, everything from that point on is

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JEREMY CREWS - DIRECT BY ERVIN

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1 audio recorded and video recorded.

2 Q: Is there a delay in that video, such as when you activate
3 your blue lights, does it go back in time at all?

4 A: Yeah, it goes back a time period.

5 Q: Do you know how long that is?

6 A: I think it was a minute. We had just actually moved over
7 to that new camera system probably maybe a month before.

8 Q: Okay. So just so the jury is clear, when you activate
9 your blue lights, it actually shows the images as the patrol
10 car saw them about a minute prior to the activation of the
11 blue light?

12 A: Yeah, just with no sound at all.

13 Q: Okay. Does that recording system turn on automatically
14 or do you control it?

15 A: Well, it turns on automatically with the activation of
16 your lights.

17 Q: Okay. Are you able to pause it?

18 A: No, you can only stop it.

19 Q: Are you able to erase it?

20 A: No.

21 Q: Is any recording made in the normal course of business
22 while you're on duty?

23 A: Yes.

24 Q: What happens to those recordings that are made during a
25 shift?

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1 A: That was a new system; it was wireless. So when you
2 pulled up to the main police department area, any of the
3 precincts, it would upload automatically.

4 Q: So, they all flowed into a server?

5 A: Uh-huh (affirmative response).

6 Q: How long is the recording stored?

7 A: It depends on what you label the case. I don't remember
8 the timeframes of how long they are per label.

9 Q: Are you able to make a copy of the recording?

10 A: You can make -- you can burn a copy if you turned in like
11 a case file.

12 Q: And did you do that in this case?

13 A: Yes.

14 Q: Do you have the ability to alter the recording in any
15 way?

16 A: No.

17 Q: I'm showing you what has been marked as State's Exhibit
18 Number 2 for identification purposes?

19 A: Uh-huh (affirmative response).

20 Q: Do you recognize that?

21 A: Yes.

22 Q: What is it?

23 A: It's the redacted version of the video.

24 Q: Have you reviewed it?

25 A: Yes.

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JEREMY CREWS - DIRECT BY ERVIN

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- 1 Q: Are your initials on that disc?
- 2 A: Yes, they are.
- 3 Q: Is that a fair and accurate representation of the
- 4 incident as it occurred on November 30th, 2015?
- 5 A: Yes.
- 6 Q: As far as you can tell, it's the same video that was
- 7 taken from your patrol car?
- 8 A: Yes.
- 9 Q: Has it been altered in any way?
- 10 A: No.
- 11 Q: When does that recording start?
- 12 A: The recording starts when -- the time period when I
- 13 activate my blue light, the time period before that, I think I
- 14 was making a left-hand turn onto Pine Island from Seaboard
- 15 Street.
- 16 Q: Okay. Let me back up just to be clear for the jury and
- 17 the record. Has it been altered?
- 18 A: It's been cut down. It's not the full length, but it's
- 19 ---
- 20 Q: Okay.
- 21 A: --- not any kind of alteration to the actual ---
- 22 Q: And you were present when that redaction was presented to
- 23 the Court, correct?
- 24 A: Yes.
- 25 Q: And both parties agreed to that?

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JEREMY CREWS - DIRECT BY ERVIN

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1 A: Yes.

2 Q: Okay.

3 MR. ERVIN: Your Honor, I would move for State's Exhibit
4 2 to be entered into evidence.

5 MR. LONG: No objection, Your Honor.

6 THE COURT: Without objection, State's Exhibit 2.

7 STATE'S EXHIBIT NUMBER 2

8 ADMITTED INTO EVIDENCE

9 MR. ERVIN: Permission to publish?

10 THE COURT: Yes, sir.

11 MR. ERVIN: Your Honor, Court's indulgence one moment.

12 THE COURT: Yes, sir.

13 While y'all are doing that, let me -- I forgot I need to
14 mention something to the members of the jury regarding this,
15 this tape.

16 Folks, what, what you're about to watch are, are portions
17 from the officer's video camera that was in his vehicle.
18 What, what occurred was once the officer as he testified,
19 turned on his lights, the camera starts. Well, the camera
20 isn't turned off until the entire investigation or that
21 particular event is over and that went for over an hour, or an
22 hour and twenty-some odd minutes. Counsel for both the
23 Defense and the State got together and a lot of that video is
24 just -- you're sitting there and you're not seeing really
25 anything, you're just seeing people walk around, and so they

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- 1 agreed that they would condense it and just take the relevant
2 portions of that tape, the active relevant portions, and
3 present that during the course of this trial. So, I tell you
4 that, because as you watch the tape, it'll go and then you'll
5 see it switch to another thing, another timeframe, and then
6 it'll switch to another timeframe, and all they've done,
7 through agreement of counsel, they've taken out the dead
8 space. So that's why it's that way. Okay?
- 9 BY MR. ERVIN:
- 10 Q: Officer Crews, while we're working that issue out, I'll
11 move on to what's been marked as State's Exhibit 4 for
12 identification purposes. Do you recognize this photo?
- 13 A: Yes.
- 14 Q: What do you recognize that as?
- 15 A: That is Joe White and then Ocoola and then the entrance
16 to Sandysgate Village.
- 17 Q: And is that where the, we'll call -- we'll say -- is that
18 where the chase ended?
- 19 A: Yes.
- 20 Q: Where the Defendant was ultimately arrested?
- 21 A: Yes.
- 22 Q: And is this a fair and accurate representation of the
23 scene as it -- as you remember it on November 30th, 2015?
- 24 A: Yeah, nothing has changed as far as street-wise.
- 25 Q: You have not altered it in any way?

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1 A: No.

2 MR. ERVIN: Your Honor, at this time, the State would
3 move for State's Exhibit 4 to be admitted into evidence.

4 MR. LONG: No objection, Your Honor.

5 THE COURT: Without objection, State's 4 is in evidence.

6 STATE'S EXHIBIT NUMBER 4

7 ADMITTED INTO EVIDENCE

8 BY MR. ERVIN:

9 Q: Officer Crews, if I could have you step down. If you
10 would just come show the jury with the marker that you have
11 the route that you took in following this Defendant?

12 A: Just mark on the street?

13 Q: Yes, sir. Okay. So, for the record, you drew a blue
14 line, we'll call that eastbound on Mr. Joe White Avenue and
15 then you took a left onto Oceola Street?

16 A: Yes.

17 Q: And then another left into the entrance to Sandygate
18 Apartment Building. If you would just draw a blue circle
19 where the Defendant's car came to a stop? If you would draw
20 another line where you saw the Defendant get out of his car
21 and run to? Where did you -- where did you take your car
22 after you saw the Defendant's car

23 A: He just crashed right here. I took my vehicle around the
24 side, right here ---

25 COURT REPORTER: Mr. Ervin, I can't -- I need him -- I

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1 need to see him.

2 THE COURT: How about y'all switch places? Great the
3 witness face the Court Reporter, and keep your voices up,
4 guys.

5 A: Okay.

6 BY MR. ERVIN:

7 Q: So in the videos we will hopefully see here in a minute,
8 the angle from your patrol car is stopped right here?

9 A: Yes.

10 Q: And it's facing this parking lot?

11 A: Yes.

12 Q: Okay. Where did you see the Defendant run, into this
13 breezeway?

14 A: Yeah, there's a breezeway that goes through the building
15 and out to the other side; it's just straight through the
16 building.

17 Q: Where were you able to see the Defendant last in that
18 breezeway when you're going in?

19 A: Going in was right here where he went into the entrance
20 right here.

21 Q: Did you see him come out the other side?

22 A: No. Well, when he was going into the breezeway, I was
23 exiting my vehicle. When I got out of my car and ran this
24 way, I ran right here around some parked cars that were right
25 here, when I looked over here, Officer Neely -- Detective

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1 Neely and Detective Sauls were attempting to take him into
2 custody right here at the entrance right here to the
3 breezeway.

4 Q: Okay. So, did you ever see the Defendant come out of the
5 breezeway?

6 A: No.

7 Q: Thank you. You may go back to the witness stand.

8 *****OFF THE RECORD*****

9 (REPORTER'S NOTE: State's 2 published - not transcribed
10 herein.)

11 (On the Record.)

12 BY MR. ERVIN:

13 Q: Officer Crews, how fast do you estimate the Defendant to
14 be traveling when you were riding down Seaboard Street?

15 A: Excess of 90. I believe I put in my report the speed
16 because on our camera system it showed if we watched on our
17 end the top speed that I looked at and saw that I hit on
18 Seaboard Street.

19 Q: When the Defendant went into Sandygate, ran on foot and
20 ran through the breezeway, did you see him throw anything?

21 A: No, I didn't see him throw anything.

22 Q: Did you see anyone else in that breezeway?

23 A: No, when I ran up, there was somebody trying to come out
24 of a door, and I remember Detective Sauls was yelling at
25 somebody to shut the door and get back inside.

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1 Q: Did you see that person throw two bags onto the ground?

2 A: No.

3 Q: How did you gain possession of the two bags that were
4 recovered?

5 A: They were in the possession of Detective Sauls and then
6 Detective Rhew came up and handed them or put them on the
7 actual hood of my vehicle.

8 Q: Officer Crews, can you explain what a BEST kit is?

9 A: A BEST kit is anything that needs to be submitted to be
10 tested by the chemist.

11 Q: We saw you in the video opening one of the bags that were
12 recovered; why were you doing that?

13 A: There's a -- we have a thing, it's a cocaine swipe kit.
14 Basically if you test it on the powder, the white-powder
15 substance, it turns blue if it's got the presence of cocaine
16 in it. It's a field test kit just to try -- just so we know
17 what to label it as.

18 Q: So, when you gained possession of the two bags from
19 Detective Sauls, what did you do with the two bags?

20 A: Once I tested them on my hood, I threw them in the BEST
21 kit. I didn't seal it, because what I do is I lock them
22 either in my trunk or in my passenger seat just so they're
23 secured in my vehicle. Usually, when I go back to the police
24 department, what I'll do is I'll weigh them and then I'll
25 detail that in my report.

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1 Q: Is the BEST kit sealed when you put the two bags of
2 cocaine in it?

3 A: Yes.

4 Q: How is it sealed?

5 A: You have to basically fold over the, the flap of it.
6 It's kind of like a seal where if you break it, you'll know
7 it's broken.

8 Q: After sealing it, did you write anything on it?

9 A: On the actual kit?

10 Q: Yes.

11 A: On the outside, I believe you write your name or
12 signature on there.

13 Q: Does the BEST kit have a unique number on it?

14 A: Yes.

15 STATE'S EXHIBIT NUMBER 5

16 MARKED FOR IDENTIFICATION

17 Q: What was the number on this BEST kit? I'll hand you
18 what's been marked as State's Exhibit 5 for identification
19 purposes.

20 A: It's gonna be H013193.

21 Q: Where did you put this BEST kit after sealing it on
22 November 30th, 2015?

23 A: I dropped it in the evidence room. There's a slot that
24 the narcotics go into.

25 Q: Is that a secured location?

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- 1 A: Yes.
- 2 Q: Is it locked?
- 3 A: Yes, and there's cameras there, too.
- 4 Q: Who has access to that?
- 5 A: The evidence the property and evidence people that work
- 6 back there.
- 7 Q: Okay. Do you know who the next person to come into
- 8 possession of the BEST kit was?
- 9 A: Not to my knowledge.
- 10 Q: When did you relinquish it, that BEST kit to the property
- 11 and evidence locker?
- 12 A: Once I got -- once I got back to the police department
- 13 and weighed it just for my report purposes.
- 14 Q: What is the purpose of submitting it to property and
- 15 evidence?
- 16 A: It goes to the chemist so they can test it and confirm
- 17 that it is.
- 18 Q: Officer Crews, during the time that this cocaine was in
- 19 your possession, did you ever do anything to manipulate it in
- 20 any way other than to field test it?
- 21 A: No.
- 22 Q: When you relinquished possession of the BEST kit to
- 23 property and evidence, was the seal intact?
- 24 A: Yes.
- 25 Q: Thank you. And just to be clear for the jury, Officer

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1 Crews, this was the cocaine that were in the two bags that you
2 gained possession of from Officer Rhew?

3 A: Yes.

4 Q: And Officer Rhew, to your knowledge, got the possession
5 of the two bags from Officer Sauls?

6 A: Yes.

7 Q: And to your knowledge, Officer Sauls recovered those two
8 bags from the second floor of the apartment building?

9 A: Yeah, after we got him, Neely and Sauls, we got the
10 Defendant handcuffed, Officer Sauls went upstairs to recover
11 them because somebody had told him that they -- or Detective
12 Neely had told him that he had threw them up there, so he went
13 to actually recover it. I think we were in the process of
14 walking him back to my car at that point.

15 Q: I want to ask you about some of the statements that we
16 heard on that video. Again, you reviewed this video, correct?

17 A: Yes.

18 Q: And you initialed that disc. Did you hear the Defendant
19 state anything about possession of those drugs in that video?

20 A: Not possession of it, he was just saying you didn't see
21 me throw that or I didn't throw that.

22 Q: You Mirandized the Defendant, correct?

23 A: Yes.

24 Q: Did you hear the Defendant say in the video something
25 about throwing the bags?

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1 A: On the video we just watched?

2 Q: Yes.

3 A: I heard him say -- they saw me throw that shit.

4 Q: Do you have any other involvement in this case?

5 A: As far as?

6 Q: After the Defendant was arrested and secured, after the
7 drugs were secured, did you have any other involvement in this
8 case?

9 A: Yeah, I transported him to jail and then I went back to
10 the police department, weighed it, finished my initial or my
11 report, and then obtained the warrants for the trafficking
12 cocaine and failure to stop.

13 Q: And you've had to spend a lot of time with me for
14 preparation of this, correct?

15 A: Yes.

16 Q: Thank you, Officer Crews. Please answer the Defense
17 questions.

18 MR. LONG: May I, Your Honor?

19 THE COURT: Yes, sir.

20 CROSS EXAMINATION OF JEREMY CREWS BY MR. LONG:

21 Q: Officer Crews, good morning?

22 A: Good morning.

23 Q: You, when this video begins, this would be that one
24 minute backup that you told the jury about, right?

25 A: Yeah, it's a time period. I know we had a COBAN system

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1 that was a minute, and there was the new system we had just
2 gotten maybe a month before that.

3 Q: Okay. At the time that the video begins, your vehicle
4 appears to be facing northbound on Seaboard Street at the
5 intersection of Seaboard and Pine Island Road; is that
6 correct?

7 A: Yes.

8 Q: At that moment, when you were positioned there, when this
9 video begins, had you made eye contact with David Campbell?

10 A: From a distance. Once I turned onto -- once I made that
11 left turn onto Pine Island, I could see the, their unmarked
12 truck up there in front of -- because they told me the
13 direction that he was heading back, so I could see the truck
14 that they were in up -- it was a good distance ahead.

15 Q: All right. And at that point, it's true isn't it, that
16 you had not seen David Campbell violate the motor vehicle laws
17 in any way?

18 A: No.

19 Q: And in fact, when you then began to drive westbound on
20 Pine Island Road, we do see David Campbell switching from the
21 -- from the driving lane over into the turning lane and then
22 make a right-hand turn onto Oak Forest Lane?

23 A: Yes.

24 Q: Correct?

25 A: Yes.

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- 1 Q: And then we see him use his right-hand blinker there?
- 2 A: I need to look at the video.
- 3 Q: Well, you watched it yesterday and today; you don't
- 4 remember?
- 5 A: I'd have to look at it because I've seen it -- I saw it
- 6 yesterday at an angle and this one I couldn't see.
- 7 Q: Okay. Did you write David Campbell a citation for not
- 8 using his right-hand turn signal at that intersection?
- 9 A: No, when it was called to me, they had already got him on
- 10 a violation when he made that right -- he made a right-hand
- 11 turn southbound onto Seaboard Street from Pine Island and they
- 12 observed him not use a signal. That's why I came up -- was
- 13 trying to get him ---
- 14 Q: You put your blue lights on and began to follow David
- 15 Campbell because another officer contacted you on the radio
- 16 and told you that he violated the law?
- 17 A: Yeah, they were behind him when he did not signal, from
- 18 what they told me.
- 19 Q: Did they tell you exactly where they were and he was when
- 20 he didn't use a signal?
- 21 A: I knew they were behind him because they were giving
- 22 details of which way he was turning.
- 23 Q: Do you know if it was, for instance, in the city limits
- 24 or out in the county?
- 25 A: It -- that intersection, Pine Island and Seaboard Street,

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1 is the city limits of Myrtle Beach.

2 Q: All right. So, upon the activation of your blue lights,
3 he made that right-hand turn, would that have happened at
4 about the same time because the video begins a minute early --
5 so, when exactly was it that you put your blue lights on in
6 comparison to when he made that right-hand turn off of Pine
7 Island onto Oak Forest Lane?

8 A: When you see the sound kick on, that's -- you'll see
9 there's an L at the top of my screen. That's when you see the
10 lights. When the sound kicks on; that's when the lights kick
11 on.

12 Q: Okay. So, you -- so that would mean, I think, that you
13 turned your lights on once you were on Oak Forest Lane sort of
14 out in front of Costco maybe, correct?

15 A: No, not Costco, almost directly beside Best Buy, that's
16 when you --

17 Q: Okay. All right.

18 A: Yeah, Best Buy is the first one.

19 Q: That's about when you turned your blue lights on?

20 A: Yes.

21 Q: Okay. And then, okay, so fast forward to Sandygate?

22 A: Okay.

23 Q: Do you know -- what do you know about Sandygate Village;
24 what is that?

25 A: It's just like an apartment complex.

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- 1 Q: Okay. How long did you work for the Horry County Police?
- 2 A: Nine years.
- 3 Q: Did you ever work for Myrtle Beach?
- 4 A: Yes, I worked for Myrtle Beach.
- 5 Q: How long did you work for them?
- 6 A: About a year and three months.
- 7 Q: Okay. And when -- we talked about, I hear police
- 8 officers talk, especially from witness stands, they talk about
- 9 high drug traffic areas. In your experience with the county
- 10 and especially with the city, since Sandygate is in the city,
- 11 isn't that area -- this area here considered to be -- what the
- 12 police consider to be a high drug traffic area?
- 13 A: With my experience with the city, I think I made one drug
- 14 case out of there; that was the extent of it.
- 15 Q: Okay. And we're talking about this section here that
- 16 includes Dick's Pawn Shop, Street Reach Ministries and then
- 17 Sandygate?
- 18 A: Yes.
- 19 Q: Right off from Mr. Joe White?
- 20 A: Yes.
- 21 Q: Did you ever work in narcotics or you just always been in
- 22 patrol?
- 23 A: The Street Crimes Division with the county was under
- 24 narcotics.
- 25 Q: Okay. And then you say you came up into Sandygate, you

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1 saw David's vehicle incapacitated, saw David running on foot?

2 A: Yes.

3 Q: You went to chase him and then you apprehended him; is
4 that correct?

5 A: When I came around the side of the building, you hear me
6 key up -- I think I said running in the alley, maybe as quick
7 because I was trying to throw my car in park and get out
8 because I saw him run into the breezeway of the actual
9 building.

10 Q: Okay. What about your body camera?

11 A: Uh-huh (affirmative response)

12 Q: Was it on?

13 A: I don't remember if I activated it. We had just got
14 those and you -- basically what you'd have to do is hit the
15 button twice to activate it. I don't know if it was before or
16 during the actual chase that I activated it.

17 Q: So it was your person?

18 A: It was on me, yes.

19 Q: But we don't know if it was running or recording?

20 A: No, I don't know.

21 Q: We know for a fact that you did not turn in a recording
22 to the Solicitor's office, correct?

23 A: Yeah, no.

24 Q: So if you did record, it didn't make it into their file?

25 A: Yes. Yeah.

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- 1 Q: What was the policy on that at the time; were you
2 supposed to be recording?
- 3 A: I think when we were -- to do a traffic stop, we were
4 supposed to hit it, but, you know, once I activated my blue
5 lights, he accelerated to a high rate of speed, and honestly
6 that's probably the last thing I thought about at that point.
- 7 Q: Okay. And you just gave a reason why you did not record,
8 so is it your position that you did not record now or that
9 you're not sure if you did?
- 10 A: I'm not sure if I did.
- 11 Q: Okay. And, and either -- the camera from your vehicle --
12 at the point where you stop your vehicle and you decide to
13 chase on foot, the cameras shooting out the front of your car,
14 correct?
- 15 A: Uh-huh (affirmative response)
- 16 Q: And you run around the front of your car and we don't see
17 you anymore?
- 18 A: Yes.
- 19 Q: If you had your body camera working, would we have seen
20 David Campbell running out in front of you?
- 21 A: No, because when I came -- I took like a wider step
22 because I didn't know if -- knowing that building and how the
23 breezeway went through, I, you know, I run in that wide angle
24 -- I thought he might try to take off through the breezeway,
25 so I kind of took a wide angle. As I got around the front of

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1 that vehicle, I looked to the right of the breezeway and
2 that's when Detective Sauls and Neely were getting him
3 detained at that point.

4 Q: All right. So then when you turned to, to face Sauls and
5 Neely and David Campbell, we would've seen that on video?

6 A: Yes.

7 Q: All right. Once you -- it sounds like y'all went through
8 his pockets. I heard something about how much money do you
9 have, I put your money back in your pocket; is that correct?

10 A: Yeah, I was searching him before placing him in my
11 vehicle.

12 Q: Did you find anything anywhere on his person that was
13 caused you any concern; a weapon, drugs, paraphernalia,
14 anything like that?

15 A: No, I mean, if I do, I take it, but the only thing I
16 would keep in the front of my car would probably be like a
17 lighter or something like that just out of his pockets.

18 Q: It must not have been a large amount of money; is that
19 correct?

20 A: No, it was not a large amount of money.

21 Q: If it was a large amount, we'd probably know about it,
22 correct?

23 A: We would've seized it.

24 Q: Right. And then I also noticed that once you searched
25 him and found nothing, you took him into custody, you put him

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1 in your vehicle, you then moved your vehicle back around to
2 where he had his accident in his car, correct?

3 A: Yes.

4 Q: And I see, maybe not you, but I see several officers
5 searching his vehicle, correct?

6 A: Yes.

7 Q: Do you know if they got -- did they have any results; did
8 they find anything of concern, any weapons, or any drugs or
9 any large amount of money in his vehicle?

10 A: No, there was nothing in the vehicle.

11 Q: Was the vehicle searched again once it got back to the
12 police department?

13 A: I don't -- we didn't tow it to the police department; it
14 was towed by a wrecker on rotation.

15 Q: Okay. And we see on the hood of the car two separate
16 plastic bags laying on the hood on the car, they seemed to be
17 tied up in a knot because you untied the knot in fact, to do
18 your field test, correct?

19 A: Yes.

20 Q: And for the jury's sake, a field test is something that
21 y'all just kind of dip in there and determine whether or not
22 it's got drugs in the bag; is that correct?

23 A: It is. Because it's a white-powder substance, we grabbed
24 a cocaine swipe. You can either dip in there and touch the
25 powder substance or you can take some out with an object and

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1 swipe it across it and it'll turn blue with the presence of
2 cocaine.

3 Q: Okay. And then so when you went to do that, it was --
4 clearly, there were two separate bags, right?

5 A: Yes.

6 Q: This big bag is the bag that you put everything in and
7 then these bags that are bags inside here that were a part of
8 that as well; is that correct?

9 A: Yes.

10 Q: In fact, if I can approach the witness, Your Honor?

11 THE COURT: Yes, sir.

12 BY MR. LONG:

13 Q: These rectangle bags inside this big bag with the red
14 ziplock, there's three of them, those were not part of what
15 was on the hood of your car?

16 A: No, what we had was two basically like sandwich baggies
17 that were -- had a white-powder substance and they were tied
18 up with a knot.

19 Q: Correct, and I see in here where the two sandwich baggies
20 of kinda -- I guess they're busted open and all the powder is
21 loose inside your bag, correct?

22 A: Inside.

23 Q: So, the bags are broken?

24 A: Yeah.

25 Q: Did you do that or did it come back that way from

1 testing?

2 A: That would be from the chemist; that wouldn't be from me.

3 Q: So you tested them, you tied the knots back, and you put

4 them inside here?

5 A: Yes.

6 Q: And you put them inside there?

7 A: Yeah.

8 Q: And you put them inside here?

9 A: No, I didn't put them in this; this is not ---

10 Q: Okay.

11 A: I would've just dropped them in there to make sure they

12 were secured. I would've put them -- just dropped the two

13 sandwich baggies that were knotted, I would put them in that

14 blue -- this is a sealed envelope.

15 Q: The blue envelope?

16 A: Yeah, and then it has the red seal that you fold over and

17 seal.

18 Q: Okay. And you weighed -- you went back to the department

19 and you weighed the blue bag that contained the two sandwich

20 bags that contained the white powder, correct?

21 A: No, I would weigh the sandwich baggie because when I put

22 that in my car, you see me drop them in there, I didn't seal

23 it. I secure it in my vehicle. I go back and I'll go weigh

24 each individual baggie before I submit in that BEST kit.

25 Q: Okay. So you tied the sandwich baggies back in knots,

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- 1 you dropped them in the BEST evidence bag but did not seal it?
- 2 A: Did not seal it, secured it in my vehicle.
- 3 Q: And then drove it back to Conway?
- 4 A: Uh-huh (affirmative response)
- 5 Q: To the Horry County Police Department unsealed?
- 6 A: Uh-huh (affirmative response)
- 7 Q: And then carried it inside unsealed?
- 8 A: Uh-huh (affirmative response)
- 9 Q: And at some point, weighed it?
- 10 A: Yes.
- 11 Q: And then sealed it?
- 12 A: Yeah, I had to do the paperwork and drop that in there to
- 13 seal it, yeah.
- 14 Q: Okay. And do you recall -- in your process of weighing
- 15 that, do you recall what the -- what your combined weight was?
- 16 A: I'd have to see my initial report that I wrote.
- 17 Q: You're welcome to. Here, I tell you what, I'll show you
- 18 my copy of your initial report if that'll help. And I'll tell
- 19 you what I'll do, I'll ask the question so you can just agree
- 20 or disagree with me. It says here in your report that one bag
- 21 was 6.4 grams and the other 7 grams for a total of 13.4 grams;
- 22 is that correct?
- 23 A: Yes.
- 24 Q: So the weight that you got when you did this weigh and
- 25 you put it in this report, that's correct?

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1 A: Yes.

2 Q: When did you do this report -- how closely after that,
3 did you do this report?

4 A: I did it that shift.

5 Q: Okay. And, and so before you clocked out, clocked out
6 and went home, you actually sat down and typed out this
7 report?

8 A: Yeah, because at the -- this right here, the report of
9 investigation, I submitted to a case file, is just a copy of
10 my actual incident report that's on our system.

11 Q: Okay. Now, as part of arresting David Campbell, you
12 probably ran an NCIC check on him -- in other words, to check
13 and see if he had any outstanding warrants?

14 A: Yes.

15 Q: Did he?

16 A: Not, I don't remember if I did or not -- I don't remember
17 if he had any warrants.

18 Q: Okay. Well, so would it surprise you to know that in
19 fact as you put your blue lights on behind him and he began to
20 run from you, he was wanted by the Horry County Police?

21 A: Did I put that -- if I put that in the report, I would
22 have had it in there.

23 Q: You did not.

24 A: Okay.

25 Q: It's not in your report but ---

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1 MR. ERVIN: Your Honor, objection, it is in the report.

2 MR. LONG: Oh, okay. Well, I ---

3 THE COURT: I think the report speaks for itself; the
4 report speaks for itself.

5 BY MR. LONG:

6 Q: So, again, in your report, it indicates that he was --
7 there was outstanding warrant for David Campbell. So, you
8 would agree with me that as you were chasing him down the
9 road, he had a warrant out for him?

10 A: If that -- yeah, that would be the case.

11 Q: Okay. Now, after you sealed the bag, then you what,
12 burned a copy of that disc?

13 A: The -- we have 10 days to submit the case file. I
14 would've done that case file with that report of
15 investigations and burned a copy within 10 days.

16 Q: All right. Do you direct -- now, so once you do this,
17 fill it out and submit to who; who do you send this to?

18 A: I drop it in property and evidence and it's obviously
19 disbursed to the chemist who can test it.

20 Q: Okay. Who makes the decision on what kind of tests and
21 what kind of forensics and what type of procedures will be
22 done with a bag containing drugs like this.

23 MR. ERVIN: Your Honor, objection. I don't think this
24 witness is qualified to answer that.

25 THE COURT: I mean, if he knows, but if he doesn't, he

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1 can just say he's doesn't -- he's not aware.

2 A: I wouldn't know the answer to that.

3 BY MR. LONG:

4 Q: Let -- let's -- let me give you a hypothetical. If you
5 found a Coca Cola can in -- in a vehicle -- you stopped a
6 vehicle and you found Coca Cola can and you thought that that
7 Coca Cola can may have evidence on it, would you have the
8 ability to ask someone to fingerprint or do DNA analysis on
9 that Coca Cola can?

10 A: It'd probably have to depend on the circumstances of what
11 it's for.

12 Q: All right. Who would you ask to do that for you?

13 A: You could ask crime scene.

14 Q: Okay. So, if you felt like -- like it could yield some
15 results from an investigation by actually testing that, you
16 could ask someone there at the department or maybe send it to
17 SLED in Columbia; is that a possibility?

18 A: With those bags?

19 Q: With anything, any piece of evidence?

20 A: Yeah, you could. You could ask crime scene.

21 Q: Okay. Okay. Does crime scene -- crime scene does
22 fingerprinting?

23 A: Yes.

24 Q: Does crime scene do touch DNA testing?

25 A: I don't know the extent of that.

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1 Q: Does SLED?

2 A: I don't know the extent of that either.

3 Q: Do you know what touch DNA is?

4 A: Not exactly.

5 Q: That's all I have. Thank you.

6 THE COURT: Anything on redirect?

7 REDIRECT EXAMINATION OF JEREMY CREWS BY MR. ERVIN:

8 Q: Officer Crews, just to clear a few things up that Mr.
9 Long asked you. Was part of your duty when you were on street
10 crimes to conduct traffic stops in your marked patrol car for
11 plainclothes officers who were in an unmarked vehicle?

12 A: Yes.

13 Q: And Mr. Long asked you about Sandysgate being a high
14 crime, high drug, drug trafficking area. In your training and
15 experience, would it make sense for this Defendant to go to
16 that exact area and throw drugs that he had on his person?

17 A: Would it -- how do you mean by that?

18 Q: We'll come back to that.

19 A: Okay.

20 Q: As far as the reason -- reason for not recording on your
21 body cam, is it true that this Defendant hit a parked car at a
22 stop light?

23 MR. LONG: Your Honor, he's lead him a couple of times; I
24 would object to him leading.

25 THE COURT: Sustained.

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1 BY MR. ERVIN:

2 Q: How fast was this Defendant going down the street?

3 A: Down Seaboard, in excess of 90, I believe. I put the top
4 speed in my investigation report that I -- that I hit.

5 Q: Did he get out of his car and run from you on foot?

6 A: Yes.

7 Q: In all that excitement and action, did you really think
8 to turn your body cam on?

9 A: No, because once I activated my blue lights, you can see
10 he initially took off at a high rate of speed.

11 Q: Even if you would have activated the body cam, would it
12 have shown this Defendant throwing the drugs on the second
13 floor of that apartment building?

14 A: No.

15 Q: By the time you got to the Defendant, he had already
16 thrown the drugs?

17 A: Yes.

18 Q: As far as the BEST kit or the BEST kit being unsealed
19 during your transport of that to the police department, was
20 the BEST kit in your care and custody the whole time?

21 A: Yes.

22 Q: Did you do anything to manipulate it?

23 A: No.

24 Q: And Mr. Long asked you about the field weight, 13.4
25 grams?

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1 A: Uh-huh (affirmative response)

2 Q: That's not the actual lab weight that would register on a
3 drug report?

4 A: No, that is each individual baggie. As I got it, I
5 weighed each one.

6 Q: With the bags?

7 A: Yeah.

8 Q: And lastly, as far as the fingerprints, did you feel it
9 necessary to fingerprint these bags?

10 A: No, I've never done that.

11 Q: Why would it not be necessary to fingerprint these bags?

12 A: One of our detectives saw him actually throw the
13 narcotics?

14 Q: Thank you, Officer Crews.

15 MR. LONG: Just a couple.

16 RECROSS EXAMINATION OF JEREMY CREWS BY MR. LONG:

17 Q: Officer, what about the -- what about Sauls and Neely,
18 did their body cams catch -- depict David Campbell throwing
19 anything?

20 A: I don't think they were wearing body cams at that time.

21 Q: They weren't wearing body cams?

22 A: No.

23 Q: And the department was under -- they work for Horry
24 County Police as well, correct?

25 A: Yes.

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1 Q: And they were not required to wear body cams?

2 A: They worked in the ATF task force. I know narcotics, the
3 narcotic, when I left, the narcotic division wasn't required
4 to have any kind of body cams at that point, so I assume they
5 were still under that same part.

6 Q: Okay. And, and you charged David Campbell with
7 possession of these drugs, correct?

8 A: Yes.

9 Q: But these drugs were not found on his possession?

10 A: Uh-huh (affirmative response)

11 Q: So, wouldn't it be helpful to this jury to see if David
12 Campbell ever touched these drugs by fingerprinting them?

13 A: Not if there's an officer with my department that
14 visually saw him throw them onto the second floor balcony.

15 Q: So, you just decided not to ask somebody to fingerprint
16 them?

17 A: Yeah, I have never had anybody fingerprint any kind of
18 baggies, drugs-wise, anything like that.

19 Q: Well, we're talking David Campbell; we're not talking
20 about never. Again, you would agree with me that it would be
21 helpful to know whether or not he touched these bags?

22 A: I -- you know, when I -- we had an officer with our
23 department that visually saw him take those two bags and throw
24 them onto the second floor balcony.

25 Q: That's all I have.

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1 MR. ERVIN: Nothing further, Your Honor.

2 THE COURT: Thank you very much, sir, you may step down.

3 MR. ERVIN: Your Honor, I would reserve the right to call
4 Officer Crews, if necessary, in rebuttal.

5 THE COURT: Sure.

6 Mr. ERVIN: The State calls Jeremy Neely?

7 CLERK: Please raise your right.

8 JEREMY NEELY, HAVING BEEN SWORN TESTIFIED

9 AS FOLLOWS:

10 CLERK: Please state your full name and spell your first
11 and last name for the Court.

12 MR. NEELY: My name is Jeremy Neely; J-E-R-E-M-Y, my last
13 name is spelled N-E-E-L-Y.

14 DIRECT EXAMINATION OF JEREMY NEELY BY MR. ERVIN:

15 Q: Good morning, Officer Neely?

16 A: Good morning.

17 Q: I'll call you Detective Neely; I've been calling you the
18 wrong thing all along?

19 A: That's all right.

20 Q: Detective Neely, can you tell the jury your law
21 enforcement background?

22 A: Yes, I've been with the Horry County Police Department a
23 total of 10 years. I also served as a deputy in the Crook
24 County Sheriff's office in Prineville, Oregon for two years.

25 Q: How long have you been with Horry County?

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1 A: A total of 10 years.

2 Q: Do you have any special training and/or certifications?

3 A: I do. I have attended the South Carolina ACE narcotics
4 class. I've also attended the DEA investigators narcotics
5 class. There's been other -- several other smaller classes
6 that I've attended. I've also been a detective in the
7 narcotics division for a total of five years. During that,
8 I've been lead investigator in several narcotics
9 investigations.

10 Q: What's your current duty assignment?

11 A: I'm a detective assigned to the ATF Violent Crime Gang
12 Task Force with the Horry County Police Department.

13 Q: Detective Neely, what was your position on November 30th,
14 2015?

15 A: I was assigned to the ATF Violent Crime and Gang Task
16 Force as rank of detective.

17 Q: And you have -- did you have occasion to become involved
18 in the case against this Defendant, David Campbell?

19 A: I did.

20 Q: What was that involvement?

21 A: We initially -- well, I say we, myself, Detective Rhew
22 and Detective Sauls at the time, were investigating ---

23 MR. LONG: Your Honor, I would object at this moment.
24 We might have a matter to take outside the presence of the
25 jury.

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1 THE COURT: All right. Ladies and gentlemen, let me get
2 you to step back at the jury room. Let me take up this matter
3 of law and I'll bring you back out.

4 Please have no conversation about the case. If you need
5 anything, just let the bailiff know.

6 (REPORTER'S NOTE: Jury exits courtroom. 11:06 A.M. The
7 following takes place outside the presence of the Jury.)

8 BY THE COURT:

9 THE COURT: Yes, sir.

10 MR. LONG: Thank you, Judge. I anticipate that
11 Detective Neely wanted to say that he and his other two
12 colleagues were investigating a house in Socastee and they
13 came up on the house and they saw David Campbell backed in. I
14 would object to any of that. It's irrelevant to the case
15 itself. This is a -- this is a traffic signal case. They
16 made clear that that's what it is. I think it would be
17 prejudicial for any of that before they are behind David
18 Campbell and see him commit a traffic offense. I think that's
19 prejudicial, super-prejudicial in this case and we would
20 object to the admission of any of that.

21 MR. ERVIN: Your Honor, I think it goes to the res gestae
22 of the State's case. And frankly, it would clear it up with
23 the jury why ATF Gang Task Force members are involved in a
24 traffic stop and it's necessary to call a uniformed police
25 officer. I don't intend to say that they were watching Mr.

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1 Campbell specifically, but I feel that the State needs to go
2 into some kind of background into that for res gestae
3 purposes.

4 THE COURT: All right. I'm gonna allow it. I think it -
5 - I think it is relevant. Again, if I -- and I'm reflecting
6 back to yesterday's testimony and so -- and so I don't think
7 this would be the testimony, but I don't believe that Mr.
8 Campbell was the target of any investigation, nothing like
9 that.

10 MR ERVIN: No, sir, and I don't intend to elicit that
11 from any of my witnesses.

12 THE COURT: All right. I'll let you -- I'll allow you to
13 go into how these officers got involved with Mr. Campbell's
14 situation.

15 MR. ERVIN: Thank you, Judge.

16 THE COURT: All right.

17 MR. LONG: Your Honor, if I might, and I know when the
18 Judge rules, you shut up and sit down.

19 THE COURT: No, sir; go ahead.

20 MR. LONG: But the, the -- in essence, these officers
21 had the -- if they felt like there was a reason or they had a
22 reasonable suspicion to stop David Campbell based on what they
23 saw at this place that they were investigating, they didn't do
24 that. And then secondly, they allegedly followed behind him
25 and saw him commit a traffic offense and they didn't even stop

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1 him for that. They passed it on to someone else. Therefore,
2 I think they chose to make -- everything before that is
3 irrelevant. Had they gone on through with what they were
4 doing, it may be relevant, but at the moment where they said,
5 you know what, he committed a traffic offense, they passed it
6 off to somebody else.

7 THE COURT: But that -- but they're involved in Officer
8 Crews getting involved in this case, and to not be able to
9 explain why they called Crews -- and they explained yesterday
10 during the -- I think it was Officer Rhew testified that
11 they're working undercover, so as not to blow their cover,
12 they get a marked unit, and all that's relevant as to why
13 they're involved in this to begin with, why they're -- I
14 believe it was Officer Neely was the first one to make contact
15 with the Defendant on foot.

16 MR. LONG: I agree, that he's -- it's certainly relevant
17 and his testimony is relevant and I think that the explanation
18 of why they got -- why they didn't want to put the blue lights
19 on David Campbell because they're undercover officers and
20 passed it on to another officer for this traffic violation;
21 that's relevant too. But the down in Socastee under a
22 narcotics investigation and see David Campbell pull into the
23 place and back up and leave is not relevant and prejudicial
24 and harmful. It's not related to the case one bit. He's not
25 -- they haven't accused that he purchased drugs at that place.

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1 They did not see anything that they felt was suspicious enough
2 to stop him and search him. Therefore, I believe that all of
3 the concerns that you raised are answered with the same
4 answer. They were in an unmarked car and they needed a marked
5 car to pull him over for the traffic violation; that's an
6 explanation. That's the explanation that they gave. The
7 whole -- the whole process and the investigation in Socastee
8 beforehand is irrelevant and, Judge, they made it irrelevant
9 themselves. They didn't put it in our report. I didn't even
10 get it in discovery. I had to learn about it yesterday. So
11 we would object to it.

12 THE COURT: How far are you going into that, that
13 situation?

14 MR. ERVIN: Your Honor, I only intend to ask Officer
15 Neely what his involvement was, where they were, they were
16 watching a house, they saw the Defendant leave there and they
17 followed him for a little while. And Your Honor knows the
18 case law is clear a pretext for a stop is irrelevant, which
19 suggests the intention of these officers is irrelevant in a
20 probable cause -- they had probable cause when they saw a
21 traffic violation, which is when the ---

22 THE COURT: Well, and that -- exactly. So, I'm gonna
23 allow it. I note your exception to that.

24 MR. LONG: Thank you, Your Honor.

25 THE COURT: Why don't we just take a break while the jury

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1 is out. We'll start back in a couple of minutes.

2 (RECESS - 11:12 A.M.)

3 *****OFF THE RECORD*****

4 (On the Record - 11:20 A.M.)

5 THE COURT: Thank you, folks. Please have a seat.

6 MR. MARTIN: Judge, before you bring the jury back, can
7 we be clear exactly what testimony they're going to elicit
8 from this officer about what happened in Socastee just so we
9 can prevent any objections in front of the jury that we may
10 have, because I don't know what he's gonna say?

11 THE COURT: I assume it's gonna -- well, I shouldn't
12 assume. Why don't we do that?

13 MR. ERVIN: I don't want to speak for Detective Neely,
14 but they were in Socastee responding to a narcotics complaint
15 in a known drug area and they saw this Defendant exhibit
16 behaviors that required further investigation.

17 THE COURT: Backing up to the -- to that residence where
18 the complaint came from?

19 MR. ERVIN: Yes, sir.

20 MR. MARTIN: Well, again, that, you know, when -- my
21 concern was if he's gonna say that he was in a known drug
22 area. If he says he was investigating a complaint and stops
23 at that, then I don't know that I've got any further
24 objections.

25 MR. ERVIN: I think we can settle with a narcotics

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1 complaint.

2 THE COURT: Sure. I mean, that's what gets them
3 involved.

4 MR. ERVIN: Yes, sir.

5 THE COURT: They're not gonna ---

6 MR. MARTIN: Well, let me just put this on the record,
7 then we'll move forward. We object to this line of testimony,
8 anything that goes past the we pulled him over for a traffic
9 violation, because under Rule 602 is there's no foundation on
10 why they would have done that. It's speculative. It assumes
11 facts not into evidence that this is a narcotics violation
12 that they were arresting and that it brings into question
13 hearsay. Where did they get information or the complaint.
14 So, all of that prior to the traffic stop, we would object to
15 it as being in violation of Rule 602 as being speculative and
16 being more prejudicial than probative, and that's it.

17 THE COURT: All right. My understanding is these
18 undercover narcotic agents -- and there's a reason -- the
19 reason I find that it's relevant in the presentation of the
20 case is undercover narcotic agents aren't gonna, as they're
21 driving down the road, call and get assistance because
22 somebody didn't turn on their signal. There's got to be some
23 explanation of why they are involved in this matter. And now,
24 I agree and I think the State's gonna comply with not trying
25 to over-hype it as a high drug area and, and he had no

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1 business being in there and all that stuff, but they were
2 responding a narcotics complaint.

3 MR. MARTIN: Well, Judge ---

4 THE COURT: As a matter of fact -- as a matter of fact,
5 why they can't be there just responding to a complaint?

6 MR. ERVIN: Well, I was -- I think that again, the res
7 gestae, the narcotics needs to be included in there because
8 that's what they do, and I'll stop at narcotics complaint. We
9 don't need to talk about a known drug area or high crime area
10 or anything like that. I don't ---

11 THE COURT: All right. And then of course, I'm gonna
12 give you whatever leeway on cross obviously.

13 MR. MARTIN: Okay. Well, lastly on the record, because
14 I don't want to belabor it right on, but as the basis of the
15 objection, it is the fact that they have -- if I understand
16 the law correctly, they have the right, if there's some -- in
17 situations, if they see somebody in a known drug house, a
18 known drug area, they have the right to stop a car based on
19 reasonable suspicion and/or probable cause to investigate. If
20 they do that, okay. In this case, they did not do that; they
21 did not. For whatever reason, they wait for a traffic
22 violation. And I believe in as much as that's the case, then
23 the other should be excluded.

24 THE COURT: Okay. And I'll certainly every leeway on
25 cross examining them as to that issue.

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1 All right. Let's bring the jury back in.

2 MR. LONG: Judge, my client stepped out.

3 THE COURT: I'm sorry, I forgot.

4 MR. LONG: I'm sorry. He asked me if he had time to get
5 a quick smoke and I said maybe real quick. So, that's where
6 he went.

7 THE COURT: All right. Let's just see if we can find
8 somebody to bring him back.

9 MR. LONG: There he goes.

10 THE COURT: That's fine. All right. Mr. Campbell is
11 back.

12 We'll go ahead and bring the jury in.

13 (REPORTER'S NOTE: Jury enters courtroom. 11:26 A.M.)

14 THE COURT: All right, ladies and gentlemen, thank you
15 for that courtesy. We'll proceed with the State's
16 examination.

17 MR. ERVIN: Thank you, Your Honor.

18 BY MR. ERVIN:

19 Q: Detective Neely, we were getting to the line of
20 questioning about your involvement in this case.

21 A: Yes, sir. Myself and the other detectives that I
22 previously mentioned were in the Socastee area, more
23 specifically Ranchette Circle, investigating recent narcotics
24 complaints.

25 Q: Did you see this Defendant there?

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1 A: I did. When we had pulled into the Ranchette Circle
2 area, if you're familiar with it, it is literally a circle.
3 When we had pulled in, we had observed the Defendant in his
4 vehicle backed into a driveway. As we had completed the
5 circle, the Defendant was still backed into that same
6 driveway. As we passed, the Defendant then we kind of saw him
7 sitting in the vehicle. He saw us and then pulled out behind
8 us and left the area, which is behavior that would draw our
9 attention.

10 Q: At that point, did you get behind the Defendant's
11 vehicle?

12 A: We did.

13 Q: Where did you go?

14 A: We went out onto Socastee Boulevard and then to 17 By-
15 pass northbound.

16 Q: Did you -- did you observe the Defendant commit any
17 traffic violations?

18 A: I did. I observed the Defendant -- the only traffic
19 violation that I observed the Defendant make was making a
20 right-hand turn from Pine Island onto Seaboard Street; it was
21 failure to signal was the violation.

22 Q: At some point, did you get Officer Jeremy Crews involved
23 in his marked unit?

24 A: We did. Once we observed the -- let me back up. Once we
25 observed the Defendant -- it's common practice for us to try

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1 and found out where everybody's at in case something happens.
2 We're a small unit. We like to make sure everybody's in the
3 same area. So, I believe we did contact the street crimes
4 units to kind of see where, you know, they were located, the
5 general area. At which point, when we observed the violation
6 made by the Defendant, we contacted Jeremy and requested his
7 presence there to conduct the traffic stop.

8 Q: Okay. Where did you -- at what point did you get behind
9 the Defendant's car as Officer Crews was behind him and his
10 lights and siren were activated?

11 A: Once Officer Crews made the right-hand turn behind the
12 Defendant, I believe, if I'm not mistaken that's Pine Island
13 -- I'm not exactly sure -- but once the Defendant made the
14 right-hand turn and Jeremy made the -- or Officer Crews made
15 the right-hand turn, we then fell in behind them. Officer
16 Crews' blue lights were activated. At which point, we could
17 actually visually and audibly hear the Defendant speed up and
18 attempt to evade Officer Crews. We activated our lights and
19 sirens at the time and followed with Officer Crews as backup.

20 Q: Where were you when your lights and siren were activated?

21 A: We had just turned in behind Officer Crews. I'm not
22 familiar -- I don't -- I'm not sure of the exact name of the
23 road, but we had turned in behind Officer Crews as he began
24 his pursuit.

25 Q: Detective Neely, you were present here when the video of

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1 Officer Crews' in-car camera was published to the jury,
2 correct?

3 A: Yes.

4 Q: Did you see this Defendant hit the parked car at the
5 stoplight at Seaboard and Oak Forest?

6 A: I did.

7 Q: Were you behind them at that point?

8 A: Yes.

9 Q: And your lights and siren were activated?

10 A: Yes, Detective Crews' lights and sirens were activated; I
11 was in the passenger seat.

12 Q: Okay. And you went down Seaboard Street?

13 A: Yes.

14 Q: Where did you go after that?

15 A: The exact travel, I don't know. I know once we went
16 through Seaboard Street, I know that he had made a right onto
17 10th Avenue. And then at that point, we had kinda of fallen
18 back a little bit from, from Jeremy just because they were at
19 a high rate of speed on Seaboard. I did observe Jeremy go
20 through the parking lot or Officer Crews go through the
21 parking lot and attempt to get out onto 10th Avenue or Mr. Joe
22 White. We came around the -- through the intersection itself.
23 We did not go through the parking lot. At which point, we saw
24 the Defendant as well as Officer Crews make the left on
25 Oceola, and we followed them into the apartment complex. As

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1 we were coming down Ocoola, the Defendant had just hit -- I
2 don't know if it was the curb or the ditch right there at the
3 entrance to the apartment complex causing him to lose control
4 of his vehicle, and we followed right in behind.

5 Q: Did you see the Defendant exit his car and run on foot?

6 A: I did not see him exit his vehicle. However, as we made
7 the turn into the apartment complex, I did observe the
8 Defendant running around the corner of the building and
9 Officer Crews driving his vehicle back behind that building.

10 Q: I'm gonna have you step down and look at State's Exhibit
11 4. If you would indicate your route that were at the
12 apartment complex for the jury. And just for the record, you
13 are using a red pen.

14 A: Once we entered the apartment complex, like I said from
15 Ocoola, the Defendant lost control and wrecked his vehicle
16 right here. Our vehicle was parked approximately here. I saw
17 the Defendant go around this corner of the building as well as
18 Jeremy, or Officer Crews, drive his vehicle back behind the
19 building itself. At which point, I exited the vehicle. I
20 made a line for the breezeway, which is basically right here
21 in the middle of the building, in an effort to cut the
22 Defendant off. I didn't want to follow behind him because I
23 knew that he was either going to either cut through the
24 building here or through the breezeway; that was his only two
25 options. So, in an attempt to cut him off, I traveled to

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1 right here. At which point, the Defendant exited the
2 breezeway. We came face to face and kind of had that
3 recognition moment.

4 Q: How close were you to him when you made eye contact with
5 him?

6 A: I was approximate -- when we met each other, I was about
7 from me to you; so that's probably what, six or seven feet.

8 Q: Okay.

9 A: At which time, the Defendant stopped, turned around and
10 ran back through the breezeway in the same way that he had
11 just come. So, back towards Officer Crews. While doing so,
12 in this breezeway is where the Defendant discarded the
13 narcotics.

14 Q: And you were the one that saw that?

15 A: I was.

16 Q: Can you draw a little circle about where you were when
17 you observed him throw the drugs?

18 A: Yes, the breezeway cuts through here. We were -- we had
19 just -- or I had just entered the breezeway. So, in this area
20 right here is where I -- the balcony runs this way. And so as
21 the Defendant was running through, I saw his right arm go up,
22 I watched the -- what appeared to be a plastic baggie with a
23 white substance in it. I actually saw -- the way it was tied,
24 it looked kind of like it had a tail, fly up over the balcony
25 and landing somewhere up there. At that point, we had gone

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1 past -- under the balcony and I had put my hands on detained
2 the Defendant right in this area here.

3 Q: So, again, how close were you to the Defendant when you
4 saw him throw the baggie?

5 A: When he through the narcotics, I was no more than five or
6 six feet from him, because immediately following that, when we
7 exited through -- our momentum carried us through the
8 breezeway, I was able to detain him.

9 Q: Was it well-lit in that breezeway?

10 A: Absolutely, it was in the middle of the day; so, I could
11 see everything.

12 Q: Was there anybody else in that breezeway?

13 A: No.

14 Q: You're absolutely certain you saw nobody else in that
15 breezeway?

16 A: I'm positive. As we ran through, the bottom was clear,
17 and the top, I could -- when I watched -- when I watched him
18 throw it or the narcotics up, I actually followed it with my
19 eyes to kind of keep track of it and there was nobody on top.

20 Q: And you indicated that you finally got a hold of the
21 Defendant and did secure and arrest him at the original
22 entrance where he first came in?

23 A: Yes, he originally had gone through this entrance. When
24 he saw me, he turned around and went back through. I was able
25 to detain him right here. It was just -- just before -- you

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1 can see where these cars were parked right here, it was just
2 before these cars. We were kind of like down right next to
3 where those vehicles would be.

4 Q: If you would mark an X on -- at the point that you made
5 that arrest for the jury?

6 That's all the questions I have with respect to the map.
7 Thank you.

8 (REPORTER'S NOTE: Witness returns to witness box.)

9 Q: So, when you arrested Mr. Campbell, who else was present
10 with you?

11 A: Detective Sauls had come up behind me as I was taking the
12 Defendant into custody. Jeremy or Officer Crews -- I
13 apologize for keep using his first name -- but Officer Crews
14 had come around the vehicles in the parking lot and he was
15 actually headed -- I could kind of see him in my peripheral
16 vision headed towards me as I had, you know, as I was taking
17 control of the Defendant.

18 Q: Let me ask you about body cams?

19 A: Okay.

20 Q: Were y'all equipped with body cams on November 30th,
21 2015?

22 A: No, we were not.

23 Q: Why not?

24 A: We are a plainclothes unit and county policy at the time
25 did not require that undercover units wear body cams on day-

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1 to-day operations. For obvious reasons, it's very difficult
2 for us to maintain a cover if we have a camera on our chest.
3 So, the county police did not require us to wear one.

4 Q: Okay. So therefore, there would be no other evidence to
5 turn into my office or these two attorneys?

6 A: No.

7 Q: As far as body cameras go, correct?

8 A: No.

9 Q: You were in the courtroom when we watched the video,
10 right?

11 A: Yes.

12 Q: Do you recall hearing yourself as you were chasing this
13 Defendant, if you said anything on that video?

14 A: I did.

15 Q: What was that?

16 A: As we were going through the breezeway and I observed the
17 Defendant throw the narcotics, I started yelling, he threw it,
18 he threw it, for the purpose of letting the other officers
19 around me know that the narcotics are now out of his
20 possession.

21 Q: Was that about 3:10 into the video?

22 A: To the best of my recollection, yes.

23 Q: Who recovered the drugs?

24 A: Detective Sauls.

25 Q: When?

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1 A: Immediately -- well, he -- as we -- as I took control of
2 the Defendant and got him secured, Detective Sauls was right
3 there behind me. I immediately turned and told him, he threw
4 it up there, and Detective Sauls went directly up the
5 stairwell and recovered the baggies at that point.

6 Q: And those were the bags that you saw the Defendant throw?

7 A: Yes.

8 Q: Detective Neely, I'm handing you what's been marked as
9 State's Exhibit 3 for identification purposes. Do you recall
10 what that is?

11 A: That is the redacted video of the incident.

12 Q: Okay. And you reviewed that at some point; is that
13 correct?

14 A: Yes, I did.

15 Q: Is it a fair and accurate representation of the recording
16 that was in Officer Crews' patrol car?

17 A: Yes.

18 Q: And other than the redaction, is there any alteration to
19 it?

20 A: No.

21 MR. ERVIN: Your Honor, at this time, the State would
22 move State's 3 into evidence.

23 MR. MARTIN: No objection.

24 THE COURT: All right. State's 3 is in evidence without
25 objection.

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1 STATE'S EXHIBIT NUMBER 3

2 ADMITTED INTO EVIDENCE

3 MR. ERVIN: I would reserve the right to publish it at a
4 later time.

5 BY MR. ERVIN:

6 Q: After the Defendant was arrested and secured, after the
7 drugs were secured, what did you do?

8 A: Once the Defendant was placed in the patrol vehicle and
9 the narcotics were secured by law enforcement, I had no
10 further action or contact with the Defendant.

11 Q: Even though we saw you ---

12 A: Excuse me, let me preface that by saying, once we moved
13 him from -- I assisted Jeremy or Officer Crews with moving him
14 from the stairwell where he was detained to his vehicle. Once
15 he went in that vehicle, I had no further contact with him.

16 Q: Okay. Thank you. And even though we saw you in that
17 recording in front of the police car doing different things,
18 you had no other material involvement?

19 A: No.

20 Q: You heard some of the statements by the Defendant on the
21 video; did you not?

22 A: I did.

23 Q: Do you recall what those statements were?

24 A: I do. The Defendant stated that he saw me throw that
25 shit.

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1 Q: What, what -- in your opinion, what was he referring to?

2 A: In my opinion, he was referring to the unlawful narcotics
3 that I observed him throw over the balcony.

4 Q: And that was not -- was that in response to any police
5 questioning?

6 A: No.

7 Q: To your knowledge, were any officers over there asking
8 him anything about the incident?

9 A: No.

10 Q: Again, there was no one else in that breezeway during
11 this incident?

12 A: No.

13 Q: Did you see a gentleman up on the second floor open a
14 door?

15 A: I did not.

16 Q: Detective Neely, thank you. Please answer Defense
17 questions.

18 A: Sure.

19 MR. MARTIN: May it please the Court?

20 THE COURT: Yes, sir.

21 CROSS EXAMINATION OF JEREMY NEELY BY MR. MARTIN:

22 Q: Detective Neely, so that I'm clear, when you -- when you
23 say where Mr. Campbell was arrested or detained, was that
24 inside the breezeway or outside the breezeway?

25 A: It was just -- well ---

1 Q: I'm not -- you marked it here.

2 A: Right.

3 Q: And it looks to me like you marked it on the sidewalk out
4 in front, not in the breezeway, so that's what I'm trying to
5 -- you said in the breezeway, where he was detained, but you
6 marked it otherwise.

7 A: Once I was able to put the handcuffs on him, it was in
8 that -- on that sidewalk or next to those cars.

9 Q: All right.

10 A: So, he was actually detained outside of the breezeway.

11 Q: Outside?

12 A: Yes.

13 Q: Okay. That's what -- let me get these two marked as
14 Defendant's 1 and 2.

15 DEFENDANT'S EXHIBIT NUMBER 1 AND 2

16 MARKED FOR IDENTIFICATION

17 Q: And let me ask you this, how are you dressed or how were
18 you dressed on this day and is that the way you usually dress?

19 A: On the day in question?

20 Q: Yes.

21 A: I had a pair of blue jeans on, a t-shirt, a baseball cap,
22 I had a green tactical police vest that's issued by the county
23 as well as my sidearm.

24 Q: All right. And is that normally how you work when you're
25 out doing what you were doing on this day?

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1 A: Yes.

2 Q: All right. And that's the way -- and you had -- that's
3 the way you were dressed as y'all were riding in the vehicle?

4 A: No.

5 Q: No?

6 A: When we were initially in the vehicle, I was only in a t-
7 shirt and blue jeans.

8 Q: All right.

9 A: Once situations arise, we try to put the gear on in the
10 vehicle if it allows.

11 Q: And in this particular instance, when did you put your
12 gear on?

13 A: Once I saw the initial violation by the Defendant, I
14 began to put my vest and my full-size weapon on my gun belt.

15 Q: What initial violation are you talking about?

16 A: The failure to signal from Pine Island to Seaboard.

17 Q: And that's because you anticipated there was gonna be a
18 stop?

19 A: Yes, sir.

20 Q: Okay. Now, Detective or Officer Crews, when you -- when
21 you -- he was part of your team that day, was he not?

22 A: No, sir. They were working in the same area that we
23 were. He was not part of our team.

24 Q: Well, I understood you say that he was, but you don't
25 think he was part of your team?

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- 1 A: We are all under the narcotics umbrella. However, we do
2 separate missions and we work in conjunction very often.
3 During some of our shifts when we're out, we will contact the
4 street crimes and make sure that they are out and about so
5 that we can work together. At other times, we do operations
6 where we specifically work with each other for a certain
7 purpose. This was not one of those times. That's what I mean
8 when I say he's not part of my team.
- 9 Q: So, did you or any of the members with your team, which
10 would be Sauls, you, and Rhew ---
- 11 A: Rhew.
- 12 Q: --- had any contact with Crews that day prior to this
13 time?
- 14 A: I'm sure we have. I don't know the context of that other
15 than, hey, where are you guys working, but I'm sure we did
16 have contact ---
- 17 Q: Did you realize that after you left the Socastee area and
18 you came back into Myrtle Beach, you came in on Highway 17?
19 How did you get back into Myrtle Beach as you were following
20 Mr. Campbell?
- 21 A: On 17 By-pass.
- 22 Q: 17 By-pass. Did you realize that Mr. Crews was on 17 By-
23 pass also?
- 24 A: I have no idea where Officer Crews was.
- 25 Q: You don't remember him testifying to that earlier?

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1 A: Yes, I believe so.

2 Q: All right. When did you make contact with him -- in
3 terms of Socastee to Myrtle Beach, when did you make contact
4 with him about meeting him?

5 A: I didn't make contact with Officer Crews.

6 Q: Who did?

7 A: I don't know. I know that contact was made in the
8 vehicle.

9 Q: When was it made?

10 A: I believe it was after the -- after we initially seen --
11 prior to the violation, when we were traveling or we observed
12 the Defendant, we had called out for -- to see where everybody
13 was at. Once the violation had taken place, that was when, I
14 believe, Officer Crews was contacted and said we have a
15 violation.

16 Q: All right. So, you reached out in anticipation of a
17 violation happening?

18 A: To find out where everybody was, yes.

19 Q: And that was because you anticipated a traffic violation,
20 didn't you?

21 A: Anticipated a violation?

22 Q: Right?

23 A: No, we wanted to make sure that everybody was in the area
24 in case a violation occurred.

25 Q: Well, you -- well, to me that sounds like you kind of

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1 anticipated one; just in case one occurs, we want to know
2 where everybody is, right?

3 A: Absolutely.

4 Q: Of course, now, as far as believing that David Campbell
5 had any drugs on him or not, you had -- if you have probable
6 cause or reasonable suspicion that there were drugs in that
7 car, you didn't have to wait for a traffic violation, did you?

8 A: I did not have to, no.

9 Q: All right. So, you didn't stop him, did you?

10 A: No, I did not.

11 Q: Okay.

12 A: I was the passenger in the vehicle.

13 Q: And that's a vehicle again that has no cameras on it?

14 A: Correct.

15 Q: Right?

16 A: Yes.

17 Q: All right. And when you make a case against a Defendant,
18 would you agree with me that you probably want to garner all
19 the evidence that you can to bring to a jury here so that they
20 can make a decision about guilt or innocence?

21 A: I believe that all pertinent evidence should be
22 presented, yes.

23 Q: All right. And if you don't, oftentimes you get into an
24 I said versus I said situation, don't you?

25 A: Yes.

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1 Q: And you -- of course, you didn't have a body camera at
2 that time?

3 A: No, sir.

4 Q: All right. Did you have a cell phone?

5 A: Yes, sir.

6 Q: All right. And when you got there to, let's go down
7 there to Sandygate?

8 A: Okay

9 Q: And you saw Mr. Campbell turn into Sandygate personally?

10 A: Yes, we actually saw -- well, I saw where he had hit the
11 curb or the ditch or whatever it was when he made that turn.
12 And as soon as we were turning, he was already -- he had hit
13 that, kind of a dust plume kind of thing and he was in the
14 apartment complex.

15 Q: All right. And you were behind Trooper Crews?

16 A: No, I was behind Officer Crews.

17 Q: Officer Crews?

18 A: Yes.

19 Q: All right. And how long did he get there before you did
20 and to where Mr. Campbell's vehicle was?

21 A: As -- as Officer Crews was driving around the corner of
22 the building, we were pulling up to the Defendant's vehicle.

23 Q: All right. So, he had already moved around the corner of
24 the building as you were pulling up behind ---

25 A: No.

1 Q: --- did you stop behind the Defendant's vehicle?

2 A: No. As he was driving around the corner, we were pulling
3 up behind the Defendant's vehicle. So, I saw Jeremy or
4 Officer Crews' vehicle going behind that building. That's
5 where I knew -- that's how I knew where he was going to go.

6 Q: All right. Did you see him get out of his vehicle or
7 just his vehicle go around the building?

8 A: Just him go around the building.

9 Q: All right. And then when your vehicle arrived, what did
10 you do?

11 A: I exited my vehicle or the vehicle that I was riding in
12 and I headed straight for the front side of that building, the
13 breezeway area.

14 Q: And why would you do that?

15 A: Because the -- based on my experience, if a Defendant is
16 running from the police, they rarely run in a straight line.
17 They will often use the terrain or buildings to mask their
18 movements, and I believed I could cut him off if he did that.

19 Q: If he came through there, you could cut him off?

20 A: Absolutely.

21 Q: And you guessed right this time?

22 A: I did, for once.

23 Q: You came through then?

24 A: Yeah.

25 Q: All right. And then where -- and who was with you,

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1 Sauls?

2 A: Well, yes, Sauls was a couple of steps behind me due to
3 the fact that there was some equipment issues with the vehicle
4 and he had difficulty exiting the back of the vehicle. He was
5 in the backseat.

6 Q: Getting out of the backdoor?

7 A: Yes.

8 Q: All right. But he was coming in behind you?

9 A: Correct.

10 Q: And how far behind, you said a couple of steps behind
11 you?

12 A: I would have to estimate because I wasn't looking behind
13 me, so I don't really know. I know he was on my pretty fast
14 after I had made contact with the Defendant.

15 Q: All right. And what we do know is that -- you testified
16 that Campbell was coming through the breezeway?

17 A: Yes.

18 Q: And when you encountered him, were you in the breezeway
19 or was he exiting the breezeway?

20 A: He was exiting the breezeway.

21 Q: All right.

22 A: And I was on the grass.

23 Q: You were on the grass?

24 A: Yes.

25 Q: And then he turns around?

- 1 A: Yes.
- 2 Q: And goes back through?
- 3 A: Uh-huh (affirmative response)
- 4 Q: All right. And where -- and then you apprehend him on
- 5 the other side of the breezeway where the X is?
- 6 A: Uh-huh (affirmative response)
- 7 Q: Okay. And did you see any civilians at all there at that
- 8 time?
- 9 A: I did not.
- 10 Q: How long would you estimate, of course it's on there, and
- 11 you say -- did you hear him say, what, I threw the drugs?
- 12 A: I'm sorry? Oh, once he's in the patrol vehicle, yes, I
- 13 hear the Defendant say he saw me throw that.
- 14 Q: And you say -- that you say on the tape, you yelled out,
- 15 he threw it, he threw it.
- 16 A: Correct.
- 17 Q: Do you have body mics on?
- 18 A: No, you can actually hear it on Officer Crews' mic.
- 19 Q: All right. But I'm asking you. All right. So, you say
- 20 you can hear that, but did you have a body mic of any kind on?
- 21 A: No, I did not.
- 22 Q: No body camera, no body mic?
- 23 A: No, sir.
- 24 Q: Okay. You had your cell phone with you?
- 25 A: I did. I had my county issued cell phone with me.

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1 Q: All right. And do you know then did he throw -- you're
2 familiar -- did you take any pictures of the breezeway to show
3 this jury?

4 A: I did not.

5 Q: Why not?

6 A: I was not the investigating officer in the case.

7 Q: Who was the investigating officer?

8 A: Officer Crews.

9 Q: Was it his -- who initiated this traffic stop?

10 A: Officer Crews.

11 Q: No, no, who called Crews and said we want you to stop a
12 certain car?

13 A: We called Officer Crews and informed him that we had seen
14 a violation. Officer Crews initiated the traffic stop.

15 Q: All right. But, but, in a real world, you guys are the
16 narcotics team and you go around and decide if there's a
17 violation and we'll stop this guy, and then you get Crews to
18 come in and do it for you, to stop the car for you?

19 A: Yes, sir.

20 Q: But it's your investigation and it's your case, isn't it?

21 A: No, sir.

22 Q: It's not; it's his?

23 A: Yes, sir.

24 Q: How would you define your role?

25 A: Excuse me? I wasn't -- well ---

- 1 Q: How would you define your role?
- 2 A: In this particular case?
- 3 Q: Yeah?
- 4 A: I was a backup officer to Officer Crews' arrest.
- 5 Q: Okay. And the other officers were the same, right?
- 6 A: Yes.
- 7 Q: All right. But now what we do have is there are -- Crews
- 8 and the three of you are there, right?
- 9 A: Yes, sir.
- 10 Q: All right. And to your knowledge, did any of you take
- 11 any photographs of the area?
- 12 A: I can only speak for what I did and I did not take any
- 13 photographs.
- 14 Q: All right. Have you seen any photographs that were taken
- 15 by any of the other officers?
- 16 A: No, I have not.
- 17 Q: All right. Do you know whether or not anybody took a
- 18 picture of the drugs as they lay where you say they were
- 19 found?
- 20 A: I do not know that.
- 21 Q: Why would you not do that?
- 22 A: I was not there.
- 23 Q: Why would you not do that?
- 24 A: I did not recover the narcotics, so I don't know.
- 25 Q: Do you think Officer Sauls should've done it?

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1 A: I cannot speak for what Officer Sauls did or didn't do.
2 You'll have to ask him.

3 Q: Do you have any policies related to -- so now we've got
4 Crews and the three of you narcotics officers there. Do you
5 have any policy at all about preservation of evidence or crime
6 scene photographing or anything like that?

7 A: I'm sure there is. I can't speak to them verbatim. I
8 don't -- I don't know for sure what they say. I mean, I'm
9 sure there is a policy. There's a policy for almost
10 everything.

11 Q: All right. Did you actually see the drugs as they lay
12 upstairs?

13 A: No, the first time I saw the narcotics was when they
14 exited the Defendant's hand.

15 Q: Okay. And there's -- in the video that they showed,
16 there's some cameras there at Sandygate apartment that you can
17 see outside. Did you get footage from those cameras?

18 A: I did not, no.

19 Q: Did you attempt to get any footage from the cameras?

20 A: I did not, no.

21 Q: Did anybody at your direction attempt to get any footage
22 from the cameras?

23 A: I did not direct anyone to do anything.

24 Q: Did you ask anybody to do anything?

25 A: No, sir.

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- 1 Q: Were you the one in the video using your cell phone to
2 show Officer Crews something on the cell phone?
- 3 A: No, sir; I was not.
- 4 Q: Who was that?
- 5 A: I believe that was Detective Rhew.
- 6 Q: Were you present when that was happening?
- 7 A: I was.
- 8 Q: What was he -- what was on the cell phone?
- 9 A: I could not remember.
- 10 Q: Wasn't relevant to this case that you know of?
- 11 A: Not that I'm aware of, no.
- 12 Q: Do you ask or advise anybody to fingerprint these
13 packages?
- 14 A: No, I did not.
- 15 Q: Did you advise or ask anybody to preserve them for DNA
16 testing?
- 17 A: No, I did not.
- 18 Q: And you would agree with me that fingerprints and DNA
19 testing is two ways to determine whether or not David Campbell
20 had the packages or not, wouldn't you?
- 21 A: If there was a question if David Campbell had the
22 packages, yes.
- 23 Q: All right. But I understand, going back to what I said
24 earlier, when you are working a case -- and how long have you
25 been a police officer?

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1 A: Twelve years now going on 13.

2 Q: All right. And you've got the video and that was brought
3 to the jury and you showed the police the video because it was
4 the best evidence of the chase, wouldn't you say?

5 A: Yes, sir.

6 Q: Doesn't have to take your word for that, did we?

7 A: No.

8 Q: All right. But in this instance, we don't have any video
9 footage of the chase of Mr. Campbell ---

10 A: Uh-huh (affirmative response)

11 Q: --- the throwing of any drugs, the retrieval of any
12 drugs, no fingerprinting, no DNA. Wouldn't it have been
13 better to have done some of those things as you did the video
14 -- you didn't stop him with your car because you -- you wanted
15 a traffic officer to stop with the video?

16 A: Right.

17 Q: There were many things you could've done?

18 A: Those things you would have to ask Officer Crews. I did
19 not have control over those items.

20 Q: So, Crews was in charge of all that?

21 A: It was his case.

22 Q: You would agree with me those would be good ideas,
23 though, wouldn't you?

24 A: If there was a question as to who had possession of the
25 narcotics, absolutely.

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- 1 Q: Well, in your mind, maybe there's no question.
- 2 A: Right.
- 3 Q: But Mr. Campbell says that's not what happened; that he
- 4 didn't have the narcotics.
- 5 A: Absolutely.
- 6 Q: So, here's -- that's the reason we're in court today.
- 7 A: Uh-huh (affirmative response)
- 8 Q: And the jury is over here gonna make a decision?
- 9 A: Yes.
- 10 Q: So, wouldn't you agree the more evidence they've got, the
- 11 better it would be for them?
- 12 A: I think all the evidence would be, yes.
- 13 Q: Let me show you what is marked as Defense Exhibits Number
- 14 1 and 2 and ask you if you can identify what is depicted in
- 15 those photographs?
- 16 A: Those appear to -- this one I'm not sure, but that
- 17 appears to be a breezeway through the Sandygate apartments.
- 18 It looks like maybe Building ■.
- 19 Q: All right. So, this is Defense Exhibit Number 2 and is
- 20 that the building that Mr. Campbell was apprehended near?
- 21 A: Judging by this photo, it appears that this would be,
- 22 yes, right about this area would be where Mr. Campbell was
- 23 apprehended.
- 24 Q: All right.
- 25 A: Excuse me.

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1 Q: Now, let me show you again ---

2 MR. ERVIN: Your Honor, I would object to these pictures.
3 I don't think we can authenticate, even by Detective Neely's
4 testimony, that this is Sandygate or that this is
5 representative of that apartment building in question.

6 MR. MARTIN: Well, I think he just did that on Number 1.

7 THE COURT: Well, I think he just testified that that was
8 the breezeway at Sandygate, did he not?

9 MR. ERVIN: I think -- I thought he had a question as to
10 what building it was.

11 A: I believe my exact words were to the best of my
12 knowledge.

13 THE COURT: Okay.

14 BY MR. MARTIN:

15 Q: We'll start over.

16 A: Okay.

17 Q: Let me ask you this, Where is your written report of the
18 events of that day?

19 A: I did not do a written report.

20 Q: You didn't do a written report?

21 A: No, sir.

22 Q: Did you do an investigative report?

23 A: No, sir.

24 Q: Did you make any notes anywhere of what occurred?

25 A: I did not. I gave my statement to Officer Crews.

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JEREMY NEELY - CROSS BY MARTIN

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- 1 Q: An oral statement or did you give a statement in writing?
- 2 A: A oral statement.
- 3 Q: And when did you give it to him?
- 4 A: At the incident location.
- 5 Q: All right. So, this happened a year and a half ago,
- 6 right?
- 7 A: Approximately.
- 8 Q: November 30th, approximately a year and a half ago?
- 9 A: Uh-huh (affirmative response)
- 10 Q: All right. But you don't -- you don't have one shred of
- 11 paper about what happened?
- 12 A: No, sir.
- 13 Q: No pictures?
- 14 A: No, sir.
- 15 Q: No notes?
- 16 A: No.
- 17 Q: Is that -- is that policy for the Horry County Police
- 18 Department?
- 19 A: I don't know what the policy actually says in regards to
- 20 that. I know that I gave my statement to Officer Crews. I
- 21 also informed the road officer or road supervisor what had
- 22 taken place as well as my supervisor. The following day, I
- 23 had also advised the deputy chief of police at the time, what
- 24 had taken place and none of the supervisors asked me for a
- 25 report.

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1 Q: Well, but I guess what I -- and you know and I don't
2 know, okay?

3 A: Uh-huh (affirmative response)

4 Q: But I'm asking you, Horry County Police policy for you
5 does not require you to file a written report of any
6 investigation or arrest or activity on your part?

7 A: It depends on the role that I take in that case -- in any
8 particular case.

9 Q: Well, in this particular case, you are the only one who
10 saw him throw drugs, right?

11 A: Yes.

12 Q: You are the one that apprehended him, right?

13 A: Yes.

14 Q: You laid hands on him, right?

15 A: I did.

16 Q: So, if you didn't -- wouldn't write a report in that kind
17 of case, what kind of case is it that you write reports on?

18 A: If I was the lead investigator of the case, I would've
19 done all the report as well as the case file.

20 Q: Well, who was the lead investigator?

21 A: Officer Crews.

22 Q: Crews, the patrol officer was the lead investigator?

23 A: Yes, sir.

24 Q: Okay. Well, let me go back then. But you don't -- but
25 to your recollection, let me ask you again if you can identify

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1 what is depicted in Defense Exhibit Number 2?

2 A: Well, like I said, to the best of my knowledge, that

3 appears to be the breezeway at Sandygate.

4 Q: All right. And then Defense Exhibit Number 1?

5 A: That one I can't tell. That has no markings on it; it

6 just has a stairwell and a hallway.

7 Q: Well, as you compare 1 and 2 -- well, let me ask you

8 this, Would you agree with me that Defense Exhibit Number 1

9 appears to be the same stairwell that appears in Exhibit

10 Number 2?

11 A: No, I cannot agree with that.

12 Q: You can't agree with that?

13 A: No, sir.

14 Q: Well, let me just ask you ---

15 A: Okay.

16 Q: As to Defense Exhibit 1 and 2, 1 first of all, is that

17 the breezeway that you saw David Campbell throw drugs?

18 A: It appears to be a similar breezeway.

19 Q: Well, is it or can you say or not?

20 A: I don't know.

21 Q: You don't know?

22 A: I know that that one looks similar, but I don't know that

23 that's the exact ---

24 Q: You don't have any notes to refer back to or any pictures

25 to refer back to?

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JEREMY NEELY - CROSS BY MARTIN

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1 A: No, not with me, no. No, I don't have anything.

2 Q: And then on Defense Exhibit Number 1, the same thing?

3 A: Yeah, I couldn't tell you; I don't know.

4 Q: All right. We would move to enter into evidence Exhibit
5 Number 1 and 2?

6 MR. ERVIN: Objection, lack of foundation and
7 authentication.

8 MR. MARTIN: Well, Judge, this is the -- again, this is
9 the officer who made the arrest in the very stairwell, in the
10 very staircase that he's testified about.

11 THE COURT: I understand that, but ---

12 MR. MARTIN: But now -- now, he ---

13 THE COURT: He can't sit here and testify that that
14 picture is that stairwell.

15 BY MR. MARTIN:

16 Q: All right. And as to Number 2, is it?

17 A: It appears similar, yes, sir. I don't know.

18 Q: Well, I would submit that that's good enough.

19 MR. ERVIN: Objection, that's not his -- his call to make
20 then, Judge.

21 THE COURT: Sustained.

22 MR. MARTIN: All right.

23 BY MR. MARTIN:

24 Q: Let me ask you this, Do you remember which building you
25 testified that Mr. Campbell ran through?

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JEREMY NEELY - CROSS BY MARTIN

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1 A: It was the first building on the right as you enter
2 Sandygate.

3 Q: All right. And do you know whether or not that's
4 Building Number ■ as depicted in the photograph?

5 A: I don't know what the markings are on that building. I
6 know the location of the building.

7 Q: Okay.

8 A: I would assume that it is Building ■, it's the first
9 building, but I don't know for sure.

10 MR. MARTIN: One second, Judge.

11 THE COURT: Yes, sir.

12 BY MR. MARTIN:

13 Q: Let me ask you this?

14 A: Yes, sir.

15 Q: In that stairwell ---

16 A: Yes, sir.

17 Q: --- where you say you say David Campbell throw the drugs
18 ---

19 A: Yes, sir.

20 Q: Can you describe for the jury what -- how the staircase
21 is constructed?

22 A: There is a -- if I remember correctly, there is a
23 stairwell on each side that goes up to a joining balcony where
24 there are doors, front doors for apartments on the top.

25 Q: All right. And is ---

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- 1 A: It's a -- I believe it was a metal construction.
- 2 Q: The stair themselves?
- 3 A: Yes, I don't believe they were wood.
- 4 Q: And does the stairs have railings on them?
- 5 A: The top did have a railing. I'm not sure if the stairs
- 6 themselves, I would assume so, but I don't recall. I know the
- 7 top had a railing.
- 8 Q: The top had a railing; did it have anything else?
- 9 A: Not that I recall.
- 10 Q: All right. Was there any fencing on it?
- 11 A: I don't recall.
- 12 Q: Well, you, you saw -- where you saw the -- this is my
- 13 question to you. Where you saw him throw the drugs ---
- 14 A: Uh-huh (affirmative response)
- 15 Q: --- you said your eyes went up and you observed it?
- 16 A: Yes.
- 17 Q: All right. Did it go through the railings or over the
- 18 railings?
- 19 A: Over the top.
- 20 Q: All right. And do you recall what kind of -- if there
- 21 was any fencing at all on those staircases?
- 22 A: I don't recall, to be -- when I saw that, I focused on
- 23 what I needed to focus on.
- 24 Q: Which was what?
- 25 A: The drugs. I did not -- I don't recall if there was

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JEREMY NEELY - CROSS BY MARTIN

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1 fencing on the railing. I know there was a railing because it
2 went up and over, but I don't recall the actual construction
3 of it.

4 Q: But you didn't stop, you went on after David?

5 A: Absolutely.

6 Q: All right. And where was Officer Crews at the time you
7 saw the drugs thrown, if you know?

8 A: I don't know.

9 Q: Where was he at the time that you laid hands on David
10 Campbell down the -- where X marks the spot?

11 A: I could see Officer Crews in my peripheral. He had
12 actually ran around the vehicles in the parking lot and was
13 coming back down the sidewalk towards us.

14 Q: He was trying to get to the same spot you were at that
15 point in time?

16 A: Yes.

17 Q: All right. So, you had run from out where your car was
18 parked all the way through the breezeway, onto the sidewalk
19 where Campbell was before Crews could get to that point after
20 he had driven his car around in front of Building Number 1?

21 A: To the -- I mean, that's where I remember him being, yes.

22 Q: How fast were you running?

23 A: I have no idea.

24 Q: Well, I mean, run it again -- I know you don't know how
25 fast, but I mean ---

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JEREMY NEELY - REDIRECT BY ERVIN

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1 A: I'm pretty quick, but I don't know.

2 Q: You got there as quick as you could?

3 A: Yes, sir.

4 Q: Is that the way it goes? When you saw David, what was he
5 -- was he running towards you or walking towards you or what?

6 A: He was running towards me.

7 Q: The in-car video, he said -- I could hear him say, he
8 says, he says he saw me throw that stuff.

9 A: Yes, sir.

10 Q: Did you hear that?

11 A: I did.

12 Q: And did you hear anything in addition to that that he
13 says about throwing things?

14 A: I did. Prior to him saying that he saw me throw that
15 stuff or he uses a different word obviously, but during the
16 recording, I heard, he saw me throw it. It almost sounded to
17 me like on the video that he was speaking to himself, and then
18 when he said, he saw me throw that stuff, he was speaking
19 louder like he was trying to get to somebody outside the
20 vehicle.

21 Q: Okay. Well, that was before he was -- okay. That's all
22 the questions I have at this time, Judge.

23 THE COURT: Redirect?

24 REDIRECT EXAMINATION OF JEREMY NEELY BY MR ERVIN:

25 Q: Detective Neely, Mr. Martin says or asked you, it would

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1 be good to have DNA or fingerprints, and in some cases that's
2 correct?

3 A: Yes.

4 Q: Right?

5 A: Correct.

6 Q: In this case, in your training and experience, was it
7 necessary?

8 A: No, sir. As a matter of fact, based on my experience, if
9 there is a known suspect in the case, SLED will not do DNA,
10 touch DNA on an item.

11 Q: Because here we have personal ---

12 THE COURT: Objection. Wait -- wait -- wait a minute. I
13 object to the answer that he has. He's testifying to facts
14 that are not into evidence and that are hearsay.

15 MR. ERVIN: He said that in his experience, he was told
16 that he could not do something; that's an action.

17 MR. MARTIN: Well, that's a definition of hearsay.

18 THE COURT: All right. Strike that. Sustained.

19 MR. ERVIN: I'll rephrase it. Thank you, Judge.

20 BY MR. ERVIN:

21 Q: Detective Neely, have you ever submitted anything to SLED
22 for DNA and/or fingerprint testing that's been rejected?

23 A: I have.

24 Q: What was the reason?

25 A: The reason was that we had a known suspect in the case

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JEREMY NEELY - REDIRECT BY ERVIN

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1 and they would not do the touch DNA on the item.

2 Q: And because you had a known suspect in this case and, in
3 fact, you observed him throw those drugs, you determined it
4 was not necessary to conduct fingerprint or DNA testing on the
5 bags, correct?

6 A: I was not the officer to make that call. However, if I
7 was that officer, I would not have submitted it for touch DNA
8 or fingerprint testing.

9 Q: As far as you not having any supplemental report or any
10 additional comment, Officer Crews' report included everything
11 about this that needed to be included; is that right?

12 A: Yes.

13 Q: Was there anything left out that, that should have been
14 put in there?

15 A: No, sir, not to my knowledge.

16 Q: So, it's fair to say, that encompassed this whole
17 incident in one report?

18 A: Yes.

19 Q: And you took an oath a little while ago, you're looking
20 this jury in the eye and telling them what happened. In your
21 opinion, is that more important that a piece of paper that
22 would have included the same information that was in Jeremy
23 Crews' report?

24 A: Without a doubt.

25 Q: Thank you, Detective Neely.

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JEREMY NEELY - RECROSS BY MARTIN

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1 MR. MARTIN: Just a couple of questions.

2 THE COURT: Yes, sir.

3 RECROSS EXAMINATION OF JEREMY NEELY BY MR. MARTIN:

4 Q: There is no question -- and you've been a police officer
5 how long?

6 A: Twelve years.

7 Q: All right. And if you handle a package, then you very
8 well may leave fingerprints on it; would you agree with that?

9 A: Yes.

10 Q: And touch DNA on it?

11 A: Yes.

12 Q: Would you agree with that?

13 A: Yes.

14 Q: And it can be tested in science to determine whether or
15 not any exist or not and you would agree with that?

16 A: They tell me -- yes, as far as I know, yes.

17 Q: I'm not talking about SLED policy ---

18 A: No, no, no, I know.

19 Q: --- that they would or wouldn't do it, can you do it or
20 not?

21 A: I cannot.

22 Q: You cannot, but every day the Horry County Police
23 Department has items tested for fingerprints and DNA, do they
24 not?

25 A: I'm sure they do.

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ROBERT SAULS - DIRECT BY ERVIN

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1 Q: Thank you.

2 THE COURT: All right. Thank you very much, sir. You
3 can step down.

4 Let me get y'all to step up real quick and let me ask you
5 a question before we get -- before we proceed.

6 (REPORTER'S NOTE: A bench conference was held off the record
7 in the presence of but out of hearing of the Jury.)

8 THE COURT: All right. You may call your next witness.

9 MR. ERVIN: Thank you, Judge. The State calls Detective
10 Bo Sauls.

11 ROBERT SAULS, HAVING BEEN SWORN

12 TESTIFIED AS FOLLOWS:

13 CLERK: Please state your full name and spell your first
14 and last name for the Court.

15 MR. SAULS: My name is Robert Christopher Sauls. First
16 name is spelled R-O-B-E-R-T; last name is Sauls spelled S-A-U-
17 L-S.

18 DIRECT EXAMINATION OF ROBERT SAULS BY MR. ERVIN:

19 Q: Good afternoon, Detective Sauls?

20 A: Good afternoon.

21 Q: Please tell the jury your law enforcement background?

22 A: I'm currently employed with the Horry County Police
23 Department at the rank of detective. I also own a task force
24 officer spot with the ATF Gang and Violent Crimes Task Force.
25 I have been with the Horry County Police Department for just

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1 over 10 years.

2 Q: Do you have any special training and/or certifications?

3 A: I received training in multiple disciplines of street
4 gang identification and investigations through the South
5 Carolina Criminal Justice Academy. I also have a
6 certification as an ATF undercover investigator.

7 Q: What's your current duty position?

8 A: I am attached to the ATF Gang and Violent Crimes Task
9 Force as a task force officer for the Horry County Police
10 Department.

11 Q: What was your duty position on November 30th, 2015?

12 A: It was the same. I was in the same position.

13 Q: And did you have occasion to become involved in the case
14 against this Defendant, David Campbell?

15 A: I was.

16 Q: How did your involvement begin?

17 A: The involvement began as Detective Neely stated. We were
18 in the area of Socastee responding to narcotics complaints.
19 As we entered the Ranchette Circle area, we did notice a
20 vehicle that was backed into a house. As we proceeded around
21 and came back to the other side of Ranchette Circle, we
22 noticed the vehicle was occupied by the Defendant, Mr. David
23 Campbell solely. Shortly after we passed him, he saw us; we
24 saw him, he pulled out behind us. We proceeded to Socastee
25 Boulevard and then onto 17 By-pass where we headed northbound.

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1 During that time, Mr. Campbell's vehicle did get in front of
2 us. We, we noted to officers that were in the area that we
3 were following a vehicle. He turned onto Pine Island Road
4 from 17 By-pass north and when he turned from Pine Island
5 south onto Seaboard Street, he failed to signal. He made a U-
6 turn, came back to Pine Island and made a left-hand turn onto
7 Pine Island. Shortly thereafter, Officer Crews got to where
8 we were, which was directly behind Mr. Campbell and initiated
9 his traffic stop.

10 Q: And that was at the direction of one of you guys in your
11 vehicle?

12 A: That was. To the best of my memory, it was me actually.
13 I was in the rear seat of the vehicle. I was handling radio
14 communications during the chase. So, in all honestly, it
15 would probably be me that would've contacted him.

16 Q: Okay. So, you observed Officer Crews get behind the
17 Defendant's car and activated his blue lights and siren?

18 A: I did.

19 Q: And you observed this Defendant speed away from that?

20 A: I did.

21 Q: Did you observe the Defendant hit that parked vehicle at
22 the corner of Seaboard and Oak Forest Lane?

23 A: I did.

24 Q: And the chase then went down Seaboard; where did you go?

25 A: That's correct. It proceeded, I would say it was

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1 northbound down Seaboard. He made a turn, a right-hand turn
2 onto 10th Avenue and Mr. Joe White Avenue. Officer Crews went
3 to the parking -- the parking lot at that establishment there;
4 we went around through the intersection, caught up shortly
5 after they turned onto Oceola.

6 Q: I'll have you step down and indicate your route on this
7 map? This is State' Exhibit 4, we're gonna be marking on.
8 For the record, you will be in a black pen.

9 A: After we traveled this distance, our vehicle was parked
10 right here. Detective Neely exited the vehicle and went in
11 pursuit of Mr. Campbell. I actually took up pursuit as well.
12 I ended up coming in direct -- the same direction as Officer
13 Neely. As I approached this, I did not see Mr. Campbell. I
14 did, however, see Officer Neely enter this breezeway. When I
15 came through the breezeway, I saw Officer Neely had taken him
16 into custody or was in the middle of taking into custody Mr.
17 Campbell. As I approached, I got to the point where I was
18 close to getting hands on as well. I heard Officer or
19 Detective Neely stating, he threw it, he threw it up there.
20 At this point, I saw Officer Crews coming back to assist
21 Officer Neely, so I immediately turned around and went up the
22 stairs that run right about here and found on the upper
23 balcony two baggies that were bundled in a way that they
24 seemed that they were bundled together and they were actually
25 right here. They were on the upper balcony and they were

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1 right about here in this corner.

2 Q: And that's indicated with the black dot just to the left
3 of the red circle?

4 A: Right here.

5 Q: Could you make that dot just a little bigger ---

6 A: Certainly.

7 Q: --- so the jury can pick that up. Thank you. And you
8 said you heard Detective Neely stating he threw it, he threw
9 it?

10 A: Something to the effect of he threw it; he threw it; he
11 threw it up there.

12 Q: And you -- did you immediately go retrieve those bags?

13 A: Immediately upon him stating that and me hearing him
14 state that, I looked to the right, I saw Officer Crews
15 approaching to assist Officer Neely. I turned around and ran
16 up the stairs and immediately retrieved those baggies.

17 Q: Was there anyone else in the breezeway besides Officer --
18 Detective Neely and this Defendant?

19 A: As I approached and went through the breezeway on foot, I
20 did not see anybody. When I turned and went upstairs, I did
21 notice somebody standing in the threshold of a door. However,
22 they were not actually technically in the breezeway at that
23 time.

24 Q: Did you see that man throw those two bags down?

25 A: No, I did not.

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1 Q: Did he tell you that those were his drugs?

2 A: No, he did not.

3 Q: When you reviewed this video, did you hear the statement
4 from you about the bags that you had recovered?

5 A: As I reviewed the video, pertaining to the baggies, I'm
6 assuming it's when I came back downstairs, I was speaking to
7 the other officers and I, I advised them that I had retrieved
8 two baggies and did not see anything else up there.

9 Q: Was that about at 5:32 in the video?

10 A: To the best of my memory, it was.

11 Q: What did you with the two bags after you retrieved them?

12 A: I retained them for a period of time until we got back to
13 the undercover truck we were riding in, which actually was
14 issued to Detective Rhew. At which point, I turned them over
15 to Detective Rhew.

16 BY MR. ERVIN:

17 Q: Okay. I'm handing you what's been marked as State's
18 Exhibit 5 for identification purposes. Do you recognize this?

19 A: They appear to be two baggies.

20 Q: It does appear to be two bags that you recovered from the
21 second floor of the Sandgate apartment building?

22 A: That's correct.

23 Q: And to your knowledge, was the chain of custody
24 established -- even though you were not technically in it, was
25 the chain of custody established correctly?

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1 A: To my knowledge, it was.

2 Q: Were those bags altered in any way when you recovered
3 those?

4 A: No.

5 Q: Were they altered or manipulated in any way in your
6 presence?

7 A: In my presence, nothing other than once they were put
8 onto the hood of the car, I was in the immediate area when
9 they were tested, but as far as altering them, no.

10 Q: When you were present earlier and heard this video, did
11 you hear the Defendant make any statements on the video?

12 A: It sounded to me -- the first statement that I heard him
13 make pertaining to the baggies were that, he seen me throw
14 that, with an expletive in there, yeah.

15 Q: Did you have any other involvement in this case?

16 A: I did not. I did not ---

17 Q: Thank you.

18 A: --- after that time, no.

19 Q: Please answer Defense questions.

20 MR. LONG: Thank you, Your Honor.

21 CROSS EXAMINATION OF ROBERT CHRISTOPHER SAULS BY MR. LONG:

22 Q: Detective, on the video I listened to, that the jury
23 listened to, I thought I clearly heard David Campbell scream
24 out of the car, he says he saw me throw that blank, but you
25 and the witness prior, but most importantly you, because

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- 1 you're the one I'm talking to, consistently say something
2 different. You say that on that video he says, he saw me
3 throw that, which is a completely different thing that he says
4 he saw me; which one is true?
- 5 A: Well, I'll expand upon that. I believe what I said was
6 the first thing he said pertaining to the bags on the video
7 that I heard was that, he seen me throw that. Shortly
8 thereafter, he sounded like was speaking to somebody outside
9 of the car because he raised his voice to speak through the
10 window and he said, he say he seen me throw that.
- 11 Q: Okay. Can you agree with me that this was Building
12 Number ■ at Sandygate apartments, this right here, where y'all
13 got the lines going to and the place where you say you went
14 and found that package over there?
- 15 A: It could be. I'm not sure what's it marked, but reason
16 would stand that it could be.
- 17 Q: Okay. And I'm gonna show you what we've had identified
18 as Defendant's Number 2 and ask you ---
- 19 A: Okay.
- 20 Q: You can take it. And ask you if that appears to be the
21 exact same breezeway that we've been talking about all day?
- 22 A: It appears to be similar. I cannot attest to the
23 veracity of it though, because I did not take this photo.
- 24 Q: I'm not asking you to attest to the veracity of it. It
25 was daylight when this happened, wasn't it?

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1 A: It was, correct.

2 Q: Okay. And it's daylight when that photo is taken?

3 A: That's correct.

4 Q: Would you agree with me that that's Sandygate Village?

5 A: It appears to be similar. I cannot agree that that's
6 exactly it.

7 MR. ERVIN: Your Honor, I'll object again to these
8 pictures. There's no indication this is Sandygate. It may be
9 similar, but I cannot have these officers testify as to the
10 location.

11 THE COURT: Well, he's not, but let him finish his
12 question.

13 MR. LONG: I'm trying to get there. Thank you, Your
14 Honor.

15 BY MR. LONG:

16 Q: How much time -- so, have you been to Sandygate Village
17 since this arrest?

18 A: Not on any investigations, no.

19 Q: How about have you been there since this arrest?

20 A: I don't believe so. We pass by going on Ocoola, but I
21 myself have not been there.

22 Q: Had you been there before this arrest?

23 A: I had not.

24 Q: Okay. While you were there, the video was over an hour
25 long; we cut it down for purposes of brevity, but you -- so

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1 you were on this property for well over an hour, correct?

2 A: I would agree to that.

3 Q: All right. And did you make a report of this?

4 A: I did not.

5 Q: Okay. And do you know if in anybody's report, it
6 indicated what building this occurred in?

7 A: I'd have to refer to Officer Crews' initial report.

8 Q: Okay. And, and your own personal observation out there
9 for over an hour at this location, did you notice any video
10 cameras on telephone -- on light poles?

11 A: I did not see any personally.

12 Q: You did not?

13 A: I did not.

14 Q: I'm gonna show you what I marked Defendant's Number 3,
15 please, ma'am.

16 DEFENDANT'S EXHIBIT NUMBER 3

17 MARKED FOR IDENTIFICATION

18 Q: And ask you if that photograph of a building with Number
19 ■ on the front of it appears to be the same building that all
20 of this occurred?

21 A: This appears to be the same building that's in your other
22 photo. As I said, I cannot attest to if this in fact
23 Sandygate or the building where we apprehended Mr. Campbell.

24 Q: All right. And so not using these pictures because you
25 don't agree on those, but you walked up the steel stairs?

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ROBERT SAULS - CROSS BY LONG

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1 A: That's correct.

2 Q: How high were they?

3 A: Maybe 10 feet. It was hard to judge from my point of
4 view at an angle. They went from first floor, ground floor,
5 to the, what I would refer to as a balcony or breezeway on the
6 second floor.

7 Q: Okay. And then so certainly high enough for a full
8 apartment to be below?

9 A: I would venture to say so.

10 Q: And then once on the balcony, there was a railing how
11 high?

12 A: To the best of my memory, it was a half railing. It
13 didn't go the full distance up, it was like a half -- like a
14 handrail.

15 Q: A handrail?

16 A: Like a handrail.

17 Q: Appear to be normal height to code, so to speak, normal
18 height railing?

19 A: I would imagine so.

20 Q: Okay. So, then with your estimate, it would be 10 feet
21 plus about 4 feet, correct?

22 A: Yeah, round about.

23 Q: So, 14 feet you would estimate would be the distance from
24 the ground to the handrail?

25 A: I would imagine so. That math works out.

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ROBERT SAULS - CROSS BY LONG

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- 1 Q: All right. And you say you walked up the -- up the steps
2 and located two bags, but they were together. How's that, how
3 were they together?
- 4 A: I ran up the stairs and they were sitting in the very
5 immediate areas of one another.
- 6 Q: But they were clearly two separate bags?
- 7 A: They weren't tied together; they were two bags.
- 8 Q: They weren't tied together, they weren't twisted
9 together, they were two bags almost touching each other.
- 10 A: They were directly together, yes.
- 11 Q: Okay. And how many doors to apartments were on that
12 second floor?
- 13 A: I was only aware of the two that I was actually facing.
14 The one to my right and the one to my left across the
15 breezeway.
- 16 Q: Okay. So, there were only two apartments up those steps?
- 17 A: Those are the only two that I was aware of at the time.
- 18 Q: Well, are you aware of something different today?
- 19 A: No, what I'm getting at is that when I went up the steps,
20 those are the only two I saw. I did not see any if there were
21 any behind me or anything like that because that was not where
22 my attention was.
- 23 Q: So, you didn't -- but you never went back and looked at
24 it; you're the one that found these drugs?
- 25 A: No, I did not go back and look at it.

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ROBERT SAULS - CROSS BY LONG

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1 Q: Did you take any pictures of it?

2 A: I did not take any pictures of it.

3 Q: You didn't have a body camera?

4 A: I did not have a body camera.

5 Q: A cell phone?

6 A: My cell phone, I'm not sure if I had it on me or if it
7 was in the truck.

8 Q: Do y'all use your cell phones from time to time to gather
9 evidence?

10 A: Sometimes, if we don't have our body cameras.

11 Q: Like this time. And, and so you immediately just reached
12 down and picked this up?

13 A: I found the two baggies on the ground, I picked them up.
14 And at that point, my main priority was to getting back down
15 to make sure that my officers were safe.

16 Q: Okay. And, and then you carried the drugs back to the
17 truck?

18 A: I had -- I had the baggies with me until we got back to
19 the truck, at which point, I relinquished them to Detective
20 Rhew.

21 Q: I hear on the video during this arrest, I hear somebody
22 scream, shut that door; was that you?

23 A: That would be me.

24 Q: All right. And who were you telling shut the door to?

25 A: I don't know the individual, what his name was, but I --

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ROBERT SAULS - REDIRECT BY ERVIN

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- 1 as I attested earlier, when I came up to the top, I did notice
2 somebody with their door open on the right-hand side.
- 3 Q: On the top?
- 4 A: On the top floor; that's correct.
- 5 Q: The second floor door was open?
- 6 A: That's correct.
- 7 Q: And you screamed at that person, shut that door?
- 8 A: I did.
- 9 Q: Did they shut it?
- 10 A: To the best of my memory they did, because I didn't have
11 any further ---
- 12 Q: And it was right after that that you found these drugs?
- 13 A: Well, it was during that time because as I -- as I
14 crossed the area, I saw the drugs and I saw him there at the
15 same time and I told him to shut the door and, after that, I
16 didn't have any more contact with him.
- 17 Q: Ever question that person?
- 18 A: I did not question him.
- 19 Q: Got a name?
- 20 A: I don't have a name. That was the only contact I had
21 with him.
- 22 Q: All right. That's all I have. Thank you.
- 23 REDIRECT EXAMINATION OF ROBERT SAULS BY MR. ERVIN:
- 24 Q: Detective Neely or Sauls, I'm sorry.
- 25 A: That's okay.

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ROBERT SAULS - RECROSS BY LONG

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1 Q: Again, you didn't make any notes because in your opinion,
2 did Officer Crews' report encompass all aspects of this case?

3 A: It did encompass all aspects of the case.

4 Q: Did you feel it necessary to get the gentlemen's
5 information on the second floor?

6 A: I did not. I didn't feel that it was pertinent to this
7 case based on the interaction.

8 Q: Why not?

9 A: Because he was not even on the breezeway; he was in the
10 threshold of his house. He was still in it and -- in essence,
11 he was still in his apartment.

12 Q: Was it because one of your fellow officers saw the
13 Defendant throw the drugs?

14 A: That is correct.

15 Q: Thank you.

16 THE COURT: Anything further?

17 RECROSS EXAMINATION OF ROBERT SAULS BY MR. LONG:

18 Q: Do you have a theory, since you're the one that -- we
19 don't have a picture of it, but you have hopefully a picture
20 in your mind of what these bags looked like laying on the
21 ground together. Do you have a theory how somebody running
22 full speed can throw them 14 feet in the air and they can land
23 right beside each other?

24 A: I'm not here to lay a conjecture. I just found the
25 drugs.

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STEVEN RHEW - DIRECT BY ERVIN

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1 Q: Do you have that theory?

2 A: My theory is he threw it and I recovered it.

3 Q: And right before that, they landed right beside each
4 other. Thank you.

5 THE COURT: All right. Thank you very much, sir, you can
6 come down.

7 The State would call Officer Steven Rhew.

8 THE COURT: All right. Officer Rhew, come around please.

9 STEVEN RHEW, HAVING BEEN SWORN

10 TESTIFIED AS FOLLOWS:

11 CLERK: Please state your full name and spell your first
12 and last name for the Court.

13 MR. RHEW: My name is Steven Rhew, spelling, S-T-E-V-E-N;
14 last name is R-H-E-W.

15 DIRECT EXAMINATION OF STEVEN RHEW BY MR. ERVIN:

16 Q: Am I correct in calling you Officer Rhew?

17 A: You are.

18 Q: Officer Rhew, will you tell the jury your law enforcement
19 background, please?

20 A: I've been with the Horry County Police Department for
21 roughly nine years. I did have a short three-month stint with
22 Myrtle Beach Police Department.

23 Q: What's your current position?

24 A: My current position is patrol.

25 Q: And is that because you left and came back?

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STEVEN RHEW - DIRECT BY ERVIN

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1 A: Yes, sir.

2 Q: What was your position on November 30th, 2015?

3 A: I was a detective in the narcotics division with the ATF
4 Violent Crime Gang Task Force.

5 Q: Did you have any special training and/or certifications?

6 A: I did. I have been to the South Carolina Highway Patrol
7 ACE School and also the DEA Basic Narcotics Investigator
8 School and few other federally funded schools here and there.

9 Q: Did you have occasion to become involved in this case
10 with the Defendant, David Campbell, on November 30th, 2015?

11 A: I did.

12 Q: What was your involvement?

13 A: I was operating the undercover vehicle that the other
14 detectives have referred to. We went to the Ranchette Circle
15 area for narcotics complaint, at which time, we noticed the
16 Defendant's vehicle backed into a house.

17 MR. MARTIN: Objection, Your Honor, we just note our
18 objection for the record on this.

19 THE COURT: All right. Overruled.

20 A: And we noticed him sitting there backed into a house. As
21 we went around the circle, we came back around, he was still
22 there. At which time, he saw us; we saw him and he was still
23 in the vehicle. After we passed him, he pulled out behind us.
24 Due to the circumstances, we decided to start following him.
25 At which time, we got behind him at the light at Socastee

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STEVEN RHEW - DIRECT BY ERVIN

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1 Boulevard and Highway 17 By-pass and we began following him
2 northbound. He made a right-hand turn onto Pine Island Road
3 by the mall and continued to down to Seaboard Street where he
4 made another right-hand turn. He failed to use his blinker at
5 that point in time. We continued to follow him and he made a
6 U-turn and immediately went right back to Pine Island Road
7 where he had just came from and began traveling back to 17 By-
8 pass, also where he came from. We had, during that time,
9 radioed for a marked unit, which was Officer Crews that was
10 able to get there. Officer Crews, once we got near the Best
11 Buy, was able to get in front of us and initiate his attempted
12 traffic stop on Mr. Campbell.

13 Q: And at that point, you were behind Officer Crews and the
14 Defendant?

15 A: I was.

16 Q: And you saw Officer Crews activate his blue lights and
17 siren?

18 A: I did.

19 Q: And you observed this Defendant speed away?

20 A: I did.

21 Q: Did you observe this Defendant hit the back bumper of the
22 parked vehicle at the corner of Seaboard and Oak Forest Lane?

23 A: I did.

24 Q: And you saw the chase ensue on Seaboard Street?

25 A: I did.

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STEVEN RHEW - DIRECT BY ERVIN

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1 Q: What happened after that?

2 A: We continued down Seaboard Street at a high rate of
3 speed. Due to me being in the truck, we were not able to keep
4 immediately up with Officer Crews. We were able to get closer
5 to him when we finally made the right-hand turn onto Mr. Joe
6 White Avenue or 10th Avenue, and we were able to follow him
7 onto Ocoola Street. As we were turning onto Ocoola Street, we
8 saw them going into the Sandysgate apartments, at which time,
9 we pulled up and Officer Crews was still following him.
10 Officer Crews was in his vehicle following the Defendant who
11 was on foot and we were -- I parked the vehicle near the
12 Defendant's car that had been disabled.

13 Q: I'm gonna have you step down a minute to the map. Mr.
14 Rhew, I'm showing you what's been marked as State's Exhibit 4.
15 For the record, you have a light green pen. Please indicate
16 your route.

17 A: We parked here where the other detectives have
18 already noted the, the black dot right there. My vehicle was
19 parked right here with Mr. Campbell. Unfortunately, I was in
20 plainclothes also capacity. I was not able to put my vest on
21 or my full-size gun due to the driving, while they were able
22 to in the car while I was driving. So, I had to kind of hang
23 out by the vehicles while they began to chase Mr. Campbell.
24 So, while I was putting everything on, Detective Neely was the
25 first one to exit the vehicle. I was able to see him begin to

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STEVEN RHEW - DIRECT BY ERVIN

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- 1 run toward this breezeway right here, where he said that he
2 ran. Detective Sauls was unfortunately stuck in the back of
3 the vehicle for a couple of seconds, a split second, somewhere
4 in there because it was a new vehicle to us and we were still
5 learning the child safety locks unfortunately. And he was
6 able to eventually get out and also give chase, but like I
7 said, I had to stay around the vehicles because of me putting
8 on my gear and all that for officer safety purposes.
- 9 Q: Could you just mark with that marker where you were
10 parked?
- 11 A: Right here.
- 12 Q: Thank you, Officer Rhew. Do you see anybody else in the
13 breezeway?
- 14 A: I did not, but I was not right there at the breezeway
15 either.
- 16 Q: So, you didn't see what transpired with Detective Neely
17 or Sauls or this Defendant or Officer Crews?
- 18 A: No, by the time that I had gotten up to them after
19 putting all my equipment on, the arrest was already affected.
20 Everything was -- for lack of a better term, already handled
21 and already done with.
- 22 Q: Detective Sauls that at some point, he took the bags he
23 retrieved that the Defendant threw and put them in your truck?
- 24 A: Yes.
- 25 Q: What did you do with those bags?

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STEVEN RHEW - DIRECT BY ERVIN

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1 A: They were sitting on top of my center console while we
2 were -- I'm sure there was a conversation of who was going to
3 take the case, if it'd be Officer Crews or us. Ultimately, we
4 decided Officer Crews would take the case and he would handle
5 it, more than likely, because he ---

6 Q: Let me stop you right there.

7 A: Okay.

8 Q: Because of that, because Officer Crews took the case, he
9 made the report, correct?

10 A: Yes, sir.

11 Q: And was his report a full and accurate report of the
12 incident?

13 A: Yes, it was.

14 Q: Okay. I'm sorry, so continue with the chain of custody.

15 A: And due to him, us deciding he would take the case, we
16 took it from my vehicle -- I took it from my vehicle. And in
17 the full video, I don't believe it shows it in the redacted
18 video, but I walked with the -- with the bags of drugs and put
19 them onto the hood of Officer Crews' vehicle.

20 Q: And you saw that in the video?

21 A: Yes.

22 Q: You reviewed the video prior to today, correct?

23 A: Yes, sir.

24 Q: Did you hear the Defendant make any statements in that
25 video?

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STEVEN RHEW - CROSS BY MARTIN

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- 1 A: I did.
- 2 Q: What were those?
- 3 A: The first statement was that he saw me throw it and also
- 4 he cursed after that. And in the second statement that he
- 5 made that the Defense keeps referring to is that he said he
- 6 saw me throw it.
- 7 Q: And as the Defense has asked prior witnesses, you were
- 8 not equipped with a body camera; is that correct?
- 9 A: I was not.
- 10 Q: And your vehicle is not equipped with a in-car camera?
- 11 A: It is not.
- 12 Q: Do you have a siren?
- 13 A: I do.
- 14 Q: You have a blue light?
- 15 A: I do.
- 16 Q: Were those activated?
- 17 A: They were.
- 18 Q: That's all I have, Officer Rhew. Thank you. Please any
- 19 Defense questions.
- 20 A: Yes, sir.
- 21 CROSS EXAMINATION OF STEVEN RHEW BY MR. MARTIN:
- 22 Q: If you've got a siren and a blue light, why didn't you
- 23 affect the traffic stop?
- 24 A: Because what's already been spoken of earlier is that we
- 25 prefer to have a marked unit do the traffic stop in case a

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STEVEN RHEW - CROSS BY MARTIN

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1 chase does happen where there's any question later on of
2 whether the Defendant knew that it was in fact the police
3 trying to stop him and not a random person that threw a blue
4 light and a siren in their car.

5 Q: But do you have blue lights and siren, right?

6 A: I do.

7 Q: And if I were to show you a picture of the apartment
8 complex and the stairwell, could you identify it?

9 A: I can try my best, but ---

10 Q: All right. Let me show you what's marked as Defendant's
11 Exhibit Number 2 and ask you if you can identify what's
12 depicted in that photograph?

13 A: There is a tan in color apartment with a Number ■ on it
14 and a stairwell leading up to a second floor?

15 Q: Is that the apartment complex and the stairwell in which
16 this event took place?

17 A: It could be, but due to it being so close to the front of
18 the building, I'm not able to give it any reference.

19 Q: All right. Well, let me show you -- so, in short, you
20 can't identify the apartment complex from that photograph?

21 A: No.

22 Q: All right. Defense Exhibit Number 1, can you identify it
23 from that photograph?

24 A: It is even closer and I can't -- it is an apartment
25 complex with a stair and little landing strip or breezeway,

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STEVEN RHEW - CROSS BY MARTIN

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1 whatever you'd like to call it, upstairs, but again, it's so
2 close that I cannot say whether it's Sandygate apartments or
3 not.

4 Q: Did you make any notes, to refer to or refresh your
5 memory as to where this happened and what happened?

6 A: I know it happened in Sandygate, but no, I did not
7 personally make any notes.

8 Q: Did you do any sketches?

9 A: I did not.

10 Q: Did you write any reports?

11 A: I did not.

12 Q: Did you write any statements?

13 A: I did not.

14 Q: Did you -- you had your cell phone, did you take any
15 photographs?

16 A: I did not.

17 DEFENDANT'S EXHIBIT NUMBER 4

18 MARKED FOR IDENTIFICATION

19 Q: I'm gonna show you Defense Exhibit Number 4 and ask you
20 if you can identify what that is a photograph of?

21 A: It's a black pole with an object on top of the pole.

22 Q: Do you remember seeing that black pole with those objects
23 on top that day?

24 A: I do not recall.

25 Q: You don't recall that?

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STEVEN RHEW - CROSS BY MARTIN

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1 A: No, sir.

2 Q: Are you saying you didn't see them or you don't recall
3 seeing them?

4 A: If I saw them, I don't remember.

5 DEFENDANT'S EXHIBIT NUMBER 5

6 MARKED FOR IDENTIFICATION

7 Q: I'm gonna show you Defense Exhibit Number 5 and ask you
8 about that one; can you identify that?

9 A: It appears to be another pole with what appears to be
10 cameras on top.

11 Q: Cameras on top. Did you request surveillance video from
12 those cameras?

13 A: I did not.

14 Q: All right. And that's because this was Mr. Crews' case;
15 is that right?

16 A: It was.

17 Q: And he should have requested those videos, should he not?

18 A: I'm not saying that he should have requested them, no.

19 Q: Well, if you'd have been the officer in charge, if you
20 had been the officer in charge ---

21 A: Okay.

22 Q: --- you would have wanted to gather all the evidence that
23 you could?

24 A: If you're asking if I would have requested that video,
25 the answer is no, I would not.

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STEVEN RHEW - CROSS BY MARTIN

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- 1 Q: Why not?
- 2 A: That officer witnessed him, the Defendant, throw the
3 drugs out of his hand onto the second floor.
- 4 Q: Okay. And I know that's been said a lot.
- 5 A: Uh-huh (affirmative response)
- 6 Q: So, what you're saying is if there's an eyewitness,
7 police or not, to a crime, then you need to -- you don't need
8 to do anymore investigation after that; you just don't do
9 anything else because you got a police officer says it
10 happened?
- 11 A: Well, you're making a very broad statement. There's many
12 different types of crimes.
- 13 Q: Well this -- this -- okay. So, are -- is convicting one
14 of a drug crime different than convicting one of another
15 crime? Does it -- do you need less evidence to do that in
16 your opinion?
- 17 A: No, the burden is still there.
- 18 Q: All right. The burden is there. And so wouldn't you
19 agree with me that in the average case, if you got video of
20 him throwing the drugs that that would be better than not
21 having it?
- 22 A: Do any of those cameras point into the breezeway where he
23 threw them?
- 24 Q: That's a -- well, I don't know. Did you get -- did you
25 get the video camera footage so we could see what it showed?

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STEVEN RHEW - REDIRECT BY ERVIN

229

1 A: I did not.

2 Q: All right. But would you agree with me then -- go back
3 to my question -- it would be better to have it than not have
4 it?

5 A: I can't say; I don't know what's on the videos.

6 Q: Okay. All right. How about fingerprints? Would it have
7 been better to have fingerprints or just don't worry about it?

8 A: It's not about not worrying about it; it's about an
9 officer witnessed him throw it and it goes back to what the
10 other detective testified to, that he witnessed him throw it
11 and ---

12 Q: So, we don't -- if he saw it, then we don't write any
13 statements, we don't take any pictures, we don't do any
14 sketches, we don't interview any witnesses at the top of the
15 steps, we don't look for any video from cameras, we don't
16 fingerprint, we don't DNA, we just said officer saw it.
17 That's it. We going home. Is that right?

18 A: In this case, that's the facts, yes.

19 Q: That's all.

20 REDIRECT EXAMINATION OF STEVEN RHEW BY MR. ERVIN:

21 Q: Officer Rhew, did these appear to be the two bags? I'm
22 showing you what's been marked as State's Exhibit 5 for
23 identification purposes. Do these appear to be the two bags
24 that the Defendant threw that Detective Sauls recovered and
25 put in your vehicle?

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STEVEN RHEW - REDIRECT BY ERVIN

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1 A: Yes, sir.

2 Q: And they appear to be the two bags that you placed on
3 Officer Crews' -- the hood of his car?

4 A: Yes, sir.

5 Q: Did you tamper or manipulate these bags in any way?

6 A: No, sir.

7 Q: Thank you. That's all I have, Officer Crews, Officer
8 Rhew. Thank you.

9 THE COURT: Anything further?

10 MR. MARTIN: Nothing further.

11 THE COURT: Thank you, sir, you may step down.

12 MR. ERVIN: May we approach?

13 THE COURT: Yes, sir.

14 (REPORTER'S NOTE: A bench conference was held off the record
15 in the presence of but out of hearing of the Jury.)

16 MR. ERVIN: The State calls Sharon Lilly.

17 MR. LONG: Your Honor, as I understand it, Ms. Lilly is
18 the evidence custodian for the Horry County Police. We would
19 stipulate to the chain at this point and alleviate her need
20 for testifying.

21 THE COURT: Okay. Ms. Lilly, I think your role is to
22 testify as to your role in the chain of custody of the drugs?

23 MS. LILLY: Yes, sir.

24 THE COURT: All right. The Defense has stipulated to
25 that, so there's no need for you to testify, but I appreciate

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COURTNEY JOHNSON - DIRECT BY ERVIN

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1 you being here today, ma'am. Thank you.

2 MR. LONG: Thank you, Your Honor.

3 MR. ERVIN: The State will call Courtney Johnson.

4 THE COURT: All right. Ms. Johnson, if you'll please
5 come around.

6 COURTNEY JOHNSON, HAVING BEEN SWORN,
7 TESTIFIED AS FOLLOWS:

8 CLERK: Please state your full name and spell your first
9 and last name for the Court.

10 DIRECT EXAMINATION OF COURTNEY JOHNSON BY MR. ERVIN:

11 Q: Good afternoon, Ms. Johnson.

12 A: My name is Courtney Johnson. First name is C-O-U-R-T-N-
13 E-Y; last name Johnson, J-O-H-N-S-O-N.

14 Q: Good afternoon, Ms. Johnson?

15 A: Hello.

16 Q: What is your current occupation?

17 A: I'm a forensic chemist assigned to the Drug Analysis Lab
18 of the Horry County Police Department.

19 Q: How long have you been with the Horry County Police
20 Department?

21 A: Three years and 8 months.

22 Q: What are your typical duties in that position?

23 A: My primary job responsibility is to analyze and identify
24 suspected controlled substances that are submitted to me.

25 Q: Why type of training must you have to hold your position?

- 1 A: Are you asking my type of training that I have or just as
2 a Forensic Chemist?
- 3 Q: What type of training do you have?
- 4 A: Okay. I have a Bachelor's in Chemistry from Southern
5 Wesleyan University, as well as a Bachelor's in Forensic
6 Science from Southern Wesleyan University, and a Bachelor's of
7 Biology from Southern Wesleyan as well. Upon being hired on
8 by the Horry County Police Department, I completed my training
9 at the South Carolina Law Enforcement Division in the analysis
10 of controlled substances. I also have attended the Agilent
11 GCMS Maintenance and Troubleshooting seminar as well as the
12 DEA Forensic Chemist training.
- 13 Q: Have you had an occasion to chemically analyze, in this
14 case, cocaine to determine whether it is a controlled
15 substance or not?
- 16 A: Yes, sir.
- 17 Q: How many times?
- 18 A: Over 600.
- 19 Q: How many cocaine analyses do you do in a given week?
- 20 A: I would say about 50.
- 21 Q: And that's a regular part of your duties?
- 22 A: Yes, sir.
- 23 Q: Have you testified in trial before?
- 24 A: Yes, sir.
- 25 Q: How many times?

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COURTNEY JOHNSON - DIRECT BY ERVIN

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1 A: Twice.

2 Q: Have you ever been qualified as an expert in the field of
3 forensic drug chemistry before?

4 A: Yes, sir.

5 MR. ERVIN: Your Honor, at this time, the State would
6 move to have Ms. Johnson declared as an expert in the field of
7 forensic drug chemistry?

8 MR. LONG: We don't have any objection to that, Judge.

9 THE COURT: All right. Without objection.

10 BY MR. ERVIN:

11 Q: Ms. Johnson, I'll show you what's been marked as State's
12 5 for ID purposes. Do you recognize that?

13 A: May I refer to my notes?

14 Q: Sure.

15 A: Yes, sir; I do.

16 Q: What do you recognize it as?

17 A: It is BEST kit H013193.

18 Q: Based on your training and experience, do you have an
19 opinion as to what that substance is?

20 A: Yes, sir.

21 Q: And what is that?

22 A: Item 1.1 was a Ziplock bag containing two sandwich bags
23 containing a powder substance and those results were cocaine
24 Schedule II found with a combined weight of 11.2 grams.

25 Q: When did you first receive that BEST kit?

1 A: I received it from Sharon Lilly on 11/30/15.

2 Q: What was the purpose of Sharon relinquishing possession
3 to you?

4 A: It was being submitted to the drug lab for analysis.

5 Q: Has that BEST kit been under your constant care, custody,
6 and control since the time you received it from Sharon Lilly?

7 A: Yes, sir.

8 Q: And after you tested it?

9 A: It was placed back in a secure location inside of the
10 drug lab. It was placed back in a secure location inside of
11 the drug lab until I was ready to have the chance to turn it
12 back over to evidence for storage to be held for court.

13 Q: And is it now in the same condition as it was when you
14 received it?

15 A: Yes, sir.

16 Q: And again, what was the weight of the cocaine that you
17 tested?

18 A: It was 11.2 grams combined weight of the two bags.

19 Q: Can you tell the jury what specific tests you performed?

20 A: Sure. In this case, I did a presumptive test, which was
21 a cobalt thiocyanate, stannous chloride. It's a color test.
22 If it is positive for cocaine, the first step will be blue,
23 will turn blue, and the second step will remain blue. I had a
24 positive blue/blue for both of those. I then performed a base
25 sampling chloride extraction and place it onto instrumentation

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1 for results.

2 Q: When were those tests performed?

3 A: They were performed on February 22nd, 2016.

4 Q: And from those, you were able to -- were you able to form
5 an expert opinion as to what that was?

6 A: Yes, sir.

7 Q: What was it?

8 A: Cocaine.

9 Q: And what is the basis of your opinion?

10 A: A positive presumptive as well as the confirmatory
11 analysis.

12 Q: And did you prepare a -- an official drug report for this
13 case?

14 A: Yes, sir, I did.

15 Q: I'm handing you what's been marked as State's 6 for
16 identification purposes. Can you tell the jury what that is?

17 A: It's a copy of my drug report.

18 Q: And is that the drug report that you generated for this
19 case?

20 A: Yes, sir.

21 Q: And do the numbers on that drug report match up to the
22 BEST kit numbers ---

23 A: Yes, sir.

24 Q: --- you have in front of you?

25 A: They match to the BEST kit numbers as well as the lab

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1 number that I have assigned to the case.

2 MR. ERVIN: Your Honor, at this time, the State would
3 move Exhibit 5 and Exhibit 6 into evidence.

4 MR. LONG: No objection, Your Honor.

5 THE COURT: Without objection.

6 STATE'S EXHIBIT NUMBER 5 AND NUMBER 6

7 ADMITTED INTO EVIDENCE

8 BY MR. ERVIN:

9 Q: Ms. Johnson, thank you. Please answer the Defense
10 questions.

11 MR. LONG: Thank you, Your Honor.

12 CROSS EXAMINATION OF COURTNEY JOHNSON BY MR. LONG:

13 Q: Good afternoon, ma'am; how are you?

14 A: Great, how are you.

15 Q: I'm pretty good. Your -- I'm gonna hand you your report,
16 State's Number 6. You indicated that in that report that the
17 combined weight of the -- well first of all, you say the item
18 to be tested was a Ziplock bag containing two sandwich bags
19 contained a white-powder substance?

20 A: Yes, sir.

21 Q: Did you weigh that entire thing?

22 A: No, sir, only the net weight; just the substance itself.

23 Q: So you emptied the bag?

24 A: Two bags; yes, sir.

25 Q: You emptied the bag that had the two bags and then you

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1 emptied the two bags into ---

2 A: Yes, sir.

3 Q: --- into a container. And that weighed what? 11.2
4 grams?

5 A: No, sir. I don't -- we don't combine the bags before the
6 confirmatory analysis comes back. So, what I did was, it came
7 in a ziplock bag, inside of the BEST kit. So, I opened up the
8 ziplock bag, took out the two bags. I then put weigh paper
9 down, weighed the one bag on its own, so 1.11 by itself, did
10 the presumptive test on that, attained a representative
11 sample, did the extraction and then put that for a
12 confirmatory analysis. The same thing happened with 1.12 and
13 that was never combined. So, we did not -- I did not take the
14 two bags and combine them and take the weight of that. Those
15 two weights were not combined until after analysis came back
16 off of the GCMS.

17 Q: Okay. So, your report doesn't indicate the separate
18 weight of the two bags?

19 A: No, sir.

20 Q: Would you normally do that?

21 A: No, sir.

22 Q: And then your report also doesn't indicate which bag you
23 tested?

24 A: What do you mean by that?

25 Q: Well, there were two separate bags?

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- 1 A: Yes, sir.
- 2 Q: Did you combine the drugs before you tested them?
- 3 A: No, sir.
- 4 Q: Okay. So which bag did you test?
- 5 A: I test both bags.
- 6 Q: Okay. And even though your report comes back presumptive
7 of the total combined weight, it was actually of two separate
8 bags?
- 9 A: It's not presumptive, but, yes, sir.
- 10 Q: Okay.
- 11 A: It was the combined weight of the two bags after
12 confirmatory analysis was performed. So, I had the weight
13 from 1.11 and then the weight from 1.12 and the combined one,
14 yes, sir.
- 15 Q: Okay. And that would be the reason why Officer Crews had
16 a 13 gram plus weight and you ended up with 11.2 gram weight?
- 17 A: I can't answer for what Officer Crews did; I'm sorry.
- 18 Q: 2.2 grams difference in the weight?
- 19 A: From my experience, officers never weigh the net
20 substance; they only weigh the item within its packaging and I
21 don't weight the item within its packaging.
- 22 Q: Okay. An ounce is roughly 28 grams?
- 23 A: Yes, sir.
- 24 Q: And this was 11 grams, so less than half of one ounce,
25 correct?

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1 A: Yes, sir.

2 Q: You're familiar with equal, sweet and low and sugar
3 packets like we get in a restaurant ---

4 A: Yes, sir.

5 Q: --- to sweeten our coffee or tea. Do you know that
6 they're 1 gram each; did you know that?

7 A: I did not know that, I'm sorry.

8 Q: You don't know that?

9 A: Huh-uh (negative response).

10 Q: Okay. And the bags themselves -- I'm gonna hand you
11 State's Number 5. The -- the rectangle bag, I'm sorry, I'm
12 making ---

13 A: That's okay. No problem.

14 Q: The rectangle bags with the red lines across the top like
15 a ziplock type thing ---

16 A: Yes, sir.

17 Q: --- those were provided by you?

18 A: Only the ones that you see where the plus is at. So,
19 when you see a plus on the bottom, that means I added these to
20 the case.

21 Q: Okay.

22 A: So, I only added these two bags. I know that's a little
23 bit hard to see the one in the back, but that's how it was
24 submitted to me. And so, I label it the item number, but I
25 don't put a plus on the bottom. I didn't add it to it.

- 1 Q: And so, these balled up sandwich bags ---
- 2 A: Yes, sir.
- 3 Q: --- weighed 1.1 and 1.2 each, correct?
- 4 A: Weighed 1.1 and 1.2?
- 5 Q: Yeah. Did they not?
- 6 A: No, sir, I don't know what they weighed.
- 7 Q: I thought you weighed the bags and subtracted that from
- 8 the total weight?
- 9 A: No, sir. I was ---
- 10 Q: That's how you got net weight?
- 11 A: No, sir. No, what I did was, the 1.12 is just it's item
- 12 number. So, what you see here is not a weight. I didn't -- I
- 13 never weighed the bag itself. I put a weigh paper down, empty
- 14 the cocaine onto a weigh paper and took only the weight of the
- 15 substance. I did not take the weight of any packaging. We
- 16 never weigh packaging.
- 17 Q: So, you took -- you took this white powder completely out
- 18 of those two bags?
- 19 A: Yes, sir.
- 20 Q: That's how it ended up out like that.
- 21 A: Yes, sir. It's not busted; it's repackaged from when I
- 22 opened it up, put it back in there, and then I put it inside
- 23 of that thicker ziplock bag.
- 24 Q: Okay. That's all I have. Thank you.
- 25 THE COURT: Anything further for this witness?

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BY THE COURT

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1 MR. ERVIN: No, Your Honor.

2 THE COURT: Thank you, ma'am. You may step down.

3 A: Thank you.

4 MR. ERVIN: Your Honor, at this point, the State rests.

5 THE COURT: All right. Let me get y'all to step up real
6 quick.

7 (REPORTER'S NOTE: A bench conference was held off the record
8 in the presence of but out of hearing of the Jury.)

9 BY THE COURT:

10 THE COURT: All right, ladies and gentlemen, it's two
11 minutes to 1:00. We're gonna break at this time for lunch.
12 I'm gonna ask you to be back in the jury room at 2:30; that
13 gives you an hour and a half.

14 Please have no conversation with anybody about the case
15 and do not allow anyone to talk with you. Continue to protect
16 your ability to remain fair and impartial. And then when you
17 get back at 2:30, we'll proceed at that point. Okay?

18 Everyone else please remain seated while the members of
19 the jury are excused.

20 (REPORTER'S NOTE: Jury exits courtroom. The following takes
21 place outside the presence of the Jury.)

22 MR. ERVIN: Your Honor, it came to mind earlier, I don't
23 think there was any discussion about a jury foreman or
24 forewoman?

25 THE COURT: Yeah, I've got that information.

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1 MR. ERVIN: All right. I was just making sure. Thank
2 you.

3 THE COURT: We're gonna take care of that this afternoon.
4 All right. We'll, unless there's anything I need to take
5 up right now, we'll start back at 2:30.

6 MR. ERVIN: Thank you.

7 MR. LONG: Thank you.

8 THE COURT: And I'll be here if y'all get back early and
9 need to talk to me, I'll be back.

10 (RECESS - 1:05 P.M.)

11 *****OFF THE RECORD*****

12 (On the Record - 3:01 P.M.)

13 THE COURT: Is the State ready to proceed?

14 MR. ERVIN: Yes, Your Honor.

15 THE COURT: Is Defense ready to proceed?

16 MR. MARTIN: Yes, Judge.

17 THE COURT: All right. We ---

18 MR. ERVIN: I want to make a motion before we get into
19 the MDV motion or Defense motions?

20 THE COURT: Okay.

21 MOTIONS:

22 MR. ERVIN: The State would move to dismiss, I don't have
23 his juror number.

24 THE COURT: James D. Montgomery, Jr.

25 MR. ERVIN: Yes, sir. As Your Honor noted, Mr.

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1 Montgomery was asleep during a portion of the testimony. The
2 State does believe this would not allow him to render a fair
3 and impartial verdict.

4 THE COURT: Defense want to be heard on that?

5 MR. LONG: Yeah, Judge, I'd like for you to inquire of
6 him; he might have heard every single word. He may not have
7 been asleep. I'd like to give him a chance to hit the finish
8 line if he believes he's been listening.

9 THE COURT: Well ---

10 MR. ERVIN: Judge ---

11 THE COURT: --- I made the comment to Emily. We were
12 discussing back there. I knew this motion was coming. I
13 think I would have to talk with him.

14 MR. ERVIN: Yes, sir.

15 THE COURT: Because I can't just assume that because his
16 eyes were closed, he's not listening, cause that would destroy
17 the excuse I give my wife when she hits me in church when my
18 eyes are shut and I tell her I'm listening.

19 MR. ERVIN: Your Honor, I would request that you not
20 elude to any motion by the State during this inquiry.

21 THE COURT: As a matter of fact, I would just tell him,
22 Mr. Montgomery, the Court was aware that you're having
23 difficulty, if not sleeping, then at least keeping your eyes
24 open, and I need to know, you know, were you actually missing
25 some of the presentation.

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1 MR. ERVIN: And if Your Honor is satisfied with his
2 response, I guess the State will have to be, too.

3 THE COURT: Okay.

4 MR. LONG: Thank you, Judge, I like that.

5 THE COURT: All right. Ask Mr. Montgomery to step out
6 here, please.

7 (REPORTER'S NOTE: Juror Number 284 enters courtroom.)

8 THE COURT: Mr. Montgomery, I just want to ask you, the
9 Court noticed that you had some difficulty keeping your eyes
10 open. I don't know if you were up late or didn't get a good
11 night's rest or whatever, but let me just ask this, sir. You
12 know, were actually having difficulty focusing on the
13 testimony?

14 MR. MONTGOMERY: No, I was paying attention as close as I
15 can. I just am -- I pay attention to -- I ---

16 THE COURT: Calm down. You're okay. You're not in
17 trouble.

18 MR. MONTGOMERY: I was paying attention like as much as I
19 could, I just don't know what happened from point A to point
20 B. I was like -- I was-- I remember she got on the stand, I
21 was paying attention and I think I just zoned out like -- I
22 don't know what happened; I zoned out. I think I was still
23 paying attention, I'm like, wait, something's not right and
24 then I felt something on my leg and I'm like what happened.
25 Like, I didn't mean to do it on purpose.

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1 THE COURT: Oh, I know and you're not in any trouble at
2 all. Okay? I just noticed that you seemed to be having some
3 difficulty listening or paying attention, but at least keeping
4 your eyes open, I should say. And my only concern is do you
5 feel like you've missed portions of the trial?

6 MR. MONTGOMERY: Oh, no.

7 THE COURT: Okay.

8 MR. MONTGOMERY: To that point, I was -- I was -- to that
9 point in time, a little section, I was completely with the
10 case.

11 THE COURT: Okay. So you feel like you heard everything
12 and would be able to ---

13 MR. MONTGOMERY: Yes, sir.

14 THE COURT: --- be able to participate?

15 MR. MONTGOMERY: Yes, sir.

16 THE COURT: Okay. All right. Well, that's fine. I just
17 ---

18 MR. MONTGOMERY: I said that was -- that was my mistake.
19 That was my fault, Your Honor.

20 THE COURT: And again, you're not in any trouble at all.
21 You know, sometimes and I don't know what you do for a living.
22 Sometimes we have jurors that, through no fault of theirs,
23 they ended up because of their job, they had to work 3rd shift
24 and they just didn't get enough rest, and it's just hard for
25 them. But, but if you feel like you've heard all of the

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1 evidence and you've been able to follow everything, that's
2 fine.

3 MR. MONTGOMERY: Yes, sir.

4 THE COURT: All right. Thank you, sir. You may go back
5 and have a seat in the jury room.

6 THE COURT: Solicitor, I think I'm gonna respectfully
7 deny the motion. He seems to indicate that he's gotten
8 everything. He mentions -- he mentioned that, I don't know
9 who the witness, I guess it was the chemist. That was the
10 only female that was on the stand, I think.

11 MR. ERVIN: Yes, sir, and he did say ---

12 THE COURT: I just think he needs to remain in place.

13 Now, the State has rested their case and at this time,
14 I'll take up any motions that the Defense has at the close of
15 the State's evidence.

16 MR. MARTIN: In accordance with the rule, Your Honor, we
17 would, at this time move for directed verdict of not guilty.
18 The State has failed to present sufficient evidence to sustain
19 a verdict of guilty as related to two charges against the
20 Defendant of failure to stop and trafficking in drugs.

21 THE COURT: All right. I'm gonna respectfully deny the
22 motion. I think that the evidence has been presented, it's a
23 jury issue. It's -- I think that depending on how the jury
24 views the evidence and the weight that the jury gives to the
25 evidence, I think there is evidence whereby they could find

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1 the Defendant guilty of the crimes depending on how they view
2 the evidence. And so, I'm gonna respectfully deny the motion.

3 MR. MARTIN: In addition to that, Judge, we'd move at
4 this time for a mistrial based on the fact that there was --
5 the State was allowed to present evidence about what occurred
6 in the Socastee area in the, quote, known drug house and
7 place.

8 THE COURT: Okay. Now that was not the testimony. There
9 was no testimony before this jury that it was a known drug
10 house or a known drug place.

11 MR. MARTIN: Well ---

12 THE COURT: Because they made sure not to go down that
13 road.

14 MR. MARTIN: High drug traffic area or ---

15 THE COURT: I think their testimony was that they had
16 received -- that they were in the area responding to narcotics
17 complaints.

18 MR. ERVIN: Narcotics complaints.

19 MR. MARTIN: Okay. I'll accept that.

20 THE COURT: Yeah.

21 MR. MARTIN: There was testimony that they were on
22 patrol and they were investigating a narcotics complaint and
23 that they saw the Defendant backed into a place and that they
24 went around and they surveilled and they followed him as a
25 result of his activity. And that was told to the Court that

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1 that was an important part of the case and they felt like they
2 needed to get it into evidence, thus they argued and we
3 objected to it. That information was not provided to us prior
4 to the trial of the case. The information that we have is
5 that everything that was relevant according to it is provided
6 in the report of the investigation by the investigating
7 officer, his name's not on it, but it was Officer Crews.

8 THE COURT: Crews, yeah.

9 MR. MARTIN: And we believe that inasmuch as we had
10 filed a motion for discovery -- I know Mr. Long filed one at
11 the appropriate time -- that the failure to provide that
12 information and the gist of it is prejudicial and that we
13 would move at this time for a trial, and I would enter into
14 the record at the appropriate time, a copy of the police
15 report, which is the only investigative report/statement of
16 the pertinent facts of the case.

17 THE COURT: All right, sir.

18 MR. ERVIN: Your Honor, we did take this up yesterday and
19 Your Honor did find that the -- everything that happened
20 before the stop and the legality of the stop was justified.
21 As Your Honor indicated before his -- his ruling outside of
22 the jury's presence, the three officers that I had testify
23 that were plainclothes, undercover, narcotics agents needed to
24 paint the picture of why they were involved and why they got a
25 marked patrol car involved. And the State believes we limited

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1 it to a narcotics complaint and that was not prejudicial, but
2 it just showed the background and gave the jury the res gestae
3 necessary for these officers involved.

4 THE COURT: All right, sir. All right. I'm gonna
5 respectfully deny the motion for a mistrial. I think that the
6 -- now with regards to not receiving any reports, I think the
7 testimony was that there weren't any reports prepared. But
8 still it does cause me a little concern, that there was not a
9 disclosure of their involvement, but we did take that up
10 yesterday before we began the case. As a matter of fact,
11 apparently the Defense did have some information regarding
12 that because I think the State tried to not go down that road.
13 I mean, I think your position was, Judge, none of that's
14 relevant, which is why there's not a report, but the Defense
15 then was aware of, of that activity and how they got involved
16 and proffered a fair amount of testimony yesterday at the
17 Defense's insistence. So, and I understand your position that
18 you were entitled to that information prior to that, but I
19 think that there was -- it appeared to the Court that there
20 was -- you were aware of that situation and had enough time to
21 deal with it. I think that is part of the res gestae. I
22 think that in fact that is part of this case; that's where
23 this case started. As a matter of fact, I think, Mr. Martin,
24 pursuant to your questioning of the witness, I think you asked
25 a question about -- about how it got started and he said,

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1 well, that was Crews, and you said no, I mean, technically it
2 was Crews, but we know when this thing got started; this thing
3 got started when you guys called Crews. And so it appears to
4 the Court that it was -- it was completely part of the case
5 and I'm -- and I'll hear from you.

6 MR. MARTIN: Well, just simply to say I think I did ask
7 questions about it. I think that when we got the details of
8 anything of that occurred before the traffic stop was in the
9 -- in the motion to suppress or motion to dismiss testimony of
10 Officer Rhew, I believe it was.

11 THE COURT: Right.

12 MR. MARTIN: And, you know, we did bring it up then.
13 Now, of course, Your Honor, said it was admissible, so I think
14 I did ask questions about it. But again, I don't want to
15 belabor the fact, but, you know, it is clear that the
16 discovery presented us and the reports that we have and will
17 enter into evidence the record we have and they can enter in
18 anything in addition to that obviously ---

19 THE COURT: Sure.

20 MR. MARTIN: --- doesn't include disclosure about that
21 aspect to the case. It starts with ---

22 THE COURT: The traffic stop.

23 MR. MARTIN: --- attempted to stop the silver in color
24 Infinity for failure to signal. And we just feel like that if
25 there's backdrop, back story, back information, then we were

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1 entitled to that. There apparently were no statements that
2 were written by any of these officers of any kind, but I
3 believe they would have given them to us if they had it, but
4 again, it was just not information provided. And so we would
5 make that motion.

6 THE COURT: Have you got the copy we can mark?

7 MR. MARTIN: Yeah. And I believe Russell's got a copy
8 somewhere.

9 THE COURT: We can mark that as a Court's Exhibit for
10 purposes of this motion?

11 MR. LONG: Yes, sir.

12 THE COURT: We can mark that as a Court's Exhibit for
13 purpose of this motion?

14 MR. MARTIN: Yes.

15 COURT'S EXHIBIT 1

16 MARKED FOR IDENTIFICATION

17 THE COURT: All right. Let me -- anything else?

18 MR. MARTIN: No, sir; I'm don't think so.

19 THE COURT: All right. Have y'all discussed with Mr.
20 Campbell his rights with regards to his constitutional rights
21 to remain silent as well as his rights to testify?

22 MR. LONG: We have prior to today. We just had a
23 conversation more so about the two witnesses that I'm about to
24 call, but he was -- he's super intelligent and very aware of
25 what's happening.

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DAVID HAROLD CAMPBELL - BY THE COURT

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1 THE COURT: All right.

2 MR. LONG: And he understands his right to testify and,
3 you know, we're not expecting to call him as a witness, but we
4 certainly may.

5 BY THE COURT:

6 THE COURT: All right. Well, let me -- let me talk with
7 Mr. Campbell. Mr. Campbell, if I may, let me talk with you.
8 I'm gonna talk with you about some things you're probably
9 already aware of and I know you've talked with your attorneys,
10 you've got two outstanding lawyers. But every person that
11 appears before the Court as a Defendant in a criminal case,
12 has a constitutional right to remain silent. But you also and
13 we don't talk about this quite as much, but we also have a
14 constitutional right to testify and I'm gonna deal with that
15 first.

16 You understand that if you chose to testify yourself,
17 then you certainly have that right to do that; you understand,
18 sir?

19 MR. CAMPBELL: Yes, sir.

20 THE COURT: Okay. And the thing about testifying is you
21 would -- you would be subject to, obviously you would be
22 answering questions from your attorneys on direct examination,
23 but then the State's lawyers would have the opportunity to ask
24 you questions as well; you understand this?

25 MR. CAMPBELL: Yes, sir.

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DAVID HAROLD CAMPBELL - BY THE COURT

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1 THE COURT: Okay. I don't know if you have any -- well,
2 I assume you have some prior criminal offense because of the
3 nature of this charge although the jury is unaware of that.
4 The Court's aware that is by the way it's indicted. So you
5 understand it may be possible and I know the extent of any
6 criminal history you may have, I know you have something
7 though.

8 MR. CAMPBELL: Yes, sir.

9 THE COURT: You understand that if you were to take the
10 stand, the State could ask you, now, I would not allow them to
11 go in any details about anything, but they would the right to
12 ask whether or not you've been convicted of a felony or a
13 criminal offense that carries more than a year; you understand
14 they would have the right to ask that?

15 MR. CAMPBELL: Yes.

16 THE COURT: And then you'd have to respond?

17 MR. CAMPBELL: Yes, sir.

18 THE COURT: Okay. Now, but then you'd have the right to
19 testify to whatever it is to choose to testify. Now, the
20 other side of that coin, is that a person has a right to
21 remain silent. In other words, if you choose to not testify
22 yourself, then what I would do is when it comes time for me,
23 I'm gonna charge the jury on what the law is in South
24 Carolina. If you choose to exercise your right to remain
25 silent, I will tell the jury that that is your constitutional

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DAVID HAROLD CAMPBELL - BY THE COURT

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1 right and that the fact that you chose to exercise that
2 constitutional right cannot be considered by the jury at all.
3 I would tell them that the fact that you chose to remain
4 silent could not even be discussed in the jury room because
5 that is not an issue that they are to discuss or to consider;
6 that that is your constitutional right and they cannot in any
7 way punish somebody for exercising their constitutional right;
8 you understand that, sir?

9 MR. CAMPBELL: Yes, sir; I do.

10 THE COURT: Okay. Now, have you had enough time to think
11 about this whether or not you choose to testify or are not
12 gonna testify or do you need any more time to discuss this
13 with your attorneys?

14 MR. CAMPBELL: No, no, sir. No, sir.

15 THE COURT: Okay. All right. At this point, do you
16 intend to testify yourself?

17 MR. CAMPBELL: No, sir.

18 THE COURT: All right. Now, keep in mind, Mr. Campbell,
19 I've just asked you about that. If you change your mind at
20 any time and decide you do want to testify ---

21 MR. CAMPBELL: Yes, sir.

22 THE COURT: --- you just let your attorneys know; they'll
23 let me know and we'll -- we'll allow you to do that.
24 Okay?

25 MR. CAMPBELL: I will, sir.

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1 THE COURT: All right, sir. Thank you very much. You
2 can have a seat.

3 MR. CAMPBELL: Thank you, sir.

4 BY THE COURT:

5 THE COURT: All right. Anything else before I bring the
6 jury out?

7 MR. LONG: Not from the Defendant, Your Honor.

8 MR. ERVIN: No, sir.

9 THE COURT: All right. Bring the jury out, please.

10 (REPORTER'S NOTE: Jury enters courtroom. 3:20 P.M.)

11 THE COURT: All right, ladies and gentlemen, before we
12 get started with the afternoon session here. I'm gonna do a
13 little bit of juggling if I could of your seating, not much.

14 Mr. Blair, could I get you to come over and you and Mr.
15 Montgomery swap seats. I tell you, folks, what I'm doing here
16 is, Mr. Blair, I'm gonna ask if you would serve as the foreman
17 of the jury and I'll explain to you, ladies and gentlemen,
18 briefly. What we have found over time, is that any time you
19 deal with a group of folks, such as a jury, it's much easier
20 to deal with one person on behalf of the group. In other
21 words, the foreperson becomes basically the spokesman for the
22 jury. So, if at any time during your deliberations or at any
23 time during the course of this trial, if you have -- if
24 anybody has any questions about anything, then -- then in this
25 case, it would be Mr. Blair, because I've appointed as the

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1 foreman. He would convey, just write that question out and
2 send to me. Now, depending on what your question is, I may
3 just write my response back and send it back to you or I may
4 bring you out as a panel and respond to your question. But
5 that is the main role of the foreperson. The foreperson, I
6 will tell you this, that whatever verdict the jury arrives at,
7 it must be unanimous. Everyone must agree on the verdict,
8 whatever it is. And I tell you that to say this, with that in
9 mind, that tells you that you're all equal members of the
10 jury. No one person's thoughts or opinions with regards to
11 the deliberations carries any more weight than anyone else;
12 you're all equal and I tell juries all the time to, you know,
13 keep an open mind and listen openly to everyone's thoughts and
14 opinions and to, you know, enter into open negotiations and
15 discussions as you go through the deliberation process. But
16 understanding that no one person's thoughts and opinions are -
17 - are any more weightier than someone else's. So, the
18 foreperson is important, but not more important than anyone
19 else. Okay? Everyone must be present during the deliberation
20 process so that if at any time, any one of you may -- must
21 excuse yourselves for example, to use the restroom, then
22 that's where you would just make sure that the deliberations
23 stop until that person returns. And hopefully, it's obvious
24 the reason for that is that everyone needs to have the benefit
25 of the discussions when you reach that point. Okay? So,

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1 anyway, thank you for your willingness to do that, sir.

2 Now, when we broke for lunch, you recall, the State had
3 rested their case. At the close of the State's case in every
4 case that's tried in this court, I have to take up motions at
5 the close of the State's evidence, and I've done that and
6 resolved those matters and now we're ready to proceed. And
7 so, I would recognize Mr. Long on behalf of the Defense.

8 MR. LONG: Thank you, Your Honor. The Defendant would
9 call Ms. Felicia Williams.

10 THE COURT: All right, Ms. Williams, if you'd please come
11 around to be sworn.

12 CLERK: Please raise your right hand.

13 FELICIA DENISE WILLIAMS, HAVING BEEN
14 DULY SWORN TESTIFIES AS FOLLOWS:

15 CLERK: You can state your full name and spell your first
16 and last name for the Court.

17 MS. WILLIAMS: My full name is Felicia Denise Williams.
18 It's F-E-L-I-C-I-A, Williams, W-I-L-L-I-A-M-S.

19 DIRECT EXAMINATION OF FELICIA DENISE WILLIAMS BY MR. LONG:

20 Q: Ms. Williams, you live in Myrtle Beach?

21 A: Yes, sir; I do.

22 Q: Where do you live in Myrtle Beach?

23 A: I live [REDACTED] Oceola Street, Apartment [REDACTED].

24 Q: In Sandygate?

25 A: Yes, sir; that's Building [REDACTED], Apartment [REDACTED].

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- 1 Q: Building Number █?
- 2 A: Yes, sir.
- 3 Q: All right. On this map, point to me what building you
- 4 live in. This is Mr. Joe White, Oceola, and then you turn
- 5 into the Complex.
- 6 A: I live in this building right here, Building Number █.
- 7 Q: Building Number █?
- 8 A: Yes, sir.
- 9 Q: And now tell me, that building, how many apartments are
- 10 in Building Number █?
- 11 A: It's eight apartments; there's four downstairs and four
- 12 upstairs.
- 13 Q: Okay. How many sets of steps are there up to the second
- 14 floor?
- 15 A: It's one set; it's just one that goes up to the second
- 16 floor.
- 17 Q: All right. I'm gonna show you what we've had marked as
- 18 Defendant's Number 2 a long time ago and I'm gonna ask you if
- 19 that is a photograph of the front of Building Number █?
- 20 A: Yes, sir; that's the building I live in.
- 21 Q: And that is the building you live in?
- 22 A: Yes, sir.
- 23 Q: Okay. Now, have you been in the courtroom for part of
- 24 this trial?
- 25 A: Yes, sir.

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1 Q: And you've heard the allegation that in late November --
2 I think it's November the 30th of 2015 -- that David Campbell,
3 after running from the police in his vehicle was chased
4 through this building here, which you now say is Building
5 Number █?

6 A: Yes, sir.

7 Q: Were you there during that?

8 A: Yes, sir; I was.

9 Q: And your apartment is on the bottom floor; is that
10 correct?

11 A: Underneath the stairwell, yes, sir.

12 Q: Okay. And, Your Honor, at this point, I would move
13 Defendant's Number 2 into evidence?

14 THE COURT: All right. Any objection?

15 MR. ERVIN: No objection.

16 THE COURT: All right. Without objection, Defendant's 2
17 is in evidence.

18 DEFENDANT'S EXHIBIT NUMBER 2

19 ADMITTED INTO EVIDENCE

20 BY MR. LONG:

21 Q: So, I'm gonna how you Defendant's Number 2, which is a
22 photograph of the front of the building. Now, so there would
23 be -- tell me, how are the apartments laid out? Is there one
24 on each side and then you go through the breezeway and there's
25 another one on each side?

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- 1 A: It's when you come in the breezeway it's one right here
2 and one across.
- 3 Q: One on the left and one on the right?
- 4 A: And then there's another one in the back and then another
5 one in the back.
- 6 Q: In the back there's one on the ---
- 7 A: Yes.
- 8 Q: And then once you go up the stairs, the same way?
- 9 A: It's the same way up; yes, sir.
- 10 Q: Okay. And the stairs of made of metal?
- 11 A: Yes, sir; they are.
- 12 Q: And then on top of the stairs, there's a platform for the
13 second floor; is that correct?
- 14 A: Yes, sir.
- 15 Q: And there's a handrail?
- 16 A: Yes, sir; it is.
- 17 Q: And does that hand railing have mesh metal?
- 18 A: Yes, sir.
- 19 Q: Between the railing and the floor?
- 20 A: Yes, sir.
- 21 Q: Correct? All right. Now, so as I'm looking at this
22 photograph going into the front ---
- 23 A: Uh-huh (affirmative response)
- 24 Q: --- of Building Number ■, your unit is which one?
- 25 A: My unit is gonna be right there where the windows are.

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1 Q: The first one on the right ---

2 A: Yes.

3 Q: --- no, the first one on this side.

4 A: It's gonna be the first one on this side.

5 Q: On the right?

6 A: Yes, sir.

7 Q: Okay. So, on the day in question, were you inside or
8 outside?

9 A: I opened my door, I was heading outside to take my
10 daughter to the doctor. I heard a loud crash so I opened the
11 door to be nosey to see what was going on and when I walked --
12 when I came to the door, I seen Mr. Campbell and another
13 officer running behind Mr. Campbell to the parking lot. All
14 you heard was get down, get down. I was in here to see the
15 video and you heard someone scream, nobody's in here, nobody's
16 in here, that was me. I opened my door and I was told to
17 close my door also by one of your officers, the officer that's
18 sitting over there.

19 Q: Okay. All right. And I'm gonna show you what's been
20 marked as Defendant's Number ■, that's a closer photograph; is
21 that the same stairwell?

22 A: Yes, sir; that is the same stairwell.

23 Q: Is that the breezeway where you live?

24 A: Yes, sir; that is.

25 Q: Is that the breezeway where you heard and saw this

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1 commotion on November the 30th of 2015?

2 A: Yes, sir; it is.

3 MR. LONG: Judge, we'd move Defendant's Number 1 in.

4 MR. ERVIN: No objection.

5 THE COURT: Without objection, Defense 1 is in evidence.

6 DEFENDANT'S EXHIBIT NUMBER 1

7 ADMITTED INTO EVIDENCE

8 BY MR. LONG:

9 Q: I'm gonna show you one more, Ms. Williams. This is
10 Defendant's Number 3. Okay. Now, is this a photograph of
11 your building?

12 A: Yes, sir. Those are the cameras pointing inside our
13 building.

14 Q: All right. You see the Number ■ on the building in the
15 background?

16 A: Yes, sir.

17 Q: How many cameras, you're talking about cameras on poles,
18 right?

19 A: Uh-huh (affirmative response)

20 Q: How many cameras, do you know how many cameras are out
21 there in the parking lot pointed towards your building?

22 A: It's those two right there and there's also one by Street
23 Reach that points towards our building also.

24 Q: Okay. And by Street Reach, you would mean there's one
25 over here?

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1 A: Yes, sir.

2 Q: Okay. And there's also, if I can ---

3 MR. LONG: Your Honor, we'd move Number 3 in, I don't
4 know if I've done that yet or not?

5 THE COURT: Any objection to Defense 3?

6 MR. ERVIN: No objection.

7 THE COURT: All right. Without objection.

8 DEFENDANT'S EXHIBIT NUMBER 3

9 ADMITTED INTO EVIDENCE

10 BY MR. LONG:

11 Q: And then back to Defendant's Number 2, above the
12 apartment building number, Building Number ■, what does that
13 sign say?

14 A: It says no loitering.

15 Q: Why, why is there a sign outside of an apartment building
16 that says no loitering, do you know?

17 A: Yes, sir.

18 Q: Why?

19 A: Because we have a lot of traffic in and out that
20 building.

21 Q: All right.

22 A: In all the buildings in Sandygate. It's just in the one;
23 it's all the buildings.

24 Q: Okay. Do you have a lot of police presence out there
25 from time to time?

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- 1 A: Yes, sir; we do.
- 2 Q: Do you have a lot of drug activity out there from time to
3 time?
- 4 A: Yes, sir; we do.
- 5 Q: A lot of trouble at Sandygate from time to time?
- 6 A: Yes, sir.
- 7 Q: Does it make it a little difficult to live there
8 sometimes?
- 9 A: Yes, sir; it does.
- 10 Q: These are in, so I'm gonna give these here. Is there
11 anything -- are you related to David?
- 12 A: No, sir; I'm not.
- 13 Q: Did you see David throw anything?
- 14 A: No, sir; I didn't. And after I seen Mr. David get locked
15 up in the parking lot, after they followed him to the parking
16 lot -- am I able to point, sir?
- 17 Q: Yes, ma'am.
- 18 A: Okay. It was that guy right there in the black coat, he
19 was the one that followed David to the parking lot and took
20 David down.
- 21 Q: You're pointing to Officer Neely?
- 22 A: Yes, that man right there.
- 23 Q: That's Detective Neely.
- 24 A: Okay, Detective Neely. Okay. He's the one that got him
25 so when after I seen him get David down, I ran upstairs to the

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1 neighbor to let her know what was going on. I knocked on her
2 door and I saw the drugs up there, and I said, Asia, it's
3 drugs right there. And your officer that's behind him --
4 what's your name, sir, I lost track of your name?

5 MR. SAULS: Detective Sauls.

6 Q: Detective Sauls?

7 A: Sauls, that's when he heard me; he came up there with his
8 gun and said get in the house. He said get in the house. You
9 had your gun drawn. Okay. I was hysterical. I'm pretty sure
10 you believe me, I was crying and everything. I ran into the
11 neighbor's house. You picked the drugs up and you went back
12 downstairs.

13 Q: Okay. So ---

14 MR. ERVIN: Your Honor, I would have to object. I would
15 ask that the witness to direct her testimony to Mr. Long's
16 question.

17 THE COURT: Yeah.

18 MR. LONG: I don't think she intended that.

19 A: I'm sorry.

20 THE COURT: But I just -- refocus, yeah.

21 BY MR. LONG:

22 Q: Okay. So, stay with me; answer my questions and don't
23 make statements toward other people ---

24 A: I won't, sir.

25 Q: I know you didn't mean anything by it, but it is one of

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1 the rules. So, you're saying that you opened your door, saw
2 them chase David through the breezeway and, and grab him and
3 start to arrest him?

4 A: Yes, sir.

5 Q: Then you went up the stairs?

6 A: Yes, sir; I did.

7 Q: You saw drugs laying on the, the platform?

8 A: Yes, sir, the bags were right together.

9 Q: And you told the police that there were drugs up there?

10 A: I made the comment to the neighbor. I said, Girl,
11 there's drugs up here. He overheard me, he looked dead in my
12 face and came up with there with his guns drawn.

13 Q: Okay. And then you went into the neighbor's?

14 A: Yes. He said get in the house and I went into the
15 neighbor's house.

16 Q: All right. Is there anything else about that scene that
17 you think this jury needs to know?

18 A: No, sir.

19 Q: All right. Answer any questions the Solicitor may have.

20 MR. ERVIN: Thank you, Your Honor, may it please the
21 Court?

22 THE COURT: Yes, sir.

23 CROSS EXAMINATION OF FELICIA DENISE WILLIAMS BY MR. CARAKER:

24 Q: Ms. Williams, would you please remind us where Detective
25 Neely and the Defendant were when you say Detective Neely was

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1 about to arrest him?

2 A: They were in front of the building on the sidewalk.

3 Q: Okay. Not in the breezeway?

4 A: No, they were not in the breezeway; they were out of the
5 breezeway.

6 Q: Okay. And do you know about how long the police were
7 there that day?

8 A: I'm not sure how long they were because after it
9 happened, I called my father and I was hysterical about the
10 gun being drawn while we were upstairs. I was upstairs to the
11 neighbor and, like I said, I was taking my daughter to the
12 doctor, so I was kind of upset and I was going ahead to take
13 my daughter to the doctor.

14 Q: Okay. Were they still there when you left?

15 A: Yes, they were.

16 Q: Before you went upstairs, after you saw the Defendant get
17 arrested, as you were standing downstairs, did you know there
18 was drugs up there on the second floor until you got up there?

19 A: No, sir; there was no way I would have known. We can't
20 see through the -- through the stuff, you have to go upstairs.

21 Q: Okay. And, and I understand that you were upset and
22 Detective Sauls had his gun out and he was running around and
23 there was a lot of chaos, correct?

24 A: Yes, he actually apologized afterwards, also.

25 Q: But at some point, while you were there, had it calmed

1 down a little bit?

2 A: Yes, it did.

3 Q: The officers called that the scene was secure. Would you
4 -- do you know what I mean when I say that, everything is kind
5 of calming down, there's not people running around like crazy
6 anymore; is that a fair assessment?

7 A: Yes, I would say it was secure.

8 Q: Okay. And since you encountered Detective Neely and the
9 Defendant outside of the breezeway, you didn't see him throw
10 any drugs up on top of there, right?

11 A: No, sir.

12 Q: Because you were outside of the breezeway?

13 A: No, I was not outside ---

14 Q: He was outside of the breezeway, I apologize.

15 A: He was outside of the breezeway. I was at my doorframe
16 underneath the stairs.

17 Q: Did you see anyone throw the drugs up there?

18 A: No, sir. I didn't see anyone throw the drugs up there.

19 Q: And is it the purpose of your testimony here today just
20 to see -- just so to tell the jury I didn't see anything or
21 that I know the Defendant didn't do it?

22 A: I didn't see the Defendant do it at all.

23 Q: Okay. But you didn't see who did?

24 A: No, sir; I didn't. When I ran upstairs to go let the
25 neighbor what was going on, which is my best friend, I went

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1 upstairs to knock on her door. It was no one up there when I
2 went upstairs at all.

3 Q: Is it -- is it -- and I apologize, I don't quite
4 understand. I'm just trying to get to the heart of your
5 testimony ---

6 A: Okay.

7 Q: --- a little bit, and I apologize if I'm confusing you.

8 A: It's okay.

9 Q: Is it your testimony that he sits here today falsely
10 accused?

11 A: Yes, he is.

12 Q: But you didn't see what he did before Mr. Neely got to
13 him, correct?

14 A: I would've seen -- my door was open.

15 Q: Okay.

16 A: My door was open. They ran past me. That's when the
17 second officer, Mr. Crews, I believe?

18 Q: Sauls, maybe?

19 A: Sauls, Mr. Sauls was saying close the door, close the
20 door.

21 Q: Okay. And so, because he's falsely accused, you ran down
22 there and you told these gentlemen, wait a minute, you got the
23 wrong guy?

24 A: No, I didn't say anything to them. I spoke with my
25 father, and my father, on the other hand, I believe spoke with

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1 Mr. Sauls.

2 Q: All right. And he told Mr. Sauls that this man was
3 falsely accused?

4 A: No, he -- Mr. Sauls apologized and said that he intended
5 to not scare me, that there was just a lot going on in that
6 building and he was trying to secure the situation.

7 Q: Understandable. And this happened the end of November
8 2015?

9 A: Yes, sir.

10 Q: About a year and a half ago, give or take?

11 A: Uh-huh (affirmative response).

12 Q: Sometime between today and then, you went to the police
13 department and told them they had they had the wrong guy?

14 A: No, I didn't. I didn't know Mr. Campbell was charged
15 with that at all.

16 Q: Did you file a complaint against the officer for
17 arresting the wrong the man?

18 A: No, I didn't. I spoke with my father, which he is a
19 retired police officer, and let him handle it from there.

20 Q: So, he did that?

21 A: My father did speak with Mr. Sauls because he came back
22 and told me Mr. Sauls apologized, and he also apologized while
23 we were out there because I was very upset, I was crying.

24 Q: And yet, here Mr. Campbell sits?

25 A: Yes.

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1 Q: I have no further questions. Thank you.

2 MR. LONG: I don't have anything else, Your Honor. Ms.
3 Williams is under subpoena. We'd ask that that subpoena be
4 lifted and she be allowed to be excused.

5 THE COURT: Any objection?

6 MR. CARAKER: No, sir, Your Honor.

7 THE COURT: All right, Ms. Williams, thank you very much,
8 ma'am. You're free to go.

9 MS. WILLIAMS: Thank you.

10 MR. LONG: Thank you. All right. Aliga Campbell, come
11 to the witness stand, please, sir.

12 CLERK: Please raise your right hand and place your left
13 hand on the Bible.

14 ALIGA CAMPBELL, HAVING BEEN DULY

15 SWORN TESTIFIES AS FOLLOWS:

16 CLERK: State your full name and spell your first and
17 your last name for the Court.

18 MR. CAMPBELL: Full name, Aliga Campbell. First name, A-
19 L-I-G-A last name, Campbell, C-A-M-P-B-E-L-L.

20 DIRECT EXAMINATION OF ALIGA CAMPBELL BY MR. LONG:

21 Q: Aliga, where do you live?

22 A: [REDACTED] White Street.

23 Q: Okay. And on November -- are you related to David
24 Campbell?

25 A: Yes, sir.

- 1 Q: How?
- 2 A: It's my second cousin.
- 3 Q: Okay. So, David Campbell is your second cousin?
- 4 A: Yes, sir.
- 5 Q: So, maybe one of your parents is his first cousin?
- 6 A: Yes.
- 7 Q: Is that the way it works?
- 8 A: His momma, I meant, his momma and my grandma is sisters.
- 9 Q: Gotcha. You -- were you present at Sandysgate on November
- 10 the 30th of 2015?
- 11 A: Actually, I was, sir.
- 12 Q: Okay. I'm gonna show you this big map and this case has
- 13 been all about Building Number [REDACTED]?
- 14 A: Uh-huh (affirmative response)
- 15 Q: Were you in or near Building Number [REDACTED] on November the
- 16 30th of 2015 when the police were on foot chasing David
- 17 Campbell?
- 18 A: I was in the building, but I didn't -- I wasn't there
- 19 when -- when he ran through, but I was there.
- 20 Q: Where were you in the building?
- 21 A: I was upstairs at Number [REDACTED], [REDACTED].
- 22 Q: Okay. And I'm gonna show you Defendant's Number 2, which
- 23 is the front of Number [REDACTED], Building Number [REDACTED]?
- 24 A: Yes, sir.
- 25 Q: You were upstairs. There's been testimony that ---

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- 1 A: Matter of fact, I was ---
- 2 Q: --- there's a unit on the left, a unit on the right and
3 then in the back there's another unit on the left and unit --
4 so which one is Number ■?
- 5 A: The unit on the right in the back.
- 6 Q: Upstairs ---
- 7 A: Upstairs.
- 8 Q: --- to the back ---
- 9 A: To the far right.
- 10 Q: --- on the right?
- 11 A: Yes, sir.
- 12 Q: You were there visiting someone?
- 13 A: Yes, sir.
- 14 Q: And tell me what happened?
- 15 A: Well, me and like three other guys, me -- you know what
16 I'm saying, that's -- be at Sandygate. Sandygate like a
17 little chill spot. Because being that I stay on White Street,
18 it's a little hot neighborhood and so I go to Sandygate and
19 just ---
- 20 Q: Hold on now, you're using words that I'm unfamiliar with.
21 Sandygate is a chill spot and White Street's a hot
22 neighborhood. What do you mean by those two things? What's a
23 chill spot?
- 24 A: A chill spot is where everybody go to chill and, you
25 know, do your thing, you know, like ---

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- 1 Q: And White Street is a hot neighborhood?
- 2 A: Right.
- 3 Q: What's that mean?
- 4 A: Where you go and sell your drugs or you know.
- 5 Q: White Street's got a lot of trouble?
- 6 A: Yes, sir.
- 7 Q: Okay. So, you were at Sandygate chilling on November the
- 8 30th, 2015?
- 9 A: Yes, sir.
- 10 Q: And what happened?
- 11 A: Well, okay, like I was saying, me and three other guys,
- 12 we was standing up there, you know what I'm saying, we was
- 13 chillin, smoking, you know.
- 14 Q: Smoking what?
- 15 A: Smoking marijuana.
- 16 Q: Okay.
- 17 A: And we heard a big old boom. So, when we heard the boom,
- 18 all we heard was 12, 12, get right. So, the first thing I
- 19 did, we being paranoid and scared, I reached in my pocket, my
- 20 left pocket, and dropped two bags and went in the house. But
- 21 I told my cousin, my cousin James, I told him to check the
- 22 door to make sure the stuff was still there and about the time
- 23 he opened up the door, the only thing he heard was somebody
- 24 say get in the house. So, you know ---
- 25 Q: So, I'm gonna show you what's marked and in evidence as

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1 State's Exhibit Number 5. Inside of these bags with the red
2 stripes were provided by the government.

3 A: Yes, sir.

4 Q: Inside of those are two sandwich bags, each one
5 containing an amount of white powder?

6 A: Yes, sir.

7 Q: Are you saying that when you heard the police and you
8 heard the commotion, you were on the balcony and you dropped
9 these two bags of drugs and went inside?

10 A: Yes, sir.

11 Q: And these were your drugs?

12 A: Yes, sir.

13 Q: Do you understand the enormity of coming into this
14 courtroom and claiming possession of illegal narcotics?

15 A: Yes, sir.

16 Q: You understand that you put yourself in the bull's eye so
17 to speak?

18 A: Yes, sir. Well, really, sir, it's not really about
19 putting myself in the bull's eye, sir. Growing up, my grandma
20 always told me to be honest and me just being me and I know
21 for a fact that this man right here didn't have nothing to do
22 -- I mean, I understand he got in a high speed chase or
23 whatever, but when it's coming down to involving the drugs, I
24 know for a fact myself -- and apologize, like I told you
25 before, I apologize for even putting you in this predicament,

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1 but I would ask -- I did that.

2 Q: Thank you, sir. Answer any questions the Solicitor might
3 have.

4 MR. CARACKER: It please the Court, Your Honor?

5 THE COURT: Yes, sir.

6 CROSS EXAMINATION OF ALIGA CAMPBELL BY MR. CARAKER:

7 Q: You guys are cousins?

8 A: Yes, sir.

9 Q: Okay. And your testimony is that you were there at
10 Sandygate that day?

11 A: Yes, sir. And if you guys was to look on the camera in
12 Sandygate at the day of that accident -- that incident, you
13 will see.

14 Q: Okay. Did you know that Defendant Campbell had been
15 arrested for that dope?

16 A: No, actually I didn't know.

17 Q: When did you find that out?

18 A: I found that out like later on that day, to be honest
19 with you.

20 Q: So same day, just not right then?

21 A: Yes, sir.

22 Q: And on that day, you knew that was your dope and not his?

23 A: Yes, sir.

24 Q: All right. Because as you put it, you're just being
25 honest?

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1 A: Yes, sir.

2 Q: That's a lot of dope; is it not?

3 A: I mean, if you -- if you want it call it, yeah. Yeah.

4 Q: For -- I mean it's trafficking weight, right?

5 A: Yes, sir.

6 Q: You're an honest drug trafficker?

7 A: Yes, sir.

8 Q: So, a year and a half has passed. At some point, either
9 that day or between now and then, because you want -- you've
10 put yourself in the trick bag now ---

11 A: I understand.

12 Q: --- at some point, you went and told the police they got
13 the wrong guy?

14 A: No, sir.

15 Q: You filed a complaint against Detective Neely because he
16 arrested the wrong man?

17 A: I didn't file no complaint.

18 Q: But that's a big deal, is it not? I mean, you've
19 admitted to a felony?

20 A: But you guys see, see you got to look at, excuse me, but
21 you got to look at it in my point of view. See, I'm a young
22 man, you know what I'm saying, and okay, I admit I'm out here
23 doing what I'm doing. So, with that being said, if I was to
24 see any of that going on, of course, I'm not gonna be, oh
25 yeah, yeah, you've got the wrong man. I'm gonna be -- I'm

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- 1 gonna be quiet. But then they at my grandma's -- see him and
2 my grandma, that's like my grandma's son. And my grandma,
3 like I said, she always told us to be honest and all that.
4 So, she told me, she sat down and talked to me, she was like,
5 if you know for a fact that Mr. David ain't got anything to do
6 with them drugs, you need to be a man and own up and serve
7 your consequences. So, I am here today to say that them was
8 my drugs.
- 9 Q: And pursuant to that conversation, had Defendant Campbell
10 already hired a lawyer; do you know?
- 11 A: Not that I know of.
- 12 Q: About when did that conversation take place?
- 13 A: Actually, I didn't even -- I don't even think -- I ain't
14 had no conversation about lawyers or nothing.
- 15 Q: No, I'm talking about when you had that conversation with
16 your grandmother about being honest?
- 17 A: And you asked me did he already have a lawyer?
- 18 Q: Yeah, at that time.
- 19 A: Not that I know of, no.
- 20 Q: Okay. But you know at some point, he hired Mr. Long to
21 represent him ---
- 22 A: Yes, sir.
- 23 Q: --- correct? At that point, you reported to the police,
24 instead of having him hire a lawyer and saving him all that
25 money, then you reported to the police that they had the wrong

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1 guy?

2 A: I never reported to no police.

3 Q: And at some point, he hired Mr. Morgan Martin as well,
4 did he not?

5 A: Yes, sir.

6 Q: Knowing that with an admission like that prior to trial
7 here this week, you could have stopped that train from coming
8 down the track, then you told the police that they had the
9 wrong man?

10 A: Can you repeat that?

11 Q: Defendant Campbell had to hire not one, but two lawyers
12 in this matter. Knowing that that happened, that's when you
13 went to the police finally and told them they had the wrong
14 man?

15 A: I never went to the police, sir. I'm here today to speak
16 on that behalf.

17 Q: Just today? After they've engaged in I don't know how
18 many hours of trial prep, after His Honor is here presiding
19 over this trial, and after these folks have taken time out
20 their day, out of their week and out of their lives, which all
21 could've have been avoided had you, as you say, been honest
22 and stepped up before this and said, you guys got the wrong
23 guy. You could've stopped it then, but you didn't; is that
24 right?

25 A: Right.

1 Q: Would it change your testimony -- were you here when they
2 -- they played the video of the chase, were you in here for
3 that?

4 A: Uh-huh (affirmative response).

5 Q: Would it change your testimony at all, if on the video,
6 you can hear Defendant Campbell, they saw me throw that stuff?

7 A: No, it wouldn't change my testimony because that would be
8 me lying.

9 Q: What about could that be him lying?

10 A: No, that wouldn't be him lying.

11 Q: Because that's his voice, right, on that video?

12 A: I didn't actually, me personally, I didn't even -- I
13 ain't heard him say that.

14 Q: But you don't dispute that he got in a high speed chase
15 with the police?

16 A: I mean, that's his business. I'm just -- I'm here to
17 tell you what I got going on and what I'm here for.

18 Q: So, and if the video did show that, that wouldn't change
19 your testimony either, would it?

20 A: No, because like I said, if you guys was to actually, the
21 date of that incident, see on Sandygate cameras, you will see
22 three guys actually standing upstairs before all that happened
23 and separated and went in the house upstairs.

24 Q: And it wouldn't change your testimony because you'll say
25 anything to protect your cousin?

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BY THE COURT

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1 A: It's not about protecting my cousin.

2 Q: Because you're an honest drug trafficker, correct?

3 A: Right.

4 MR. CARAKER: I have no further questions.

5 MR. LONG: Nothing else, Your Honor.

6 THE COURT: All right. Thank you, sir, you may step
7 down.

8 MR. LONG: Judge, that's the Defense.

9 THE COURT: All right. Let me get y'all to step up real
10 quick here.

11 (REPORTER'S NOTE: A bench conference was held off the record
12 in the presence of but out of hearing of the Jury.)

13 BY THE COURT:

14 THE COURT: All right. Ladies and gentlemen, I was just
15 talking with the attorneys. The Defense has rested their
16 case. It's about five minutes to 4:00. We ran a little bit
17 late yesterday, a little bit early today, but in any case,
18 there's a couple of things I have to do. I first have to take
19 up motions at the close of the all the evidence there. I have
20 to discuss with the State and the Defense if there's any
21 additional testimony that we'll hear and then if there isn't,
22 then we have to go through closing arguments before I give you
23 the charge on the law and then the case comes to you. Well,
24 it's just late in the afternoon and that would keep us here
25 very late into the evening and there's no sense in us doing

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1 that. We have time. We have tomorrow. So, here's what I'm
2 gonna do. I'm gonna excuse you for the balance of the day and
3 let you go home and I'm gonna ask you to be back tomorrow and
4 we will -- what I anticipate is we'll conclude this matter at
5 some point tomorrow and you'll have the case for your
6 deliberations at some point tomorrow.

7 So, having said that, now, you went home last night and I
8 hope you followed my instruction and told your family, friends
9 and loved ones that you can't talk about the case and all
10 that. Well, and you really didn't know anything, but a little
11 bit we told you yesterday when we did jury selection, but now
12 you've heard the case and it's very important that you tell
13 them that you're not allowed to discuss it at all, that you
14 anticipate that at some point tomorrow, you'll be able to tell
15 them everything. So, just ask them to be patient for one more
16 day and when everything is said and done, you'll be able to
17 tell they want to hear. But until that point, do everything
18 in your power to continue to protect your ability to remain
19 fair and impartial. Okay?

20 I hate to make y'all jump up right now, but I need to ask
21 you something real quick before I excuse the jury regarding
22 when I'm gonna have them come back.

23 (REPORTER'S NOTE: A bench conference was held off the record
24 in the presence of but out of hearing of the Jury.)

25 THE COURT: Okay. I'm gonna ask you, if you would, folks

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1 -- and they'll have some breakfast for you, right?

2 CLERK: Yes, sir.

3 THE COURT: They'll have breakfast for you and I'm gonna
4 ask you if you would to come in a little bit earlier tomorrow
5 morning, if we can start at 9 o'clock. Okay? So, if you
6 could be here prior to that and then when 9 o'clock rolls
7 around, we'll get started. And we'll -- we'll go from there.
8 Okay?

9 So, if everyone else would please remain seated.

10 Ladies and gentlemen, y'all have a great night's sleep,
11 if you can get that, and we'll see you tomorrow morning at 9
12 o'clock.

13 (REPORTER'S NOTE: Jury exits courtroom. 3:58 P.M.)

14 THE COURT: Now, let me ask this because this would have
15 some impact obviously. Does the State have any rebuttal
16 witnesses or any rebuttal testimony based upon the afternoon
17 session here?

18 MR. CARAKER: Court's indulgence one moment, Your Honor.

19 THE COURT: Yeah, go ahead. If y'all need to step out
20 and talk about it, you can.

21 MR. CARAKER: Could you give us a minute?

22 THE COURT: Yeah, I'll give you a minute. We'll just be
23 at ease while they're discussing that.

24 (RECESS - 4:00 P.M.)

25 *****OFF THE RECORD*****

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1 (On the Record - 4:11 P.M.)

2 MOTIONS:

3 THE COURT: At this point, we'll take up motions at the
4 close of the State's -- well, I think we've already have that
5 because you make up, so we'll reserve that until tomorrow.

6 MR. ERVIN: One final motion. We stated yesterday for
7 the temporary housing of the Defendant since the jury has been
8 sworn.

9 THE COURT: Yeah, I -- I've been thinking about it. I
10 thought I was gonna get that earlier today. I'm -- I'm gonna
11 be candid with you, Solicitor, Mr. Campbell has been here.
12 I'm not aware of any situation that he has not appeared. As
13 he ever not appeared for anything?

14 MR. LONG: Judge, he's actually on an ankle monitor now.
15 So, and we would hope that would ease the Court's concern
16 about that.

17 THE COURT: I'm gonna allow him to remain under his
18 current situation.

19 Again, Mr. Campbell, as we talked yesterday, I think it's
20 in your best interest to be here, obviously.

21 MR. CAMPBELL: Yes, sir. Yes, sir.

22 THE COURT: But if you do not appear, you understand the
23 trial will go forward?

24 MR. CAMPBELL: Yes, sir.

25 THE COURT: And then what would happen is I'm confident

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1 the State would request a bench warrant and the Court issue
2 one and then you'd be a fugitive at that time.

3 MR. CAMPBELL: I'll be here, sir.

4 THE COURT: I believe that. Okay.

5 MR. ERVIN: Yes, sir. Thank you.

6 THE COURT: All right. 9 o'clock. Write it down, we're
7 gonna be starting early.

8 Now, Kay, I guess you say you can get that transcript.

9 You can do it, do a review and make your call, okay?

10 MR. ERVIN: Yes, sir. Thank you, Judge.

11 MR. LONG: Thank you, Judge.

12 THE COURT: We'll see y'all tomorrow.

13 MR. LONG: Thank you, Ms. Kay.

14 MR. MARTIN: See you in the morning.

15 (RECESS - 4:16 P.M.)

16 END OF DAY TWO.

17 *****OFF THE RECORD*****

18 (On the Record.)

19 MAY 17, 2017 - DAY THREE - 9:38 A.M.

20 (REPORTER'S NOTE: The following takes place outside the
21 presence of the Jury.)

22 BY THE COURT:

23 THE COURT: Thank you all, have a seat. All right. I'm
24 gonna need -- I'm gonna need Rosalyn Callahan from the jury
25 room to ask her if she can step in here.

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1 (REPORTER'S NOTE: Juror 60 enters courtroom.)

2 Let me start by telling you that you're not in any
3 trouble.

4 JUROR 60: Oh, Lord have mercy.

5 THE COURT: I just -- yesterday after court ---

6 JUROR 60: Uh-huh (affirmative response).

7 THE COURT: --- you were out sitting on the bench ---

8 JUROR 60: Right.

9 THE COURT: --- and you were waiting for a ride or
10 something?

11 JUROR 60: Yes, I was.

12 THE COURT: Okay. And a young lady sat down ---

13 JUROR 60: I know who you're talking about.

14 THE COURT: Okay. Could you tell me what ---

15 JUROR 60: She sat down and she said she was tired in
16 those high heel boots she was wearing.

17 THE COURT: Yeah.

18 JUROR 60: And I said to her, excuse me, but I'm on the
19 jury and I can't talk to you, and I got up and I sat across on
20 the other bench.

21 THE COURT: That was the extent of y'all's conversation?

22 JUROR 60: That's it. That's it. God is my witness.

23 THE COURT: Oh, I believe that. Not a problem.

24 JUROR 60: I don't wear this for nothing.

25 THE COURT: Great. Okay. That sounds -- that's fine. I

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1 just wanted to ask you.

2 JUROR 60: Okay. Yes. In fact my husband said to me,
3 you know, he said to me they might mention that to you, and I
4 said well I'm honest.

5 THE COURT: Sure.

6 JUROR 60: I got nothing to hide.

7 THE COURT: That's exactly right.

8 JUROR 60: Nothing is gonna ruin my day.

9 THE COURT: There you go. All right. Thank you very
10 much, ma'am.

11 JUROR 60: You're welcome.

12 THE COURT: Thank you very much.

13 (REPORTER'S NOTE: Juror 60 exits courtroom.)

14 THE COURT: I believe that it was -- I believe that Ms.
15 Callahan acted appropriately and she followed -- it sounds to
16 me like she followed the instructions of the Court. And then
17 the young lady that say down next to her, I don't believe was
18 intending to do anything other than relieve her tired feet.
19 So, I don't think there's anything to be concerned about.

20 MR. ERVIN: No objection to that, Your Honor.

21 THE COURT: All right.

22 MR. LONG: We do need to do our motions before I believe
23 they're not calling -- I'm sorry, you might want to inquire on
24 them as to whether or not they ---

25 THE COURT: Does the State have any reply testimony?

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1 MR. ERVIN: There will be no reply testimony. However, I
2 do have one motion.

3 THE COURT: All right. Well, that's what we'll do at
4 this point then. We'll move to the -- any motions at the
5 close of the evidence. So, I would recognize Mr. Ervin on
6 behalf of the State.

7 MOTIONS:

8 MR. ERVIN: Thank you, Your Honor, may it please the
9 Court?

10 THE COURT: Yes, sir.

11 MR. ERVIN: I do make a motion to exclude any evidence of
12 a pending warrant on the Defendant. There is mention of that
13 in the police report, but there was not any -- there was not
14 any testimony about that. There's no evidence on the record
15 about this pending warrant. So, I would tell you that he had
16 -- that he knew about that pending warrant on him and the
17 reason for that motion to exclude is to disallow Mr. Long to
18 bring that up as a possible reason for his flight.

19 THE COURT: All right. Any ---

20 MR. LONG: I do believe that I asked him about the
21 pending warrant and he said he didn't know. Then I asked him
22 if it was in his report and he said he didn't know, and then I
23 went to get his report and Mr. Gray said it's in his report,
24 and I said then will you agree with me that it's in your
25 report that he had a warrant and he said, I guess so. I think

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1 we did.

2 THE COURT: I mean ---

3 MR. ERVIN: Our motion is that he had knowledge of the
4 pending warrant ---

5 THE COURT: There's no testimony in the record that the
6 Defendant had any knowledge that there was a pending warrant
7 on him or an outstanding warrant on him. There's nothing in
8 the record that would -- that would allow you to argue that --
9 I don't ---

10 MR. LONG: I'm not gonna argue that he knew he had a
11 warrant; I'm gonna argue that there was a warrant which is in
12 evidence and it's inferred that we -- I mean that would
13 require him to testify, which I know the Court ---

14 THE COURT: No, no, no. I'm not -- here's what I'm
15 saying and I think this is what the State's concern is, that
16 the argument couldn't be -- in other words, apparently the
17 State is going to make an argument as to why someone would
18 react as the Defendant reacted when the blue lights came on
19 and they're gonna ask for an inference and they're gonna get -
20 - be able to argue an inference from that. Their position is
21 that you would not be able to argue that Mr. Campbell knew
22 that there was an outstanding warrant on him and that was the
23 reason he fled.

24 MR. LONG: I'm not gonna argue that at all.

25 THE COURT: Okay. And that's -- am I right; that was

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1 your concern?

2 MR. ERVIN: That's right, sir.

3 MR. LONG: But as I -- I am gonna argue there was a
4 warrant. We know that because Crews agreed that there was a
5 warrant.

6 THE COURT: Well, you can because it's in the record, but
7 ---

8 MR. LONG: Right. I mean, I may or may not, but ---

9 THE COURT: But and then so that the record is clear, the
10 report is in evidence as a Court's Exhibit; it's not in
11 evidence for the jury. We made that an exhibit, Mr. Martin
12 made the report a Court's Exhibit, but the jury want have that
13 and it's not evidence for the jury.

14 MR. ERVIN: And my recollection is that Officer Crews did
15 not recall that there was one. In fact, I stood up and
16 objected to one of Mr. Long's questions.

17 MR. LONG: That's true.

18 THE COURT: You're right, but then I think you followed
19 it by saying you agreed it was in your report and I think you
20 said yeah, it is.

21 MR. LONG: I think he said I don't know and then Mr.
22 Ervin said, it is, and I said, would you agree with me that it
23 is, and he said yes. So, we actually got him to agree.

24 THE COURT: Okay. And of course ---

25 MR. LONG: So I'm ordered or instructed not to make a

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1 statement about his knowledge of a warrant?

2 THE COURT: There's nothing in the record that Mr.
3 Campbell had any knowledge that there was a warrant
4 outstanding on him. So, I don't think you can argue ---

5 MR. LONG: That he had knowledge.

6 THE COURT: --- that he had knowledge of that there was
7 an outstanding warrant.

8 MR. LONG: Right.

9 THE COURT: And use that as an excuse for his actions.

10 MR. LONG: But I can bring up, if I wish ---

11 THE COURT: You can bring up there was a warrant.

12 MR. LONG: What would be the reason for him running?
13 Well, there was a warrant for him.

14 THE COURT: Well, that's implying that he knew that.

15 MR. LONG: You know, having a warrant against you implies
16 that you know it anyway, doesn't it, Judge?

17 THE COURT: No, there may be a warrant for me right now
18 in Virginia because I got a speeding ticket in Virginia and
19 some lawyer up there in Virginia handled it for me, I'm
20 hoping, because the trial was two weeks ago and I haven't
21 heard from him yet, but there may be a warrant for me in
22 Virginia right now. There's not because I finally did get a
23 letter from him, but you see what I'm saying? You can't --
24 you can't infer that he -- knowledge to this Defendant.
25 That's not in the record; there's no evidence in the record of

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1 that.

2 MR. LONG: There is evidence in the record that ---

3 THE COURT: There's record that there was a warrant.

4 There's no evidence in the record that there was any -- that
5 he knew that there was a warrant.

6 MR. LONG: So, I can tell the jury that there was a
7 warrant for him, but I can't go on and add to it that ---

8 THE COURT: I don't know why you would do that, but you
9 could. It's in the

10 MR. LONG: It's possible that he knew he had a warrant.
11 Maybe he knew he had a warrant. There is a warrant. It's
12 possible that he knew he had a warrant and, therefore, that's
13 why he ran.

14 MR. ERVIN: It is possible. It's not in evidence.

15 THE COURT: Now, you're asking the jury to speculate.

16 MR. LONG: That's what we're doing in the whole trial
17 basically, right?

18 THE COURT: No, not really. You're asking them to
19 speculate as to facts that aren't in evidence.

20 MR. LONG: But the fact that he had a warrant is in
21 evidence.

22 THE COURT: The fact that there was an outstanding
23 warrant is in evidence.

24 MR. LONG: Judge, may I ask ---

25 THE COURT: Yeah.

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1 MR. LONG: I mean to argue. How could I get into
2 evidence that he knew there was a warrant against him; call
3 him as a witness?

4 THE COURT: Well, you could have possibly asked one of
5 those other two witnesses you had.

6 MR. LONG: How would anybody else know what he knows?
7 Only he knows what he knows and the only way he did that was
8 to ---

9 THE COURT: Well, I can tell you this, there's a lot of
10 people that would know if I had an outstanding warrant and I
11 knew about it, because I'd tell people, I got that ticket in
12 Virginia, that lawyer didn't handle it. Now, I've got a
13 warrant outstanding.

14 Go ahead, Mr. Martin.

15 MR. MARTIN: Just to say, even the Judge's charge that
16 you can consider the evidence and reasonable inferences
17 therefrom. In listening to what's said, it's clear to me that
18 a person who has a warrant against him -- and in this case it
19 was CDV warrant by a girlfriend, so I think he probably did
20 know it. If there's a warrant existing out there, then one
21 reasonable inference from that fact is that he knew it. So,
22 it would seem to me that what the argument could be -- it
23 couldn't be that he ran because he knew he had a warrant. The
24 argument could be he ran. Why did he run? They say he ran
25 because he had drugs in the car. That might not be the only

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1 reason he would have run. He might have had another reason.
2 We know he had a warrant pending against him. So, whether he
3 had drugs in the car or whether he knew he had a warrant is up
4 for you to determine which is a reasonable inference from
5 that.

6 THE COURT: Right. Yeah.

7 MR. MARTIN: I think that's a good way to ---

8 THE COURT: I think you can argue that.

9 MR. LONG: That's exactly what I intended and how I
10 intended to handle that. I certainly didn't want to tell the
11 jury that he knew anything because he didn't testify.

12 THE COURT: Right.

13 MR. LONG: We don't know what he knew.

14 THE COURT: Right. Okay.

15 All right. Anything further from the State?

16 MR. ERVIN: No, Your Honor.

17 THE COURT: Any motions from the Defense?

18 MR. MARTIN: The Defendant would renew his motion for a
19 directed verdict of not guilty as to the failure to stop for a
20 blue light and siren and drug trafficking charges in that the
21 evidence which has been entered into the record considered in
22 the light most favorable to the State would sustain the jury
23 verdict of guilty. And we would additionally move for a
24 mistrial based on the grounds which were stated detailedly in
25 the record earlier and I would adopt the same argument I made

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1 then with regards to a mistrial.

2 THE COURT: All right, sir. I'm gone respectfully deny
3 those motions. As I said earlier, I believe that there is
4 evidence in the record that would require that the jury -- a
5 jury's decision and so we're gonna -- we'll proceed at that
6 point.

7 We talked briefly yesterday about this. I'm assuming
8 you're gone require the State to open in full?

9 MR. LONG: I'm not, Judge; I'm not. I'm gonna close and
10 allow them to close at the end.

11 THE COURT: All right. That suit you?

12 MR. ERVIN: Yes, Your Honor.

13 THE COURT: Well, we'll do that. Is there anything else
14 that we need to take up before we bring the jury in for those
15 purposes?

16 MR. ERVIN: The State has nothing, Your Honor.

17 MR. MARTIN: I want to stay here as long as I can. I
18 don't know how long these arguments are going to last.

19 THE COURT: Sure.

20 MR. MARTIN: If I feel like I need to, can I slip out in
21 the midst of an argument?

22 THE COURT: Yes, sir, absolutely. I don't want Judge
23 Houck calling me because we kept you away from his court.

24 MR. MARTIN: And Mr. Campbell knows.

25 THE COURT: Mr. Campbell, you're aware of that situation?

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1 MR. CAMPBELL: Yes, sir, I understand.

2 THE COURT: Okay.

3 MR. MARTIN: He has no objection to that.

4 THE COURT: That sounds good then. All right.

5 Well we'll -- we'll then proceed. Now, the doors are to
6 be locked, no one in or out of the courtroom, unless Mr.
7 Martin needs to leave. He'll be allowed to leave. But no one
8 else in or out. Okay? Thank you, sir.

9 All right. Let's bring the jury in, please.

10 I'm sorry, hold on for one moment. We're off the record
11 for just right now.

12 *****OFF THE RECORD*****

13 (On the Record.)

14 THE COURT: All right. So let's bring the jury in.

15 (REPORTER'S NOTE: Jury enters courtroom. 9:57 A.M.)

16 BY THE COURT:

17 THE COURT: All right, ladies and gentlemen, welcome
18 back. We are ready to proceed now. I have taken up the legal
19 matters that I needed to take up at the close of the evidence
20 and so we are now at the stage of the trial where the
21 attorneys are gonna have an opportunity to address you with
22 what we typically refer to as their closing arguments. This
23 is their opportunity to discuss or to talk with you about what
24 they believe the evidence in this case has shown. As I told
25 you, the same instruction that I gave you with their opening

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1 statements applies to their closing arguments and that is that
2 what they share with you over the next several minutes is not
3 evidence. The evidence in the case is closed, but this is
4 their opportunity to argue to you what they believe that
5 evidence as shown. So, it's important that you pay close to
6 attention to the attorneys as they argue or make their final
7 arguments to you. Once they've concluded their closing
8 remarks, I will then give you the charge on the law. Once you
9 have all of that, you will then be in a position to finally
10 have the case for your deliberations. Okay?

11 So, if you would, please give the attorneys your close
12 and undivided attention as they address you with their closing
13 remarks.

14 Mr. Long?

15 MR. LONG: Thank you, Your Honor.

16 CLOSING BY LONG:

17 MR. LONG: Mr. Foreman, ladies and gentlemen, on behalf
18 of David Campbell and my friend, Morgan Martin, we want to
19 thank you. I asked you and told you when we started this
20 early yesterday morning that we handpicked you to stay and we
21 handpicked 14 of you and eventually the 12 of you because we
22 felt like you were exactly the kind of people that needed to
23 sit and listen and do this job. It's a job and I know it's
24 hard. I do this for a living and it's hard for me to leave my
25 office for three days and come over here and do nothing but

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1 this for three days. I know it's hard for you to leave your
2 lives and to leave your work and to leave your homes and
3 everything that you got going on, drop it all and give it to
4 us for three days, but it's so incredibly important in America
5 that we ask you to do it and that you then step up and do it.
6 You've performed a very valuable service, not just to us, but
7 to this county and this state by giving us your time, you've
8 given us your attention, you've heard and you've seen
9 everything there is to hear and see in this case and now you
10 get to judge that.

11 Remember I told you early on, you're not judging David
12 Campbell. David Campbell is innocent. David Campbell walked
13 into this courtroom cloaked -- you could almost close your
14 eyes and picture him if there was a white robe that had the
15 word innocent written across it, across his shoulders. He
16 walked in here innocent and he's still innocent until the
17 State of South Carolina proves to you beyond a reasonable
18 doubt, which is a doubt which you can give a good reason that
19 he did in fact violate the law.

20 You've seen a video of him running as hard as he could
21 from the police. I think it would be impossible for David and
22 I to come into this courtroom and expect you to find him not
23 guilty of that. It's pretty clear, isn't it, he did run from
24 the police. I think his running from the police ended up
25 causing him a whole lot more trouble than he expected. We end

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1 up now with a possession of drugs charge, trafficking in drugs
2 on the tail end of this chase that we're here having to ask
3 you to take a good hard look at and that's what I want you to
4 do and that's what I know you've done so far. But I want to
5 help you summarize what you've seen so far and ask you to take
6 a good look at it.

7 First, there's some things in this case that don't make
8 any sense to me. I don't know if they make sense to you or
9 not. I'm still confused as to how three plainclothes officers
10 in an unmarked pickup truck are riding around following my
11 client and then decide to call a police officer with a marked
12 car to come and stop him. I wonder why? I don't understand
13 why none of those three plainclothes police officers will take
14 ownership of this case. I don't understand their response to
15 me about whether or not they wrote a report, about whether or
16 not they made the arrest, about whether or not they did
17 anything. According to them, they just assisted, but they
18 initiated the whole thing. They initiated the whole thing and
19 they handed to a police officer, Jeremy Crews, who did not see
20 any drugs, did not see David Campbell throw any object, did
21 not find any drugs, tried to stop him for what they told him
22 was a traffic violation and he ran. Now, I can agree with
23 everybody that watching what Jeremy Crews had to do, that's a
24 brave fellow. These are all brave men to get out there and
25 run around at high speeds and they're chasing people into

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1 situations. They don't even know what they're getting into.
2 They don't know how dangerous it is, and it's amazing thing
3 that they do every single day. And I don't want to take away
4 from that. I was brought up -- I was raised to trust and
5 listen to and obey every single thing a police officer told me
6 to do. In fact, I was taught that about my teachers in the
7 school, I was taught about the principal in school, I was
8 taught that about my mother. If they tell you to do
9 something, even if it doesn't make any sense, you do it. They
10 put a blue light on you, you stop. We all weren't raised the
11 same way though. We're all part of the same community and
12 we're all taught to trust everything a police officer does and
13 to trust everything a police officer says. But unfortunately,
14 in the past few years, we've seen an awful lot of things in
15 our world that have caused us not to trust. We've seen
16 scenarios all over our country in the past few years where one
17 thing was said and then video evidence showed the exact
18 opposite.

19 In this case, all the power of the State of South
20 Carolina was in the hands of those three narcotics officers
21 and Jeremy Crews. They had all of the equipment, all of the
22 training, all of the authority, all of the jurisdiction and
23 all of the power to do exactly what they needed to do. They
24 had everything in their -- at their fingertips to bring to you
25 into this courtroom to prove this case. What did they have?

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1 They had one DVD with one car chase. That video does not show
2 David Campbell possessing anything, does not show David
3 Campbell throwing an object as it says in the report, as it
4 said -- they said from the witness stand. I find it
5 strikingly strange and hard to believe that David Campbell
6 running full speed, for his life, being chased by one or two
7 or three police officers, could grab presumably out of his
8 pocket, two separate bags weighing less than a quarter of an
9 ounce each, and these little flimsy sandwich bags, and while
10 running full speed, could throw those up in the air 14 feet
11 over a railing and those two things could end up exactly
12 beside each other. Strikingly strange for sure. Almost
13 sounds impossible to me.

14 Reasonable doubt is that which you can give a reason.
15 You can doubt almost anything. I used to clerk for a great
16 man, Judge Sidney Floyd. He was our Resident Judge here for
17 years and he used to say in his jury charge, you can doubt
18 almost anything. Now, I could tell you that there's no salt
19 in that ocean over there at the beach. Well, you can doubt
20 that because that is doubtful. We know that that's not true;
21 let's doubt that. But do you believe that those two light
22 bags, could be thrown by somebody running full speed, 14 feet
23 up in the air and they land right beside each other. The
24 evidence that you have in this case, the only evidence that
25 you can grab on to and believe from the State's position is

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1 the testimony of one police officer. Nobody else saw it.
2 Nobody else knew anything about it. One man, running full
3 speed, not knowing what he's running into, heart pounding,
4 adrenalin spiked, says he saw an object, no idea what that
5 object is, but says he saw an object come out of David
6 Campbell's hand.

7 Yesterday afternoon, a young man walked in here on his
8 own accord, under his own power, and I will tell you, seemed
9 awful believable and said I can't let that man, after what my
10 grandmomma has been telling me about telling the truth, I
11 can't let that guy go down for the fact that when I heard
12 police and I heard screaming and yelling, I was standing out
13 on the balcony and I put those two bags down on the ground.
14 It makes perfect sense that they ended up together from this
15 high as opposed to running full speed 14 feet in the air.
16 That actually corroborates why they're there on the balcony
17 together.

18 I think that these men who work so hard at doing what
19 they do to keep our streets safe, to try and keep this
20 community lawful, wanted David Campbell so bad, sometimes
21 their mind plays tricks on them. I'm not saying they did
22 anything improper, and I'm certainly not saying that they're
23 lying. That's not what I'm saying at all. But I think that
24 Officer Neely, in his -- in the heat of the moment, in his
25 haste, wanted to believe that he saw something thrown. You

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1 heard our other witness, Ms. Williams, say they didn't see
2 something thrown and then ran up there and got it. She walked
3 out of her door, went upstairs, she saw it because Aliga had
4 put it there and gone back into apartment Number ■. She saw
5 it and she said, hey, there's drugs up here, and that's when
6 Sauls went up there and found it. That is evidence that it
7 wasn't thrown up there. That is evidence to the contrary that
8 someone saw someone throw something up there. In fact, she
9 had to point it out to them and there's nothing in the record
10 that says she wasn't honest with you. There's nothing to
11 refute what she told you and there's no reason for her to come
12 tell you that unless it is true. She's not in trouble. She's
13 not related to David Campbell. She has nothing to gain by me
14 sending her a subpoena and making her stay out of work and
15 come here and take that witness stand and tell you that, no
16 reason whatsoever.

17 You cannot like David Campbell. You cannot like him for
18 his actions. You cannot like him because he ran from the
19 police and endangered people and ripped the bumper off of
20 somebody's vehicle. It looked awful. It made me wince. You
21 cannot like him for his -- his racist comments from the back
22 of that police car. You cannot like him for the way he's
23 grown up. You cannot like him for everything that's been
24 involved in his life up to this point, but that doesn't mean
25 that he's guilty of trafficking cocaine. He is guilty of

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1 failure to stop for a blue light and I expect you to go in
2 there and do that real quick. But until you can say that he
3 is guilty of possessing something, the State must prove to you
4 that he did and they must do that beyond a reasonable doubt.
5 The only evidence that they have, the only evidence that they
6 brought to you was that one statement. Other things that
7 could have been brought to you, body cameras, eyes in the sky
8 all around the apartment complex, other witnesses,
9 photographs, reports. Did they intentionally not do these
10 things or did they just assume they didn't need to do these
11 things? But we, citizens, expect them to do those things. We
12 expect them to investigate. They were investigators, by the
13 way; that's what they do. We expect them when they all three
14 have cell phones in their pockets, to snap a picture of a
15 scene. I expected them to agree with me that Building Number
16 ■ was where this took place. I have no idea why those three
17 men didn't want to agree with me. I have no idea why they
18 wanted to avoid the obvious, that this is where this occurred.
19 But, I was thinking about it, maybe I need to come -- what
20 reason can I give for them to give me such a hard time on
21 identifying where this took place. They were the ones that
22 were there; I wasn't. This is where it happened. Is this
23 where it happened? I can't tell. It looks like an apartment,
24 it's a set of stairs, but I don't know for sure. Why are they
25 evading me and my questions? Why? Because they want this so

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1 bad? Did they want this that bad when it happened? They
2 wanted it this bad this long to come and have you believe that
3 even though they have all the ability in the world to prove or
4 disprove this case, to come in here and tell you that
5 possession of something, followed by the decision not to at
6 least not ask somebody to fingerprint and touch DNA analyze
7 it, to see if somebody possessed it is not important, to me
8 makes no sense whatsoever. If I touched something and you can
9 prove that I touched it, then you can prove I possessed it,
10 right? They didn't even ask. We know from the witnesses that
11 it's possible. It's certainly possible to fingerprint that
12 bag and it's really certainly possible to swab it to see if
13 someone's -- someone touched it and left DNA on it. There's a
14 lab in Columbia that tests it every single day. All they had
15 to do was ask. They didn't. Why? Why did they not? Why did
16 they not bring you anything more than one witness that says he
17 saw him throw something. And why you might ask, because I've
18 asked and I figure, shoot, if I think it's curious, then you
19 must think it's curious, too. Why is the -- as soon as the
20 man whose case this was, the only person to write a report in
21 this case, the minute he got finished testifying, he walked
22 out of that door. It was his case. All the other witnesses
23 said, it's his case, not my case. So, I didn't do anything.
24 I didn't write the report because it was his case. Is it? Was
25 it? Something's not right. There's something not right here.

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CLOSING BY LONG

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1 Okay? You probably know what it is; I don't. But, I do know
2 this, the burden is a big word, right? A burden, every time I
3 think of burden, I think of something -- me having to carry
4 something real heavy. The State carries the burden. The
5 Judge says it in every jury charge. He's gonna say it here in
6 a minute when he tells you what the law is. A burden is
7 heavy. The burden is on the State of South Carolina to
8 convince you beyond a reasonable doubt that David Campbell
9 possessed those drugs. Not only did they not bring you any
10 proof that he possessed them, but a witness took that stand
11 and said that they were mine; I possessed them. If Aliga
12 Campbell possessed them, David Campbell did not.

13 Again, every single one of you is paying attention to
14 every word I'm saying. You've done that for three days and we
15 really, really appreciate it. It's so important; you have no
16 idea. That man's life is hanging, waiting on you to make this
17 decision. We couldn't do it without you. We've been waiting
18 for this moment for a long time. Now's the time.

19 Please go in that jury room and please agree that they
20 could've -- they could've brought us a whole lot more than
21 this. Look at all the stuff they chose not -- they chose not
22 to bring. Not that they didn't have, not that they couldn't;
23 they chose for some reason not to write reports, not to bring
24 you more video evidence, not to take photographs, not to
25 fingerprint, not to DNA analysis, not to, not to, not to, not

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CLOSING BY ERVIN

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1 to. Not guilty; that's what that is. They picked their
2 poison with that. For some reason they did.

3 Now, the Judge is gonna tell you when you go into your
4 jury room that you consider everything that you've seen,
5 everything that you've heard, you're able to take this
6 evidence in there and discuss it and then you must have a
7 unanimous opinion. All 12 of you must agree. If you can't
8 agree, we'd have to get 12 other people to come do this and I
9 promise you, there are not 12 other people we want to do this.
10 You are those 12 people. You can go back in that jury room
11 and decide this case. It should be doable and we're asking
12 that you do it and I hate to put that burden, I use the word
13 burden again, on you, but I sure appreciate the fact that
14 you're willing to accept it. Thank you very much.

15 THE COURT: Thank you, Mr. Long.

16 Mr. Ervin?

17 MR. ERVIN: Thank you, Your Honor, may it please the
18 Court?

19 THE COURT: Yes, sir.

20 CLOSING BY ERVIN:

21 MR. ERVIN: Ladies and gentlemen, Mr. Long is exactly
22 correct. The officers' hearts were pounding and their
23 adrenaline was high. They had just chased this man at 90
24 miles an hour down the road. He got out of his car, he fled on
25 foot, they chased him on foot. They had no time to formulate

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CLOSING BY ERVIN

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1 a story. Officer Neely told you what he saw. Listen to the
2 video and you can take this computer back there when you're
3 deliberate. Three minutes and ten seconds into the video, you
4 hear Officer Neely say, he threw it; he threw it. No reason
5 for him to say that unless he saw this Defendant throw those
6 bags. Two minutes later, 5:20 on the video, Officer Sauls, I
7 got two bags; I see nothing else up here. Why in the world
8 would Officer Sauls have a reason to go up to the second floor
9 unless he was told the two bags were thrown up there. Their
10 heart was pounding, their adrenaline was spiked, they had just
11 chased this Defendant in a vehicle and on foot. No need to go
12 upstairs unless they saw the Defendant throw those drugs and
13 Detective Sauls had to go retrieve them. And I'll get to Ms.
14 Williams testimony in a little while and tell you why what she
15 said is just not what happened.

16 Now, Mr. Long basically conceded the failure to stop.
17 It's my duty to at least show you the evidence that is there.
18 Obviously, you've seen the video, and the Judge will instruct
19 you on the law here in just a little bit. You need to find
20 that the Defendant was driving a motor vehicle on the roads in
21 South Carolina though the Defendant was signaled by law
22 enforcement and that he did not stop. It's as simple as that.
23 Obviously, you heard all the officers testify that they had
24 their blue lights and sirens activated and it's obvious from
25 the video, the Defendant knew that and sped away at 90 miles

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CLOSING BY ERVIN

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1 an hour trying to get away. So, the evidence is overwhelming
2 for the failure to stop.

3 Mr. Long said that running from the police caused Mr.
4 Campbell a lot more trouble than he should have encountered.
5 Yesterday you heard from Aliga Campbell. He told you a story
6 about those drugs being his. He could've saved this Defendant
7 a lot more trouble and a lot less time. He came forward a
8 year and a half later trying to save him from the trouble. It
9 could've been done a lot sooner. We'll talk about Mr. Aliga
10 Campbell here shortly, also.

11 Obviously, you can see that the crux of this case is
12 going to be whether you believe that this Defendant was the
13 one that threw those two bags up onto the second floor. Yes,
14 we only have one officer that saw him. The State would love
15 if we had all three that saw him. Jeremy Neely put his hand
16 on that Bible and swore to you, looked you in the eye and told
17 you what he saw. The man's got 12 years of law enforcement
18 experience. He's got a lot on the line.

19 And again, I'll reiterate, that video, when you go back
20 and listen to it, at those times, you can hear the officers
21 contemporaneously with them chasing the Defendant through the
22 breezeway, you piece it together; he threw it, he threw it,
23 while they're going. And, Mr. Long would have you believe he
24 was going full speed. I think Officer Neely testified that at
25 the point that they encountered each other, I was standing

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CLOSING BY ERVIN

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1 here, he was standing there, he approximated it about seven
2 feet. He never said this Defendant was in a full sprint. If
3 that -- if this Defendant had come to the opposite end of the
4 breezeway, saw Detective Neely and turned back around, threw
5 it and then full strength and those bags were clumped
6 together. It's perfectly feasible that those two bags
7 weighing 11.2 grams make it up in the same spot where
8 Detective Sauls found them.

9 Let me go through the elements real quick of the
10 trafficking just so you can piece together the facts that you
11 have and the law that you will be instructed on here shortly
12 and fit it together like -- and when that's done, you'll be
13 firmly convinced of this Defendant's guilt on both charges.

14 Trafficking requires you to find this Defendant guilty
15 beyond a reasonable doubt that the substance was cocaine. You
16 heard Ms. Johnson testify that in her expert opinion -- and
17 the tests that she deducted it was cocaine. That the
18 Defendant had possession of that cocaine, either actual or
19 constructive, and you'll get a charge on both of those. The
20 State's position is this was actual possession. This
21 Defendant actually possessed those drugs. He tried to
22 dispossess those drugs by throwing them, but he had them on
23 him at one point and Officer Neely saw that. And the last
24 element is that the drugs did in fact weigh 10 grams or more.
25 Again, the drug report is evidence submitted by Courtney

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CLOSING BY ERVIN

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1 Johnson, 11.2 grams.

2 Now, Mr. Long and Mr. Martin, who had to leave, but these
3 guys are the best attorneys around here. I have ultimate
4 respect for them, and you can see their eloquence in the
5 courtroom. But having this case against them has reminded me
6 of an old saying I heard -- I think it was in law school. If
7 the facts are on your side, count them down. We had the
8 facts. If the law is on your side, count on the law. We have
9 the law. If neither is on your side, put it down on the table
10 and just try to scatter everything, try to get your focus off
11 of the evidence of this Defendant's guilt. Now, they
12 scattered it so hard, they brought Felicia Williams and Aliga
13 Campbell up on the stand to tell you a story.

14 Let's take Ms. Williams. Keep in mind, ladies and
15 gentlemen, as I told you yesterday in the beginning, evasion.
16 These are evasion attempts. Ms. Williams admitted to you that
17 she did not see him throw the drugs. In fact, she told you
18 she was on the first floor when Detective Neely had already
19 detained and arrested the Defendant. By that time, Detective
20 Sauls testified to you that he had gone upstairs and retrieved
21 the two bags. There's no possible way Ms. Williams could've
22 been on that second floor and encountered Detective Sauls;
23 there's no way. She told you she couldn't see the drugs from
24 where she was standing on the first floor. Again, how would
25 Detective Sauls know the drugs were up there if she was where

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CLOSING BY ERVIN

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1 the arrest took place and she couldn't see them. Detective
2 Sauls had to have been told by someone they were thrown up
3 there and Detective Neely told him that. She told you never
4 came forward to the police that they had arrested the wrong
5 person. Again, and she had a year and a half to do that.
6 This incident took place November of 2015. She could have
7 saved this man a lot of trouble. He created this trouble.
8 There was nobody to save him from it.

9 I think we can -- you heard testimony and listened to the
10 video. Remember the testimony that the officers told you. It
11 doesn't jive with what she said. It just -- it's not possible
12 that she was up on that second floor.

13 Let's move to Mr. Aliga Campbell. He said he was related
14 to the Defendant. So, we have a bias. He has a reason to
15 come in here and tell you the story. This man admitted to you
16 that he would not change his testimony regardless of what was
17 presented in court. He told you once he did hear the video
18 and then he waivered. I submit to you, regardless of him
19 hearing the Defendant say, he seen me throw it, and admit to
20 possession of those drugs, he would've told you the same
21 story, the honest drug trafficker. But, yet again, this man
22 waited a year and a half to come forward with this story to
23 try and put this Defendant out of his trouble. He had all the
24 time in the world. Who leaves that much cocaine laying
25 around?

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CLOSING BY ERVIN

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1 Let me pose something interesting to you. Let's say this
2 Defendant is not guilty of the possession, the trafficking
3 charge, possession of cocaine. Imagine you're sitting in this
4 box and Aliga Campbell sitting at that table, who in the world
5 do you think is going to be the first witness that Aliga
6 Campbell's Defense Attorney is calling to the stand? It's
7 gonna be that man, David Campbell. And do you know he's gonna
8 say; those drugs were mine. I owned them on a video. Those
9 officers heard me say that in court. We got court transcripts
10 saying they were mine; they're not Aliga's. He flipped the
11 script.

12 Evasion, that's all it is, ladies and gentlemen. What
13 you witnessed is -- the State submits to you, it's a simple
14 case. We did not have fingerprint evidence. We did not have
15 DNA evidence. Unfortunately, there was no surveillance
16 footage that was able to be obtained from there. The officer
17 saw the man throw it. There's no need to tie up resources in
18 submitting two bags that they saw this man throw. There's no
19 need for it.

20 What you've witnessed is an evolution from truth to
21 untruth presented by this man. You heard on the -- you can
22 hear it again when you take the computer back there and listen
23 to it and hopefully will be a little more clearer for you. He
24 saw me throw it. I'm F'd up. He knows it. Then the second
25 time, he says he saw me throw it. Qualifies it a little bit.

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CHARGE TO JURY

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1 Another statement later in the video, a Mexican set me up, a
2 wetback. Set him up for what? Failing to turn on his signal?

3 Lastly, in this untruth, Aliga Campbell. This man's
4 cousin got up here and told you it was his drugs. Evasion, is
5 all it is.

6 I asked you yesterday that now's the time for the evasion
7 to be over, for you to end it. It's time to hold this man
8 accountable for both crimes that he committed.

9 (REPORTER'S NOTE: State's 3 published - not transcribed
10 herein.)

11 MR. ERVIN: Essentially you heard five words spoken by
12 this man in the backseat of that police car with nobody
13 talking to him. He seen me throw it. On top of Jeremy Neely
14 telling you saw it, on top of Detective Sauls recovering the
15 two bags that were seen thrown by this man, he tells you, he
16 seen me throw it. What's he's really saying to you is one
17 word; guilty. That's what he's telling you, guilty. Find him
18 guilty.

19 Thank you.

20 THE COURT: Thank you, Mr. Ervin.

21 CHARGE TO JURY:

22 THE COURT: Ladies and gentlemen, Mr. Foreman and members
23 of the jury, you've heard all the evidence and the arguments
24 of both parties. I'm now going to explain to you the rules of
25 law which you must follow and apply in deciding this case.

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CHARGE TO JURY

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1 When I have finished, you will go into the jury room and
2 you'll begin your deliberations.

3 Now, your decision must be based only on the evidence
4 that was presented here in this court. You must not be
5 influenced in any way by either sympathy for or prejudice
6 against anyone. The indictments in this case charge the
7 Defendant, David Harold Campbell, with failure to stop for a
8 blue light and/or siren and trafficking in cocaine more than
9 10 grams, but less than 28 grams in weight.

10 Now, the indictments are simply the formal written
11 instruments which contain these charges made against the
12 Defendant and I remind you that the Defendant was arrested,
13 charged and indicted in this case is not evidence and it
14 cannot be considered by you as evidence of guilt in this case,
15 nor does it create any presumption of inference of guilt. The
16 Defendant has pled not guilty to the charges or the
17 indictments and that plea places upon the State the burden of
18 proving him guilty beyond a reasonable doubt. A person
19 charged with committing a criminal offense in South Carolina
20 is never required to prove him or herself innocent. I charge
21 you that it is an important rule of law that a Defendant in a
22 criminal trial, no matter what the seriousness of the charge
23 may be, will always be presumed to be innocent of the crime
24 for which the indictments were issued unless guilt has been
25 proven by evidence satisfying you of that guilt beyond a

1 reasonable doubt.

2 This presumption of innocence does not end when you begin
3 your deliberations, but it accompanies the Defendant
4 throughout the trial until you reach a verdict. Now, the
5 presumption of innocence is not a mere legal theory; it's not
6 a legal phrase. It is a substantial right to which every
7 Defendant is entitled unless you, the jury, are satisfied from
8 the evidence of the Defendant's guilt beyond a reasonable
9 doubt.

10 So, what is a reasonable doubt in the law? Some of you
11 may have served in jurors in civil cases where you were told
12 that it is only necessary to prove that a fact is more likely
13 true than not true, such as by the greater weight or the
14 preponderance of the evidence. In criminal cases, the State's
15 proof must be more powerful than that; it must be beyond a
16 reasonable doubt. Proof beyond a reasonable doubt is proof
17 that leaves you firmly convinced of the Defendant's guilt.

18 Now, there are very few things in this world that we know
19 with absolute certainty, excuse me, and in criminal cases, the
20 law does not require proof that overcomes every possible
21 doubt. If based on your consideration of the evidence, you
22 are firmly convinced that the Defendant is guilty of the
23 crimes charged, you must find the Defendant guilty. If,
24 however, you feel that there is a real possibility that the
25 Defendant is not guilty, then you must give the Defendant the

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1 benefit of that doubt and find him not guilty.

2 As I said before, you must consider only the evidence
3 that I have admitted in this case. Evidence includes the
4 testimony of witnesses and any exhibits that came in during
5 the course of the trial and you will have those exhibits with
6 you in the jury room when you retire for your deliberations.

7 You shouldn't assume from anything that I have said that
8 I have any opinion about any factual issue in this case.
9 Except for my instructions to you on the law, you should
10 disregard anything that I may have said during this trial in
11 arriving at your own decision about the facts. Your own
12 recollection and interpretation of the evidence is what
13 matters. In considering the evidence, you may use reasoning
14 and common sense to make deductions and to reach conclusions.

15 Now, while the arguments of counsel are beneficial, every
16 part -- are a beneficial part of every trial, you should
17 remember that the statements made by counsel are not evidence.
18 In presenting arguments, counsel often refers to the evidence.
19 However, you should base your verdict on the evidence as you
20 remember it. Therefore, if there are any conflicts between
21 the recollection of counsel about the evidence and your own
22 recollection, you should rely upon your own understanding of
23 the evidence.

24 Now, there are two types of evidence which are generally
25 presented during the course of a trial. There is direct

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1 evidence and there is circumstantial evidence. Direct
2 evidence is the testimony of a person who claims to have
3 actual knowledge of a fact, such as an eyewitness.
4 Circumstantial evidence is proof of a chain of facts and
5 circumstances indicating the existence of a fact. Crimes may
6 be proven by circumstantial evidence just as well as direct
7 evidence. To the extent the State relies on circumstantial
8 evidence, all of the circumstances must be consistent with
9 each other and, when taken together, point conclusively to the
10 guilt of the accused beyond a reasonable doubt. If these
11 circumstances merely portray the Defendant's behavior as
12 suspicious, then that proof has failed. The State has the
13 burden of proving the Defendant guilty beyond a reasonable
14 doubt and this burden rests with the State regardless of
15 whether the State relies on direct evidence, circumstantial
16 evidence or some combination of the two. The law makes
17 absolutely no distinction between the weight or the value to
18 be given to either direct or circumstantial evidence, and
19 there is no greater proof required of circumstantial evidence
20 than of direct evidence. You should weigh all of the evidence
21 in this case.

22 Now, when I say that you must consider all of the
23 evidence, I don't mean that you must accept all the evidence
24 as true or accurate. You should decide whether you believe
25 what each witness had to say and how important that testimony

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1 was. In making those decisions, you may believe or disbelieve
2 any witness in whole or in part. The number of witnesses
3 testifying concerning a particular point, does not necessarily
4 matter. To decide whether to believe any witness, I suggest
5 that you ask yourself a few questions. Did the witness
6 impress you as one who is telling the truth? Did the witness
7 have any particular reason not to tell the truth or have a
8 personal interest in the outcome of this case? Did the
9 witness have an opportunity and ability to accurately observe
10 those things that he or she testified about? Did the witness
11 appear to understand the questions clearly and answer them
12 directly? Did the witness' testimony differ from other
13 testimony or from the evidence presented? However, keep in
14 mind that a simple mistake does not mean that a witness wasn't
15 telling the truth as he or she remembers it. People naturally
16 tend to forget some things or to remember them inaccurately.
17 So, if a witness misstated something, you must decide whether
18 it was because of an innocent lapse in memory or an
19 intentional deception. The significance of your decision may
20 depend on whether the misstatement was about an important fact
21 or an unimportant detail.

22 Now, the rules of evidence ordinarily do not permit
23 witnesses to testify as to opinions or conclusions. There's
24 an exception to this rule that exists for witnesses that we
25 call expert witnesses. You'll recall that the chemist who was

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1 testifying in this case, was qualified as an expert witness.
2 That witness, who by education and experience, has become an
3 expert in some art, science, profession or calling, may state
4 that opinion as to relevant and material matter in which the
5 witness claims to be an expert and may also the reasons for
6 that opinion. You should consider any expert opinion that's
7 received into evidence in this case and like any other
8 evidence, you give it the weight that you think it deserves.
9 If you decide that the opinion of an expert witness is not
10 based on sufficient education and experience or if you
11 conclude that the reasons given in support of that opinion are
12 not sound or that the opinion is outweighed by other evidence,
13 you may disregard that opinion entirely. An expert witness'
14 testimony is to be given no greater weight than that of any
15 other witness simply because he or she is an expert. And
16 furthermore, you're not required to accept an expert's opinion
17 even though it's not contradicted.

18 Now, I instruct and I emphasize that the fact that the
19 Defendant, David Harold Campbell, did not testify in this case
20 is not a factor to be considered by you in any way in your
21 deliberations and in your consideration on the question of
22 guilt or innocence of the Defendant. It must not be
23 considered by you in any manner whatsoever. A Defendant has a
24 constitutional right to remain silent and the assertion of
25 this right, must not be considered by you in your

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1 deliberations. I repeat, under your oath, you are not to draw
2 any conclusions whatsoever from the fact that Mr. Campbell did
3 not testify in this case. The fact that he did not testify,
4 should not even be discussed in the jury room.

5 Now, statements alleged to have been made by Mr. Campbell
6 have been admitted into evidence in this case. While the
7 Court has determined that these statements are admissible, I
8 instruct you that the ultimate decision as to whether or not
9 the Defendant made these statements is up to you, the jury.
10 If you determine that the Defendant did make the statements,
11 you must determine whether the statements were made
12 voluntarily of his own freewill. This means that the
13 statement was not caused by pressure, force, fear, threats,
14 coercion, intimidation, or by hope or a promise of leniency or
15 a reward of any kind. You should also consider both the
16 characteristics of the Defendant and the details of the
17 statements, the advice or lack of advice thereof to the
18 Defendant of his constitutional rights. The State has the
19 burden of proving beyond a reasonable doubt that the alleged
20 statements were voluntary. If you determine that they were,
21 you may give those statements any further consideration that
22 you deem is proper. If you decide what or -- excuse me. You
23 must decide what weight, if any, should be given to the
24 alleged statements. If you determine the alleged statements
25 were not the free and voluntary statements of the Defendant,

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1 then you should not consider those statements at all.

2 Now, Mr. Campbell is charged with failing to stop for a
3 blue light and/or a siren. In order to prove this crime, the
4 State must prove beyond a reasonable doubt, that the Defendant
5 was driving a motor vehicle, that he was driving that motor
6 vehicle on a road, street, or highway of this state, that the
7 Defendant was signaled to stop by a law enforcement vehicle by
8 means of a siren or a flashing light, and that the Defendant
9 did not stop. In determining whether or not there are
10 mitigating circumstances, which would justify the Defendant's
11 failure to stop for the blue light or siren, you may consider
12 the actual road conditions, actual roadside conditions, other
13 conditions such as lighting, weather, the officer, the driver,
14 the passenger safety, and any other circumstances which you
15 may find would reasonably mitigate the alleged violation. An
16 official signal requiring a motorist to stop may be a siren or
17 flashing lights, but both are not required. An attempt to
18 increase the speed of a vehicle or in some other manner, avoid
19 the pursuing law enforcement vehicle when signaled by a siren
20 or flashing light may be considered as evidence of a failure
21 to stop. However, it is merely an evidentiary fact to be
22 taken into consideration by you along with all the other
23 evidence in the case, and then you give it whatever weight
24 that you think it deserves.

25 Now, Mr. Campbell is also charged with trafficking in

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1 cocaine. The State must prove beyond a reasonable doubt, that
2 the Defendant knowingly sold, manufactured, cultivated,
3 delivered, purchased, brought into this state or provided
4 financial assistance or otherwise aided, abetted, attempted,
5 or conspired to sell, manufacture, cultivate, deliver,
6 purchase, or bring into this state, or was knowingly in actual
7 or constructive possession, or knowingly attempted to become
8 in actual or constructive possession of the drugs in this
9 case, that being cocaine.

10 To prove possession, the State must prove beyond a
11 reasonable doubt, that the Defendant had both the power and
12 the intent to control the disposition or the use of the
13 cocaine. Possession may either be actual or constructive.
14 Actual possession means that the cocaine was in the actual,
15 physical custody of the Defendant. Constructive possession
16 means that the Defendant had dominion and control or the right
17 to exercise dominion and control over either the cocaine
18 itself or the property upon which the cocaine is found. Mere
19 presence at the scene where drugs are found, is not enough to
20 prove possession. The Defendant's knowledge and possession
21 may be inferred when a substance is found on the property
22 under the Defendant's control or dominion. However, this
23 inference is simply an evidentiary fact to be taken into
24 consideration by you along with other evidence in this case.
25 And again, you give it whatever weight you think it deserves.

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1 Now, the State must also prove as to the trafficking in
2 cocaine charge and must prove beyond a reasonable doubt that
3 the amount of the cocaine or any mixture containing cocaine
4 was of a weight that was at least 10 grams or more, but less
5 than 28 grams.

6 Now, ladies and gentlemen, your verdict in this case must
7 be unanimous. In other words, you must all agree on the
8 verdict. Your deliberations are secret, and you'll never have
9 to explain your verdict to anyone. Each of you must decide
10 this case for yourself, but only after fully considering the
11 evidence with the other jurors. So, you must discuss the case
12 with one another and try to reach an agreement. While you're
13 discussing the case, don't hesitate to re-examine your own
14 position or opinion and change your mind if you become
15 convinced that you were wrong. But, don't give up your honest
16 firmly held beliefs just because others think differently or
17 because you simply want the case to be over with.

18 Your verdict form has been prepared for you in advance.
19 It will be in the front cover of this notebook. And, sir,
20 when you get back there, you'll have this notebook and in the
21 front cover we'll have the verdict form. You'll consider each
22 charge separately and independently. So -- and they are laid
23 out for you. The first is to indictment 2016-GS-26-536 which
24 is the indictment for failure to stop for a blue light. Then
25 you'll find that, We, the jury, find the Defendant, David

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1 Harold Campbell, either guilty or not guilty. Whichever the
2 decision of the jury is, you'll just mark the appropriate
3 spot. And then the second indictment, which is the
4 trafficking in cocaine, again you'll mark the appropriate
5 selection. And then once the jury has reached a unanimous
6 decision as to both charges, you'll just sign the verdict form
7 and then knock on the door and let the bailiff know that you
8 have a verdict and then we'll receive your verdict.

9 BY THE COURT:

10 THE COURT: I'm going to ask you -- now, I'm going to
11 review with the attorneys the charge to make sure I didn't
12 leave anything out. If there's anything that I left out or if
13 there's anything I need to recharge you about, I'll bring you
14 out and do that. But if everything is good, we'll collect the
15 evidence, which I think is the video tape and the map,
16 whatever has been admitted into evidence, we'll collect that
17 and we'll send that back to you along with this note -- this
18 verdict form. When you receive this verdict form and that
19 evidence, that'll be your cue to begin your deliberations, but
20 don't begin your deliberations until, until you receive those
21 items.

22 Now, as far as the, the tape is concerned, I believe we
23 have a laptop computer that is -- there's nothing on it other
24 than the disc. Is the disc in it?

25 MR. ERVIN: No, Your Honor. The disc will be available

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1 with the exhibits.

2 THE COURT: If you want to view that, we will have that
3 available for you, you just let us know, and we'll set that up
4 for you and then you can just listen to it and review it if
5 you choose to. You just have to let us know. Okay?

6 So, if you would step back and don't begin your
7 deliberations until you receive these items.

8 (REPORTER'S NOTE: Jury exits courtroom. 10:54 A.M.)

9 THE COURT: Any exceptions or objections to the charge
10 from the State?

11 MR. ERVIN: No, Your Honor.

12 THE COURT: Any from the Defendant?

13 MR. LONG: No, sir.

14 THE COURT: Now, my understanding, Russell, is -- you've
15 got a laptop that's wiped and there's nothing on it other than
16 the ability to put a video in it?

17 MR. ERVIN: Yes, sir.

18 THE COURT: You want to look at that?

19 MR. LONG: I trust him.

20 THE COURT: I think that's one that they -- which I think
21 that's a great idea. Most offices don't do that. But what
22 we'll do is -- what I'm gonna do is send, send that along with
23 the stuff back. If they need somebody to load it or operate
24 it, they can let us know.

25 MR. ERVIN: Okay. It's just there's a password to enter

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1 and it's password.

2 THE COURT: Okay.

3 MR. LONG: I'm okay with Ms. Root, their tech person if
4 they need to call on her, I'm perfectly fine with that.

5 THE COURT: Okay. All right. She's here? Is she here?

6 MR. ERVIN: She's not here right now.

7 THE COURT: Well, if we need -- if we need that, we'll
8 get her. Is she available?

9 MR. ERVIN: Yes, sir; I assume she's downstairs today.

10 THE COURT: Okay. Well, I tell you what, let's get her
11 -- let's have her on standby because if they need her, we
12 might need to ask her to do that. And I -- and y'all get
13 with Kay to make sure that all the exhibits -- I think we only
14 have one Court Exhibit that doesn't go back, but I think
15 everything else is in.

16 MR. LONG: We've got a few things that were ID'd and not
17 going back. State's 1 was the video.

18 THE COURT: Right.

19 MR. LONG: My Defense 5 and 4 don't go back and Court's
20 1 doesn't go back.

21 THE COURT: Okay.

22 MR. LONG: Then we've got State's 2, State's 3, State's
23 4, State's 5, and State's 6.

24 THE COURT: All right. And then we have a couple of
25 Defense, photos.

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1 MR. LONG: And Defense 1, 2 and 3.

2 THE COURT: 1, 2 and 3. All right. Everybody in
3 agreement with that?

4 MR. ERVIN: Yes, sir.

5 THE COURT: Okay. Now, let's hold for one second.

6 DEPUTY: Yes, sir.

7 THE COURT: We got to -- We put the wrong foreman's name
8 on the verdict form, so we're having the name changed. And
9 then, Kay, if you would, when Emily brings that in, let's
10 staple that to -- it's two pages. We'll staple whatever she
11 brings in to that.

12 COURT REPORTER: Okay.

13 THE COURT: Yeah, that's fine.

14 If you'll staple that and put that form with it. You can
15 tell them to begin their deliberations.

16 (REPORTER'S NOTE: Jury begins deliberation. 11:00 A.M.)

17 THE COURT: The alternates will know who they are; just
18 say I need the two alternates.

19 MR. CARAKER: 414 and 362 is who I have, Your Honor

20 CLERK: That's who that is.

21 THE COURT: Yeah.

22 MR. CARAKER: 414 and 362.

23 THE COURT: Okay. But you need to say I need the two
24 alternates to come out or bring them in here and we'll excuse
25 them.

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1 MR. LONG: Ms. Silvia and Mr. Vasconcelos.

2 (REPORTER'S NOTE: Juror Numbers 414 and 362 enter courtroom.)

3 THE COURT: Mr. Vasconcelos and Ms. Silvia, I want to
4 thank you for your service. I think as far as the main panel
5 goes, I think everybody is healthy and able to -- to do the
6 deliberations, so we want need you for that and, and -- but I
7 want to thank you. It's very important. It's hard to be an
8 alternate because you've had to sit here and go through
9 everything that the main panel goes through, but then you
10 don't get to participate if, if, if everyone is healthy and
11 able to do it. But it's very important though because, as a
12 matter of fact, the last two cases that I've tried, we lost a
13 juror from the main panel because of family issues, and we had
14 to substitute the alternate. So, it's important that you're
15 available and ready to go forward, but I think they're able to
16 do their duty, so I'm going to excuse you, and that will
17 complete your jury service. You don't have to call back or
18 come back. That will complete your jury service. If you need
19 a work excuse -- they go down to the Clerk's office for that?

20 CLERK: You can, yes.

21 THE COURT: You can get that from the Clerk's office, but
22 if you don't need that, I think it's in your check that
23 they're gonna send to you anyway. Right?

24 CLERK: I'm really not sure if they send those together.

25 THE COURT: I think they typically do, but if you need

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1 that at any time, you can get it from the Clerk's office. If
2 you don't need it, then you're free to go.

3 Thank you very much for your service. And, if you just
4 give the badges to the Deputy there before you leave.

5 (REPORTER'S NOTE: Jurors 414 and 362 exit courtroom.)

6 THE COURT: All right. Guys, we'll be at ease then. If
7 y'all are gonna go anywhere or whatever, if you'll leave us a
8 cell number or a way that we can reach you in case the jury
9 has a question or they get a verdict or whatever, just let us
10 know. But if you're gonna hang around, then just that's fine,
11 too.

12 MR. ERVIN: I'll probably hang in until lunch.

13 THE COURT: Okay. And we'll give them -- we'll give them
14 some time to deliberate and then as it gets toward lunchtime,
15 we'll then ask them if they need us to bring lunch in. If
16 they do, we'll do that.

17 MR. LONG: Thank you, Judge, it's always a pleasure.

18 (RECESS - 11:04 A.M.)

19 *****OFF THE RECORD*****

20 (On the Record - 12:51 P.M.)

21 THE COURT: Yeah. All right. Russell, we -- the jury
22 passed out a question. The question is what would be the
23 street value of the drugs? Now, I -- and I'll explain to you
24 my suggestion and why I think that I should respond in this
25 fashion. I would never make a comment on the evidence as far

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1 as the evidence that they have to decide the case with, but I
2 think this warrants a response from the Court that says the
3 street value of the drugs is not an issue in this case for
4 your consideration.

5 MR. LONG: I'm comfortable with that.

6 THE COURT: And I think that refocuses them maybe to the
7 evidence that is in the case, the issues.

8 MR. LONG: I like that.

9 MR. CARAKER: I think that's fair, Your Honor. I'm
10 wondering if it even needs to be more pointed, in addition to
11 and say the value of the drugs is not an issue in this case;
12 this is based upon weight.

13 MR. LONG: I disagree with that. I like what you said
14 first, Judge. I think your ---

15 THE COURT: I just think, yeah, I don't even know where
16 they got street value from.

17 MR. LONG: I can't imagine why.

18 THE COURT: It was never discussed.

19 MR. CARAKER: It was never discussed.

20 THE COURT: So let me -- I'll tell you what, just give me
21 a second, I'm gonna write something out and then I'll read it
22 to you and we'll finalize it.

23 All right. I don't mean to be terribly curt with them,
24 but I've written: Ladies and gentlemen, the street dollar
25 value of the drugs is not an issue in this case for your

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1 determination.

2 MR. LONG: Perfect.

3 MR. CARAKER: No objection, Judge.

4 THE COURT: All right. Please send that back and ask
5 them to not get rid of that note, just to keep it with the
6 evidence.

7 COURT REPORTER: Can I put a sticker on it?

8 THE COURT: Yeah, go ahead and do that.

9 COURT'S EXHIBIT NUMBER 2
10 MARKED FOR IDENTIFICATION

11 **(RECESS - 11:39 A.M.)**

12 *******OFF THE RECORD*******

13 **(On the Record - 12:51 P.M.)**

14 THE COURT: I'm told that the jury has reached a verdict.
15 I don't know what the verdict is, I'm just told that they've
16 reached a verdict. So, I would -- and I say this at every
17 trial, those of you that have tried cases with me -- Mr.
18 Campbell, you never have, but I say this at every trial,
19 whether it's a civil trial or a criminal trial and that is
20 that whatever verdict the jury has reached, I don't ask anyone
21 to agree with it, I just ask that it be received in a
22 professional manner. Whatever decision the jury has made,
23 that is the decision they have arrived at and whether you
24 agree with it or disagree with it, the jury deserves to have
25 that treated in a professional way. So, please, if you feel

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1 like you're not able to handle the verdict, whatever it may
2 be, I would ask that you step out. But if you stay in, just
3 please let's remember that.

4 Is the State ready to receive the jury verdict?

5 MR. ERVIN: Yes, Your Honor.

6 THE COURT: Defense ready?

7 MR. LONG: Yes, Your Honor.

8 THE COURT: All right. Ask the jury to come in, please.

9 (REPORTER'S NOTE: Jury enters courtroom. 12:54 P.M.)

10 VERDICT OF JURY:

11 THE COURT: All right. Mr. Blair, has the jury reached a
12 unanimous verdict, sir?

13 MR. BLAIR: We have, Your Honor.

14 THE COURT: All right. If you could please pass that to
15 the bailiff and I'll have her bring it up to the Court.

16 Thank you, ma'am.

17 I think that's in order.

18 Madam Clerk, if you would please publish the jury's
19 verdict.

20 CLERK: The State of South Carolina versus David Harold
21 Campbell, as to indictment number 2016-GS-26-00536, on the
22 charge of failure to stop for a blue light, we, the jury, find
23 the Defendant, David Harold Campbell, guilty.

24 And as to indictment number 2017-GS-26-00942, on the
25 charge of trafficking cocaine 10 to 28 grams, we, the jury,

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1 find the Defendant, David Harold Campbell, guilty.

2 Signed by Foreperson, Robert C. Blair, dated May 17th,
3 2017.

4 Ladies and gentlemen of the jury, if this is your
5 verdict, please so signify by raising your right hands.

6 Thank you.

7 BY THE COURT:

8 THE COURT: All right. Ladies and gentlemen, I want to
9 thank you for your service this week. I didn't ask earlier
10 because it really didn't matter one way or the other, but just
11 out of curiosity, is there any member of the panel that has
12 ever had -- that has ever served on a jury before in an actual
13 trial?

14 Okay. So, some of you have had the experience. It's --
15 it's not an experience that a lot of people have and so I
16 think that those of you have sat on one before and probably
17 had this same experience. Those of you have never sat on a
18 trial before probably found it to be somewhat different than
19 what you may have expected. You know, T.V. sensationalizes
20 everything because that's, as I said earlier in the week, it's
21 based for our entertainment, but I want to thank you for your
22 service. It does -- it concludes your service for the week.
23 We have other cases that we're dealing with. Judge, I believe
24 it's Judge John, is in the courtroom with criminal matters.

25 MR. CARAKER: He's got plea court this week, Your Honor.

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1 I believe Judge Hyman has a civil trial.

2 THE COURT: Okay. Judge John is handling other criminal
3 matters. We have other matters that we're going to deal with,
4 but it doesn't require the need for a jury. So, I'm going to
5 excuse you for the rest of the week. You have earned an
6 exemption. If you recall on Monday, when we went through the
7 qualifications, I told you that you only have to serve on jury
8 duty here in State Circuit Court once every three calendar
9 years. So, you have that exemption. If you receive a summons
10 at any time from State Court for the balance of this year, all
11 of 2018 and all of 2019, if you wish to be excused from that
12 service, you've earned that exemption and you can claim that.
13 I do tell folks that it is just an exemption. It doesn't mean
14 you're not qualified to serve and so if you do get a summons
15 to serve and would like to serve again, I would encourage you
16 to do that.

17 If anyone needs a work excuse -- is that downstairs,
18 Crystal, or do you have those up here or do they need to go
19 downstairs or ---

20 CLERK: I can check, but if they just want to just check
21 with me first and we'll give them one.

22 THE COURT: Okay. If you need a work excuse, Crystal
23 will be out. She'll get that for you. And I believe if you
24 don't have to have it today, I believe they're gonna mail you
25 your checks this week, there'll be one in your check. So, if

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1 you can wait for your check and get it through that, it'll be
2 there as well. So, thank you again for your service, folks.
3 You do not have to call back, you do not have to come back;
4 you've concluded your service for the week. If everyone else
5 will please remain seated.

6 Ladies and gentlemen, now, let me -- let me just say this
7 and I apologize. You have worked the case. You are more than
8 welcome to remain. We're going to proceed in just a moment to
9 the sentencing phase. If you would like to stay and observe
10 that, you are welcome to do that. I always allow juries to
11 remain if they choose to, because you've worked the case and
12 if you want to stay through that process, you're certainly
13 welcome to do that. But if you're ready to leave and you want
14 to go, you're certainly welcome to do that as well. Okay?
15 So, we're just gone take a -- we're gonna be at ease for a few
16 minutes.

17 Do you have the sentencing sheets prepared?

18 MR. ERVIN: I do, Your Honor.

19 THE COURT: Okay. But if you'd like to be excused and be
20 done for the week, you're free to go. If you'd like to
21 remain, you're more than welcome to do that as well. Okay?

22 (REPORTER'S NOTE: Jury exits courtroom. 12:59 P.M.)

23 THE COURT: All right. Solicitor, if you would pass
24 those up and then I'll be happy to hear first from the State
25 with regards -- let me back up. I'm getting ahead of myself

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1 here. Let me recognize Mr. Long on behalf of the Defense for
2 any motions regarding the verdict.

3 MR. LONG: Thank you, Your Honor. We would move for a
4 judgment notwithstanding the verdict. We had in evidence an
5 unrefuted witness who took the witness stand and swore under
6 oath that these drugs were owned and possessed by him and not
7 David Campbell. In light of all of the rest of the evidence
8 in the case, including our earlier motions at the end of the
9 State's case and at the end of our case in chief as well, we
10 would move for a judgment notwithstanding verdict and for a
11 new trial.

12 THE COURT: Thank you, sir. Mr. Long, I'm gonna
13 respectfully deny the motion. I understand your position with
14 regards to that, but as you're aware that the jury -- and I
15 think I instructed it in my instructions to the jury, the
16 jury, it's their sole province to give weight and credibility
17 to the testimony and to -- I think I specifically instructed
18 them that they can believe or disbelieve as much or as little
19 of the evidence as they feel appropriate. And so I think that
20 certainly was a discretionary matter for the jury to decide
21 regarding witnesses' credibility and the testimony and I don't
22 see anything in the record that would cause the Court concern
23 that that discretion was abused in any way. So, I'm gonna
24 respectfully deny the motion. Although, I am going to
25 obviously, I'm going to recognize that you have renewed your

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1 motions earlier and I'm gonna stand by the Court's earlier
2 rulings on those as well, sir.

3 MR. LONG: Yes, sir.

4 THE COURT: Mr. Ervin, I'd be happy to hear from the
5 State as to any prior criminal record that Mr. Campbell may
6 have had as well as any position the State may have as
7 regarding sentencing?

8 MR. ERVIN: Your Honor, Mr. Campbell's -- would you like
9 his full prior record or the ones that are relevant to
10 sentencing?

11 THE COURT: I mean, I don't know how long his record is.
12 Not just relevant to sentencing, but I mean I'm not concerned
13 about a driving under suspension charge.

14 MR. ERVIN: Yes, sir.

15 THE COURT: But ---

16 MR. ERVIN: Your Honor, we'll start in 2001, PWID
17 marijuana, possession of crack; 2003, false information out of
18 Georgia; 2004, failure to stop -- I'm sorry that was '05
19 actually, failure to stop for a blue light first offense,
20 possession of crack, possession of marijuana second offense;
21 2005, possession of stolen vehicle; 2007, criminal domestic
22 violence; 2008, CDV second offense; 2009, ABHAN; 2012, he was
23 charged with trafficking in Georgia, he pled to it looks like
24 a PWID in Georgia; And 2015, possession of cocaine second
25 offense.

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1 Your Honor, the relevant portions of Mr. Campbell's
2 criminal history, I have a certified copy for Your Honor.

3 THE COURT: All right, sir.

4 MR. ERVIN: That does include the Georgia 2012 PWID
5 conviction, PWID cocaine; 2004 possession of crack cocaine
6 first offense conviction from Horry County; and a 2005 failure
7 to stop for a blue light first offense conviction from Horry
8 County. I'm gonna pass these up as well as his sentencing
9 sheets.

10 THE COURT: All right, sir. Did you say there was also a
11 2014 or '15 possession second offense?

12 MR. ERVIN: Yes, sir, but the NCIC, my assistant and I
13 looked into it. We were not able to get a record of that
14 because apparently there was a probation matter in Georgia and
15 probation didn't have any information that they could give us.
16 So, I wasn't able to dig that up, but the State's position is
17 that both of these convictions do enhance this current offense
18 to a third offense.

19 THE COURT: But the -- but the -- and I'm just curious,
20 the possession of cocaine second offense, was that in Horry
21 County or was that in Georgia as well?

22 MR. ERVIN: The possession of crack cocaine first offense
23 was in Horry County in 2004.

24 THE COURT: Right.

25 MR. ERVIN: And then in Georgia, in 2012 ---

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1 THE COURT: Correct.

2 MR. ERVIN: --- possession of cocaine, PWID cocaine.

3 THE COURT: But then you mentioned a 2000 -- I think in
4 '15 conviction or second offense possession of cocaine?

5 MR. ERVIN: May I show you the NCIC so I can tell you ---

6 MR. LONG: Judge, I think that -- I've looked at it
7 pretty hard. I think the 2012 Georgia conviction is
8 reiterated in that 2014 entry because has the probation, I'm
9 sorry, parole.

10 THE COURT: So that was a probation matter?

11 MR. LONG: And now this creates a parole violation of
12 that. So those two things are the same. The '12 and the '14
13 are the same.

14 MR. ERVIN: So, I guess it needs to be noted for the
15 record and I -- that probably sounds correct. The NCIC entry
16 that denotes the probation matter is from 2015 but it lists
17 the offense as possession of cocaine second offense. My
18 certified conviction has a PWID cocaine second offense on it.

19 THE COURT: All right. Is there anything, anything
20 further from the State with regards to -- as we proceed?

21 MR. ERVIN: I don't think so, Your Honor.

22 THE COURT: All right.

23 MR. ERVIN: Your Honor, I will just put on record, Mr.
24 Campbell does have two pending domestic violence charges.
25 Those charges will be dismissed in accordance with this

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1 conviction.

2 THE COURT: All right, sir. All right.

3 Mr. Long, I'll be more than happy to hear from you, if
4 there's anyone that would like to address the Court on behalf
5 of Mr. Campbell, and then of course if Mr. Campbell himself
6 would like to address the Court. I'll be happy to hear from
7 anyone although Mr. Campbell you're not required to -- I mean,
8 there's no requirement that you address the Court, but I'm
9 happy to hear from you if you choose to. But, Mr. Long, I'll
10 be happy to hear from you, sir.

11 MR. LONG: Thank you, Judge. We don't have a whole lot
12 of leeway. There's not a whole lot to argue about as far as
13 sentencing range. It's my understanding on failure to stop
14 for a blue light, second offense carries zero to five years.

15 THE COURT: Yes, sir.

16 MR. LONG: The trafficking third is gonna carry 25 to 30
17 years. We would ask you to consider sentencing him to 25
18 years concurrent with 5 years. You know, I've known David for
19 a long time. I represented him way back. And, he's not a
20 horrible person; he just has lived a life of crime. He's
21 literally sat down with me and with Morgan Martin on separate
22 occasions the last couple of weeks and told us the story of
23 being 12 or 13 years old and not having a father, mother not
24 being able to do for them and teach them and guide them, and
25 he learned immediately how to live and hustle on the streets

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1 and that's the life he's had. He knows nothing else,
2 unfortunately. And that's -- now he's gonna serve most of his
3 life in prison because of it. A lot of us, a lot of the
4 community would say that's a good thing, it's the right thing,
5 but it's -- I believe 25 years for a 30-year-old man, 32-year-
6 old man, hopefully after that long, hard stretch, he'll come
7 out and still have an opportunity to be -- to contribute.
8 Hopefully, he'll learn while he's gone that he has the ability
9 to come out and contribute to society as opposed to lead a
10 life of lawlessness. I can tell you that he has expressed his
11 appreciation for this trial. I think that he felt like he got
12 a very fair, very respectful trial and he appreciates
13 everyone's part in that, especially the Court. He did not
14 feel like he was outnumbered, and he did not feel like he
15 didn't have a chance, and a lot of people that sit right there
16 in this chair feel that way. And so, I know for that, he's
17 appreciative. Your Honor, we would just ask you to consider a
18 sentence of concurrent sentences that -- that meet the
19 minimums.

20 THE COURT: All right. Thank you, sir.

21 Let me ask -- because I just, you know, want to make sure
22 that he gets whatever he's entitled to regarding this. Did
23 Mr. Campbell serve any time in jail awaiting trial?

24 MR. LONG: We think he's got -- we think he's got about a
25 year total between time in and the home monitoring. He's

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1 still on the -- he's been on home detention, basically. Other
2 than coming to my office, he's been detained at home for a
3 long period of time. We think it adds up to about one year.

4 You agree?

5 MR. CAMPBELL: Yes, sir.

6 THE COURT: Well, I'm gonna give him credit for whatever
7 time he has served.

8 MR. LONG: We appreciate that, Judge.

9 THE COURT: But, Mr. Campbell -- does anyone -- and I
10 will hear from Mr. Campbell if he chooses to address the
11 Court. Is there anyone else who would like to address the
12 Court on his behalf that you're aware of, Mr. Long?

13 MR. LONG: You want to say anything?

14 MR. CAMPBELL: I appreciate everything, sir. You know, I
15 feel like I had fair trial, but it wasn't fair. I mean, I
16 feel like, you know, I came here and I actually never
17 presented the fact of this officer saying that I throwed two
18 bags of cocaine. On my paperwork it said, you see me throw a
19 object, which -- you know, I feel like it wasn't brought to
20 the jury attention that the officer said he saw me throw a
21 object but testified to the fact at he seen me throw two bags
22 of cocaine, which I didn't confess. And I hate the fact that
23 they allowed the Courts to use the footage from the backseat
24 when I'm hysterical about being locked up over and over again.
25 The CDVs with my baby mother over lies and, you know, like I'm

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1 hysterical and I'm saying things that's really not about this
2 case, period, but they tied into this case and used it to, you
3 know, hurt me in the situation. I feel like, you know, sir, I
4 never had a chance at life, sir. I feel like my whole life
5 was a -- a total just wreckage like. My mother always, you
6 know, beer, alcohol. I never had a father. I don't -- I
7 don't even know my father like, you know. And I finally
8 actually had kids and now my life is like coming to a end over
9 a bunch of lies, you know. I know I did run from the police
10 and I understand that but -- you know, it's sad that I
11 actually have to stand here and know that I'm going to prison
12 for the rest of my life for something that wasn't, man, you
13 know. And I understand the police position saying that they
14 saw me throw something, but that's not true and that's not
15 right, you know. And I understand they got to say whatever
16 they got to say to get this Court to understand that this what
17 they trying to convict and this is what has been brought to
18 the Court's attention. But, sir, I promise you, sir, like I
19 -- this is like, you know, I -- I can't even begin to express
20 how this is making me feel, you know. And I understand that
21 you got to your job, sir, and I know that, and I would just
22 ask the Court to just please allow me to have an appeal, sir
23 to get back in court to rectify the situation. Because it's
24 like ---

25 THE COURT: Mr. Campbell, let me just, regarding that,

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1 whatever the Court does here today, you have a right to file
2 for appeal, and I would know did anything stand in your way of
3 doing that.

4 MR. CAMPBELL: Yes, sir.

5 THE COURT: So you'll have that opportunity.

6 MR. CAMPBELL: Oh I thought you denied it. I ain't know

7 ---

8 THE COURT: No, sir. No, sir. All I'm gonna do is
9 according to -- follow the statute and according to the law
10 that's before me and impose sentence. But any, any appellant
11 rights that you have, they're -- they're wide open to you.

12 MR. CAMPBELL: Can I say this too, sir?

13 THE COURT: Sure. One of my drug charges that I'm
14 actually getting convicted of, I mean, like actually getting
15 judged on, I didn't like -- it was --- one to six plea bargain
16 for a possession of cocaine charge, crack.

17 MR. LONG: The Georgia ---

18 MR. CAMPBELL: No, my -- the first charge. And I had --
19 I had -- I pled guilty to it, sir; I did. But, I'm letting
20 the Court's know that I know it don't matter because I -- I'm
21 already guilty of that crime because I pled to a lesser
22 offense just to get time served to get out of prison -- out of
23 J. Reuben Long, but I wasn't even around -- like the drugs
24 that they found, was in somebody else refrigerator and
25 somebody else house that I was visiting, and I know that's

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1 making me like a very bad person too because all of these
2 charges is stacked up against me. And I know you got to do
3 your job, sir, but I just want you to know that and I want you
4 to know that it's a lot of accusations that I have in my NCIC
5 and my discovery and all that that's false, that's -- I was
6 accused of back in a few years ago, and it was something that,
7 you know, I couldn't help, sir, and it makes me look, you
8 know, terrible in these people eyes. And I understand I got
9 to be punished here today, so, so I'm not gonna just carry out
10 this, this, this paragraph and just don't try to make it too
11 long. You know, I'm allowed -- I know I got to suffer for
12 what the jury's saying that they found me guilty for. So, I
13 appreciate the Courts and everything and the detectives and
14 all of y'all did, you know, and it's okay.

15 THE COURT: Mr. Campbell ---

16 MR. CAMPBELL: I understand.

17 THE COURT: --- you know, and don't get me wrong, I'm not
18 insensitive to your situation as far as, you know, having it
19 hard growing up, not having your dad around, and those types
20 of things. I'm not being insensitive at all to that. That's
21 -- but here's something that I want to share with you and let
22 me begin with this. No matter what this Court does here
23 today, you keep referring to this as a life sentence, and I
24 know for you right now, it appears to be that. But you're 30
25 ---

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1 MR. CAMPBELL: '4.

2 THE COURT: --- 34. I'm 62 and I got to be honest with
3 you, unless I get hit by a truck or assaulted and killed in a
4 drive-by or something, I intend to live another 20 or 30
5 years. My parents, my mother lived into her 90's and, so --
6 so, let me try to encourage you to begin by not considering
7 this a life sentence because, if you do, then you go in
8 defeated. You need to understand that there's gonna come a
9 time that you're gonna get out of this, and it may be that
10 you're successful in an appeal and it's quicker -- sooner than
11 later. But if that doesn't occur, you're still gonna get out
12 of this, out from under this, and you need to prepare for that
13 life and it can be lengthy. Okay?

14 MR. CAMPBELL: Yes, sir.

15 THE COURT: Now, having said that, and this is gonna help
16 you on further, you have got to come to terms with taking
17 responsibility when you make a mistake and not blame other
18 people or another situation. Life for example, you made the
19 comment that you had it hard, that your mother was a drinker
20 or whatever. You know, this isn't quite the same, but my
21 father died of emphysema because he smoked himself to death.
22 I've never smoked a cigarette in my life. I didn't let the
23 mistakes my dad made affect the decisions I make. You have to
24 make better decisions for David Campbell regardless of what
25 other people do or regardless of what other people say.

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SENTENCE OF THE COURT

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1 You've got to start and that's part of being a man, taking
2 responsibility for your decisions and not blaming other folks
3 for it and, and, and then when you do that, you'll make better
4 decisions.

5 MR. CAMPBELL: Yes, sir.

6 SENTENCE OF THE COURT:

7 THE COURT: But -- and I'm not gonna belabor this any
8 further. With regards to indictment 2016-GS-26-536, the
9 failure to stop for a blue light, the sentence of the Court is
10 that you be committed to the State Department of Corrections
11 for a period of five years. That is to run concurrent with
12 2017-GS-26-942. The sentence on that charge, the trafficking
13 in cocaine, 10 grams to 28 grams, third offense, the sentence
14 of the Court is that you be committed to the South Carolina
15 Department of Corrections for a period of 30 years. Those are
16 to run concurrent. You are to be given credit for any time
17 that you have served.

18 Good luck to you, sir.

19 MR. CAMPBELL: Yes, sir.

20 END OF DAY THREE.

21 (ADJOURNED - 1:19 P.M.)

22

23

24

25

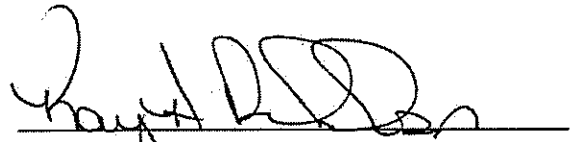
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CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina versus David Harold Campbell, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on May 15-17, 2017.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

August 22, 2017.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

David Harold Campbell, Appellant.

Appellate Case No. 2017-001229

Appeal From Horry County
Thomas A. Russo, Circuit Court Judge

Unpublished Opinion No. 2021-UP-074
Submitted January 1, 2021 – Filed March 10, 2021

AFFIRMED

Tara Dawn Shurling, of Law Office Of Tara Dawn
Shurling, PA, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Attorney General David A. Spencer, both of
Columbia, for Respondent.

PER CURIAM: David Harold Campbell appeals his convictions and sentences for trafficking in cocaine, third offense, and failure to stop for a blue light. The trial court sentenced Campbell to thirty years' imprisonment for trafficking cocaine and a concurrent sentence of five years' imprisonment for failure to stop for a blue

light. On appeal, Campbell asserts the trial court erred in (1) admitting irrelevant evidence and (2) denying his motion for a mistrial. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. First, we find the trial court did not abuse its discretion in admitting Detective Jeremy Neely's testimony that he and another officer were investigating a narcotics complaint in the area prior to initiating a traffic stop.¹ See *State v. Gaster*, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002) ("The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion."); Rule 402, SCRE (explaining that relevant evidence is generally admissible, whereas irrelevant evidence is generally inadmissible); Rule 403, SCRE (instructing relevant evidence may be excluded "if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence"). Detective Neely's testimony was relevant to present a full presentation of the offense because it explained why plainclothes police officers were in the area and provided context for the initial traffic stop. See *State v. Preslar*, 364 S.C. 466, 474, 613 S.E.2d 381, 385 (Ct. App. 2005) ("When evidence is admissible to provide this 'full presentation' of the offense, there is 'no reason to fragmentize the event under inquiry by suppressing parts of the res gestae.'" (quoting *State v. Sweat*, 362 S.C. 117, 133, 606 S.E.2d 508, 517 (Ct. App. 2004))). Moreover, Detective Neely's testimony did not pose a risk of unfair prejudice because it did not reference Campbell and did not suggest a decision on an improper basis. See *State v. Wiles*, 383 S.C. 151, 158, 679 S.E.2d 172, 176 (2009) ("Unfair prejudice means an undue tendency to suggest decision on an improper basis.").

2. Second, we find the trial court did not abuse its discretion in denying Campbell's motion for a mistrial. See *State v. Stanley*, 365 S.C. 24, 33, 615 S.E.2d

¹ To the extent Campbell argues Detective Neely's testimony violated Rule 404, SCRE, as improper character evidence, we find Campbell's arguments on appeal are not preserved for appellate review. See *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal."); *State v. Haselden*, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003) (holding an appellant's issue is unpreserved when he argued one ground to the trial court and another on appeal). At trial, Campbell only argued Detective Neely's testimony was irrelevant and prejudicial; Campbell did not reference Rule 404 during his objection.

455, 460 (Ct. App. 2005) ("The decision to grant or deny a mistrial is within the sound discretion of the trial [court]."); *State v. Simmons*, 352 S.C. 342, 354, 573 S.E.2d 856, 862 (Ct. App. 2002) ("The power of a court to declare a mistrial ought to be used with the greatest caution under urgent circumstances, and for very plain and obvious causes' stated into the record by the trial [court]." (quoting *State v. Kirby*, 269 S.C. 25, 28, 236 S.E.2d 33, 34 (1977))); *Stanley*, 365 S.C. at 34, 615 S.E.2d at 460 ("The granting of a motion for a mistrial is an extreme measure which should be taken only where an incident is so grievous that prejudicial effect can be removed in no other way.").

AFFIRMED.²

LOCKEMY, C.J., and KONDUROS and MCDONALD, JJ., concur.

² We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA)
COUNTY OF)

IN THE COURT OF COMMON PLEAS

David Campbell # 245686

Applicant,

v.

THE STATE OF SOUTH CAROLINA,
Respondent.

2021 CP 2607792

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
Horry County
2021 NOV 30 A 10:00
RENEE N. ELYS
CLERK OF COURT
Horry County, SC

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten, or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the applicant is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention: Lieber J.C. Prison
2. Name and location of Court which imposed sentence Horry County Court
Danway S.C.
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) don't know it
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence: May-17-2017

- (a) 30 yrs. in prison thirty years
(b) _____
(c) _____

6. Check whether a finding of guilty was made

- (a) after a plea of guilty _____
(b) after a plea of not guilty found Guilty ✓
(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence? yes

8. If you answered "yes" to (7), list

(a) the name of each Court to which you appealed:

- i. S.C. Appeal Courts
ii. _____
iii. _____

(b) the result in each such Court to which you appealed:

- i. Affirmed
ii. _____
iii. _____

(c) the date of each such result:

- i. march 2021 Conviction Affirmed
ii. _____
iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) _____
 (b) _____
 (c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Lawyer did not call any of my witnesses
 (b) Courts did not give me my pretrial motions
 (c) Lawyer did not allow me to help with my case

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) in Court my Lawyer said he did not have time
 (b) in my transcript my pretrial motions is missing
 (c) Lawyer said in Court he would not allow me

12. Prior to this application, have you filed with respect to this conviction:

to take the state in my defense

- (a) any petitions in a State Court under South Carolina law? yes
 (b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief? none
 (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? none
 (d) any other petitions, motions or applications in this or any other Court? none

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof: none
 i. _____

ii. none

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. none

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. none

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. none

ii. _____

iii. _____

iv. _____

(e) if know, citations of any written opinions or orders entered pursuant to each such disposition:

i. none

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State of Federal, in any petition, motion or application which you have filed?

None

15. If you answered "yes" to (14), identify:

(a) which grounds have been presented:

i. None

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. None

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) None

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

yes

(e) preparation, presentation or consideration of any petitions, motions, or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you: Russell Long-Harry
count
S.C.

- i. Morgan Marfaia - Horry County S.C.
- ii. Lara Dawn Shooking Columbia S.C.
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. pretrial
- ii. trial
- iii. direct Appeal

19. State clearly the relief you seek in filing this application.
A new trial

20. Are you now under sentence from any other court that you have not challenged?
No.

STATE OF SOUTH CAROLINA

COUNTY OF Horry County

VERIFICATION

2021 CP2607792

I, David Campbell, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

David Campbell
Signature

David H. Campbell #265686
Applicant's Name & Inmate Number Printed

SWORN to and subscribed before me this 23rd
day of Nov., 2021

Linda K. B...
Notary Public for South Carolina
My Commission Expires: 6-20-26

FILED
HORRY COUNTY
2021 NOV 30 A 10: 00
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT OF SUPPORT THEREOF

I, David Campbell, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefore. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefore.

David Campbell
Applicant

SWORN to and subscribed before me this 23rd
day of Nov, 2021

Linda K. B...
Notary Public for South Carolina
My Commission Expires: 6-20-26

FILED
HORRY COUNTY
2021 NOV 30 A 10: 00
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

David Campbell, # 265686,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Case No. 2021-CP-26-07792

**RETURN AND MOTION FOR A
MORE DEFINITE STATEMENT**

FILED
HORRY COUNTY
2022 MAR 25 A
RENEE HILL
CLERK OF COURT
HORRY COUNTY, SC

NOW COMES Respondent, moving for a more definite statement and asking its return to the post-conviction relief (hereafter "PCR") application filed on November 30, 2021, by David Campbell (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Horry County Clerk of Court. During its February 2016 term, the Horry County Grand Jury indicted Applicant for failure to stop at a blue light (2016-GS-26-00536). During its February 2017 term, the Horry County Grand Jury indicted Applicant for trafficking cocaine between ten and twenty-eight grams, third offense (2017-GS-26-00942). Applicant was represented by Morgan O. Martin and Russell B. Long, Esquires. David P. Caraker, Jr., and William Grayson Ervin, Esquires, of the Fifteenth Circuit Solicitor's Office prosecuted the case. On May 15-17, 2017, Applicant proceeded to trial before the Honorable Thomas A. Russo, circuit court judge, and a jury. Judge Russo sentenced Applicant to thirty years' imprisonment for trafficking cocaine and five years' imprisonment for failure to stop at a blue light, sentences running concurrently.

Applicant filed a timely notice of appeal on May 26, 2017, that was perfected by Tara Shurling, Esquire, raising the following issues:

1. The lower court erred in overruling Appellant's objection to the State's introduction of irrelevant and highly prejudicial testimony concerning matters which took place before the traffic stop in this case after the State conceded that this case began as a traffic violation and agreed that nothing prior to that stop was relevant to the case.
2. The lower court erred in denying the Appellant's Motion for a Mistrial where the State introduced testimony concerning matters which took place before the traffic stop in this case after conceding that this case began with a traffic violation committed by Appellant and agreed that nothing prior to that stop was relevant to the case.

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. *State v. Campbell*, Op. No. 2021-UP-074 (Filed March 10, 2021). Applicant petitioned for rehearing, which was denied on June 21, 2021. Applicant appealed to the South Carolina Supreme Court, who dismissed the appeal for failure to timely serve and file a petition for writ of certiorari in accordance with Rule 242(c), SCACR. The remittitur was issued on August 17, 2021, recalled on August 18, 2021, and re-issued on September 9, 2021.

II. Statement of Facts

On November 30, 2015, a Horry County police officer initiated a traffic stop of Applicant's vehicle on Pine Island Road for failure to signal. (Tr. 123, 165, 204-05). Applicant sped to the nearby Sandysgate Apartments, crashed his car, and fled on foot before being apprehended. (Tr. 129-31, 167-69, 205-06). While being chased, Applicant threw two bags of cocaine onto the second floor of the apartment's breezeway. (Tr. 132-35, 169-70, 206-07). The cocaine weighed a total of 11.2 grams. (Tr. 234).

III. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the

following reasons (excerpts verbatim):

1. Lawyer did not call any of my witnesses.
 - a. In court my lawyer said he did not have time.
2. Courts did not give me my pretrial motions
 - a. In my transcript my pretrial motions is missing.
3. Lawyer did not allow me to help with my case.
 - a. Lawyer said in court he would not allow me to take the stand in my defense.

Attached to and incorporated herein are Applicant's Horry County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, direct appeal records, the trial transcript, and the current PCR application. Respondent reserves the right to amend this return upon receipt of additional relevant information.

IV. Argument

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. See *Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) ("[A] defendant has a right to effective representation, not a right to an attorney who performs his duties 'mistake-free.'" (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) ("[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]"); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial

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HORRY COUNTY
2022 MAR 25 A 8:09
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CLERK OF COURT
HORRY COUNTY, S.C.

process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel in the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at

688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Failure to Call Witnesses

Applicant claims Counsel was ineffective for failing to call witnesses at trial. At a minimum, counsel must interview potential witnesses and make independent investigations regarding the facts and circumstances of the case. *Ard. v. Catoe*, 372 S.C. 318, 642 S.E.2d 590 (2007). To show counsel was ineffective by failing to call a witness, the witness(es) must be produced at the PCR evidentiary hearing or their testimony must otherwise be presented, consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Mere speculation regarding the witness's testimony is insufficient to establish prejudice. *Clark v. State*, 315 S.C. 385, 434 S.E.2d 266 (1993).

"In most PCR cases in which the applicant seeks relief for trial counsel's failure to call witnesses, the PCR court's analysis—and the analysis by the appellate court—is focused on the strategic considerations of counsel in balancing the potential benefits of calling a particular witness against the identifiable risks." *Buckson v. State*, 423 S.C. 313, 320, 815 S.E.2d 436, 440 (2018).

Further, prejudice will generally be found if the testimony was significant and favorable enough to the Applicant so that the trial proceedings results may have been different because of the testimony. *See e.g. Lounds v. State*, 380 S.C. 454, 670 S.E.2d 646 (2008) (finding that counsel was deficient by failing to call witnesses, for no other reason than lack of preparation, that may corroborated with the defendant or bolstered his credibility so that the findings at trial could have been favorable to the defendant); *Thomas v. State*, 308 S.C. 123, 417 S.E.2d 531 (1992) (finding that uncalled witness' testimony would have cast doubt on the sole witness' identification of the petitioner and, thus, would have made a difference at trial).

Counsel's performance is not deficient if he decided not to present a witness as a tactical and strategic move, nor if the witness was unlikely to appear or present testimony that could have made a difference at trial. *See e.g. Smith v. State*, 404 S.C. 493, 502, 745 S.E.2d 378, 383 (2012) (finding that counsel was not deemed ineffective when petitioner failed to introduce any evidence that established prejudice to the petitioner); *Edwards v. State*, 392 S.C. 449, 457-58, 710 S.E.2d 60, 65 (2011) (stating that counsel was not ineffective because the witness could not withstand cross-examination due to his prior vacillation and the cumulative nature of his testimony and he knew the petitioner's statement to the police would be entirely consistent with the supposed witness's statement at trial); *Glover*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995) (finding that counsel was in deficient by failing to call all alibi witnesses when two

witnesses who testified did not establish the alibi).

Respondent contends that this allegation likely lacks merit. Still, Respondent requests a more definite statement to determine what witnesses Applicant claims should have been called, what they would have testified to, how Counsel was deficient for failing to call them, or how Applicant was prejudiced as a result.

Failure to Pursue Pre-Trial Motions

Applicant claims Counsel was ineffective for failing to pursue pre-trial motions. However, he fails to state what pre-trial motions are missing, why Counsel was deficient for failing to pursue the motions, or how he was prejudiced as a result. Respondent contends this allegation likely lacks merit but requests a more definite statement to ascertain what exactly Applicant is claiming constituted ineffective assistance of counsel.

Failure to Allow Applicant to Testify

Applicant's allegation that Counsel was ineffective for prohibiting Applicant from testifying is without merit. "The decision to testify or not is a perilous one. If a defendant does not testify, he foregoes the opportunity to tell the jury his version of events. However, if a defendant chooses to testify, he subjects himself to cross-examination, including possible impeachment with prior convictions." *Brown v. State*, 340 S.C. 590, 594, 533 S.E.2d 308, 310 (2000). "If a defendant chooses not to take the stand in his own defense, the trial judge must, if requested, instruct the jury that the defendant's failure to testify cannot be held against him or considered by the jury in any manner during its deliberations." *Id.* "A defendant's decision to testify or not must be made with knowledge of the consequences of either choice." *Id.*

At trial, the Court engaged Applicant in a colloquy over his right to testify, after which Applicant stated he did not intend to testify. (Tr. 252-54). Accordingly, Respondent contends

that this allegation lacks merit and is seemingly refuted by the record. Still, the ineffective assistance of counsel allegations probably raise questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.").

V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant's allegations. Applicant alleges that plea counsel was constitutionally ineffective for failure to allow him to testify, failure to call witnesses, and failure to pursue pre-trial motions. However, he does not explain exactly what Counsel did that constituted ineffective assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include "a short and plain

statement of the facts showing that the pleader is entitled to relief.” Respondent moves pursuant to Rule 12(e), SCRCF, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

VI. Other Allegations Denied

Each and every other allegation in Applicant’s PCR application not explicitly admitted, qualified, or explained in this return is hereby denied by Respondent.

VII. Assertion of Rights to Notice of Amendments - Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant’s court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCF and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no right to ‘hybrid representation’ that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) (“In most PCR cases . . . we have refused to excuse the pleading

and issue-preservation requirements that apply in all civil cases.”); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRPC (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

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Horry County
2022 MAR 25 A 8:10
RENEE N. ELYS
CLERK OF COURT
Horry County, SC

VIII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant's allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO
Assistant Attorney General

By: *Chelsey F. Marto*
ATTORNEYS FOR RESPONDENT

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March 22, 2022

FILED
Horry County
2022 MAR 25 A 8:10
RENEE N. ELYS
CLERK OF COURT
Horry County, SC

1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**

2 COUNTY OF HORRY CASE NO.:2021-CP-26-07792

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March 10, 2026

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BEFORE: The Honorable Bryan S. Doby

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8

DAVID CAMPBELL,

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Applicant,

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vs.

11

THE STATE OF SOUTH CAROLINA,

12

Respondent.

13 -----

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15

APPEARANCES:

16

17

Timothy Griffith, Esq.
Appearing for the Applicant.

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19

MacKinnon Westraad, Esq.
Appearing for the Respondent.

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22

23

Stenographer: Natalie Dahl, RPR
SC Official Court Reporter

24

25

NOTE: Pursuant to Rule 607 (H) (1) (B), SCACR "A Court REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." All requests for a copy of the enclosed transcript shall be sent to: ndahl@sccourts.org

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Transcript Legend

Dash (--) Indicates an interruption in speech

Ellipses (...) Indicates trailing off in speech

Phonetic (ph) Indicates a phonetic word

(Inaudible) Indicates word(s) are not discernable due to audio recording quality

(sic) Word(s) said but may be incorrect

P R O C E E D I N G S

THE COURT: All right, Mr. Griffith, are you ready?

MR. GRIFFITH: Yes, Your Honor.

THE COURT: Ms. MacKinnon.

MS. WESTRAAD: May it please the Court. MacKinnon Westraad on behalf of the State of South Carolina. This is the post-conviction relief matter of David Campbell versus the State, Case No. 2021-CP-26-07792, out of Horry County.

During its February 2016 term, the Horry County Grand Jury indicted Applicant for failure to stop at blue light, Indictment 2016-GS-26-00536. During its February 2017 term, the Horry County Grand Jury indicted Applicant for trafficking cocaine between 10 and 28 grams, third offense. That is 2017-GS-26-00942.

Applicant was represented by L. Morgan Martin and Russell B. Long. David Caraker, Jr., and William Grayson Ervin of the 15th Circuit Solicitor's Office prosecuted the case.

On May 15 through 17th, 2017, Applicant proceeded to a jury trial before the Honorable Thomas A. Russo. Applicant was found guilty as indicted, and Judge Russo sentenced Applicant to 30

1 years imprisonment for trafficking cocaine, and
2 five years imprisonment for failure to stop at a
3 blue light, to run concurrently.

4 Applicant also had two pending criminal
5 domestic violence charges at the time of the trial,
6 which the State dismissed in accordance with these
7 convictions.

8 The Applicant filed a timely notice of appeal
9 May 26, 2017 that was perfected by Tara Shurling
10 (phonetic). The South Carolina Court of Appeals
11 dismissed Applicant's appeal by unpublished
12 opinion, and the Applicant petitioned for
13 rehearing, which was denied on June 21, 2021.
14 Applicant appealed to the South Carolina Supreme
15 Court, who dismissed the appeal for failure to
16 timely serve, and filed a petition for writ of cert
17 in accordance with Rule 242(c).

18 The remittitur was issued on August 17, 2021,
19 recalled on April 18, 2021, and reissued on
20 September 9, 2021.

21 The Applicant timely commenced his PCR action
22 on November 30, 2021 alleging he's being held in
23 custody unlawfully based on the following
24 allegations: Number one, lawyer did not call any
25 of my witnesses in court. My lawyer said he did

1 not have time. Number two, courts did not give my
2 pretrial motions, and in my transcript my pretrial
3 motions are missing. And, number three, lawyer did
4 not allow me to help with my case. Lawyer said in
5 court he would not allow me to take the stand in my
6 defense.

7 The State filed its return in motion for a
8 more definite statement on March 25, 2022.

9 At this time, the State would ask Mr.
10 Griffith to state for the record which allegations
11 he intends to move forward on.

12 THE COURT: Thank you.

13 Mr. Griffith?

14 MR. GRIFFITH: If it pleases the Court. We
15 would call Mr. David Campbell.

16 THE COURT: She wants a more definite
17 statement of the grounds that you seek relief,
18 Mr. Griffith.

19 MR. GRIFFIN: Oh. Your Honor, first of all,
20 the appeals court noted that there was a missing
21 portion; in other words, the motion -- pretrial
22 motion was not included in the transcript that was
23 given to the appeals court. And that being a very
24 important motion, Your Honor, which prevented him
25 from -- he feels -- winning his appeal had that

1 been there.

2 Also, Your Honor, he had an alibi at the
3 time, his sister -- actually, cousin. Her name is
4 Latice Barr. She -- he had told his attorney that
5 she was his alibi, and his attorney didn't call
6 her. He just said because he didn't have time, but
7 of course she was very important to Mr. Campbell.
8 That was, you know, his alibi that he didn't do it,
9 or at least that is to say to suppress a confession
10 that the police said he made when he was talking to
11 his cousin. He wasn't talking to the police
12 officers. A facetious confession. In other words,
13 she said, Did you do it? He said, Did I do it?
14 You know, like that, and shaking his head. And the
15 officers failed to write a report.

16 Also, the appeals lawyer did not ask for an
17 oral argument in certain parts that he felt she
18 should have. As well as that, Your Honor, there
19 are a few other things that he wants to make the
20 Court aware of. He has searched for that motion
21 for two years and was not able to find it.

22 Now, Counsel tells me the motion was in the
23 transcript, but the appeals court didn't even see
24 it.

25 THE COURT: All right. Thank you. And does

1 that state all of the grounds that the Applicant
2 seeks relief today, Mr. Griffith?

3 MR. GRIFFIN: Yes, Your Honor.

4 THE COURT: You ready to go forward?

5 MR. CAMPBELL: Can I say something, Your
6 Honor?

7 THE COURT: No, sir. I'm going to let you
8 speak through your lawyer.

9 MR. CAMPBELL: But he just came in the room
10 just now and came -- we went over a few details,
11 but me and him didn't really actually speak on the
12 grounds that I wanted him to address. And most of
13 this here is like thrown together, so it is not
14 like -- we really didn't have a conversation on --
15 because he said the last notes he took he left at
16 his office, and I guess he grabbed the wrong
17 briefcase or whatever. So the issues I really had
18 preserved for him to speak on is not there. These
19 is just something that he wrote down right now that
20 he had for the time that we had back in the back
21 just now.

22 THE COURT: Thank you, Mr. Campbell. I'll
23 give you an opportunity, obviously, to testify, if
24 that is what you seek to do in regards to this.
25 And I'll let your lawyer question you in regards to

1 any issues that you may want to have the Court
2 hear, okay?

3 All right. Are you ready to go otherwise,
4 Mr. Griffith?

5 MR. GRIFFIN: I'm ready to go.

6 THE COURT: State ready?

7 MS. WESTRAAD: I want to clarify, briefly,
8 whether Mr. Griffith or Mr. Campbell is amending
9 his application to include a claim of ineffective
10 assistance of appellant counsel?

11 MR. CAMPBELL: Right. And she's not here.

12 THE COURT: Mr. Griffith?

13 MR. GRIFFIN: We had notified the State
14 via -- we've been passing e-mails a long time ago.
15 I mean, this was back when Mr. Bryant was handling
16 the case, and he and I talked about all of this
17 stuff.

18 THE COURT: I'm going to look at the
19 application as well to see what the grounds listed
20 in the application were.

21 MR. CAMPBELL: You are supposed to amend my
22 application, though, and he didn't amend it.

23 MR. GRIFFITH: I did. I sent it to Brian,
24 the other guy that was here.

25 MR. CAMPBELL: Yeah. Yeah. Yeah.

1 THE COURT: Mr. Griffith, the application of
2 Mr. Campbell indicates that he's got probably four
3 grounds: Lawyer didn't call any of my witnesses;
4 Court did not give me my pretrial motion; lawyer
5 did not allow me to help with my case; in court my
6 lawyer said that he did not have time; in my
7 transcript, my pretrial motions are missing; lawyer
8 said in court he would not allow me to take the
9 stand in my defense.

10 Mr. Griffith, you have indicated this morning
11 that there may be some issues with the appeal as
12 well; is that correct?

13 MR. GRIFFIN: Well, Your Honor, we actually
14 don't need that attorney. We have the appeal court
15 transcript where the appeal was denied because a
16 certain motion was not there, and all of the things
17 you just named are the same thing --

18 MR. CAMPBELL: No. The appeal was denied
19 because the issue was not preserved for appellate
20 review.

21 THE COURT: Mr. Campbell, this is the way we
22 are going to operate this morning.

23 MR. CAMPBELL: Yes, sir.

24 THE COURT: When someone is speaking, no one
25 else is going to talk. My court reporter can't

1 take that down, and I can't listen to two things at
2 one time. You have an attorney. I would expect
3 you to talk through your attorney. If you have an
4 issue that you want me to address or you want me to
5 hear, then you need to tell your lawyer that so
6 your lawyer can communicate with me, okay. Thank
7 you.

8 MR. GRIFFITH: Your Honor, to continue, the
9 problem with the appeal, Your Honor -- we have the
10 order from the appeals court saying that his appeal
11 was denied because there was a motion missing. It
12 was not preserved for the appeal. That is what he
13 was trying to say. And so that is the missing
14 pretrial motion, Your Honor, that we're asking for.

15 THE COURT: All right. Thank you. From the
16 State's perspective, does that answer the question
17 you have addressed?

18 MS. WESTRAAD: Yes, Your Honor. I think we
19 can go forward without appellant counsel present,
20 if that is the only allegation to work around.

21 THE COURT: So the State is ready to go
22 forward?

23 MS. WESTRAAD: Yes, Your Honor.

24 THE COURT: Mr. Griffith, you ready to call
25 your first witness?

1 MR. GRIFFIN: I call David Campbell.

2 THE COURT: Mr. Campbell, come and be sworn,
3 sir.

4 (DAVID CAMPBELL, having been duly sworn,
5 testified as follows:)

6 THE WITNESS: David Campbell.

7 THE COURT: Mr. Griffin, yes, sir.

8 DIRECT EXAMINATION

9 BY MR. GRIFFIN:

10 Q First, Mr. Campbell, I'm going to bring
11 something up for you to identify. I want you to
12 tell us what it is.

13 A This is Page 250 of my transcript.

14 Q That is all I want for now.

15 MR. GRIFFIN: Your Honor, I'll show this to
16 the other Counsel.

17 MS. WESTRAAD: Okay.

18 MR. GRIFFIN: I would like to enter this as
19 Exhibit 1, Your Honor.

20 MS. WESTRAAD: No objection, Your Honor.

21 (Applicant's Exhibit 1 admitted.)

22 Q (BY MR. GRIFFIN) Mr. Campbell, this is a page
23 from your transcript. And who are the parties
24 speaking on that page?

25 A This is Mr. Morgan Martin. My attorney,

1 Morgan Martin, sir.

2 Q Is the Court addressing Mr. Martin on that?

3 A Yes, sir. Well, he's addressing the Court.

4 Q The Court replied?

5 A The Court replied -- well, after he addressed
6 the Court, he said, "Simply to say, I think I did
7 ask questions about it. I think when we got the
8 details of anything that occurred before the
9 traffic stop was in the motion to suppress, motion
10 to dismiss the testimony of Officer Rue
11 (phonetic)."

12 Court's reply: "Right."

13 Then he went further on to say, "Well, you
14 know, we did bring it up then. Now, of course Your
15 Honor said it was inadmissible." And this is my
16 problem right here, sir. This motion right here to
17 suppress Officers Rue's testimony is not reflected
18 in the pretrial section, neither is the actual
19 ruling to this motion. So whenever I submitted my
20 appeal, the court of appeals said they can't give
21 me consent of my issue because the issue wasn't
22 ruled upon by the trial judge. Therefore, if it's
23 not ruled upon, then it's not preserved for
24 appellate review. Okay. So they affirmed my
25 appeal conviction on my direct appeal.

1 So, sir --

2 Q Let me help you a -- let me ask a question to
3 get things clear. You have another document here
4 from the appeals court, right? I want you to
5 identify this first.

6 A This is a document from the court of appeals,
7 and they stated that --

8 Q Wait. It is the order from your appeal?

9 A That's right.

10 MR. GRIFFIN: Okay. Just a second.

11 Your Honor, we would like to admit this as
12 Exhibit 2.

13 MS. WESTRAAD: No objection.

14 THE COURT: Applicant's 2.

15 (Applicant's Exhibit 2 admitted.)

16 Q (BY MR. GRIFFIN) Mr. Campbell, you stated
17 that your appeal was denied, and in this particular
18 spot on the document, they're addressing this
19 motion, pretrial motion; is that correct?

20 A Yes, sir.

21 Q And what does it say?

22 A It is saying that if my -- Campbell's
23 argument is not preserved for appellate review. In
24 order for an issue to be preserved for appellate
25 review, it must have been raised and ruled upon by

1 the trial judge. Issues not raised upon and ruled
2 upon the trial court will not be considered on
3 appeal.

4 So I contacted my attorney through -- my
5 direct appeal attorney, which is Ms. Shurling, and
6 asked her to contact Morgan Martin or Russell Long.
7 Morgan Martin replied back to her saying that he
8 don't recall making no motion to suppress. So I
9 told my direct appeal attorney, Well, we need to
10 find these motions, because if he's saying he don't
11 recall making this motion, I got him in my
12 transcript on Page 250 stating for the record that
13 he made these motions.

14 So we had to go through this long
15 back-and-forth hassle with the courts about asking
16 for audio and -- of the transcript, which we got.
17 We get the audio of the transcript, and now I'm
18 looking at -- I'm listening to it, the audio has
19 been tampered with. I'm saying to myself, How can
20 they do this? All right.

21 Russell Long -- I hear Russell Long in the
22 bench conference telling the Court, What are we
23 going to do about the suppression motion,
24 conspiring with the Court against me. Morgan
25 Martin -- and, also, Your Honor, a motion for

1 mistrial is missing. The ruling to this motion
2 right here in this motion is missing in the
3 pretrial section.

4 So I tell my lawyer, I say, The mistrial
5 motion is missing in trial. That is why I asked my
6 lawyer here today to actually contact -- I wanted
7 him to subpoena a couple jurors to be witnesses to
8 this, because they actually heard when my lawyer
9 made a mistrial in trial, but it is not reflected
10 in the transcript either.

11 The motion for mistrial is reflected in the
12 back of my transcript where he's renewing his
13 motions, but the actual mistrial that he made in
14 trial is not -- nowhere to be found, because they
15 went back and re-recorded over the actual CD that
16 they gave me and my lawyer.

17 So I'm looking at, like, How can they do
18 that? All right. So my lawyer says, Well, sir,
19 why would they do that to you? I say, I don't
20 know. You got to ask them. So she was like -- she
21 telling me -- she say, Well, we just going to put
22 this in. I say, No, listen, ma'am, we can't put
23 this in without these motions. Because I already
24 knew the court of appeals wouldn't consider it,
25 because it is not in the transcript. It is not

1 preserved. So I asked her through this right here,
2 through e-mail, Your Honor, to ask for oral
3 argument, which she never did. She just ignored me
4 and just submitted the brief, which is the outcome
5 of the brief being submitted without me actually
6 having an argument about Page 250 when my lawyer is
7 stating for the record that he made these motions.

8 Now, I don't know why Mr. Morgan Martin and
9 Russell Long would do that whenever they know that
10 you all made a motion to suppress Officer Rue's
11 testimony, and the judge actually ruled in our
12 favor saying he would not allow the testimony in
13 because it would potentially cause the jury to
14 speculate, and it is not in my discovery package.

15 If you read a little further, he's stating
16 for the record, on Page 250 again on the
17 transcript, that, "Okay. But, again, I don't want
18 to belabor the fact, but, you know, it is clear
19 that the discovery presented to us, and the reports
20 we have and were entered into the evidence record
21 that we have -- they can enter in -- and they can
22 enter in anything additionally to that, obviously.

23 "The Court: Sure."

24 Stating that he can enter anything
25 additionally.

1 Then, Mr. Martin further says, "Doesn't
2 exclude disclosure about the aspect of the case.
3 It starts with the traffic stop.

4 "Right, The Court."

5 But, Your Honor, in People v. Havica
6 (phonetic), it states that the people is afforded a
7 full and fair opportunity to present evidence and
8 issues at a suppression hearing. They are not
9 entitled to remand after appeal for a reopen
10 hearing. We hold that the principles underlying
11 Havica have equivalent force in the pretrial
12 setting, and preclude a trial judge from reopening
13 a suppression hearing to show up their evidentiary
14 or legal position after a showing that they were
15 deprived of a full and fair opportunity to be
16 heard.

17 The motions -- rulings on motion, the Court
18 must decide every pretrial motion before a trial,
19 unless it finds good cause to defer ruling. The
20 Court must not defer ruling on a pretrial motion if
21 the -- if it would adversely affect the party's
22 right to an appeal. When factual issues are
23 involved in deciding a motion, the Court must state
24 the essential finding on the record.

25 Now, when the Courts ruled that he won't

1 allow this testimony into my trial, it was a
2 ruling. It was law. But what he was trying to do,
3 he was trying to go back and make it where -- he --
4 the judge tried to go back and take the whole issue
5 and re-rule on it, which is right here on Page --
6 Page 157 of my trial transcript, Your Honor.

7 Mr. Long, Mr. Russell Long, my attorney,
8 tried to stop the judge from doing this. Mr. Long,
9 Your Honor -- this is on Page 156, matter of fact,
10 on my trial transcript, from Page 156: "Your
11 Honor, I would object at this moment. We might
12 have a matter to take up outside the presence of
13 the jury."

14 This is before the testimony was about to be
15 entered into my trial. Mr. Long made the judge
16 stop the trial. All right. All right. Of course
17 the judge said, "All right. All right. Ladies and
18 gentlemen, let me get you to step back into the
19 jury room."

20 He made the 12 jurors go into the back.

21 "Let me take up this matter of law. I'll
22 bring you back out, okay."

23 The only reason that Mr. Russell Long stopped
24 the Court -- stopped the trial (sic) from doing
25 this is because the ruling has already been set in

1 law at the pretrial section that he wouldn't allow
2 this testimony into the trial. Okay.

3 The judge stopped the trial, made the jury go
4 in the back. "Please have no conversation about
5 the case. If you need anything, just let the
6 bailiff know.

7 (The jury exited the courtroom at 11:06. The
8 following take place outside of the presence of the
9 jury.)"

10 Because of this ruling, this is the only
11 reason this is happening, Your Honor.

12 "The Court: Yes, sir.

13 "Mr. Long: Thank you, Judge. I anticipate
14 that Detective Miley (phonetic) wanted to say that
15 he and his other two colleagues were investigating
16 a house in Socastee and they came up on the house,
17 and they saw David Campbell backed in. We would
18 object to any of that. It is irrelevant to the
19 case itself. This is a traffic violation. They
20 made clear that that is what it was. I think it
21 would be prejudicial for any of that -- before they
22 are behind David Campbell, see him commit a traffic
23 offense, I think that's prejudicial, super
24 prejudicial in this case, and we would object to
25 their admission to any of that."

1 Okay. The reason why he's objecting is
2 because he already knew the judge already made a
3 ruling saying that he wouldn't allow this. That's
4 the only reason why he stopped the trial right
5 here. Okay.

6 Your Honor, when we're actually in trial, on
7 Page -- on Page 43, Your Honor, Mr. Martin -- this
8 is where Mr. Martin is actually arguing the issue
9 that is missing, the motion that's missing. Mr.
10 Martin stated: "They were in pursuit of anybody of
11 what was happening. As a matter of fact, since
12 we're there, the discovery that was presented to us
13 does not -- unless there is something that they
14 sent that we didn't get -- does not suggest pursuit
15 out of the county into the city. It talks about
16 the basis for the stop being generated in the city,
17 and so there's discovery which has not been
18 produced to us, and that is another problem we will
19 find. We don't think they ought to be able to
20 utilize any testimony, statements pertaining to
21 matters that occurred when a discovery presented
22 has led us up to this point not to be aware of
23 anything, other than what is in the discovery they
24 presented to us."

25 And then he said: "Now I don't know what

1 these officers are here -- and they can testify and
2 tell us what the deal was, but I think it is
3 incumbent upon the State to establish all of that
4 through testimony.

5 "The Court: All right."

6 Then, if you read my transcript, it jumps to
7 a whole other issue, because this is where they
8 actually clipped this actual suppression motion
9 that I put on the record just now on Page 250.
10 Because if nothing was clipped, that suppression
11 motion would have went right in there. He would
12 have kept speaking, and he would have let the Court
13 know that -- he would have asked the Court to
14 suppress the officer's testimony because it was not
15 in my discovery package. That was his whole reason
16 for suppression -- suppressing the issue.

17 But if you read in my transcript, it jumps to
18 a whole other issue. And then he says, Well, since
19 we raised -- after that, he says, "Since we raised
20 the issue of the legality of the search and
21 seizure, which is a whole total different motion
22 than the motion to suppress Officer Rue's
23 testimony."

24 Now, you can go back in the pretrial section
25 and you can see where he made a motion to suppress

1 the legal -- the search and seizure. That is a
2 whole totally different motion.

3 And if you read a little further, Your Honor,
4 my other attorney, which is Russell Long, he goes
5 on to, "Your Honor, to be clear, you asked earlier
6 how we were going to split up the work. I have no
7 idea."

8 Which is letting you know that they ain't
9 really have no kind of plan. They just freestyled
10 my trial, the same way the officers did. Because
11 the officers never made no reports or nothing
12 anyway, and that's another issue, sir, that I
13 wanted you to put in my -- in my issues.

14 The officers that testified on me, they never
15 made no type of reports, period. So they got up
16 there and was just freestyling the whole case.
17 They didn't have nothing to go on. They just went
18 on, and my attorneys never tried to stop them or
19 nothing. They just spoke on it and let that be.

20 But not to get off point, but Mr. Russell
21 Long is speaking saying, "I have no idea on how
22 we're going to split up the work. If at any point,
23 obviously, I'm hopping up and I shouldn't be, you
24 can hit me over the head. But the discovery we
25 were given, the investigator's report, the

1 warrants, and any statements made by police
2 officers, reports, begin with November 30 of 2015
3 in Myrtle Beach section of Horry County responding
4 to an attempt to stop a car for failure to signal.
5 That is where it starts. We have no idea. That
6 statement was just made in this courtroom that they
7 were watching the house out in the county and
8 somewhere else, and investigating something else;
9 and, therefore, then got in behind our client. We
10 don't have anything in our discovery that indicates
11 any of that."

12 Okay. He stated that because the ruling was
13 already ruled upon that -- that -- under that
14 suppression motion that they wouldn't allow it. So
15 he was speaking on it, just to speak on it.

16 But, see, Your Honor, this is kind of hard to
17 put this all on the record, because so much is
18 missing that they illegally -- Russell Long and
19 Morgan Martin illegally went back in the courtroom
20 and just destroyed my trial deliberately. Like, I
21 wasn't going to be able to notice this or
22 something. I know I ain't the smartest person in
23 the world, but I know what a ruling is, and I know
24 what a motion is when I'm in court. And they just
25 destroyed everything. And ain't nothing else

1 destroyed but what could have helped me on my
2 appeal.

3 This is what makes me angry, because they
4 know -- they know I'm not lying on them right now.
5 They know I'm not just sitting here making up
6 something to make the Court feel good or make me
7 feel good. Because I don't feel good at all
8 knowing that I paid two attorneys, and then both of
9 them just went back -- Your Honor, it's sad. That
10 is why I wish Ms. Tara was here. Because Ms. Tara,
11 she got the CD on where it's recorded. The trial
12 is recorded, and she allowed me to listen to this
13 CD of my trial. And I'm listening to a bench
14 conference where Mr. Morgan Martin -- I mean
15 Mr. Russell Long is going back and conspiring with
16 the judge, asking the judge, What are we going to
17 do about this suppression motion, sir?

18 I mean, I understand that you -- you know the
19 judge, and you favor the judge, I understand all of
20 this, but how can you go against your client that
21 is paying you to help him out? Like, I don't
22 understand that. I don't understand that, sir.
23 But that's why me and my attorney is standing on
24 incomplete record, Your Honor.

25 Incomplete records in Hardy v. United States,

1 375 U.S. 27727984; and United States v. Brown, 202
2 F.3d 691 (1999); United States v. Higgins, 191 F.3d
3 532536, Fourth Circuit, 1999; and United States v.
4 Gillis -- missing transcript portions that
5 specifically prejudices the defendant on appeal,
6 United States v. Gillis, 773 F.2d 549554,
7 Fourth Circuit, 1985.

8 Ms. Tara, as my counsel, was entitled to a
9 transcript of the entire testimony and evidence, as
10 well as suppression motions and Court's rulings on
11 all motions, in order that counsel, who was not
12 counsel at trial, could discharge her duties of
13 being an advocate for me as a defendant, which she
14 couldn't because she didn't have everything to go
15 on. So my issue was not an issue. The court of
16 appeals didn't even consider it at all.

17 Q Okay. So we're talking about that missing
18 pretrial motion. And is there anything else you
19 want to add about that particular item? Otherwise,
20 we'll move onto some of these others.

21 A Yes, sir. I would like to add Yagis
22 (phonetic) v. United States, a statutory term is
23 ambiguous; however, does not turn solely on
24 dictionary definitions of its component words,
25 rather the plaintiff in statutory language is

1 determined not only by reference to the language
2 itself, but as well by the specific contents in
3 which the language is used in the broader contents
4 of the statute as a whole.

5 United States v. Deal, it is a fundamental
6 principle of statutory construction and indeed of
7 language itself that the meaning of the word cannot
8 be determined in isolation, but must be drawn from
9 the context in which it is used. Ordinary word
10 usage in accordance with dictionary definition in
11 law as in life. However, the same words placed in
12 different context sometimes mean different things.

13 If you read my transcript, Your Honor, in
14 Page 250, there is no way you can sit here and say
15 that this motion to suppress Officer Rue's
16 testimony is something else other than what it is.
17 It is plain as day. I mean, there is no way you
18 could look at it and say, Well, this officer
19 suppressing -- this officer -- I mean this lawyer
20 suppressing this officer's testimony, but that's
21 not what he means, because there is no way you
22 could sit here and say that. He said what he
23 meant, and he meant what he said.

24 In that motion to suppress Officer Rue's
25 testimony, he actually acknowledged the fact that

1 this motion was made, and he actually acknowledged
2 the fact that this motion was ruled upon, and this
3 is what makes me mad, Your Honor. Because if he
4 would have just stood up at my pretrial -- I mean
5 my direct appeal stage and would have said the same
6 exact thing that he is saying on Page 250, then I
7 would have got a decent chance at an appeal.

8 My appeal was not even considered, period,
9 because he chose to -- well, my attorney, Tara
10 Shurling, contacted him, and he chose to play like
11 he was dumb. Like he was illiterate. Like he
12 didn't know what was going on. He knew he made the
13 motion. He knew he won the motion. This is what
14 really makes me mad. You know you win a motion,
15 and then you act like you didn't win no motion, and
16 you didn't make no motion because you know that
17 would keep me in prison. Why?

18 What did I do to you anyway, Mr. Morgan?
19 What did I do to make you say I'm not going to
20 stand up for this guy?

21 THE COURT: Mr. Campbell, when I speak, you
22 stop.

23 MR. CAMPBELL: Yes, sir. I'm sorry.

24 THE COURT: You're not here to address
25 anybody in the audience. You're here for

1 testimony. I'm not going to allow that. If I hear
2 that again, we're going to have a problem, okay?

3 MR. CAMPBELL: Yes, sir. Yes, sir. Sorry.
4 Sorry. Sorry. I'm sorry, sir. It's just -- I've
5 been sitting in here for ten years knowing that
6 this guy could have helped me, and he didn't help
7 me at all.

8 THE COURT: Ask your next question.

9 Q (BY MR. GRIFFIN) Mr. Campbell, I understand
10 your frustration, but let's move forward a bit
11 here.

12 Now, one of your other grounds that you said
13 your Counsel was ineffective is you gave him the
14 name of an alibi witness. Tell me the name.

15 A Latice Barr. She's not here today. I guess
16 she -- I don't know if she had to work.

17 Q She had to work.

18 A Your Honor, I been here eight different times
19 trying to get this done, and my people came, taken
20 off of work eight different times. Most of the
21 time, Russell Long or Morgan Martin don't show up,
22 and the Attorney General tell me they can't find
23 them. They call them, contact them. Can't find
24 them. So my people taking off of work, and they
25 don't have no money to be taking off of work like

1 that.

2 Q Mr. Campbell --

3 A I guess she couldn't get off at this time,
4 Your Honor. And another one of my witnesses
5 couldn't get off either, which is my baby's mama,
6 who was in trial with me and heard what was said,
7 and could have testified to it, but she couldn't
8 get off either because she had to work.

9 Q Okay. So the fact that you had -- you
10 informed your attorney that Latice Barr was your
11 alibi witness, correct?

12 A Yes, sir.

13 Q And he failed to call her. Did he give you a
14 reason?

15 A He didn't give me a reason at all. Because I
16 hired Russell Long. He was the initial attorney.
17 He was my main attorney. And then the plea bargain
18 that he was trying to get me didn't come through
19 like he said. He said he was going to work
20 something out for me. So I said, Well, I'm not
21 trying to plead guilty to this, because this is not
22 my stuff that was there that day. So he was trying
23 to persuade me to plea, which I wasn't going to do.
24 So I went and hired Morgan Martin, which I heard
25 was a good trial lawyer, which he is. And he

1 actually proved that he is a good trial lawyer,
2 because if he didn't went back and destroy my
3 trial, I probably would have won my direct appeal,
4 sir. And I know this because the ruling was
5 violated in trial that was ruled on by the trial
6 judge. And then when he went back and destroyed
7 it -- and I'm sitting here listening to this guy go
8 back in the courtroom and re-record over a motion
9 for mistrial. I'm talking about replacing it with
10 an objection, and the judge actually -- him and the
11 judge go -- and this is -- this is, wow, how can a
12 judge who is supposed to be honorable and have
13 integrity to go back in a courtroom and re-record
14 over an actual trial, sir?

15 Q Let's get back to the fact that he didn't
16 call a witness. But you told him that this witness
17 was your alibi, correct?

18 A Yes, sir.

19 Q Okay. And, so -- also, you mentioned it
20 briefly in some of your other testimony, is that
21 the officers failed to write a report that would be
22 provided to you, as far as an incident report, in
23 your discovery; is that correct?

24 A Yes, sir.

25 Q Tell us about that.

1 **A** Okay. The officers who was testifying
2 against me, Your Honor, neither one of them who
3 actually was the witness that they saying that they
4 witnessed me throw something that day, none of them
5 actually wrote a report, period.

6 So the only thing we have is the actual
7 investigative report and the warrant on where
8 Officer Cruz (phonetic), which was not the
9 eyewitness of the incident. He didn't -- he is
10 saying he didn't eyewitness me throwing anything.
11 He just wrote the report because he is the one that
12 threw the blue lights on me. At the time, I did
13 run, and I was wrong for that. But I only ran
14 because I had a CDV on me that I knew I was going
15 to jail for, and I panicked and ran. That is the
16 only reason.

17 But the reports that they did -- that they
18 did submit was from Officer Cruz. And he didn't
19 say he witnessed me throw anything, but he also
20 didn't say who witnessed me throw anything. He
21 just said that on the date -- on November 30, in
22 Myrtle Beach, the Defendant, David Campbell, was in
23 possession of two white clear baggies that
24 contained a white substance that field tested
25 positive for cocaine. The substance located after

1 a vehicle chase of the defendant during a lawful
2 traffic stop for a violation of failure to signal.
3 The defendant -- the vehicle ran -- and when he was
4 surrounded by officers, he threw narcotics to the
5 second floor on the breezeway before being
6 arrested.

7 He is saying -- that is all he is saying,
8 when I was surrounded by officers, I threw
9 something up on a breezeway. Now, mind you, Your
10 Honor, he never said that the Detective Neeley
11 (phonetic) witnessed me throwing something up on
12 the breezeway. He never said that Detective Soust
13 (phonetic) witnessed me throwing nothing up on the
14 breezeway. He just said I was surrounded by
15 officers, and then I throw something on the
16 breezeway.

17 My lawyers never cross examined them using
18 the initial report. Because if they would have
19 cross examined them using their initial reports,
20 then he could have actually asked the officer --
21 well, I mean, he did ask the officer why didn't he
22 write reports, but he never cross examined him and
23 made them -- let the Court know that, okay, well,
24 if you were the eyewitness saying you eyewitnessed
25 me doing something, why didn't you take the

1 initiative to write a report saying that you saw me
2 do something? You just saying that it was Officer
3 Cruz' case. That's what you saying, it was Officer
4 Cruz' case. But Officer Cruz is saying that he did
5 not witness me throw nothing. So how can that not
6 be his duty to write a report about me doing
7 anything?

8 Your Honor, that's why it's kind of hard that
9 my lawyers didn't suppress the officer's testimony
10 about me throwing something. Because I had a young
11 man by the name of Elijah Campbell who took the
12 stand and let the Court know that he threw them
13 drugs that day. So if my attorneys would have
14 addressed the issue properly, then I would have had
15 a better chance at winning my trial, because if the
16 officer never wrote in their reports, his testimony
17 is non-existing. So that means when he gets on the
18 stand that day, he can just freestyle and say
19 whatever comes to his mind at that time? He don't
20 have nothing to go on. My lawyers don't have
21 nothing to really shun him over. They can't look
22 at no reports and say, Well, you said this at that
23 time, and then you said this at this time. No,
24 because he never said anything. So that was a big
25 part of my case that was missing that I feel like

1 should have been provided to us before discovery.
2 Because if we would have had that, I would have
3 knew which officer was going to get up and testify
4 on me.

5 Now, you saying three -- two, three officers
6 surrounding me, all three of them should see me
7 throw something. My report, Your Honor, they
8 saying that these officers is surrounding me.
9 Well, how come two officers are saying that, I
10 ain't seen him throw anything? And how come this
11 one officer said he saw me throw something, but you
12 ain't never wrote no report saying you saw me throw
13 anything? You understand what I'm saying, sir?

14 And that's why I wanted my lawyer to stand on
15 the officers failing to write reports. In People
16 v. Enril (phonetic); United States v. Hazley
17 (phonetic); United States v. Hamm; State v.
18 Roberts; People v. Jacobs, police officers who was
19 the arresting officer didn't write no reports in
20 the situation, period. That is unfair to me. When
21 it comes down to discovery, I should have been
22 provided with all of that before I even went to a
23 trial. So that is all I'm saying, Your Honor.

24 And, then, the big part of the case that
25 could have helped us out, which is the body

1 cameras, they saying that they didn't even turn
2 them on. Then I tell my lawyer, I say, Your
3 Honor -- I mean, sir, Mr. Russell, can you go to
4 Sandy Gate Apartments? They got cameras out there
5 where the police chase me at. The cameras are out
6 there in the breezeway everywhere in Sandy Gate.
7 Can you, please, get them cameras? They'll show
8 you that I wasn't the one that is throwing no drugs
9 that day. Because I'll plead guilty to it if I did
10 it. If I throw these drugs, I will plead guilty to
11 these drugs. But I'm not about to plead guilty to
12 something I didn't throw.

13 So he never -- that's why I wanted you to
14 re-amend my issues about the body cameras, too.
15 Because in People v. Garcia, bodycam footage was
16 potentially exculpatory. It could have helped my
17 defense. They never give us no body cameras,
18 because they saying they ain't turn them on. What?
19 All you all officers out there and you mean to tell
20 me none of you all turned these cameras on? Ain't
21 none of you all turned on body cameras to show
22 whether or not you see me throw anything?

23 In State v. Newman, same thing where the
24 Court ruled that failure of officers to provide
25 bodycam footage to the defense violates defendant's

1 right to a fair trial, because the footage could
2 have been critical to challenge the officer's
3 testimony.

4 I can't challenge no officer testimony if
5 it's just me. Because, look -- just look at this
6 right now, Your Honor. I'm in here explaining to a
7 Court that my attorneys, who I paid, destroyed my
8 trial, went back in the courtroom, re-recorded over
9 my trial. I look like a fool. Because you know
10 why? Everybody looking at me like how -- and, Your
11 Honor, I'm sorry to say this, but even when I was
12 in prison walking around telling young men this,
13 and they can't even believe it. They like, no,
14 they can't. Which I thought the same thing, they
15 can't do that. But then when I know what I know,
16 and I was in court and I heard what I heard, and
17 seen what I seen, and know that, oh, yeah, they
18 could do this. They did do that. They cleansed my
19 record to keep me in prison. Why? What is so
20 special about me to cleanse my record to keep me in
21 prison?

22 I just seen a lot of people go to prison and
23 have issues, and their issue is on the record. So
24 what's so special about me? And I get -- Your
25 Honor, I want you to, please, take this into

1 consideration: I get two attorneys from the Myrtle
2 Beach area who is supposed to be -- I can't take
3 nothing from them because they is good attorneys,
4 superlawyers.

5 Russell -- you look Morgan Martin up, he's a
6 superlawyer. And you mean to tell me this is the
7 type of practice that you practicing? Come on,
8 sir. This is wrong, man. This is wrong. For
9 real. This is wrong, man.

10 Q (BY MR. GRIFFIN) Mr. Campbell, we want to try
11 to focus now --

12 A I'm sorry. I'm sorry, sir. It is a touchy
13 situation. I know it is the truth, and I know it's
14 going to take an act of God for people to believe
15 me, because I am who I am, so I understand that.
16 I'm a young black man. When I speak, nobody seem
17 to care because they feel like, oh, he will say
18 anything to get out of trouble, which I understand
19 that. But I never -- I never believed that I can
20 ask for a trial and not get a fair trial because --
21 why? Why? That is what keeps playing in my head
22 over and over and over. Why can't I get a fair
23 shot at a trial? I'm asking to try to save myself,
24 save my life.

25 Q Mr. Campbell, now, we've dealt together for

1 going on a few years now, and I know it is a very
2 emotional thing, but I want to try to get you
3 focused here.

4 A Yes, sir.

5 Q So we can make sure that the Court has all of
6 the information we want to give him, right?

7 A Yes, sir. Yes, sir. Yes, sir.

8 Q So, now, you and I talked also about the fact
9 that this missing motion, pretrial motion, that you
10 did search for it yourself, you and another person;
11 is that correct?

12 A My attorney, Tara Dawn Shurling. We looked
13 for it.

14 Q Tell us about it.

15 A Sir, on February I -- no, January -- no. We
16 went back to December, December 12, 2017. Ms. Tara
17 Dawn Shurling wrote Ms. Richardson, the court
18 reporter in my trial, requesting a word-searchable
19 digital copy of the record. Okay. Your Honor, on
20 January the 18th, 2018 -- this jumped from 2017,
21 December 12, 2017, to 2018, January the 8th, 2018.
22 My attorney, Ms. Shurling, wrote the Honorable
23 Ms. Jennings Kitchens (sic), which is the court -- I
24 mean the judge on my direct appeal, let her know
25 that she needed more time due to her work and court

1 schedule. Also, the problem with this trial
2 transcript stating that I advised her -- me, as her
3 client, advised her that some portions of my
4 transcript is not reflected.

5 So she wrote the court reporter, Kay
6 Richardson, and asked her to make her backup
7 recordings available for review at Court of
8 Administration, and she also intended to send
9 copies of the missing transcript for their input.

10 Your Honor, on January the 9th, 2018, my
11 attorney, Ms. Shurling, wrote my trial attorney,
12 Russell Long and Mr. Martin, advising them that I
13 advised her that portions of my trial record
14 dealing with the pretrial motions and rulings is
15 missing and not reflecting in the trial transcript
16 provided to us for my direct appeal.

17 Also, she let my trial attorneys, Mr. Martin
18 and Mr. Long, know that she wrote the court
19 reporter, Kay Richardson, retain her notes and that
20 she put her backup tapes in the position of Court
21 Administration to go there to review the tapes to
22 see if, in fact, material is missing from the
23 transcription. Ms. Tara let them know she will
24 greatly appreciate their assistance in this matter
25 and will welcome their opinion concerning what

1 meritorious issues were raised during this trial
2 which might provide futile grounds for direct
3 appeal.

4 On January 8th, Mr. Martin -- I mean my
5 attorney, Ms. Tara, reached out to the clerk of
6 court in Horry County, Ms. Elvis, for any and all
7 exhibits. On February 7th, 2018, Ms. Tara Shurling
8 wrote Ms. Richardson letting her know that on
9 January 3, 2018, she e-mailed her about getting
10 access to the backup tapes for review, and that
11 Ms. Richardson had not responded to her request,
12 and she was concerned also asking her did she make
13 arrangements for these tapes to be placed with
14 Desiree Allen at Court Administration due to the
15 fact that they were challenging -- we were
16 challenging the fact that the accuracy of the
17 transcript ain't right. And, if she could, make a
18 copy of the audio record and send it to her and let
19 -- and please get the original backup recordings to
20 the Court Administration for safekeeping with this
21 accuracy challenge, all of this going on.

22 So Ms. Tara had to ask for a motion of
23 extension of time to file an initial brief. This
24 is February 7, 2018. The court reporter still
25 didn't respond to her. She just like trying to

1 ignore -- trying to ignore what is going on. She
2 ain't want to get back to them, I guess because she
3 knew that we was trying to find the missing motion
4 that she knew that they went back in the courtroom
5 and clipped, chopped up, acted like it never
6 existed.

7 So this was prolonging my appeal process,
8 because she didn't want to just hand it over,
9 because if she would just hand it over, it would
10 show that this motion to suppress, in fact, was
11 made, and we actually won it, and it is actually
12 not there in the transcript that they provided to
13 us. So she ain't want to give us -- she ain't want
14 to give it to us, sir. She was holding out. She
15 was taking up time on giving us that because she
16 knew if I give them this right now, it's going to
17 show that we deliberately destroyed this young
18 man's trial, so we can't give them that.

19 So, sir, on February 7th, the court --
20 Ms. Tara wrote me and said, "I have not yet heard
21 back from the court reporter concerning my request
22 to review the audio backup tapes used to transcribe
23 this trial record. My client has given very
24 specific information. She corresponded with the
25 direct appeal court concerning a motion and a court

1 ruling, which he believes was made on the record
2 and is not reflected in the trial transcript. I
3 have written both trial lawyers in this case, and
4 requested their opinion concerning whether any
5 language is missing from this transcript.

6 "Unfortunately, at this time that I wrote
7 them, I had not accurately understood the client's
8 position concerning what was missing. I have
9 already heard back from one of the two attorneys,
10 Russell B. Long, but the second lawyer, Mr. Morgan
11 Martin, has not responded. I need to write them
12 both again with a clear description of what the
13 client feels is missing from the trial transcript
14 and will do so right away. I have written the
15 court reporter again and asked that she please
16 advise me of the status of my request, that the
17 audio tapes from this trial be taken to Court
18 Administration where I can review them and check
19 the accuracy of the portions of the trial
20 transcript disputed by the client.

21 "For this reason above, I respectfully
22 request a 30-day extension of time in which to
23 prepare and submit an initial brief and designation
24 of matter on behalf of this client. And as much as
25 this is my second extension request, opposing

1 counsel, Jay Benjamin, Senior Assistant Deputy
2 Attorney General, has been made aware of this
3 request and has gracefully consented."

4 Okay. Your Honor, she is contacting the
5 courts back and forth, back and forth, back and
6 forth.

7 Now, on February 17th, again, Your Honor,
8 Ms. Tara wrote the courts again getting an
9 extension for time. She said, "My initial brief
10 and designation of matter are due for filing on
11 March 7, 2018. As I explained in my previous
12 extension request, Appellant disputes the accuracy
13 of the portions of the trial record provided by
14 court reporter, Kay H. Richardson. Ms. Richardson
15 advised that she had reviewed this record,
16 including the pretrial motion portion, and found
17 that no portion was left out. She, therefore,
18 submitted that the record as prepared is accurate."

19 This was the court reporter saying it.

20 "It remains my client's position that a
21 portion of the argument made by the trial counsel
22 and the Court's ruling thereon is missing from this
23 record. In order to properly evaluate the client's
24 position concerning this record, I request a copy
25 of a DVD introduced as State's Exhibit No. 2.

1 Unfortunately, the Horry County Clerk of Court's
2 Office advised me that they will not provide me
3 with a copy of that disk, and that if I need a
4 copy, I would have to come to Conway with a laptop
5 computer and make a copy of -- at their office.

6 "I'm requesting that the solicitor's office
7 provides me a copy of the disk. If they decline to
8 do so, I will make arrangements to have someone to
9 go to Conway and make a copy of this exhibit.
10 After reviewing the DVD, I would determine whether
11 it will be necessary to ask the presiding judge for
12 an order directing the court reporter to make her
13 backup tapes available to me for review. She has
14 declined to make the tapes available for review at
15 Court of Administration without a court order. The
16 court reporter also acknowledged that she is
17 required to maintain the backup tapes for one year;
18 therefore, that the record in question will be
19 preserved until August 22, 2018.

20 "For the reasons given above, I respectfully
21 request a 30-day extension of time in which to
22 prepare and submit the initial brief and
23 designation of matter on behalf of this client
24 inasmuch as this is my third extension --
25 requesting opposing counsel, Jay Benjamin Albine,

1 Senior Assistant Deputy Attorney General, has been
2 made aware of this request and has gracefully
3 indicated that he has no objection to this request.

4 "I no longer have an associate in my office
5 law firm; therefore" -- well, you know, she was
6 doing all the work herself, so she didn't want to
7 -- she was taking her time. I guess she didn't
8 want to prolong it and prolong it.

9 But, Your Honor, inasmuch as my attorney
10 reaching out and reaching out to them, they still
11 didn't give the recordings because they felt like
12 we can't give it to them, we just can't. We can't.

13 So my attorney went on, and on December --
14 no. Matter of fact on -- well, "Dear Ms. Kitchens,
15 I have retained counsel for this -- I received a
16 copy of the order from the court reporter December
17 19th -- I would ask that my time limit for this
18 appeal be ran from the date, if possible. Even if
19 that request is granted, I will still need an
20 extension in this matter. My client advised me
21 that a portion of the Court's ruling on a pretrial
22 motion to suppress is not reflected in this trial
23 transcript, has written the court reporter, Kay
24 Richardson, and asked that she make a backup
25 available for my review at Court Administration.

1 It is also intended to send trial counsel a copy of
2 this portion of this record, and to ask their input
3 concerning the accuracy and completeness of this
4 hearing record. I will send a copy of this letter
5 along with the copies of the" --

6 Q So, Mr. Campbell, basically, you are letting
7 the Court know that -- what you and I talked about
8 is that you made attempts to get this recording
9 over the course of quite some time; is that
10 correct?

11 A Several attempts, sir. Several attempts.

12 Q And you were still never able to get that
13 recording and to be provided with that pretrial
14 transcript either way; is that correct?

15 A That's right. This is what I wanted to put
16 on the record, also, because on April 9, 2018, my
17 attorney reached out to Mr. Long and Morgan, and we
18 got a motion to stay on the direct appeal. And in
19 this motion, it says, "Now comes the Applicant in
20 the above action, acting by and through undecided
21 counsel, asking that his opinion of direct opinion
22 be stayed pending resolution of his motion to
23 review backup recordings" --

24 COURT REPORTER: You need to slow down.

25 MR. CAMPBELL: I'm sorry. I'm sorry, ma'am.

1 But "motion to review backup recordings from
2 his jury trial held on May 15, 2017, before the
3 Honorable Thomas A. Russo. That general sessions
4 motion was sent to the Horry County Clerk of Court
5 for filing on April 5, 2018. The initial brief of
6 Applicant is currently due for a filing on today's
7 date, April 9, 2018. The trial transcript in this
8 matter was originally ordered by an attorney and
9 his family.

10 "Applicant and his family began exploring
11 hiring counsel after discovering the attorney in
12 New York was no good. For now -- but was not a
13 member of the South Carolina Bar, and had not filed
14 a notice of appearance in this matter before
15 counsel was retained."

16 Okay. The Appellant Division of South
17 Carolina Commission on Indigent Defense -- this is
18 where I'm -- "the trial was recorded by Kay
19 Richardson, court reporter. Defendant has
20 requested that the backup recorders -- taking place
21 at Court Administration. He additionally requests
22 authorization to obtain from the court reporter a
23 copy of the backup recorder so that he might
24 personally review the backup recorders and support
25 this request.

1 "Defendant was -- showed this honorable court
2 the following: On January 8, 2018, Applicant's
3 counsel wrote this court reporter and advised her
4 that defendant felt certain that some matters were
5 heard on the record at his trial were not reflected
6 in the trial transcript provided. Counsel for the
7 defendant requested that the court reporter backup
8 audio recordings be put in" -- well, she's just
9 letting you know how she did all of that.

10 "Administrative court said that counsel could
11 potentially listen to them and compare them with
12 the trial transcript provided. When counsel had
13 not heard anything in response to the request, she
14 wrote the court reporter on February 7, 2018 and
15 inquired as to whether the backup recorder had been
16 delivered to Desiree Allen at Court Administration
17 for a review in response to this inquiry.

18 "Counsel received a letter from the court
19 reporter, Richardson, dated February 13, 2018,
20 advising that she had reviewed the record,
21 including the pretrial motion portion, and found
22 that no portion was left out; therefore, the
23 transcript as prepared is accurate.

24 "Appellate counsel subsequently provided two
25 trial attorneys in this matter, Morgan Martin,

1 Russell B. Long, copies of the relevant portions of
2 the trial transcript, and I asked that they review
3 these excerpts from the transcript and advise
4 counsel of their opinion concerning their accuracy
5 and completeness.

6 "Attorney Long advised counsel that to the
7 best of his recollection, the record appeared to be
8 complete. The portions of the trial record in
9 dispute address a matter that was primarily argued
10 by co-counsel, Attorney Morgan Martin, early this
11 week. Counsel received a phone message from
12 Attorney Martin and was able to have a lengthy
13 telephone conference with him concerning this
14 matter, on April the 4th, Your Honor, 2018.

15 "Attorney Martin indicated that he concurs
16 with appellate counsel's belief that at least one
17 portion of the trial record appears to be
18 inaccurate, and that he does not properly reflect
19 -- that it does not properly reflect a motion for a
20 mistrial."

21 Now, this is what he is saying to my direct
22 attorney for my direct appeal -- I mean my attorney
23 for my direct appeal. But why you -- why you want
24 to stand up and let the courts know that in my
25 direct appeal that something is not properly

1 reflected?

2 "In addition, Morgan Martin has reviewed the
3 counsel portion of the trial record that
4 potentially supports the defendant's position that
5 a motion decision and a trial court ruling
6 addressing the same subject matter as the subject
7 mistrial motion is missing from the pretrial
8 section of this trial record. Attorney Martin has
9 retrieved his trial file and has reviewed his trial
10 notes. Counsel is advised by Attorney Martin that
11 his notes from the pretrial hearing includes his
12 handwriting in reference to a motion to dismiss and
13 motion to suppress, however, are limited to --
14 however, are limited and do not clearly state
15 whether or not notes show his intention to make
16 these motions, or whether his notes were intended
17 to document that he did so."

18 What? I mean, why would you document a
19 motion that you didn't make? That don't make
20 sense.

21 "Furthermore, Attorney Martin has indicated
22 that he has no clear recollection on what specific
23 motions were made during that proceeding."

24 He don't have no clear recollection, so I
25 guess he's forgetting things. I mean, I don't

1 understand how you can forget a motion that you
2 made that you won, and that is the only thing that
3 you achieved in my trial. That's the only thing
4 you won in my trial. Because you didn't win the
5 trial. The only thing you won was the motion that
6 we won that is not reflected, but you can't even
7 remember that. Come on now. That don't make
8 sense, sir. I mean, I just don't understand it.

9 Q Mr. Campbell.

10 A I just wanted Your Honor to see these types
11 of negligence that he is corresponding back and
12 forth with my direct appeal attorney, but he won't
13 stand up and tell the courts this when we actually
14 looking for these things. He's conversating with
15 my attorney, and she's sending all of this to me,
16 and I'm reading this, like, Hold on, why you not --
17 I don't -- this don't make sense. If you actually
18 agreeing with her about certain things, but you not
19 standing up letting the courts know this. This is
20 who you need to be telling this to as my attorney.
21 You don't need to be telling her that. You need to
22 be telling the courts that.

23 THE COURT: Mr. Griffith, we've heard enough
24 about the transcript at this point. Move on,
25 please.

1 Q (BY MR. GRIFFIN) Mr. Campbell, we've covered
2 the suppression --

3 A Hold up, sir. Sir. Not to cut you off, but
4 I just need to speak on this one issue right here,
5 and I'll let it go.

6 THE COURT: No, sir. No, sir. Listen to the
7 questions that your lawyer is asking.

8 Q (BY MR. GRIFFIN) Mr. Campbell, we talked
9 about the missing pretrial portion. We covered a
10 good bit of that, and you read several portions of
11 what the appeal attorney stated that she agreed
12 that certain portions were missing, and Mr. Martin
13 indicated that he thought certain portions were
14 missing from the transcript. I think -- you know,
15 we have shown that there was a motion, and that
16 parts of it were missing.

17 A Yes, sir.

18 Q Also, we talked about the fact that you had
19 given an alibi witness, but your attorney did not
20 call that alibi witness.

21 Then we also talked about the fact that the
22 officers failed to write an incident report that
23 could be reflected in your discovery, so you never
24 saw that as part of your discovery before they
25 testified?

1 **A** Yes, sir.

2 **Q** And then you also talked about the fact that
3 the court reporter failed to ever end up bringing
4 all that recording to you. I think those are all
5 the grounds we talked about; is that correct?

6 **A** Yes, sir. Yes, sir.

7 MR. GRIFFITH: Answer any questions that the
8 Assistant Attorney General might have for you.

9 THE COURT: Ms. Westraad.

10 MS. WESTRAAD: Good morning, Mr. Campbell.

11 **CROSS EXAMINATION**

12 **BY MS. WESTRAAD:**

13 **Q** A few questions. So you allege that you --
14 your lawyer didn't call any of your witnesses; is
15 that correct?

16 **A** Yes, ma'am.

17 **Q** Do you recall that you had two witnesses
18 testify on your behalf at your trial?

19 **A** Yes. Yes, ma'am.

20 **Q** And so the only other witness you are saying
21 that they didn't call is the alibi witness?

22 **A** She needed a subpoena to take off from work,
23 and she couldn't take off. That is the only allege
24 reason why -- because I actually went by and tried
25 to let her know, but she said her boss is not going

1 to allow her off if my lawyers don't send a
2 subpoena, which they never sent her a subpoena, so
3 she couldn't get off.

4 Q And she's the one that is not here to
5 testify?

6 A That is the one not here today to testify.
7 And I asked my attorney to send her a subpoena
8 today, but I guess when I speak it's kind of -- you
9 know, I guess -- I don't know. I don't know why he
10 didn't do it, but he just didn't do it. I even
11 asked him to subpoena a couple of jurors to testify
12 that they heard a motion for mistrial being made
13 that is not reflected in the record either. It's
14 replaced with an objection. And I even asked him
15 to subpoena the court reporter because she is the
16 one that recorded the trial, which she's not a
17 court reporter no more because she wasn't even
18 qualified to record trials.

19 So, I mean, I guess -- I asked for the
20 subpoenas, and they don't go out. I even asked to
21 subpoena the actual transcript that my lawyer
22 stated for the record that he made. That is not --
23 I can't get a subpoena to save my life, you know.
24 That is why she didn't show up, because she didn't
25 get a subpoena. She can't just take off from work,

1 because she got to work. If she missed a couple
2 days, she might end up not being able to pay her
3 light bill or cable bill, I don't know.

4 Q Mr. Campbell, do you recall -- I know you
5 talked about missing portions of your transcript.
6 Do you recall that your attorneys made a motion to
7 suppress starting on Page 36 of your transcript?

8 A On Page 36?

9 Q Yes, sir.

10 A Yes. Yes, ma'am. The legality of the stop.
11 A warrantless search and seizure. That is what his
12 motion is based on. It was a warrantless search
13 and seizure.

14 Q And do you recall the judge ruled on that on
15 Page 103?

16 A Page 103?

17 Q Yes, sir. And this is Line 14 where the
18 Court says, "I would exclude that," referring to
19 some of the evidence that was in the motion.

20 A Yes. I see that. That's actually -- he's
21 excluding the part where I'm in the back seat of
22 the police car and I'm out of breath, and I'm
23 coughing and gagging. He excluded that part. So
24 the warrantless search and seizure, he -- that
25 right there didn't address that part. It just --

1 the excluded is where he excluded the videotape in
2 the back of the car of me coughing and gagging from
3 being out of breath, you know. That is what he
4 excluded.

5 Q And I think you also mentioned that -- you
6 said there was a motion for a mistrial, but it
7 wasn't in the transcript. But do you recall that
8 on Page 247 your attorney said, We move at this
9 time for a mistrial?

10 A Yeah. 247, he made an oral mistrial, which
11 it shows where his intentions was at. It shows
12 where his mind was at at the time. He made an oral
13 mistrial at that time, but he also made an oral
14 mistrial in trial that is replaced with an
15 objection on Page 40 -- no. No. No. Not 43. It
16 is on page -- the objection -- the only time he
17 made an objection in my case is the time that
18 wasn't an objection. It was a mistrial. And he
19 only made one objection in my trial. That's it.

20 Q (BY MS. WESTRAAD) I just wanted to know -- so
21 you do recall him making that motion for a
22 mistrial?

23 A Yeah, he did make a motion for a mistrial.
24 He did make a motion for a mistrial, and the judge
25 overruled it at the time. He didn't grant it.

1 Q And just one more topic. I think in your
2 application you said that your lawyer would not
3 allow you to take the stand in your defense?

4 A Yes. He said if I take the stand, it could
5 potentially cause the jury to speculate, because I
6 already had drug charges, which I understood that,
7 and I agreed with him not to take the stand. So I
8 understand that.

9 MS. WESTRAAD: Okay. No further questions.

10 THE COURT: Redirect?

11 MR. GRIFFIN: Redirect, Your Honor, briefly.

12 **REDIRECT EXAMINATION**

13 **BY MR. GRIFFITH:**

14 Q She mentioned that pretrial motion to
15 suppress search and seizure, but that is not the
16 one we're talking about, is it?

17 A No. He specifically states for the record
18 that this was a motion to suppress Officer Rue's,
19 which is the officer's name, testimony, which is
20 what he was suppressing, the testimony; not the
21 search and seizure. The search and seizure is
22 something totally different about me being in the
23 city. The search and seizure was based on me being
24 in the city, and the county police made an arrest
25 in the city. So that is why he was -- he made a

1 legal search and seizure motion.

2 Q Okay. So, Mr. Campbell, just to be clear
3 then, the motion we're talking about, the pretrial
4 motion we're talking about is missing, and that's a
5 motion to exclude the testimony of --

6 A He states right here plain. He stated right
7 here on the record plainly. That was in the motion
8 to suppress, motion to dismiss the testimony of
9 Officer Rue, and then --

10 Q Excuse me. Mr. Campbell, that is on page --

11 A 250.

12 Q Mr. Campbell, just a second. That is
13 reflected on our Exhibit 1, Page 250 of the
14 transcript?

15 A Right. And then he went on, sir -- he went
16 on to state why he made the motion to suppress
17 Officer Rue's testimony. And he stated right here
18 that it was not in his discovery package. It is
19 clear that the discovery presented to us in the
20 reports that we have were entered into the record,
21 and they can enter anything in addition to that,
22 obviously. It does not exclude a part -- does not
23 include the disclosure about the aspect of the
24 case. And that's the reason why he asked for his
25 testimony to be suppressed.

1 Q I just want to make clear what pretrial
2 motion we are talking about, not the one that
3 she --

4 A Yeah. That's a totally different motion.
5 Because that motion is the motion to search and
6 seizure, you can see that in the pretrial section.
7 But you can also see where my attorney is arguing
8 the actual motion that is missing.

9 And if you go -- Your Honor, if we go right
10 here on Page 42 of this transcript, you will see --
11 matter of fact, you will see where my -- that is
12 39. On Page 39 where he first was speaking on this
13 fact -- the first time he's speaking on this fact
14 is on Page 39. And he stated for the record that,
15 "I would take the position, absent evidence to the
16 contrary" -- and what he did, Your Honor, he was
17 saying I will take the position that 17-13-40 does
18 not answer this problem, and maybe that is one of
19 the reasons they need to present testimony as to
20 what happened. Because the discovery that we were
21 presented in the case says nothing about an
22 investigation watch violation outside the City of
23 Myrtle Beach, so I don't know what -- I'm not sure
24 where that comes from. That is not in any of the
25 discovery we have been given. And even if it is,

1 that -- I have to read it, but I believe when you
2 are ready in pursuit -- and they were not that, and
3 I said at least they need to establish with the
4 jurisdictional requirements, including 17-13-40,
5 that there is nothing in the record.

6 And then he goes on to say -- he goes on to
7 say that --

8 Q Mr. Campbell, I wanted to make clear that the
9 one that we're saying is missing was not that
10 search and seizure?

11 A Yes, sir.

12 MR. GRIFFITH: She may have questions for you
13 now, so answer any questions she might have.

14 THE COURT: Thank you, Mr. Griffith.

15 Mr. Campbell, you may step down, sir.

16 Let's take five minutes.

17 (A recess was taken.)

18 THE COURT: Mr. Griffith.

19 MR. GRIFFITH: If it pleases the Court. I'll
20 call Robert Anderson.

21 THE COURT: Mr. Robert Anderson, come
22 forward, please.

23 (ROBERT ANDERSON, having been duly sworn,
24 testified as follows:)

25 THE WITNESS: Robert Anderson,

1 A-N-D-E-R-S-O-N.

2 THE COURT: .Yes, sir.

3 MR. GRIFFITH: May it please the Court, Your
4 Honor?

5 THE COURT: Yes, sir.

6 DIRECT EXAMINATION

7 BY MR. GRIFFITH:

8 Q Mr. Anderson, how are you today?

9 A All right, sir.

10 Q I'm glad you are here today to help us, let
11 us have your testimony.

12 Mr. Anderson, you know the defendant?

13 A Yes, sir.

14 Q The Appellant?

15 A Yes, sir.

16 Q And you were present at the trial when he had
17 his trial; is that correct?

18 A Correct.

19 Q You heard us talking about a motion -- motion
20 to exclude evidence testimony of a certain person.
21 Have you heard us talking about that?

22 A Yes, sir.

23 Q Do you remember?

24 A Yes.

25 Q Do you remember anything about that? Can you

1 tell us?

2 A Yes, sir. I remember Mr. Morgan making a
3 motion, and the judge granted him -- told him,
4 yeah, he was going to grant it, and then they let
5 the police testify anyway.

6 Q Well, that's --

7 A It was confusing to me.

8 Q Well, that's the only question I had for you.

9 MR. GRIFFITH: If you would, answer any
10 questions that the Assistant Attorney General may
11 have.

12 THE COURT: Ms. Westraad?

13 MS. WESTRAAD: No questions, Your Honor.

14 THE COURT: No questions. You may step down.
15 Mr. Griffith, call your next witness.

16 MR. GRIFFITH: No further witnesses.

17 THE COURT: Is that Applicant's testimony?
18 State ready?

19 MS. WESTRAAD: Yes, Your Honor.

20 THE COURT: You may call your first witness.

21 MS. WESTRAAD: We call Russell Long.

22 THE COURT: Mr. Russell Long, if you will
23 come and be sworn, sir.

24 (RUSSELL LONG, having been duly sworn,
25 testified as follows:)

1 THE WITNESS: Russell Long, L-O-N-G.

2 DIRECT EXAMINATION

3 BY MS. WESTRAAD:

4 Q Good afternoon.

5 A Good afternoon.

6 Q I'm just going to start with a few general
7 questions. How long have you been practicing law?

8 A 34 years.

9 Q How much of that practice has been in
10 criminal law?

11 A 34 years.

12 Q Were you appointed or retained to Mr.
13 Campbell's case?

14 A Retained.

15 Q How long before his trial, if you recall,
16 were you retained?

17 A Long time. Can't tell you exact. Had to be
18 at least 18 months.

19 Q Do you recall how many times you met with Mr.
20 Campbell between the time you were retained and the
21 trial?

22 A Probably a half dozen times before he hired
23 Morgan. When he hired Morgan we were getting
24 really close to trial. Morgan and I met for me to
25 catch Morgan up, and then we met with David in

1 Morgan's office. It might have been a week before
2 the trial. It was pretty close to it.

3 Q Did you investigate the facts of the case?

4 A Yeah.

5 Q Could you talk about what that investigation
6 looked like?

7 A Oh, obviously, we talk to our client to find
8 out what their position is. Obviously we review
9 the discovery, reviewed the discovery with the
10 client.

11 As far as an investigation, this was a -- the
12 allegation was that the police -- Horry County DEU,
13 drug unit, was sitting outside of an alleged drug
14 dealer's house, saw David come and go. So, as they
15 would, they got behind him, Judge, and waited on a
16 traffic violation, which would have been the basis
17 for the motion to suppress, it was pretext.

18 They waited on a traffic violation, turned
19 the blue lights on the traffic violation. They
20 chased him from outside of the city into the city,
21 multiple cars, and a big chase. He got in an
22 automobile accident in the chase, jumped out of the
23 car, fled on foot. The officer that was right
24 behind him -- and, by the way, body cameras weren't
25 really a thing at this point. This was way before

1 everybody had them and they were all on.

2 But the officer that chased him on foot was
3 the one that testified that he saw them as running
4 under a breezeway, throw a bag of something up, and
5 it landed on the balcony, shockingly, and then
6 continued -- didn't -- of course didn't run after
7 what had been thrown, but pursued David and tackled
8 him. They later went up to the stairs and found
9 what had been thrown.

10 Q So since you brought it up, the issue with
11 the pretrial motions, that is a big allegation
12 here. Did you make pretrial motions in this case?

13 A Sure.

14 Q Do you recall what those were?

15 A Well, obviously, we made a motion to suppress
16 based on what we believe to be a pretextual stop.
17 We then -- upon the -- I believe it was in-camera
18 and outside the presence of the jury, the testimony
19 from the officer we learned that this wasn't just a
20 traffic violation, this was a setup where they were
21 watching an alleged drug dealer's house. That was
22 new to us. It wasn't included in the discovery,
23 and that is not abnormal. You know, they are
24 basing it all on the traffic and then the stop,
25 anyway.

1 But, then, based on that, we made a motion to
2 exclude the evidence of the drug dealer's -- the
3 setup, right. If the jury had heard that they were
4 watching a drug dealer's house and David had come
5 and gone, and then chased him, that is detrimental
6 to David. So that was a motion to exclude that
7 part of any testimony.

8 Q And do you remember if you also made a motion
9 regarding what came up -- well, let me ask first:
10 Were you present here in the courtroom for Mr.
11 Campbell's entire testimony today?

12 A I was.

13 Q And, earlier, something came up about
14 excluding portions of the audio in the video where
15 he says certain things or does certain things. I
16 think he said coughing and things like that. Do
17 you recall there was --

18 A Yeah. I don't remember exactly, but there
19 was something about that. When he was in custody,
20 he was making some statements during, kind of, a
21 panic attack or something, and we moved to exclude
22 those statements.

23 Q Okay. And from the appellate proceedings
24 that Mr. Campbell referenced earlier, it sounds
25 like you were consulted whether you believed there

1 was anything missing from the trial transcript.

2 A That is correct. Tara Shurling reached out
3 to me a couple of times.

4 Q What did you find when you did that review?

5 A I didn't -- we, obviously, looked, you know,
6 if there was something we could do to help David.
7 I mean, I've known David before. I represented
8 David many times over the years, and all of his
9 family, cousins and brothers and uncles, and still
10 do. So I knew David. I mean, if we could help
11 David, we would help him, of course. If there is
12 something helpful to be found anywhere that would
13 help him, I would certainly do what I could, but I
14 didn't see anything.

15 Of course, it's hard to find something that
16 is missing, right? If it's missing, you can't find
17 it. That is the definition of missing. But I
18 didn't see in the transcript that we had or
19 anything of anything missing.

20 Q And I forgot to mention this, but in addition
21 to the motion to suppress, he said that there was a
22 motion for a mistrial held?

23 A I don't know the basis for that. Is that
24 when -- well, you are asking the questions, but I
25 don't remember the basis for the mistrial motion.

1 MS. WESTRAAD: Beg the Court's indulgence.

2 Q (BY MS. WESTRAAD) I want to address as
3 well -- Mr. Campbell brought up that there was a
4 lack of a police report, and that that was an issue
5 at the trial. Do you recall talking about that at
6 trial?

7 A Yes, I recall him bringing it up. Police
8 don't have to write a report. They don't have to,
9 but it is a great question for a jury. But there
10 is no obligation on the police to write a report.
11 There is no obligation to write a more detailed
12 report than just a basic report. The report in
13 this case was -- I believe David's problem with
14 that is that it was too simple. But, yes.

15 Q Mr. Campbell testified, and also alleges in
16 his application, that his attorneys did not call
17 any of his witnesses; that in court one of you said
18 you didn't have time to call witnesses. Do you
19 recall having a conversation with him about that?

20 A I don't recall having a conversation about
21 that, because we didn't. We called the witnesses
22 that we had. Remarkably, one of his cousins was
23 willing to try to take the fall for the drugs. You
24 know, it is a possession case, not an ownership
25 case. We all know the difference between ownership

1 and possession.

2 The cousin wasn't anywhere near the arrest
3 scene, but David asked us to have the cousin
4 testify. The cousin was warned and threatened by
5 the solicitor's office pretty hard that if you
6 testify, you realize you are admitting to
7 possessing these drugs. But, you know, we called
8 him. I didn't think it was going to be fruitful,
9 and it wasn't, but we called him anyway. He asked
10 us to call witnesses, and we did.

11 The alibi thing makes no sense to me at all.
12 First of all, no, I don't recall him presenting me
13 with an alibi witness. Based on the facts of the
14 case, I can't imagine what a witness -- this was,
15 again, a car chase, failure to stop for a blue
16 light case, that turned into a foot chase, that
17 turned into a tackle and an arrest for trafficking.
18 I don't know where an alibi witness would come in
19 there. So it's shocking to me to hear that it was
20 even -- no, I do not remember that conversation.

21 Q Another allegation is that one of you -- I'm
22 not clear who -- told Mr. Campbell that you
23 wouldn't allow him to take the stand?

24 A I think he withdrew that on cross.

25 Q I believe so.

1 A But we did exactly what we've done in every
2 other case of mine and Morgan's 81 combined years
3 of trying cases. We advise the client what will
4 happen if they testify; if they have a criminal
5 record, that would be allowed to be used to
6 impeach, and we advised him on that.

7 In this case, it was actual drug offenses,
8 which was detrimental to the client. He's charged
9 with drugs, they are going to be able to say that
10 he's a convicted drug offender if he testified. So
11 we advised the client on all of that. But every
12 single time the client has that position -- and
13 that Judge Russo at this trial, just like any other
14 judge would do, made sure that the decision was not
15 made by me, and made by him, and gave him all of
16 the advice that he needed to get to make that
17 decision on his own. And it should be on the
18 record.

19 And then after being advised by us, and then
20 advised by His Honor, Judge Russo, at the time made
21 the decision not to testify. So I don't -- I guess
22 there is not a complaint about that anymore, but
23 that is what happened there.

24 MS. WESTRAAD: And, Your Honor, that is
25 reflected on Page 252, for the record.

1 Q (BY MS. WESTRAAD) Did any plea negotiations
2 take place?

3 A Before David hired Morgan, you know, any time
4 -- it hasn't happened much in my career that we got
5 to the end of the case and the client was satisfied
6 with where we were headed. We got a seven-year
7 offer on David's case, seven-year trafficking, as
8 opposed to the 25-year, which was an excellent
9 offer. I tried my very best to advise him that it
10 was a great offer, and he should accept it.

11 He was -- David's demeanor, and his
12 personality, is exactly like it is today, but he
13 was younger and had more energy, if you can believe
14 it. He was adamantly opposed to what I was trying
15 to present to him. He took offense to the fact
16 that I was bringing him the plea that they offered
17 him, and made the decision to hire Morgan and get
18 him involved. I was like, okay, that's great. He
19 is a great lawyer, and he is a superlawyer. David
20 told the truth about that. Let's go. Let's get
21 Morgan involved.

22 So I immediately got Morgan involved -- or we
23 got Morgan involved. I brought Morgan up to speed
24 on the case. We met with David, and then Morgan
25 and I both did our very best to get him to consider

1 the seven-year plea offer, and he refused it.

2 Q Were you prepared for trial?

3 A Absolutely.

4 Q And did Mr. Campbell seem to understand
5 everything you discussed with him?

6 A I know David is smart. He always has been,
7 but he -- again, his demeanor is if he doesn't like
8 what he's hearing, he uses his actions to rial
9 things up and confuse them. So, no, if he doesn't
10 agree with you, he gets loud and argumentive, and
11 that is exactly what occurred here.

12 Q But as far as discussing his charges, plea
13 negotiations, you felt -- did you feel that he
14 understood?

15 A He understood everything. He is a smart guy.
16 He wasn't playing dumb, I don't mean to say that.
17 Of course he understood it. He understood it
18 enough to get angry and upset about it.

19 Q And do you stand by your representation of
20 him?

21 A Of course.

22 MS. WESTRAAD: That's all my questions.

23 Answer any questions Mr. Griffith has.

24 THE COURT: Mr. Griffith?

25

CROSS EXAMINATION

1
2 BY MR. GRIFFITH:

3 Q Mr. Long?

4 A Yes, sir.

5 Q Thank you. First of all, you stated for the
6 Assistant Attorney General that you can't find
7 what's not there. So you don't recall the motion
8 to -- any other pretrial motion to exclude evidence
9 from that officer, other than what you were talking
10 about?

11 A That's right. Yes, sir.

12 Q Can you tell us about what part you're asking
13 to --

14 A Testimony about the DEU's setup to sit on a
15 drug house to watch to see who comes and goes.

16 Q So were you successful to get that?

17 A I believe so.

18 Q And so maybe -- do you think there was some
19 confusion, perhaps, about what actually was left
20 out and what was admitted?

21 A What are you asking? Confusion on whose part
22 about what is being left out and omitted?

23 Q One of our witnesses said that he heard the
24 motion to suppress the officer's testimony.

25 A All respect to Mr. Anderson, I have no idea

1 what he's talking about.

2 Q All right. Just checking.

3 Do you recall whether there was a confession
4 that was admitted?

5 A I don't.

6 Q Do you know that the motion to suppress the
7 officer's testimony was the basis for the mistrial
8 for you asking for a mistrial?

9 A I just testified, I have no recollection of a
10 mistrial motion.

11 Q Did you stop the trial at any point?

12 A How can I -- I didn't mean to ask a question.
13 I have no authority to stop a trial. Judge Russo
14 might have. I don't know. I guess I would need
15 more context.

16 Q Did you ask for a mistrial?

17 A I don't recall. But, again, if someone would
18 enlighten me on the basis, I might be able to tell
19 you if it was me or Morgan as we were, quote,
20 "freestyling" this defense. Apparently, it was
21 brought up that someone asked for a mistrial, I
22 just don't know what the basis was.

23 MR. GRIFFITH: I don't have any other
24 questions.

25 THE COURT: Redirect?

1 MS. WESTRAAD: No, Your Honor.

2 THE COURT: You may step down, sir.

3 THE WITNESS: Thank you, Your Honor. Good to
4 see you.

5 MS. WESTRAAD: State calls Mr. Morgan Martin.

6 THE COURT: If you will come forward.

7 MR. LONG: May I be excused?

8 MR. GRIFFITH: No objection.

9 THE COURT: Without objection.

10 (MORGAN MARTIN, having been duly sworn,
11 testified as follows:)

12 THE WITNESS: Morgan Martin.

13 **DIRECT EXAMINATION**

14 **BY MS. WESTRAAD:**

15 Q Good afternoon, Mr. Martin.

16 A Good afternoon.

17 Q Same I did with Mr. Long, I'll ask you a
18 couple general questions first.

19 How long have you been practicing law?

20 A 46 years.

21 Q How much of that practice has been in
22 criminal law?

23 A Well, I've been involved with criminal law
24 for the entire 46 years.

25 Q And were you -- well, let me ask you: Were

1 you present for all of the testimony today in this
2 case?

3 A Yes.

4 Q And do you recall how long before Mr.
5 Campbell's trial that you were brought on with
6 Mr. Long?

7 A No, not specifically. I know that I was
8 brought on -- I know I was brought on in plenty of
9 time to be able to become fully conversant with the
10 case and to meet with Russell and Mr. Campbell on
11 multiple occasions, and get ready to try the case.

12 Q And since we were just talking about it, do
13 you recall whether there was a motion for a
14 mistrial in this case?

15 A I don't.

16 I mean, Judge, I would have to go back and
17 reread the transcript of these specific questions.

18 MS. WESTRAAD: Your Honor, may I approach?

19 THE COURT: You may.

20 Q (BY MS. WESTRAAD) Mr. Martin, I have handed
21 you the trial transcript on Page 247.

22 A Yep.

23 Q If you want to refresh your recollection as
24 to what went on at that point.

25 A (Witness examines document.) Well, I do see

1 here at the top of the page that "we move at this
2 time for a mistrial based on the fact that there
3 was -- that the State was allowed to present
4 evidence in what occurred in the Socastee area in
5 the, quote, 'known drug house and place.'"

6 And so that was the basis of the motion for a
7 mistrial. The Judge allowed evidence that we
8 believed was prejudicial and inadmissible. And, of
9 course, the Judge said, "Okay. That was not the
10 testimony. There was no testimony before this jury
11 that it was a known drug house or drug place."

12 Then we go on to discuss it. But, at any
13 rate, he obviously denied the motion for a
14 mistrial.

15 Q Thank you.

16 MS. WESTRAAD: Yes, Your Honor, that is
17 reflected on Page 249 of the transcript.

18 Q (BY MS. WESTRAAD) So is it correct to say
19 that was you that made the motion for a mistrial?

20 A Yes.

21 Q And do you recall that issue, the high drug
22 area, do you recall if that was the basis of the
23 motion to suppress as well?

24 A Well, reading the transcript there, I do. I
25 do. I mean, in general, the defendant, David, as

1 everybody -- as a defense lawyer you raise whatever
2 issues you can in order to help defend him. And I
3 cannot remember -- this was -- I don't know how
4 long ago, seven, eight, nine years ago. I can't
5 specifically recall every thought I had involved in
6 the case, but I do know that, you know, Russell and
7 I tried very hard to do a good job representing
8 David, and I wish it had turned out differently for
9 David, but it wasn't for lack of effort.

10 Q And from the appellate proceedings, it sounds
11 like that you were also consulted whether you
12 believed anything was missing from the transcript.
13 Did you see anything issued there?

14 A No. I was consulted by, I think it was, Tara
15 Shurling was representing David at the time. I
16 remember Kay Richardson was the court reporter, but
17 I -- my recollection is that in the discussions we
18 had, and the transcripts I looked at, that I could
19 not discern that there was any transcript missing.

20 Q And there was an allegation as well that I
21 just went over with Mr. Long as well, that Mr.
22 Campbell said you wouldn't allow him to take the
23 stand in his defense. I know there is some
24 confusion whether that is still an allegations, but
25 did you ever tell him that he couldn't take the

1 stand in his defense?

2 A No. No. Russell outlined that pretty good.
3 Most lawyers know, ultimately, that decision is up
4 to the client. And I may have advised him whether
5 I thought it was in his best interest to do that or
6 not, but I would never tell anybody they couldn't
7 testify. One of the -- one of the issues with
8 being a lawyer is that you eventually have to
9 accept what your clients want to do anyway, whether
10 you believe they are right, wrong, or indifferent.

11 Q Do you recall whether you cross examined
12 Officer Neeley about the lack of a report,
13 investigative report?

14 A I don't remember whether I cross examined him
15 on that or not.

16 Q And I know you sort of stated this earlier,
17 but were you prepared for the trial in this case?

18 A Yes.

19 Q And did Mr. Campbell seem to understand
20 everything you discussed with him?

21 A Yes. I think, you know, David understood.
22 Because I didn't know him near as well as Russell
23 did. But I do think he understood, and I think
24 that -- you know, the only thing I look back on the
25 trial and wish that David would have taken the deal

1 they offered him. I know I did encourage him to do
2 that. I think he understood, but for reasons
3 satisfactory to himself, he wanted a trial. And I
4 guess maybe he thought he could beat it and would
5 be acquitted, but he wasn't. And that was always a
6 long shot.

7 And so that was why Russell and I both asked
8 David to please consider taking the plea. But,
9 again, he didn't. We had a trial. I think we did
10 as good a job that could be done defending David,
11 but it wasn't in the cards for a jury to acquit
12 him.

13 Q And my last question is: Do you stand by
14 your representation of Mr. Campbell?

15 A Yes.

16 MS. WESTRAAD: Answer any questions that
17 Mr. Griffith has.

18 THE COURT: Mr. Griffith.

19 CROSS EXAMINATION

20 BY MR. GRIFFITH:

21 Q Mr. Martin, thank you for showing up. Sorry
22 to drag you away from stuff. I always tell my
23 clients to file a PCR.

24 Mr. Campbell read some letters that were
25 evidently sent from -- that appeared to have been

1 sent of communication between you and his appeal
2 attorney. Were you present when he read those?

3 A I did, but I didn't hear them. I knew it was
4 referenced.

5 Q In some of those -- in more than one of those
6 letters you referred to the fact that you thought
7 that perhaps there were things missing from the
8 transcript. Do you recall that at all?

9 A I don't. If you show me a letter I sent and
10 it's there, I'm not going to argue with whatever I
11 said in the letter.

12 Q He was able to read it into testimony.

13 A Okay. Okay.

14 Q They are a part of this record.

15 A Well, if they are a part of the record, all I
16 would say is I don't have a recollection today of
17 what I wrote in those letters.

18 Q I can't remember what I did last week.

19 But -- so, Mr. Martin, Mr. Campbell believes
20 that the motion --

21 MR. GRIFFITH: May I approach, Your Honor?

22 THE COURT: You may.

23 Q (BY MR. GRIFFITH) -- to dismiss the testimony
24 here on Page 250 of this transcript, in this
25 particular area over here, was made by you?

1 **A** (Witness examines document.) "Well, just
2 simply to say -- this is me stating in the record
3 was just simply to say that I think I did ask
4 questions about it. I think that when we got in
5 the details of anything of what occurred before the
6 traffic stop was in the motion to suppress or
7 motion to dismiss testimony of Officer Rue. I
8 believe that it was."

9 Okay.

10 MR. CAMPBELL: And the judge agreed with --

11 THE COURT: No. Mr. Campbell --

12 MR. CAMPBELL: Sorry, sir.

13 THE COURT: I have already warned you one
14 time. You will not be warned again. You
15 understand that, sir?

16 MR. CAMPBELL: Yes, sir.

17 THE COURT: This is not your opportunity to
18 speak. When someone else is speaking, you are not
19 to speak. Do we understand each other?

20 MR. CAMPBELL: Yes, sir. Yes, sir. Yes,
21 sir.

22 THE COURT: Thank you, sir.

23 **Q** **(BY MR. GRIFFITH)** So, Mr. Martin, you recall
24 having made a motion to suppress certain testimony
25 from that officer?

1 **A** Well, I can't tell you sitting here today
2 that I have an independent recollection of that
3 motion to suppress, but obviously the transcript is
4 the best record of what occurred. That is the
5 reason why they got a transcript.

6 **Q** So would you agree that this transcript seems
7 to imply that there was a motion prior to
8 suppress --

9 **A** Yes.

10 **Q** -- and that it was granted by the judge?

11 **A** I don't know about "granted." I think the
12 motion -- the record seems to indicate that I made
13 a motion to suppress at sometime. I do not recall
14 whether it was granted by the judge or not.

15 **Q** All right.

16 MR. GRIFFITH: I have no further questions.
17 Thank you.

18 THE COURT: Anything on redirect?

19 MS. WESTRAAD: Beg the Court's indulgence.

20 (A brief pause in the proceedings.)

21 **REDIRECT EXAMINATION**

22 **BY MS. WESTRAAD:**

23 **Q** Just one question, Mr. Martin. Do you recall
24 when you made that motion to suppress, cross
25 examining the police officers in an in-camera

1 hearing?

2 A I have no independent recollection of that.

3 MS. WESTRAAD: No further questions.

4 THE COURT: Thank you. You may step down,
5 sir. Thank you.

6 Any further witnesses on behalf of the State?

7 MS. WESTRAAD: No, Your Honor.

8 May Mr. Martin be excused?

9 MR. GRIFFITH: No objection.

10 THE COURT: Without objection, you are
11 excused.

12 MR. MARTIN: Thank you, Judge.

13 MS. WESTRAAD: No further witnesses.

14 THE COURT: Any witnesses in reply,
15 Mr. Griffith?

16 MR. GRIFFITH: None, Your Honor.

17 THE COURT: Thank you. I will tell you this.
18 Obviously, there is a lot of material that has been
19 submitted in this case. I need an opportunity to
20 review that, review that in light of the testimony
21 that I have heard today, and I'm going to take this
22 matter under advisement.

23 I will tell both sides, thank you for the
24 manner in which you tried this case, and the way
25 that it was tried is a credit to our bar. Thank

1 you to both of you all.

2 Please allow me an opportunity to review this
3 information, and I will get the decision as quickly
4 as I possibly can. Thank you.

5 (Whereupon, the proceedings concluded.)

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Natalie Dahl
Registered Professional Reporter
State of South Carolina Official Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

David Campbell, #265686,

Applicant;

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

CASE NO. 2021-CP-26-07792

**ORDER OF DISMISSAL
WITH PREJUDICE**

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2026 APR 24 12:04

FILED
HORRY COUNTY

Presiding Judge:	Hon. S. Bryan Doby
Applicant's Attorney:	Timothy L. Griffith, Esq.
Respondent's Attorney:	MacKinnon Westraad, Esq.
Trial Counsels:	Russell B. Long, Esq. L. Morgan Martin, Esq.
Date of Hearing:	March 10, 2026
Court Reporter:	Natalie Dahl

This matter comes before the Court pursuant to an application for post-conviction relief ("PCR") filed by David Campbell ("Applicant") on November 30, 2021. Respondent filed its Return and Motion for a More Definite Statement, requesting that an evidentiary hearing be held on the allegations. On March 10, 2026, an evidentiary hearing was held at the Horry County Courthouse before the Honorable S. Bryan Doby. Applicant was present and represented by Timothy L. Griffith, Esquire. Assistant Attorney General MacKinnon Westraad represented Respondent. Applicant proceeded on the allegations within his original PCR application. In support of these claims, Applicant testified on his own behalf and provided testimony from witness Robert Anderson. Respondent called Russell B. Long, Esquire ("Trial Counsel Long"), and L. Morgan Martin, Esquire ("Trial Counsel Martin"), to testify.

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, **DENIES** and **DISMISSES** this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Horry County Clerk of Court. During its February 2016 term, the Horry County Grand Jury indicted Applicant for failure to stop at a blue light (2016-GS-26-00536). During its February 2017 term, the Horry County Grand Jury indicted Applicant for trafficking cocaine between ten and twenty-eight grams, third offense (2017-GS-26-00942). Applicant was represented by Trial Counsel Long and Trial Counsel Martin. David P. Caraker, Jr., and William G. Ervin, of the Fifteenth Circuit Solicitor's Office, prosecuted the case.

On May 15-17, 2017, Applicant proceeded to a jury trial before the Honorable Thomas A. Russo. Applicant was found guilty as indicted, and Judge Russo sentenced Applicant to thirty years' imprisonment for trafficking cocaine and five years' imprisonment for failure to stop at a blue light, to run concurrently.¹

Applicant filed a timely notice of appeal on May 26, 2017, that was perfected by Tara D. Shurling, Esquire ("Appellate Counsel"), raising the following issues:

1. The lower court erred in overruling Appellant's objection to the State's introduction of irrelevant and highly prejudicial testimony concerning matters which took place before the traffic stop in this case after the State conceded that this case began as a traffic violation and agreed that nothing prior to that stop was relevant to the case.
2. The lower court erred in denying the Appellant's Motion for a Mistrial where the State introduced testimony concerning matters which took place before the

¹ Applicant also had two pending criminal domestic violence charges at the time of this trial, which the State dismissed in accordance with these convictions. (Trial Tr. pp. 340-341).

traffic stop in this case after conceding that this case began with a traffic violation committed by Appellant and agreed that nothing prior to that stop was relevant to the case.

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. State v. Campbell, Op. No. 2021-UP-074 (S.C. Ct. App. filed March 10, 2021). Applicant petitioned for rehearing, which was denied on June 21, 2021. Applicant appealed to the South Carolina Supreme Court, which dismissed the appeal for failure to timely serve and file a petition for writ of certiorari in accordance with Rule 242(c), SCACR. The remittitur was issued on August 17, 2021, recalled on August 18, 2021, and reissued on September 9, 2021.

FACTS GIVING RISE TO THE CONVICTION

On November 30, 2015, a Horry County police officer initiated a traffic stop of Applicant's vehicle on Pine Island Road for failure to signal. (Trial Tr. pp. 123, 165, 204-05). Applicant sped to the nearby Sandysgate Apartments, crashed his car, and fled on foot before being apprehended. (Trial Tr. pp. 129-31, 167-69, 205-06). While being chased, Applicant threw two bags of cocaine onto the second floor of the apartment's breezeway. (Trial Tr. pp. 132-35, 169-70, 206-07). The cocaine weighed a total of 11.2 grams. (Trial Tr. p. 234).

CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being detained unlawfully for the following reasons (excerpts verbatim):

1. Lawyer did not call any of my witnesses.
 - a. In court my lawyer said he did not have time.
2. Courts did not give me my pretrial motions
 - a. In my transcript my pretrial motions is missing.
3. Lawyer did not allow me to help with my case.
 - a. Lawyer said in court he would not allow me to take the stand in my defense.

Before this Court are the Horry County Clerk of Court records regarding the subject's convictions and sentences, Applicant's records from the SCDC, the trial transcript, direct appeal records, and the records of the current PCR action.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act² (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based on the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a

² S.C. Code Ann. §§ 17-27-10 to -160.

question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland v. Washington to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687–88; accord. Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable." (citation and internal quotation marks omitted)).

Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. When analyzing counsel's performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for rebutting that presumption "by proving that his attorney's representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy." Kimmelman v. Morrison, 477 U.S. 365, 384

(1986); cf. Cullen v. Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation).

Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, make every effort "to eliminate the distorting effects of hindsight," and "evaluate the conduct from counsel's perspective at the time" in light of then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. Accordingly, counsel's performance will be considered deficient only when it was objectively incompetent under prevailing professional norms and *not* when it simply "deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To meet this burden, counsel's deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. Cherry, 300 S.C. at 117–18, 386 S.E.2d at 625; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different."). Importantly, "[t]he likelihood of a different result must be

substantial, not just conceivable." Richter, 562 U.S. at 112.

Finally, the Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90. Courts must be wary of second-guessing counsel's trial tactics, and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant's burden of proving both Strickland components is heavy in light of the strong presumption that counsel's conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690. Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Id. at 686; see Nix v. Whiteside, 475 U.S. 157, 175 (1986) (noting that under Strickland, the "benchmark" of the right to counsel is the "fairness of the adversary proceeding"); cf. United States v. Morrow, 977 F.2d 222, 229 (6th Cir. 1992) ("[T]he threshold issue is not whether [the applicant's] attorney was inadequate; rather, it is whether he was so *manifestly* ineffective that defeat was snatched from the hands of probable victory.").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court also heard the testimony presented at the evidentiary hearing and observed the witnesses, allowing the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his

application for post-conviction relief. See Rule 71.1(e), SCRPC (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of fact and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

As a matter of general impression, this Court further finds applicable the strong presumption that at all stages of Trial Counsels' representation of Applicant, they rendered adequate assistance and exercised reasonable professional judgment in their representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

Allegation: **Lawyer did not call any of my witnesses**

Applicant alleges Trial Counsels' representation was constitutionally ineffective for failing to call any of his witnesses. Specifically, Applicant alleges his attorneys said they "did not have time." This Court finds this allegation is without merit.

Counsel must, at a minimum, make some effort to interview potential witnesses identified

by the defendant and make an independent investigation of the facts and circumstances of the case. Edwards, 392 S.C. at 456, 710 S.E.2d at 64; Walker v. State, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To support a claim that trial counsel was ineffective for failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. Glover, 318 S.C. at 498-99, 458 S.E.2d at 540. The applicant's mere speculation about the witnesses' testimony cannot, by itself, satisfy the applicant's burden of showing prejudice. Id.

When an applicant alleges trial counsel failed to investigate or present an alibi witness, the PCR court must make two findings to determine if counsel's deficient performance constitutes prejudice under Strickland. Walker v. State, 397 S.C. 226, 723 S.E.2d 610 (Ct. App. 2012), rev'd, 407 S.C. 400, 756 S.E.2d 144 (2014). "*First*, the court must find as a matter of law whether the witness's testimony meets the legal definition of an alibi. *Second*, the court must assess the witness's credibility." Walker, 397 S.C. at 238, 723 S.E.2d at 616 (emphasis added). In making the first finding, the Court must consider the entire record. Id.

Through an alibi, an accused attempts "to show that because he was not at the scene of the crime at the time of its commission, having been at another place at the time, he could not have committed the crime." State v. Robbins, 275 S.C. 373, 375, 271 S.E.2d 319, 320 (1980) (quoting 21 Am. Jur. 2d Criminal Law § 136). To do so, the accused must show "he was at a place so distant that his participation in the crime was impossible." Id. Furthermore, the alibi must account for the entire time during which these crimes were committed. Id. "Since an alibi derives its potency as a defense from the fact that it involves the *physical impossibility* of the accused's guilt, a purported alibi which leaves it possible for the accused to be the guilty person is no alibi at all."

State v. Glover, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (citing Robbins, 275 S.C. 373, 271 S.E.2d 319) (emphasis added).

In determining prejudice, the strength of the evidence against an applicant must be considered in determining whether there is a "reasonable probability that the result of the trial would have been different had counsel's performance not been deficient." Ford v. State, 314 S.C. 245, 248, 442 S.E.2d 604, 606 (1994); Geter v. State, 305 S.C. 365, 409 S.E.2d 344 (1991) (Finding that though counsel was ineffective for failing to object to repeated reference to petitioner's prior incarceration, the overwhelming evidence of petitioner's guilt—the corroborating testimony of the victims' and medical evidence—did not establish a reasonable probability the result of trial would have been different had counsel not been deficient.); Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018) (In determining whether an applicant alleging ineffective assistance of counsel has proven prejudice, the postconviction relief (PCR) court should consider the specific impact counsel's error had on the outcome of the trial; in addition, the PCR court should consider the strength of the State's case in light of all the evidence presented to the jury).

PCR Evidentiary Hearing

On direct examination, Applicant testified that he told Trial Counsels about an alibi witness, but that she was not called. Applicant testified that she was not present at the PCR hearing.

On direct examination, Trial Counsel Long testified that he was unaware of any alibi witnesses provided by Applicant. Trial Counsel Long testified that he did not understand how Applicant could have an alibi witness, since he was pursued by police vehicles on video, chased by officers on foot, and ultimately arrested.

Findings

This Court finds the combination of the record and Trial Counsel's testimony that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, *supra*. This Court additionally finds that Applicant has failed to overcome his burden in proving Trial Counsels' representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Trial Counsel Long credibly testified that he was not aware of any alibi witnesses, and that an alibi witness would not make sense given the circumstances of Applicant's case. Most notably, Applicant did not present this alibi witness at his PCR hearing, so this Court cannot determine the validity of this allegation. See Harris, 377 S.C. at 75-76, 659 S.E.2d at 145-46; see also Glover, 318 S.C. at 498-99, 458 S.E.2d at 540 (To support a claim that trial counsel was ineffective for failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence.).

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsels failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsels committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsels' performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsels or any prejudice flowing therefrom. Thus, this allegation must be **DENIED and DISMISSED with PREJUDICE**.

Allegation: Lawyer did not allow me to help with my case

Applicant alleges Trial Counsels' representation was constitutionally ineffective for not allowing him to help with his case. Specifically, Applicant alleges his attorney said he would not allow Applicant to take the stand in his defense. This Court finds this allegation to be without merit.

PCR Evidentiary Hearing

On cross-examination, Applicant testified that Trial Counsels advised him not to testify because of his prior drug charges. Applicant testified that he agreed with his attorneys' advice, which was why he did not testify.

On direct examination, Trial Counsel Long testified he had represented Applicant and his family on numerous occasions. Trial Counsel Long testified that he encouraged Applicant to accept the seven-year plea deal, but Applicant refused and was offended by the suggestion, so they went to trial. Trial Counsel Long testified that Applicant was correct about their advice regarding whether Applicant should testify. Trial Counsels Long and Martin both testified they properly informed Applicant of his right to testify as well as the implications of his prior drug charges if he chose to testify.

Findings

This Court finds the combination of the record and Trial Counsel's testimony that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, *supra*. This Court additionally finds that Applicant has failed to overcome his burden in proving Trial Counsels' representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Based on the record before this Court, it is clear that Trial Counsels

and Judge Russo properly gave Applicant the opportunity to testify.³ Further, Applicant's own testimony that he agreed with his attorneys' advice refutes this allegation.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsels failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsels committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsels' performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsels or any prejudice flowing therefrom. Thus, these allegations must be **DENIED and DISMISSED with PREJUDICE**.

ALLEGATION OF MISSING TRANSCRIPT PORTIONS

Allegation: Motions from transcript are missing

Applicant alleges portions are missing from his trial transcript. Specifically, Applicant alleges there were pretrial motions that are not reflected in the transcript. This Court finds this allegation is without merit.

PCR Evidentiary Hearing

On direct examination, Applicant testified in detail about portions of the transcript he believed were missing, including a motion to suppress an officer's testimony.⁴ Applicant testified that Trial Counsels made motions that are not reflected in the transcript. Applicant testified about

³ Trial Tr. pp. 251-255.

⁴ A motion to suppress the search and seizure of Applicant, which would include the officer testimony and video evidence, was argued and ruled upon, beginning on page 49 of the trial transcript.

how Appellate Counsel obtained the recording of the trial to see if the missing portions were reflected in the recording, but Applicant alleged the recording was also altered.

On direct examination, lay witness Robert Anderson testified that he was present at Applicant's trial and heard Applicant's attorneys move to suppress an officer's testimony.

On direct examination, Trial Counsel Long testified that he was contacted by Appellate Counsel regarding whether the trial transcript appeared accurate. Trial Counsel Long testified that it was accurate, that nothing seemed to be missing, and he told Appellate Counsel as much. Trial Counsel Long testified he remembered there was a motion to suppress, but he could not remember the specifics.

On cross-examination, Trial Counsel testified he did not know what lay witness Robert Anderson was referring to in his testimony.

On direct examination, Trial Counsel Martin testified that the case was old and that he could not remember the specifics, but acknowledged that he had filed some of the motions Applicant referenced in his testimony, including a motion to suppress and a motion for a mistrial.

Findings

This Court finds there is no credibility to the allegation that the record of Applicant's trial was altered. Based on a review of the record and the testimony, pretrial motions were made on Applicant's behalf. Trial Counsel Long credibly testified that he reviewed the transcript after he was contacted by Appellate Counsel, but that nothing appeared to be missing. Applicant testified that a motion for a mistrial was missing, but later acknowledged that there was a verbal motion, not a written motion. Further, no evidence was presented as to how this allegation prejudiced his case.

Accordingly, this Court finds Applicant has failed to establish any constitutional violations or deprivations relating to the transcript that would require this Court to grant his application for post-conviction relief. Thus, these allegations must be **DENIED and DISMISSED with PREJUDICE.**

[CONCLUSION & SIGNATURE PAGE FOLLOWS]

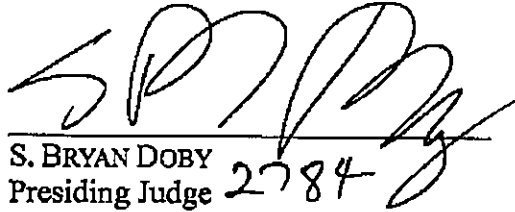
CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED** and **DISMISSED with PREJUDICE**.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for the appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.


 S. BRYAN DOBY
 Presiding Judge 2784
 Fifteenth Judicial Circuit

Bishopville, South Carolina

WITNESSES

Jeremy Crews Horry County Police Department

Phillips

ARREST WARRANT NUMBER

2015A2610701197

CDR: 2396 56-05-0750(B)(2)

DOA: 12/1/2015

ACTION OF GRAND JURY

TRUE BILL

Bob Harris

Foreperson of Grand Jury

Date: FEB 18 2016

VERDICT

CLERK OF COURT
HORRY COUNTY, SC

Foreperson of Petit Jury

Date: 2017 MAY 24 AM 8:33

CERTIFIED COPY

DOCKET NO. 2016-GS-26-00536

The State of South Carolina

County of Horry

Gray Ervin

15H05678

COURT OF GENERAL SESSIONS

February, 2016 TERM

THE STATE

vs.

David Harold Campbell
B/M

Myrtle Beach, SC 29577

DOB:

SSN:

ATTORNEY: *Russell B. Long*
~~David Wilson~~

Indictment for

Failure to Stop for Blue Light

Jimmy A. Richardson, II, Solicitor

ORIGINAL

FILED
HORRY COUNTY

2016 FEB 23 AM 9:26

MELANIE JENNINGS GARD
CLERK OF COURT

DATE RECEIVED FROM
GRAND JURY

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on February 18, 2016, the Grand Jurors of Horry County present upon their oath:

FAILURE TO STOP FOR BLUE LIGHT/SIREN

CDR: 2396 56-05-0750(B)(2)

That David Harold Campbell in Horry County on or about November 30, 2015, while operating a motor vehicle on a road, street, or highway of the State of South Carolina, did refuse and fail to stop his/her motor vehicle when signaled to do so by a law enforcement vehicle, by means of a siren and/or flashing light, in violation of Section 56-05-0750(B)(2), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY K. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

CERTIFIED COPY
2017 MAY 24 AM 8:33
RECEIVED
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF Horry
 STATE VS.
David Harold Campbell

AKA: _____
 Race: BLACK Sex: M Age: 34
 DOB: SS#

Address: _____
 City, State, Zip: Myrtle Beach, SC 29577
 DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Traffic / Failure to stop for a blue light, no injury or death, 2nd offense

in violation of § 56-05-0750(B)(2) of the S.C. Code of Laws, bearing CDR Code # 2396

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Ervin, Gray SCB76913
 SC Bar# _____

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2017-GS-26-942

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce, Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.00

TOTAL \$ 103.00

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS2600536

A/W#: 2015A2610701197

Date of Offense: 11/30/2015

S.C. Code § : 56-05-0750(B)(2)

CDR Code #: 2396

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

0-5 Yrs.

in violation of § 56-05-0750(B)(2) of the S.C. Code of Laws, bearing CDR Code # 2396

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
 w/minor 1st or Lewd Act)

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The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

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 SC Bar# _____

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Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2017-GS-26-942

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce, Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.00

TOTAL \$ 103.00

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ 25.00 beginning 6/17/2017

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge

Judge Code: 2141

Sentence Date: 5-17-2017

WITNESSES

Jeremy Crews Horry County Police Department

C. Morley

ARREST WARRANT NUMBER

2017GS2600942

CDR: 0147 44-53-0370(e)(2)(a)3

DOA: 12/1/2015

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury

Date: FEB 23 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-26- 00942

The State of South Carolina

County of Horry

Gray Ervin

15H05678

COURT OF GENERAL SESSIONS

February, 2017 TERM

THE STATE

vs.

David Harold Campbell
B/ M

Myrtle Beach, SC 29577

DOB:

SSN:

ATTORNEY: Russell Blake Long

Indictment for

Trafficking Cocaine

CLERK OF COURT
HORRY COUNTY, SC

RECEIVED

PAUL H. JAMES

JIMMY A. RICHARDSON, II, SOLICITOR

2017 MAY 24 AM 8:33

CERTIFIED COPY

1611

FILED
HORRY COUNTY
2017 MAR -1 AM 8:50

CLERK OF COURT
HORRY COUNTY, SC
DATE RECORDED FROM
CHAND JURY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

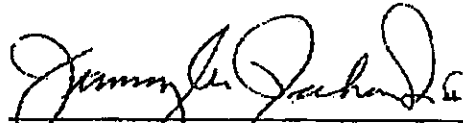
At a Court of General Sessions, convened on February 23, 2017, the Grand Jurors of Horry County present upon their oath:

TRAFFICKING COCAINE (10 - 28 GRAMS)

CDR: 0147 44-53-0370(e)(2)(a)(3)

That David Harold Campbell did in Horry County on or about December 1, 2015, knowingly, sell, deliver, purchase or bring into this State, or did aid, abet, attempt, or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than ten (10) grams, but less than twenty-eight (28) grams, the same being a controlled substance, all within the meaning of Section 44-53-370, et seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of Section 44-53-370(e)(2)(a), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

CERTIFIED COPY
 2017 MAY 24 AM 8:33
 Horry County, SC
 CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF Horry
STATE VS.
David Harold Campbell

AKA: _____
Race: BLACK Sex: M Age: 34
DOB: _____ SS#: _____

Address: _____
City, State, Zip: Myrtle Beach, SC 29577
DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Trafficking in cocaine, 10-28 g, 3rd Offense

in violation of § 44-53-0370(e)(2)(a)3 of the S.C. Code of Laws, bearing CDR Code # 0147

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (w/minor 1st or 2nd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Graham
Eryn, Gray

SCB76913
SC Bar#

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years,
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$
§ 14-1-206 (Assessments 107.5 %) _____ \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 61.6 (Public Def/Probation) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00
§ 50-21-114 (BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$ 8.25

TOTAL: \$ 783.25

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Kenee N. Ellis
Kay Richardson

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS2600942

A/W#: 2017GS2600942

Date of Offense: 12/1/2015

S.C. Code § : 44-53-0370(e)(2)(a)3

CDR Code #: 0147

RECEIVE

MAY 26 2017

SENTENCE SHEET

SC Court of App

25-30 Yrs. CONVICTED OF or ☐ PLEADS

2017 MAY 25 4:12 PM
RECEIVED
CLERK OF COURT
HARRIS COUNTY SC

2016-65-26-536

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ 25.00 beginning 6/17/2017

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 2141

Sentence Date: 5-17-2017

2017 MAY 25 4:12 PM
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CLERK OF COURT
HARRIS COUNTY SC