

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM JASPER COUNTY

Perry M. Buckner, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

PHILLIP MONROE,

APPELLANT

APPELLATE CASE NO. 2013-000425

RECORD ON APPEAL

LARA M. CAUDY  
Appellate Defender

ALAN WILSON  
Attorney General

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

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General  
Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211  
(803) 734-3727

Attorney for Appellant

ISSAC MCDUFFIE STONE, III  
Solicitor, Fourteenth Judicial Circuit  
Post Office Box 2226  
Beaufort, SC 29901  
(803) 943-3580

Attorneys for Respondent

## INDEX

|                                                         |       |
|---------------------------------------------------------|-------|
| INDEX .....                                             | i, ii |
| PRETRIAL HEARING TRANSCRIPT (FEBRUARY 11, 2013) .....   | 1     |
| <u>JACKSON V. DENNO HEARING</u>                         |       |
| TESTIMONY                                               |       |
| BRIAN MARK BAIRD                                        |       |
| Direct Examination by Ms. Henderson .....               | 6     |
| Cross Examination by Mr. Hughes .....                   | 10    |
| RICHARD LONG                                            |       |
| Direct Examination by Ms. Henderson .....               | 13    |
| Cross Examination by Mr. Hughes .....                   | 18    |
| DANIEL LITCHFIELD                                       |       |
| Direct Examination by Ms. Henderson .....               | 20    |
| Cross Examination by Mr. Hughes .....                   | 26    |
| Redirect Examination by Ms. Henderson .....             | 28    |
| PHILLIP MONROE                                          |       |
| Direct Examination by Mr. Hughes .....                  | 30    |
| Cross Examination by Ms. Henderson .....                | 33    |
| Redirect Examination by Mr. Hughes .....                | 37    |
| DANIEL LITCHFIELD                                       |       |
| Re-Redirect Examination in Reply by Ms. Henderson ..... | 38    |
| Re-Cross Examination in Reply by Mr. Hughes .....       | 41    |
| CHRISTOPHER ALLEN MCINTOSH                              |       |
| Direct Examination in Reply by Ms. Henderson .....      | 43    |
| RULING BY THE COURT .....                               | 52    |
| TRIAL TRANSCRIPT (FEBRUARY 11 – 13, 2013) .....         | 55    |
| OPENING STATEMENT BY MS. HENDERSON .....                | 56    |
| OPENING STATEMENT BY MR. HUGHES .....                   | 58    |

TESTIMONY

RICHARD LONG

|                                          |    |
|------------------------------------------|----|
| Direct Examination by Ms. Henderson..... | 60 |
| Cross Examination by Mr. Hughes .....    | 67 |

KEVIN SCOTT SMITH

|                                          |    |
|------------------------------------------|----|
| Direct Examination by Ms. Henderson..... | 75 |
| Cross Examination by Mr. Hughes .....    | 81 |

COURTNEY BANIEL

|                                          |    |
|------------------------------------------|----|
| Direct Examination by Ms. Henderson..... | 86 |
| Cross Examination by Mr. Hughes .....    | 97 |

DANIEL LITCHFIELD

|                                             |     |
|---------------------------------------------|-----|
| Direct Examination by Ms. Henderson.....    | 105 |
| Cross Examination by Mr. Hughes .....       | 115 |
| Redirect Examination by Ms. Henderson ..... | 121 |

BRIAN MARK BAIRD

|                                          |     |
|------------------------------------------|-----|
| Direct Examination by Ms. Henderson..... | 122 |
| Cross Examination by Mr. Hughes .....    | 126 |

CHRISTOPHER ALLEN MCINTOSH

|                                          |     |
|------------------------------------------|-----|
| Direct Examination by Ms. Henderson..... | 128 |
| Cross Examination by Mr. Hughes .....    | 133 |

JENNIFER MILLS

|                                          |     |
|------------------------------------------|-----|
| Direct Examination by Ms. Henderson..... | 135 |
| Cross Examination by Mr. Hughes .....    | 143 |

|                                         |     |
|-----------------------------------------|-----|
| CLOSING ARGUMENT BY MS. HENDERSON ..... | 154 |
|-----------------------------------------|-----|

|                                      |     |
|--------------------------------------|-----|
| CLOSING ARGUMENT BY MR. HUGHES ..... | 158 |
|--------------------------------------|-----|

|                        |     |
|------------------------|-----|
| CHARGE ON THE LAW..... | 164 |
|------------------------|-----|

|               |     |
|---------------|-----|
| VERDICT ..... | 185 |
|---------------|-----|

|                  |     |
|------------------|-----|
| SENTENCING ..... | 189 |
|------------------|-----|

|                   |     |
|-------------------|-----|
| INDICTMENTS ..... | 191 |
|-------------------|-----|

|                             |     |
|-----------------------------|-----|
| CERTIFICATE OF COUNSEL..... | 195 |
|-----------------------------|-----|

STATE OF SOUTH CAROLINA  
14TH JUDICIAL CIRCUIT  
COUNTY OF JASPER  
COURT OF GENERAL SESSIONS  
CASE NO'S 2012-GS-27-00189 & 2012-GS-27-00190

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

FEBRUARY 11, 2013

TRANSCRIPT OF HEARING

RIDGELAND, SOUTH CAROLINA

PHILLIP MONROE

DEFENDANT

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B E F O R E:

HON. PERRY M. BUCKNER, JUDGE; AND A JURY.

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

ON BEHALF OF THE STATE:

HON. CARRA HENDERSON

ON BEHALF OF DEFENDANT:

HON. ROBERT HUGHES

ORIGINAL

WANDA H. ROWE, CVR-M  
OFFICIAL COURT REPORTER

INDEX

|                            |   |
|----------------------------|---|
| Caption & Appearances..... | 1 |
| Index.....                 | 2 |
| By the Court.....          | 5 |

MASTER SERGEANT BRIAN MARK BAIRD

|                    |    |
|--------------------|----|
| Direct Examination |    |
| Ms. Henderson..... | 6  |
| Cross-examination  |    |
| Mr. Hughes.....    | 10 |

OFFICER RICHARD LONG

|                    |    |
|--------------------|----|
| Direct Examination |    |
| Ms. Henderson..... | 14 |
| Cross-examination  |    |
| Mr. Hughes.....    | 19 |

LIEUTENANT DANIEL LITCHFIELD

|                       |    |
|-----------------------|----|
| Direct Examination    |    |
| Ms. Henderson.....    | 22 |
| Cross-examination     |    |
| Mr. Hughes.....       | 28 |
| Re-direct Examination |    |
| Ms. Henderson.....    | 30 |

DEFENDANT PHILLIP MONROE

|                    |    |
|--------------------|----|
| Direct Examination |    |
| Mr. Hughes.....    | 34 |

|                       |    |
|-----------------------|----|
| Cross-examination     |    |
| Ms. Henderson.....    | 37 |
| Re-direct Examination |    |
| Mr. Hughes.....       | 41 |
| Defense Rests.....    | 42 |

LIEUTENANT DANIEL LITCHFIELD IN REPLY

|                          |    |
|--------------------------|----|
| Re-re-direct Examination |    |
| in Reply                 |    |
| Ms. Henderson.....       | 42 |
| Re-cross-examination     |    |
| in Reply                 |    |
| Mr. Hughes.....          | 45 |

INVESTIGATOR CHRISTOPHER ALLEN MCINTOSH

IN REPLY

|                             |    |
|-----------------------------|----|
| Direct Examination in Reply |    |
| Ms. Henderson.....          | 47 |
| By the Court.....           | 51 |

ATTACHMENTS

|                              |    |
|------------------------------|----|
| Certificate of Reporter..... | 61 |
| Keyword Index                |    |

EXHIBITS

## COURT'S:

- 1 Copy of Document  
Referred to as  
*Miranda* Form, Dated  
April 10, 2012,  
Entered as Evidence.....17
- 2 Copy of Document  
Referred to as  
*Miranda* Form, Dated  
April 23, 2012,  
Entered as Evidence.....32

1 BEGINNING 11:45 A.M.

2 BY THE COURT:

3 THE COURT: All right. Defendant's present,  
4 Solicitor. Call your case.

5 MS. HENDERSON: Thank you, your Honor. State calls  
6 State versus Phillip Monroe. Your Honor, he's charged  
7 in Indictment 2012-189, with PWID controlled substance;  
8 and 2012-190, trafficking in cocaine, ten grams or more,  
9 but less than 28 grams.

10 THE COURT: Let the record reflect that the  
11 defendant, Phillip Monroe, is in the courtroom, seated  
12 at Defense table, with his attorney, Mr. Robert Hughes.  
13 I understand from my attorneys that there is a pre-trial  
14 matter that they wish to take up for which testimony  
15 will be required.

16 Now, Madam Clerk, I understand -- is there anyone in  
17 this courtroom that is here for jury duty for this week?  
18 If so, please stand at this time.

19 Wanda, let the record reflect no one is standing in  
20 the courtroom at this time, after being queried for jury  
21 duty.

22 I understand, Solicitor, that there is, and Mr.  
23 Hughes tells me that is correct, there is a matter  
24 concerning a *Jackson/Denno* issue that needs to be  
25 brought to the attention of the Court for purposes of

1 trying this case. Is that right, Counsel?

2 MS. HENDERSON: Yes, your Honor.

3 MR. HUGHES: Yes, your Honor.

4 THE COURT: Very well. All right. Solicitor, let's  
5 proceed, then, with that. I have the indictments  
6 involving Mr. Monroe, and let's proceed with you calling  
7 your first witnesses. For purposes of this hearing,  
8 there are no jurors in the courtroom.

9 MS. HENDERSON: Thank you, your Honor. The State  
10 would call Master Sergeant Brian Baird.

11 THE COURT: Mr. Baird, if you'll come up and be  
12 sworn, please, by the clerk.

13 MASTER SERGEANT BRIAN BAIRD: Yes, your Honor.

14 WITNESS SWORN.

15 THE COURT: Adjust that microphone for me, if you  
16 would. And if you'd begin by stating your full name and  
17 spelling your last name for the court reporter.

18 MASTER SERGEANT BAIRD: Brian Mark Baird, B/a/i/r/d.

19 MASTER SERGEANT BRIAN MARK BAIRD

20 DIRECT EXAMINATION, MS. HENDERSON:

21 Q Master Sergeant Baird, you are currently employed by  
22 Beaufort County Sheriff's Office. Is that correct?

23 A Yes, ma'am.

24 Q Okay. And as you know, we are here for the *Jackson*  
25 *v. Denno* hearing. At some point during the

1 investigation of this case, did you have opportunity to  
2 interview Mr. Monroe?

3 A Yes, ma'am, I did.

4 Q Okay. And do you remember the date of that  
5 interview?

6 A Not offhand.

7 Q Okay. Does April 30, 2012 sound about right?

8 A Yes, ma'am.

9 Q Okay. During that interview, do you remember, was  
10 the defendant in custody at that time?

11 A Yes, he was.

12 Q Okay. And had he been advised of his constitutional  
13 rights pursuant to *Miranda*.

14 A Yes, he was.

15 Q And how was that accomplished?

16 A I read them to him off a *Miranda* rights form we use.  
17 He read along with me. He signed it, stated that he  
18 understood them, and he was waiving those rights, and he  
19 did sign that form stating that effect.

20 Q Okay. And he didn't appear to have any trouble  
21 understanding those rights or anything you were saying  
22 to him?

23 A No, none whatsoever.

24 Q What was his emotional state during the interview?

25 A He was pretty calm, fair. No issues that I noticed.

1 Q Okay. Who was present at the time of the interview?

2 A He was in a room with myself at that time.

3 Q Okay. So it was just you and him?

4 A In the room.

5 Q Okay. Did you threaten or coerce him in any way to  
6 give a statement?

7 A Absolutely not.

8 Q Okay. And how did he respond when you asked if he  
9 wanted an attorney present before any questioning?

10 A He did not want an attorney present at that time.

11 Q Okay. Did he ever change his mind during  
12 questioning and ask for an attorney?

13 A Not while I was talking to him.

14 Q Okay. And he didn't appear to be under the  
15 influence of any drugs or alcohol or have any mental  
16 defects or anything like that; did he?

17 A No. He seemed emotionally and mentally fine, and I  
18 believe he was coming from a detention center. So, as  
19 far as I could tell, he wouldn't have access to any  
20 alcohol or drugs.

21 Q Okay. And can you describe where the questioning  
22 took place?

23 A At the Beaufort County Sheriff's Office. And I have  
24 two offices there, and it was in one of my offices that  
25 I have there.

1 Q Okay. Is it just a regular size room or?

2 A Yeah. It's a seven, maybe eight-by-ten room,  
3 approximately.

4 Q How long did the questioning take place?

5 A Altogether, maybe two hours. If that long.

6 Q Okay. And is the person that you interviewed in  
7 this courtroom?

8 A Yes, he's seated next to the Defense counsel, Mr.  
9 Hughes.

10 Q Okay. And just as far as this case that we're here  
11 for today, did he make any statements to you regarding  
12 this incident?

13 A Yes, he did.

14 Q And what were those statements?

15 A While I was talking to him, he mentioned that, at  
16 one point, he was, apparently, pulled over by the  
17 police. I believe Ridgeland or Jasper County. I'm not  
18 certain which agency. But he said he was pulled over,  
19 and at that point he had a quantity of cocaine on him;  
20 and he admitted that it was his cocaine; that he had  
21 thrown it in the -- the passenger's lap, the other  
22 gentleman that was in the car. He may have referred to  
23 him by his first name. He threw it in his lap, and he  
24 said that those were his drugs, and that they had  
25 nothing to do with the other person in the car.

1 MS. HENDERSON: No further questions from the State  
2 at this time, your Honor.

3 THE COURT: Cross-examination.

4 MASTER SERGEANT BRIAN MARK BAIRD

5 CROSS-EXAMINATION, MR. HUGHES:

6 Q I'm sorry, I didn't get your title.

7 A I'm a master sergeant.

8 Q Master Sergeant Baird, when did this occur?

9 A The interview, sir?

10 Q Yes.

11 A I believe she prompted me to be April 30, 2012.

12 Q Did you find out whether or not Mr. Monroe had an  
13 attorney when you questioned him?

14 A At that point, I advised him of his rights to have  
15 an attorney present. He said he did not want to have an  
16 attorney present. I'm not aware if he had an attorney  
17 on any other charges.

18 Q Okay. But you we're there to interview him on one  
19 charge. On one potential charge, or was this just an  
20 investigation?

21 A It was an investigation. I was talking to him. An  
22 investigation into other matters.

23 Q So, was anybody from Ridgeland Police Department  
24 there?

25 A Yes.

1 Q Who?

2 A Lieutenant Litchfield. And I can't remember Cris  
3 McIntosh's rank.

4 Q Had they talked to him before you?

5 A They had driven him from Jasper County over to the  
6 site where they had an opportunity to speak to him. I  
7 don't know what they spoke to him about, if anything.

8 Q And did you question him about the matter that we're  
9 here for trial, or was this just a voluntary, out-of-  
10 the-blue statement?

11 A His statement to me was voluntary. Not out-of-the-  
12 blue. I actually did not know what he was referring to  
13 at that time, because I was interviewing him on another  
14 matter. And when he commented on the drugs, I actually  
15 had to take a break to go out and speak to the officers  
16 to find out what they we're -- he was mentioning.

17 Q And this matter was recorded and videoed?

18 A No, it was not.

19 Q Why not?

20 A At the time, that was not a part of the Beaufort  
21 County Sheriff's Office Department policy to require  
22 video or audio recording an interview.

23 Q Now, do you remember his exact words?

24 A Like I said, to the best of my recollection, he had  
25 told me that the cocaine that was recovered at the

1 traffic stop where it was, in fact, his cocaine. And  
2 that he had thrown it into his passenger -- front  
3 passenger seat's lap. And he said that gentleman there,  
4 that person was not involved.

5 Q But you did not get an exact quote, and we have no  
6 idea what inflections were used when he made this  
7 statement.

8 A Just what I remember as it actually happened.

9 MR. HUGHES: No further questions, your Honor.

10 MS. HENDERSON: I have no --

11 THE COURT: Re-direct examination.

12 MS. HENDERSON: I have no re-direct.

13 THE COURT: One lawyer stands in my courtroom at a  
14 time. One lawyer speaks in my courtroom at a time. You  
15 understand, Solicitor?

16 MS. HENDERSON: Yes, your Honor.

17 THE COURT: Very well. Anything else of this  
18 witness?

19 MS. HENDERSON: Not from the State, your Honor.

20 THE COURT: Any objection to this witness being  
21 excused, Mr. Hughes?

22 MR. HUGHES: For the *Jackson/Denno* hearing, no, your  
23 Honor.

24 THE COURT: All right. Now, for purposes of today,  
25 Mr. Hughes, in light of what you already know, it

1 name, please, for my court reporter.

2 OFFICER RICHARD LONG: Officer Richard Long,  
3 L/o/n/g.

4 THE COURT: Your witness, Counsel.

5 MS. HENDERSON: Thank you.

6 BY MS HENDERSON:

7 OFFICER RICHARD LONG

8 DIRECT EXAMINATION, MS. HENDERSON:

9 Q Officer Long, how did you become involved in this  
10 case?

11 A On a traffic stop.

12 Q Did you initiate that traffic stop?

13 A Yes, ma'am, I did.

14 Q Okay. And at some point during the investigation of  
15 this case, did you interview the defendant, Phillip  
16 Monroe?

17 A Yes, ma'am, I did.

18 Q Okay. And was he in custody during that interview?

19 A Yes, ma'am.

20 Q And was he advised of his constitutional rights  
21 pursuant to *Miranda*?

22 A Yes, ma'am, he was.

23 Q And how did you do that?

24 A I had him fill out the form. I read it to him. Had  
25 him read along and sign it, initialed and sign it.

1 Q Okay. Did he appear to have any trouble  
2 understanding those rights?

3 A No, ma'am.

4 Q Okay. And was anybody else in the room with you at  
5 the time that those rights we're read?

6 A Officer Smith. Or Corporal Smith.

7 Q Anybody else?

8 A Courtney Baniel.

9 Q Okay.

10 THE COURT: Counsel approach.

11 OFF-THE-RECORD BENCH CONFERENCE;

12 PRESENT: THE COURT, MS. HENDERSON,

13 MR. HUGHES.

14 OFFICER RICHARD LONG

15 CONTINUE DIRECT EXAMINATION, MS. HENDERSON:

16 Q Give me one second, Officer Long. I'm pulling up  
17 here a *Miranda* form that you --

18 THE COURT: Yes, ma'am. Absolutely.

19 MS. HENDERSON: May I approach the witness, your  
20 Honor?

21 THE COURT: You may.

22 Q Officer Long, I'm handing you State's Exhibit for  
23 the Court. Do you recognize that?

24 A Yes, ma'am.

25 Q And how are you able to recognize it?

1 A My signature.

2 Q Okay. And what is that?

3 A This is our standard *Miranda* form I use.

4 Q I apologize. If I could have it back.

5 MS. HENDERSON: May I approach, your Honor?

6 THE COURT: You may.

7 MS. HENDERSON: I need to show it to Mr. Hughes.

8 THE COURT: Absolutely.

9 MS. HENDERSON: And I apologize, Mr. Hughes, that I  
10 didn't do that first.

11 May I approach again?

12 THE COURT: You may.

13 MS. HENDERSON: Thank you.

14 BY MS HENDERSON:

15 Q Officer Long, I'm sorry, what did you state that  
16 was?

17 A This is our standard *Miranda* form we use at the  
18 Police Department.

19 Q Okay. And is there a defendant's signature on that  
20 form?

21 A Yes, ma'am, it is.

22 Q Okay. And who's is that?

23 A Phillip Monroe.

24 Q Okay. Is that the *Miranda* form that you've  
25 testified that you advised him of his *Miranda* rights

1 with?

2 A Yes, ma'am, it is.

3 MS. HENDERSON: Your Honor, can we make that a  
4 Court's exhibit?

5 THE COURT: Any objection, Mr. Hughes, for purposes  
6 of this hearing only, as a Court's exhibit?

7 MR. HUGHES: No, your Honor.

8 THE COURT: Be Court's Exhibit Number 1. Hand that  
9 to my court reporter and let her mark it.

10 COPY OF DOCUMENT REFERRED TO AS  
11 MIRANDA FORM, DATED 4-10-12, MARKED  
12 COURT'S EXHIBIT NUMBER 1.

13 THE COURT: Court's Exhibit Number 1, without  
14 objection, for purposes of this hearing.

15 MS. HENDERSON: Thank you, your Honor.

16 BY MS HENDERSON:

17 Q Now, Officer Long, back to where we were after he  
18 was *Mirandized*. I believe, did you testify that Officer  
19 Long -- I mean, I'm sorry -- Officer Smith and the co-  
20 defendant, Courtney Baniel, were in the room? Was that  
21 your testimony before we stopped?

22 A Yes, ma'am.

23 Q Okay. Did anybody in the room threaten him or  
24 promise him anything in exchange for his statement?

25 A No, ma'am. There was no promises made.

1 Q Okay. Did he ever ask for an attorney in your  
2 presence?

3 A No, ma'am, he did not.

4 Q Okay. And do you remember the date of your  
5 interview?

6 A April 10th.

7 Q Okay. And did he appear to be under the influence  
8 of drugs or alcohol or have a mental defect of any kind?

9 A No, ma'am, not that I saw.

10 Q Okay. And how long do you think the questioning  
11 took place?

12 A Twenty-five minutes total, possible.

13 Q Okay. And is the person that you questioned in this  
14 room?

15 A Yes, ma'am, he is.

16 Q And where is he?

17 A Right there beside his attorney.

18 Q And for the court reporter, are you pointing to the  
19 gentleman in the plaid shirt?

20 A Yes, ma'am, Phillip Monroe.

21 Q Okay. Okay. And what statements did he make to you  
22 during that hearing regarding this incident?

23 A He made several statements that where he talked in  
24 circles to a certain extent. He never really came out  
25 and said that the drugs -- in the beginning, he said

1 that the drugs wasn't his. And then, toward the end of  
2 the statement, he said that he didn't know whose they  
3 belonged to; he didn't know who they belonged to at all,  
4 the drugs. And then, toward the end of his statements,  
5 when we was fixing to leave our squad room where we done  
6 the interviewing, he started pointing out to the co-  
7 defendant, saying, *You have to take these charges; I*  
8 *already have charges; you have to take these charges.*

9 MS. HENDERSON: Nothing further from the State, your  
10 Honor.

11 THE COURT: Cross-examination.

12 MS. HENDERSON: Thank you, your Honor.

13 OFFICER RICHARD LONG

14 CROSS-EXAMINATION, MR. HUGHES:

15 Q Officer Long, I don't think the State established  
16 this. What organization are you with?

17 A Ridgeland Police Department, sir.

18 Q Thank you. And where did this examination take  
19 place?

20 A Ridgeland Police Department Squad Room.

21 Q And how soon after the arrest did this take place?

22 A Within five minutes. Six minutes, possibly.

23 Q And what time of day was this?

24 A This was probably around 11:00 o'clock at night.

25 I'm just trying to recollect off the top of my head.

1 Q And was this interview recorded in any way, shape,  
2 or form?

3 A Yes, it was.

4 Q How was it recorded?

5 A I wear a body camera that's supplied through the  
6 police department. It's a Taser Axon, and it records  
7 audio and video.

8 Q And a copy of that was made to the solicitor's  
9 office?

10 A Yes, it was.

11 Q And Phillip never admits that the drugs were his.

12 A He stated in the interview that, in the beginning,  
13 it was not his; he didn't know nothing about them. And  
14 at the end of the interview, he's saying that -- he's  
15 telling Mr. Baniel that he has to take these charges  
16 because he already has charges.

17 Q But he never says the drugs were mine in any way,  
18 shape, or form.

19 A He never came out and made any statements to that.

20 Q He maintained that the drugs were not his.

21 A Yes.

22 MR. HUGHES: No further questions, your Honor.

23 THE COURT: Wanda, hand me Court's Exhibit Number 1,  
24 if you would, please. Re-direct.

25 MS. HENDERSON: Nothing from the State, your Honor.

1 right. State your full name and spell your last name  
2 for the court reporter.

3 LIEUTENANT LITCHFIELD: Daniel Litchfield. Last  
4 name L/i/t/c/h/f/i/e/l/d, Investigator.

5 THE COURT: Your witness, Counsel, direct  
6 examination.

7 MS. HENDERSON: Thank you, your Honor. Your Honor,  
8 could I beg the Court's indulgence one second?

9 THE COURT: Absolutely.

10 MS. HENDERSON: Sorry about that, your Honor.

11 LIEUTENANT DANIEL LITCHFIELD

12 DIRECT EXAMINATION, MS. HENDERSON:

13 Q It is Lieutenant Long, is it -- I'm sorry.  
14 Lieutenant Litchfield, correct?

15 A Yes, ma'am.

16 Q Okay. And what agency are you with?

17 A Ridgeland Police Department.

18 Q Okay. And during the investigation of this case,  
19 did you become involved somehow?

20 A Yes, ma'am.

21 Q And how was that?

22 A The night of the arrest, I was -- I received a phone  
23 call from Officer Long in reference to the arrest, just  
24 so I'd be aware of it. I told Mr. Long that I would  
25 attempt to interview the subject the following day.

1 Q Okay. And did you?

2 A No. It was a couple days later.

3 Q Okay. Do you remember the date of that interview?

4 A April 12th.

5 Q Okay. So it was two days after the incident?

6 A Yes, ma'am.

7 Q Okay. And was he in custody during that interview?

8 A Yes, ma'am.

9 Q Okay. And was he advised of his constitutional  
10 rights pursuant to *Miranda* prior to questioning?

11 A Yes, ma'am.

12 Q And how were those rights read to him?

13 A We use a standard form. I believe, Officer Long  
14 showed that earlier. We use that same form for  
15 interview with *Miranda*.

16 Q Okay.

17 A That's audio/video.

18 MS. HENDERSON: Your Honor, those were not --  
19 they're not attachments. Therefore, Investigator  
20 McIntosh is seeking to find them. So that's where we  
21 are with that.

22 THE COURT: Proceed.

23 MS. HENDERSON: Thank you, your Honor.

24 BY MS HENDERSON:

25 Q And did he sign this *Miranda* form?

1 A No, I did not have him sign it. We just read it,  
2 because we had audio/videod it.

3 Q Okay. And would that be why your *Miranda* form is  
4 not attached to the incident report?

5 A Yes, ma'am.

6 Q Okay. And did he appear to waive those rights?

7 A Yes, ma'am.

8 Q Who was present during this questioning?

9 A Well, the first interview that I'm discussing,  
10 Investigator McIntosh was with me.

11 Q Okay. And what kind of room was it in?

12 A A courtroom.

13 Q Is that a descent-size room?

14 A Yes, ma'am. About half the size of this.

15 Q Okay. And how long did the questioning take place?

16 A About a half hour.

17 Q Okay. And during that half hour, did anyone coerce  
18 him, threaten him, promise him anything to make him make  
19 a statement to you?

20 A No, ma'am.

21 Q Okay. Did he appear to have any mental disabilities  
22 or have consumed any drugs or alcohol?

23 A No, ma'am.

24 Q Okay. And did he ever stop and ask for an attorney  
25 during your questioning?

1 A No, ma'am.

2 Q Okay. And do you see him in this courtroom?

3 A Yes, ma'am.

4 Q And can you please point out what he is wearing for  
5 the benefit of the court reporter?

6 A He's wearing a plaid shirt, sitting next to Mr.  
7 Hughes.

8 Q Okay. As to the April 12th interview, what did he  
9 state to you?

10 A He stated that the drugs were -- were not his; they  
11 were Courtney Baniel's. Towards the end of the  
12 interview, he was like, look, I'm in a lot of trouble,  
13 but these aren't mine; these are Courtney's.

14 Q Okay. And did you have the opportunity to interview  
15 him again at some point?

16 A Yes, ma'am.

17 Q And do you remember the date of that interview?

18 A I believe that was April 16th.

19 Q Okay. And who was present during that interview?

20 A Investigator McIntosh and two officers from the Drug  
21 -- Beaufort County Drug Task Force.

22 Q Okay. And where did that questioning take place?

23 A Same place. Courtroom.

24 Q Okay. And how did you go about doing another  
25 interview with him?

1 A Through phone calls from Mr. Monroe and his wife  
2 wanting us to talk with him, we went ahead and had him  
3 picked up from the jail so we could to another  
4 interview.

5 Q So he requested to speak with you all.

6 A Yes, ma'am.

7 Q Okay. Was he in custody during this interview?

8 A Yes, ma'am.

9 Q And was he advised of his *Miranda* rights?

10 A Yes, ma'am.

11 Q And how was he advised during this interview?

12 A Same as last time. We have a form that we go by,  
13 and it was audio/videod.

14 Q Okay. So, again, there was no signature or initials  
15 on the form?

16 A No, ma'am.

17 Q Okay. And did he appear to understand his rights as  
18 read to him?

19 A Yes, ma'am.

20 Q Okay. And did you or anyone else in the room  
21 threaten him, promise him, coerce him, anything to make  
22 him give a statement?

23 A No, ma'am.

24 Q Okay. Did he appear to be under the influence of  
25 any drugs or alcohol or have a mental disability at this

1 interview?

2 A No, ma'am.

3 Q Okay. And I believe you said -- where did the  
4 questioning take place?

5 A In our courtroom.

6 Q The same place as it did the last time.

7 A Yes, ma'am.

8 Q Okay. And what was stated during that interview?  
9 I'm sorry. Is he in this courtroom, the person you  
10 interviewed on April 16th?

11 A Yes, ma'am.

12 Q And can you point out what he's wearing, please.

13 A Plaid shirt, next to Mr. Hughes.

14 Q Thank you. And what did he state to you during this  
15 second interview?

16 A He was a little more forthcoming with the fact that  
17 the drugs were his and Courtney Baniel; that they were  
18 purchased together. He stated on that interview that he  
19 actually was planning on turning the cocaine into crack.

20 Q Okay. Did he make any reference to the pills that  
21 were located inside the bag?

22 A Yes.

23 Q What --

24 A He said that the pills were traded for crack from a  
25 female on Augusta Street; that he had bought

1 approximately 100 pills. He'd already sold some.

2 Q Okay. And did he make any other statements to you  
3 during that interview regarding this case?

4 A No.

5 MS. HENDERSON: No further questions from the State,  
6 your Honor.

7 THE COURT: Cross-examination.

8 LIEUTENANT DANIEL LITCHFIELD

9 CROSS-EXAMINATION, MR. HUGHES:

10 Q Lieutenant Litchfield, all the recordings were  
11 provided to the solicitor's office.

12 A Yes, sir.

13 Q And in the first interview at the courtroom over on  
14 the magistrate's office, he never said anything as to  
15 the drugs being his.

16 A No.

17 Q The second interview he does say that the drugs were  
18 Baniel's and his.

19 A Yes, sir.

20 Q And you have not given him anything to ease that  
21 confession out. Did you put any money on his account?

22 A I put money on his account afterwards.

23 Q Did you put money on his account before he went over  
24 to Beaufort?

25 A No.

1 Q Well, when did you put money on his account?

2 A After that interview, because he had discussed  
3 jailers bringing him contraband to the jail.

4 Q Did you take him over to Beaufort?

5 A Yes.

6 Q Were you a part of that interview?

7 A I was in a separate room, watching it on a closed-  
8 circuit T.V.

9 Q Was the interview recorded?

10 A No, sir.

11 Q Was it transcribed? Did anybody take notes?

12 A No, sir.

13 Q Did you have a talk with him on the way over to  
14 Beaufort?

15 A I don't recall anything.

16 Q Something. Anything about a bond reduction?

17 A He may have asked me if there's any way to get a  
18 bond reduction. And I told him that's not my, you know,  
19 anything that I can do; that's to the solicitor's  
20 office; and my recommendation would weight heavily on  
21 that, but that's it.

22 Q You didn't tell him that if you told them [sic] the  
23 drugs were his that you'd help him with the bond  
24 reduction?

25 A No, sir.

1 Q But the interviews that occurred over in the  
2 courtroom are on videotape, but the one in Beaufort is  
3 not.

4 A Correct.

5 MR. HUGHES: No further questions, your Honor.

6 THE COURT: Re-direct.

7 MS. HENDERSON: Briefly, your Honor.

8 LIEUTENANT DANIEL LITCHFIELD

9 RE-DIRECT EXAMINATION, MS. HENDERSON:

10 Q Lieutenant Litchfield, prior to the April 16th  
11 interview, before him coming over there to speak to you,  
12 did you promise him, his wife or him, anything to make  
13 him come talk to you again?

14 A No.

15 Q Did you promise him anything in exchange for those  
16 statements that were made?

17 A No.

18 Q Did you tell his wife you'd put money on his card at  
19 the jail if he came and gave a statement?

20 A No.

21 Q And on the way to Beaufort, did you promise him that  
22 you would seek my consent to have a bond reduction if he  
23 told Investigator Baird the drugs were his?

24 A No.

25 MS. HENDERSON: No further questions, your Honor.

1 of this hearing. Is that correct?

2 MS. HENDERSON: Yes, your Honor.

3 THE COURT: All right.

4 MS. HENDERSON: This was the *Miranda* form that was  
5 filled out with Mr. Monroe and Master Sergeant Brian  
6 Baird in Beaufort County. I've shown it to the Defense  
7 counsel. He does have a copy of it. It's my  
8 understanding that he's consenting to this being entered  
9 in as a Court's Exhibit Number 2, your Honor.

10 THE COURT: For purposes of this hearing. Is that  
11 correct, Mr. Hughes?

12 MR. HUGHES: Yes, your Honor.

13 THE COURT: Please mark it, Madam Court Reporter, as  
14 Court's Exhibit Number 2, without objection, for  
15 purposes of this hearing. And if you'd let me have a  
16 look at it, please, after it's marked by the court  
17 reporter.

18 MS. HENDERSON: Thank you.

19 THE COURT: Thank you.

20 DOCUMENT REFERRED TO AS *MIRANDA*

21 FORM, DATED APRIL 23, 2012, MARKED

22 COURT'S EXHIBIT NUMBER 2.

23 THE COURT: Very well. Call your next witness,  
24 Solicitor. Give that to Wanda.

25 MS. HENDERSON: Your Honor, I don't have anymore

1 your full name and spelling your last name for the court  
2 reporter.

3 DEFENDANT MONROE: Phillip Monroe, M/o/n/r/o/e.

4 THE COURT: Your witness, Mr. Hughes. Direct  
5 examination.

6 MR. HUGHES: Thank you, your Honor.

7 DEFENDANT PHILLIP MONROE

8 DIRECT EXAMINATION, MR. HUGHES:

9 Q Mr. Monroe, do you remember talking to Master  
10 Sergeant Baird at Beaufort County?

11 A Yes, sir.

12 Q Tell the Court what happened on the drive from  
13 Jasper to Beaufort.

14 A Well, I came to see the detectives on -- on the 11th  
15 -- I mean the 12th, April the 12th. And they gave my  
16 *Miranda* rights. And I talked to them. I didn't know  
17 that the drugs was mine. So McIntosh, Lieutenant  
18 McIntosh, he was telling me about some officers that was  
19 in the county jail from bringing drugs and this and that  
20 and there, and that he wanted me to thinking that he  
21 would let me work for him. And he told me that he goes  
22 to class on a Wednesday, and he would be off like  
23 Thursday and Friday, and he will get a solicitor to get  
24 me a bond for \$10,000.00, because he been to court with  
25 me when we went to magistary [sic], and the Judge

1 Scoggins had fined that Courtney --Courtney Baniel  
2 guilty on a marijuana charge. And he told me that if I  
3 go to talk -- first, he tell me I was going to sign some  
4 papers. So when I get down there, I went in there, and  
5 I seen that guy --

6 COURT REPORTER: I'm sorry. *I went down there and I*  
7 *got the?*

8 MR. HUGHES: Speak slowly and clearly.

9 THE COURT: Slow down just a little bit so the court  
10 reporter can keep up with you.

11 A Okay. I went down there. He tell me that I was  
12 going to sign some papers, because he was writing. They  
13 was two SLED officers in there, and they can tell you  
14 the same thing. And he say I was going to sign some  
15 papers. But when I went down there, I seen the papers  
16 on that guy's desk, and they say Chad and Tameka. But  
17 he tell me if I make a statement, and cause he wanting  
18 to know about the murder charges, that Courtney Baniel  
19 tell him I did. So he want to me to make a statement.  
20 He said that if I would -- they find me that I didn't  
21 did nothing, that he would get me a bond. And he know  
22 the solicitors, and the solicitors would look out for me  
23 if I would make this statement for him. That's why I  
24 made the statement.

25 Q Okay. Did you tell Master Sergeant Baird that the

1 drugs in the car were yours?

2 A I never tell him nothing. We only talk about the  
3 murder charge. He polygraphed [sic] me on the murder  
4 charge.

5 Q Okay. Were you hooked up to the machine the time  
6 you talked to him?

7 A Yeah, I was hooked. I had my arm hooked up, and I  
8 my finger, and something wrapped around me. And he told  
9 sit real still on this chair. And it was padded. And  
10 you know, he tell me that he know that he was working  
11 for, I think, 30 years or 25 years. And he told me that  
12 he knowed that I didn't kill those people. He said what  
13 he talked about I made a level of minus three on  
14 something, he said. And he said that I might know  
15 something. That was his exact words.

16 Q Did he ask you about the drugs?

17 A He never asked me about the drugs.

18 Q Okay. And you gave no statement while you were  
19 hooked to the machine about the drugs?

20 A I never gave a statement about any of the drugs.

21 Q And that was the gentleman that talked first.

22 A Yes, the tall guy. He -- he work in Beaufort. They  
23 take me to Beaufort.

24 Q And your entire time you're talking to him, you're  
25 hooked to a polygraph.

1 A I'm hooked to a polygram. Well, he ask me like --  
2 he asked me the questions that he was going to ask --  
3 ask me. I think it was like eight questions. I'm not  
4 sure. But the question that he asked me, he ran over  
5 them before he actually put me through the test.

6 Q And before then, did you say -- who brought you over  
7 to Beaufort?

8 A Litchfield and McIntosh.

9 Q And did they promise you anything on the drive from  
10 Ridgeland to Beaufort?

11 A Yes, he did. He promised me that he would get me a  
12 bond reduction and for \$10,000.00; that he knows the  
13 solicitors and he know because Judge Scoggins had find  
14 Courtney Baniel guilty of the marijuana charge. And he  
15 said that he would get me a bond reduction for a hundred  
16 -- \$10,000.00. And he want me to help him with the  
17 murder charge when I get on the street.

18 MR. HUGHES: No further questions.

19 THE COURT: Cross-examination.

20 MS. HENDERSON: Yes, your Honor. Thank you.

21 DEFENDANT PHILLIP MONROE

22 CROSS-EXAMINATION, MS. HENDERSON:

23 Q Mr. Monroe, who promised you a bond reduction?

24 A Litchfield, Lieutenant Litchfield.

25 Q Was it not your testimony earlier that you said

1 McIntosh?

2 A Me and McIntosh, we -- he -- he works -- well, come  
3 to find out, he --

4 Q And I'm asking you who promised you something. You  
5 testified at first it was McIntosh. Now your testimony  
6 is that it's Litchfield.

7 A No, Litchfield promised me that he would get me a  
8 bond reduction.

9 Q And when exactly did he promise you that?

10 A When we was leaving from the place, he had already  
11 tell me that.

12 Q What place?

13 A The jailhouse -- I mean, the courthouse.

14 Q What courthouse?

15 A Ridgeland Courthouse.

16 Q This courthouse?

17 A No, it's over there by the jailhouse. I mean, not  
18 the jailhouse. I'm not from here, really. I know it's  
19 by the water place, I believe.

20 Q Where you were interviewed? The courtroom in come  
21 you were interviewed?

22 A Yes.

23 Q So, in the whole time this thing is being recorded,  
24 your interview is being recorded, there's no mention of  
25 this, correct?

1 A No.

2 Q That's what you stated, that it was on the ride to  
3 the jail, correct?

4 A Right. Right. Right. It was on the ride going to  
5 the state road and stuff.

6 Q So, it's your testimony that this was promised to  
7 you after the cameras were turned off?

8 A Yeah, he put the -- and he was on -- he tell me he  
9 was going to put the money on my account. He tell me,  
10 he say, *Well, you work for me now.* And he put the money  
11 on my account, and he wanted me to --

12 Q Who told you, you work for him now?

13 A Litchfield.

14 Q Litchfield.

15 A Yes. And I believe at the same time it was to  
16 Beaufort. SLED. I believe it was SLED. They was in  
17 the way heard them that they was in like a white guy and  
18 a black guy.

19 Q I'm sorry. Was in the courtroom or was it in the  
20 car? Because, again, you've now testified to two  
21 different things.

22 A It was in the -- we talked about all this in the  
23 courtroom and on the way going to the place.

24 Q And you said the two DTF officers -- they're not  
25 SLED, they're DTF -- were present when those promises

1       were made.

2       A    Yes, ma'am.

3       Q    And if they came to this courtroom and were sworn,  
4       that would be their testimony?

5       A    Yes, ma'am.

6       Q    And --

7       A    Because he tell me, he say something about some --  
8       some kind of cases they had on me or something like  
9       that. And I was like, *Look, man, I just came home and I*  
10      *was trying, you know.* And he was like, Litchfield, when  
11      they have you, I'll have you. That's was his exact  
12      words.

13      Q    Who said that?

14      A    That was the SLED, whoever he was.

15      Q    And when you were in Beaufort with Master Sergeant  
16      Baird, isn't it true that your statements were made to  
17      him about the drug charges after you were taken off of  
18      the machine?

19      A    When I first came to -- only -- only reason I took  
20      the polygram test is because he told me if I take the  
21      test and I passed it, he would get me a bond reduction,  
22      Litchfield. So, I took it.

23      Q    Answer my question. Were you off the machine when  
24      you made that statement about the drugs?

25      A    I never made that statement about the drugs. I was

1       only there for murder.

2       Q    Did Officer -- I'm sorry -- Master Sergeant Baird  
3       ever question you when you were off of the machine?

4       A    Yes, he -- he asked me a couple questions about the  
5       question that he going to ask.

6       Q    That's all I wanted to know; that he question you  
7       when you were off the machine.

8       No further questions, your Honor.

9       COURT REPORTER: Was that yes?

10      A    Yes.

11                 DEFENDANT PHILLIP MONROE

12                 RE-DIRECT EXAMINATION, MR. HUGHES:

13      Q    Go ahead and finish your answer. What did he  
14      question you about?

15      A    He questioned me about -- he say he going to ask me  
16      a question and then take five second, I think, five  
17      seconds in between; and so, just sit back and he going  
18      to -- he went over all the questions with me, he said,  
19      because if a person going to lie, they going to know  
20      what they going to lie about already, because he tell  
21      you the same thing that he going to ask you. But they  
22      never asked me nothing about drugs. They only asked me  
23      about the murder charge.

24      Q    Did he ask you any question about why you weren't  
25      hooked up to the machine?

1 A He only asked me only questions about the murder  
2 charge. He never asked me nothing about drugs.

3 MR. HUGHES: No further questions, your Honor.

4 THE COURT: Re-cross limited to re-direct.

5 MS. HENDERSON: Nothing from the State, your Honor.

6 THE COURT: You may step down from the witness  
7 stand. Call your next witness, Mr. Hughes.

8 MR. HUGHES: Defense rests, your Honor.

9 DEFENSE RESTS.

10 THE COURT: Any reply testimony from the State?

11 MS. HENDERSON: Yes, your Honor. If it please the  
12 Court, the State would call Investigator -- I'm sorry --  
13 Lieutenant Litchfield back to the stand.

14 THE COURT: Lieutenant Litchfield, if you'll come  
15 back. I remind you that you're still under oath. And  
16 take the witness stand.

17 LIEUTENANT LITCHFIELD: Yes, your Honor.

18 MS. HENDERSON: May it please the Court.

19 THE COURT: Yes, ma'am.

20 LIEUTENANT DANIEL LITCHFIELD

21 RE-RE-DIRECT EXAMINATION,

22 IN REPLY, MS. HENDERSON:

23 Q Lieutenant Litchfield, you've been present in the  
24 courtroom, correct?

25 A Yes.

1 Q And you just heard the defendant's testimony.

2 A Yes, ma'am.

3 Q And as to his statements regarding your promises  
4 once the cameras were turned off in front of the DTF  
5 officers that you would get a bond reduction for him if  
6 he went to Beaufort and confessed to the drugs, is that  
7 a true statement?

8 A No, sir.

9 Q Did you say anything to him that would lead him to  
10 think you were promising him a bond reduction?

11 A No. The only thing that he ever asked me was can I  
12 get a bond reduction. I told him the solicitor's office  
13 does that; I can talk with them, but that's their  
14 choice.

15 Q Did that conversation occur in the courtroom or in  
16 the car on the way to Beaufort?

17 A In the car on the way to Beaufort.

18 Q Was there any conversation in the courtroom about a  
19 bond reduction?

20 A No.

21 Q And in the car, on the way to Beaufort, did you make  
22 any other promises to him if he told Master Sergeant  
23 Baird the drugs were his or made any other confessions?

24 A No.

25 Q And were you present when Master Sergeant

1 interviewed him?

2 A Yes.

3 Q How were you present?

4 A I was in another room watching the actual interview  
5 and a polygraph on a closed-circuit T.V.

6 Q And did Master Sergeant Baird question him after he  
7 was finished with the polygraph?

8 A Yes.

9 Q And did he question him before he was hooked up to  
10 the polygraph?

11 A Minor stuff about why you're here and his *Miranda* .  
12 and stuff like that, but no.

13 Q And did the statement that was made by the defendant  
14 regarding the drugs in this case, was he hooked up to  
15 the polygraph during that time, or was he off the  
16 polygraph?

17 A He was off the polygraph. I believe Baird was  
18 questioning him about the polygraph and the reason for  
19 the polygraph. And I believe that Mr. Monroe wanted to  
20 re-direct, and that's why he brought up the drugs.

21 Q So, you heard the statement that Master Sergeant  
22 Baird testified to regarding the drugs in this case.

23 A Yes, ma'am.

24 Q Do you know what he said to Master Sergeant Baird?  
25 Sorry. He being Mr. Monroe.

1 A Yes, ma'am.

2 Q About the drugs. And what was that statement?

3 A He stated that the drugs were his, and he threw it  
4 in Courtney's lap. And he said Courtney didn't have any  
5 idea what was going on with that part of it.

6 MS. HENDERSON: Nothing further, your Honor.

7 THE COURT: Cross-examination.

8 LIEUTENANT DANIEL LITCHFIELD

9 RE-CROSS-EXAMINATION IN REPLY, MR. HUGHES:

10 Q Lieutenant Litchfield, the interview in Beaufort,  
11 when you say he wasn't hooked up to the machine, how do  
12 you know that?

13 A I was watching it on closed-circuit T.V.

14 Q Had they removed all electrodes and everything from  
15 him, or was he still attached? Did he still have stuff  
16 on?

17 A I believe they had taken everything off by this  
18 point.

19 Q Okay. But you're not sure.

20 A Not a hundred percent sure.

21 Q So, he could still be attached to stuff, but not be  
22 hooked up to the machine.

23 A It's possible.

24 Q And how long did it take you to get from Ridgeland  
25 to Beaufort?

1 A I'm not real sure. Thirty-five minutes or so.

2 Q And you and my client talked most of the way there.

3 A Not most of the way. It was very limited as far as  
4 conversations go.

5 Q But you all did have a talk about a bond reduction.

6 A He asked me if he could get a bond reduction. I  
7 told him the solicitor's office had to deal with that;  
8 that I could ask, but it's up to them. I don't have  
9 any, you know, say-so over that.

10 MR. HUGHES: No further questions, your Honor.

11 THE COURT: Re-direct.

12 MS. HENDERSON: No, your Honor.

13 THE COURT: You may step down.

14 LIEUTENANT LITCHFIELD: Yes, sir.

15 THE COURT: Any further reply evidence from the  
16 State of South Carolina of purposes of this hearing,  
17 Solicitor?

18 MS. HENDERSON: Yes, your Honor. The State would  
19 like to call Investigator Cris McIntosh.

20 THE COURT: Well, Mr. McIntosh, come around and be  
21 sworn by the clerk, please.

22 I understand this is in reply, Solicitor.

23 MS. HENDERSON: Yes, your Honor, to Mr. Monroe's  
24 testimony.

25 WITNESS SWORN.

1 THE COURT: Make yourself comfortable and have a  
2 seat. Adjust the chair. Adjust the microphone. State  
3 your full name. Spell your last for the court reporter.

4 INVESTIGATOR CHRISTOPHER ALLEN MCINTOSH:  
5 Christopher Allen McIntosh, M/c/I/n/t/o/s/h.

6 THE COURT: Your witness.

7 INVESTIGATOR CHRISTOPHER ALLEN MCINTOSH

8 DIRECT EXAMINATION IN REPLY, MS. HENDERSON:

9 Q Investigator McIntosh, what agency do you work with?

10 A Ridgeland Police Department.

11 Q Were you present when Investigator Litchfield  
12 interviewed Phillip Monroe on April 12, 2012?

13 A Yes, ma'am.

14 Q Were you present when he interviewed him on April  
15 16, 2012?

16 A Yes, ma'am.

17 Q Were you present when Master Sergeant Brian Baird  
18 interviewed him on April 30, 2012?

19 A Yes, ma'am.

20 Q And how were you present at the April 30th  
21 interview?

22 A Through a closed-circuit monitor in the second room.

23 Q During the April 12, 2012 interview, did you promise  
24 him anything in exchange for a statement?

25 A No, ma'am.

1 Q Did you make any promises to him about a bond  
2 reduction or putting money on his card?

3 A No, ma'am.

4 Q Did you hear Investigator Litchfield make any  
5 promises regarding a bond reduction or putting money on  
6 his card at the jail?

7 A No, ma'am.

8 Q During the April 16th interview, you said you were  
9 present, correct?

10 A Yes, ma'am.

11 Q And there were two DTF officers present, as well, at  
12 that interview. Is that correct?

13 A Yes, ma'am.

14 Q Did you make any promises to him regarding a bond  
15 reduction or putting money on his card at that  
16 interview?

17 A No, ma'am.

18 Q Did you hear Investigator Litchfield make any  
19 promises to him regarding bond reduction or putting  
20 money on his card?

21 A No, ma'am.

22 Q Did the two DTF officers make him any promises?

23 A No.

24 Q And were you -- you were present at the April 30th  
25 with Master Sergeant Brian Baird, right?

1 A Yes, ma'am.

2 Q Did you ride in the car with Investigator Litchfield  
3 and Mr. Monroe from Ridgeland to Beaufort?

4 A Yes, ma'am.

5 Q And do you recall any conversations that you had in  
6 that vehicle with Mr. Monroe?

7 A Just some minor chitchat. The only conversation  
8 involving any -- any legal matter would have been Mr.  
9 Monroe requesting bond reduction.

10 Q And did you promise him a bond reduction in the car  
11 on the way to Beaufort?

12 A No.

13 Q Did you overhear Investigator Litchfield promise him  
14 a bond reduction on the way to Beaufort?

15 A No, ma'am.

16 Q And when you were watching the interview of Mr.  
17 Monroe in Beaufort, at any point was he taken off of the  
18 machine?

19 A Yes, ma'am.

20 Q At what point did he make his statement about the  
21 drugs in this case?

22 A When Master Sergeant Baird was going over the  
23 results of the -- the results of the polygraph  
24 examination with him.

25 Q And had he been removed from the machine at that

1 point?

2 A Yes, ma'am.

3 Q And did you hear the statement he made regarding  
4 these drugs?

5 A Yes, ma'am.

6 Q And what was that statement?

7 A He's stated that during that traffic stop in  
8 Ridgeland, he threw the dope in Courtney Baniel's lap;  
9 and that Courtney Baniel didn't know any about it.

10 MS. HENDERSON: No further questions from the State,  
11 your Honor.

12 THE COURT: Cross-examination.

13 MR. HUGHES: No questions.

14 THE COURT: You may step down. Any further evidence  
15 from the State in reply for purposes of this hearing?

16 MS. HENDERSON: Your Honor, I would prefer Master  
17 Sergeant Baird have an opportunity to be called back and  
18 reply to --

19 THE COURT: You agreed to excuse him, Solicitor.  
20 Counsel approach.

21 OFF-THE-RECORD BENCH CONFERENCE;

22 PRESENT: THE COURT, MS. HENDERSON,

23 MR. HUGHES.

24 THE COURT: Step back. Is there any further  
25 evidence at this time from the State of South Carolina

1 for purposes of the *Jackson/Denno* hearing?

2 MS. HENDERSON: Nothing further from the State, your  
3 Honor.

4 BY THE COURT:

5 THE COURT: All right. Mr. Hughes, I understand  
6 we're actually dealing with four different statements.  
7 I'll characterize them as April 10, 2012; April 12,  
8 2012; April 16, 2012; and April 30, 2012.

9 It is my understanding that you're objecting to the  
10 admissibility of these statements. Is that correct?

11 MR. HUGHES: Your Honor, I'm objecting to parts of  
12 one of the statements and the April 30th.

13 THE COURT: Which one?

14 MR. HUGHES: Okay. On the I believe it was the  
15 April 10th statement.

16 THE COURT: That's the first statement in which your  
17 client, as I understand it, from the testimony of the  
18 first witness, denied any connection to the drugs that  
19 are the subject matter. You're objecting to that  
20 statement.

21 MR. HUGHES: I'm objecting to a part of it, your  
22 Honor. It may be coming up later, and the *res gestae*  
23 aspect of it.

24 THE COURT: On what basis?

25 MR. HUGHES: Officer Long testified that he heard my

1 client make the comment to the co-defendant concerning  
2 other charges. I believe this will be --

3 THE COURT: We're talking now just about the  
4 Jackson/Denno portion, because I have another motion  
5 concerning res gestae from law enforcement. However,  
6 Mr. Hughes, I understand from talking to you prior to  
7 the commencement of the hearing that there is another  
8 means by which the testimony you seek to raise now would  
9 come in through a co-defendant, rather than from law  
10 enforcement, but we're not there yet.

11 MR. HUGHES: We're not there yet.

12 THE COURT: We're talking about the voluntariness of  
13 four statements, April 10th, 12th, 16th, and 30th of  
14 2012. Of which statements do you object and why?

15 MR. HUGHES: April 30th there appears to be promises  
16 made to my client.

17 THE COURT: Based on the testimony that you  
18 introduced to the Court, you object to the voluntariness  
19 of the April 30th, which I will also call the Beaufort  
20 statement, for purposes of the court reporter. Is that  
21 right?

22 MR. HUGHES: That is correct, your Honor.

23 THE COURT: Is that the only objection you have?

24 MR. HUGHES: I considered the fact that my client  
25 had been hooked up to a polygraph before he supposedly

1 made these statements to be questionable. I do not know  
2 if he was completely or if he was unhooked at all.  
3 We've had no testimony from the person that hooked him  
4 up that he unhooked him before my client supposedly made  
5 this alleged statement. It's that statement alone, your  
6 Honor.

7 THE COURT: We have had testimony from two officers  
8 who said they were observing by closed-circuit  
9 television, Mr. Hughes. Have you forgotten that?

10 MR. HUGHES: I'll agree, your Honor, but I have  
11 observed polygraphs before, and I couldn't tell you if  
12 they pulled some wires if it would be unhooked or not.  
13 I'm not saying that had been -- no one's testified for  
14 sure that all the equipment was taken off.

15 THE COURT: I see.

16 MR. HUGHES: My client might not have known he was  
17 unhooked.

18 THE COURT: Anything else?

19 MR. HUGHES: No, your Honor.

20 THE COURT: Happy to hear from you, in light of Mr.  
21 Hughes' objection now, Solicitor.

22 MS. HENDERSON: As to the Beaufort statement,  
23 correct your Honor?

24 THE COURT: He's objecting to the April 30th  
25 statement. Now, in fairness to Mr. Hughes, he's also

1     objecting to a portion of the April 10th statement, but  
2     on grounds different than what we would take up in an  
3     in-camera hearing during a *Jackson/Denno* hearing. That  
4     involves, Solicitor, your *res gestae* argument, which I  
5     haven't gotten to yet.

6           MS. HENDERSON: Yes, your Honor. In response to Mr.  
7     Hughes' argument about the Beaufort statement, your  
8     Honor, his client testified that promises were made to  
9     him on the way there. However, two law enforcement  
10    officers have testified to the contrary, that there were  
11    no promises made. Investigator Litchfield said that his  
12    -- that Mr. Monroe asked them about a bond reduction;  
13    that he brought it up; and that Investigator Litchfield  
14    responded to him by saying that's not -- I'm not putting  
15    it exactly, but that that's not something I have power  
16    over; that's the solicitor's office. But both he and  
17    Investigator McIntosh testified that there were  
18    certainly no promises of a bond reduction made to him in  
19    route to Beaufort in exchange for his testimony, your  
20    Honor.

21           They also were present, watching on closed-circuit  
22    television. They have testified that they heard him  
23    make the statement regarding the drugs that he denies  
24    making, as well as Master Sergeant Brian Baird testified  
25    that he was there to interview him about another

1 subject; and that, as a matter of fact, he had to go  
2 take a break and go ask the officers what he was talking  
3 about when he made the comment about the drugs because  
4 he didn't know what it was in reference to. And that  
5 he, Master Sergeant Baird, testified to the statement,  
6 as well, that he made that the drugs were his and that  
7 the other person in the car, Courtney Baniel, knew  
8 nothing about them. And also both -- I'm sorry --  
9 Investigator Litchfield and Investigator McIntosh  
10 testified that it appeared to them from their viewpoint  
11 that he had been removed from the machine prior to the  
12 statement that he made about the drugs in this case.

13 So, your Honor, with all that combined, the State  
14 would say that -- oh, I apologize -- and Officer Baird  
15 also went through his *Miranda* warnings. The form has  
16 been submitted as a court document, your Honor. And the  
17 State would say that, with all those things combined,  
18 the evidence is overwhelming; that it was -- that the  
19 statement was, in fact, made per three officers'  
20 testimony. And that, with the *Miranda* warnings, which  
21 he signed and understood those rights, that it was  
22 voluntary. And with both officers' testimony during the  
23 car ride, there were no promises or threats made to him  
24 in regards to that statement. So, it is the State's  
25 position that it was freely and voluntarily made, your

1 Honor, and should be submitted.

2 BY THE COURT:

3 THE COURT: Thank you. Well, as both of you know,  
4 the Defense is entitled to have the judge conduct an in-  
5 camera evidentiary hearing at a threshold point to  
6 establish the circumstances whenever there's an  
7 objection as there was here by Mr. Hughes that there was  
8 conduct that was violative of the defendant's  
9 constitutional rights. And that's exactly what  
10 *Jackson/Denno* held.

11 It is certainly very clear in the law that a  
12 defendant is entitled to have a hearing to determine the  
13 voluntariness of a statement or any alleged statement  
14 made by a defendant prior to the submission of any such  
15 statement to the jury.

16 Where there is more than one statement, Solicitor,  
17 each statement must be ruled on separately on the  
18 record. So, I advise you, in the future, that you  
19 identify that. Here, we have two written waiver forms,  
20 Court's Exhibits 1 and 2. They deal with two of the  
21 four statements. And the reason I've given dates to  
22 them for the appellate court as April 10th, April 12th,  
23 April 16th, and April 30, 2012, so that it is clear that  
24 my rulings will be applying to each of them, which I'm  
25 required to do for purposes of a *Jackson/Denno* hearing.

1           The Court has carefully considered all of the  
2 evidence which has been offered by both the State and  
3 the Defendant during this hearing. This Court is  
4 convinced by a preponderance of the evidence, which was  
5 a standard that neither one of you argued, but is the  
6 standard, that the Court is required to apply for  
7 purposes of this hearing. And I so find for purposes of  
8 this hearing that before any alleged statements -- I'm  
9 now applying to April 10th, 12th, 16th, and 30th,  
10 because I have had testimony, two written waivers,  
11 Court's Exhibits 1 and 2, and then the rest was oral,  
12 according to the testimony presented by the officers;  
13 that before any alleged statement or statements were  
14 obtained from the defendant, the defendant was fully  
15 appraised of his rights under the *Fifth* and the *Sixth*  
16 *Amendments* to the *Constitution of the United States*; and  
17 the defendant was advised of his constitutional  
18 safeguards that are required by *Miranda versus Arizona*.

19           It is the Court's opinion, from listening to the  
20 evidence, and by a preponderance of the evidence, that  
21 the Defense knowingly and intelligently waived his  
22 rights under the *Fifth* and *Sixth Amendments* of the  
23 *Constitution*, and the constitutional safeguards required  
24 by *Miranda versus Arizona*; and that any alleged  
25 statements, and I now refer to April 10th, April 12th,

1 April 16th, and April 30th, 2012, that were obtained  
2 from the defendant were freely and voluntarily given,  
3 without duress, without coercion, without undue  
4 influence, leniency, reward, promise, hope of reward,  
5 promise of leniency, without threat of injury, or  
6 without compulsion or inducement of any kind; and that  
7 such alleged statements were voluntary product of the  
8 free and unconstrained will of the defendant.

9 I make all of those findings and conclusions by a  
10 preponderance of the evidence. And I, therefore, find  
11 that statements of April 10th, April 12th, April 16th,  
12 April 30th, 2012, are admissible in evidence in the  
13 trial of this case.

14 Counsel approach.

15 OFF-THE-RECORD BENCH CONFERENCE;

16 PRESENT: THE COURT, MS. HENDERSON,

17 MR. HUGHES.

18 DISCUSSION BETWEEN THE COURT AND

19 COURT REPORTER.

20 THE COURT: All right, counsel approach. I just got  
21 some new information from my court reporter now.

22 OFF-THE-RECORD BENCH CONFERENCE;

23 PRESENT: THE COURT, MS. HENDERSON,

24 MR. HUGHES.

25 THE COURT: All right, ladies and gentlemen, I'm

STATE OF SOUTH CAROLINA  
14TH JUDICIAL CIRCUIT  
COUNTY OF JASPER  
COURT OF GENERAL SESSIONS  
CASE NO'S. 2012-GS-27-00189 & 2012-GS-27-00190

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

**FEBRUARY 11, 12, & 13, 2013**

**TRANSCRIPT OF TRIAL**

**RIDGELAND, SOUTH CAROLINA**

PHILLIP MONROE

DEFENDANT

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**B E F O R E:**

HON. PERRY M. BUCKNER, JUDGE

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

ON BEHALF OF THE STATE:

HON. CARRA HENDERSON  
AND HON. ERIN VAUX

ON BEHALF OF DEFENDANT:

HON. ROBERT HUGHES

WANDA H. ROWE, CVR-M  
OFFICIAL COURT REPORTER

**ORIGINAL**

1 Evidence in what you hear. They're designed to make sure  
2 that the information you receive is the most trustworthy  
3 and the most reliable information available.

4 I will charge you the law, though, at the conclusion  
5 of the case. This has been an attempt to explain our  
6 procedure to you so you'll have a better understanding as  
7 to what may be happening from time to time.  
8 Nevertheless, in order to protect everyone's rights, I'll  
9 give the parties an opportunity to accept anything I've  
10 said if they have any exceptions.

11 Any objections or exceptions the Court's comments  
12 from the State?

13 MS. HENDERSON: None from the State, your Honor.

14 THE COURT: From the defendant?

15 MR. HUGHES: None from the Defense, your Honor.

16 THE COURT: Madam Foreperson, ladies and gentlemen of  
17 the jury, we'll now begin the trial the case. Ms.  
18 Henderson.

19 MS. HENDERSON: Thank you, your Honor. May it please  
20 the Court.

21 THE COURT: You may proceed.

22 MS. HENDERSON: Mr. Hughes.

23 OPENING STATEMENT, MS. HENDERSON:

24 MS. HENDERSON: Good morning. Ladies and gentlemen,  
25 Phillip Monroe is a drug dealer. Phillip Monroe is a

1 drug dealer that was going to let a hard-working father  
2 of three go down for his crime. See, on April 10, 2012,  
3 Phillip Monroe was a driver of a vehicle that was pulled  
4 over by members of the Ridgeland Police Department for a  
5 traffic violation.

6 Before that car stops, Courtney Baniel, who is a  
7 passenger in that vehicle, Phillip Monroe has a Crown  
8 Royal bag full of drugs and throws it on Courtney's lap.  
9 Says: *Take these charges.*

10 When Courtney refuses, he threatens the wife,  
11 Courtney's wife and children if he doesn't take the  
12 charges.

13 When that car finally stops, Courtney Baniel gets out  
14 of the car like this, and lets the bag fall to the  
15 ground. That bag contained approximately 27 grams of  
16 powder cocaine and a quantity of prescription pills.

17 Both Phillip Monroe and Courtney Baniel were arrested  
18 for trafficking in cocaine and possession with the intent  
19 to distribute a controlled substance.

20 Now, at first, Phillip Monroe says, *They aren't mine.*  
21 *All Courtney's.*

22 Couple days later he says, *Okay, they were ours; we*  
23 *bought them together.*

24 Couple weeks later he says, *They were mine. Courtney*  
25 *knew nothing about them.*

1 Ladies and gentlemen, you're going to hear from the  
2 officers that pulled over Mr. Monroe and Mr. Baniel.  
3 You're going to hear from the investigators that  
4 interviewed them. And you're going to hear from Courtney  
5 Baniel himself. And after you've heard all the testimony  
6 and seen all the evidence, you're going to remember what  
7 I told you in the beginning. And that's that Phillip  
8 Monroe is a drug dealer. And Phillip Monroe is a drug  
9 dealer that was going to make an innocent man go down for  
10 his crime. And I'm going to ask you to return a verdict  
11 of guilty on Phillip Monroe for trafficking in cocaine  
12 and possession with the intent to distribute marijuana --  
13 I'm sorry -- a controlled substance.

14 Thank you.

15 THE COURT: Mr. Hughes.

16 MR. HUGHES: May it please the Court:

17 THE COURT: Proceed.

18 OPENING STATEMENT, MR. HUGHES:

19 MR. HUGHES: Good morning. We were introduced  
20 yesterday. My name is Bob Hughes. I'm a public defender  
21 in Jasper County. I work for the 14th Circuit Public  
22 Defender's Office. I'm going to make you a promise right  
23 here and now. Everyone of you has seen court dramas on  
24 television. Judge alluded to this earlier. But this is  
25 not going to be like anything you ever saw on television.

1 And I'm going to tell you a little secret right now.  
2 Sometimes this could be boring. I've seen jurors nodding  
3 off. I know that sounds odd because this is a trial, but  
4 it can get boring. And I've got a request of you.  
5 Please fight it. Pay attention to everything that is  
6 said from that stand. Pay attention to all the evidence.  
7 Watch everybody as they testify. The solicitor makes it  
8 sound cut-and-dried. It's not. This is a he-said/he-  
9 said type case, and it's your job to listen to all of the  
10 evidence.

11 Now, to try to make it not as boring as possible.  
12 The Solicitor and I agree to a few things. Sometimes in  
13 trials like this you have to go through the entire chain  
14 of the custody of the evidence. The Solicitor and I  
15 agreed onm the chain. So, you're not going to be as  
16 bored as you could be.

17 Right now, it's very comfortable in here, a lot more  
18 than it is outside. But if you get too warm, let the  
19 Judge know. Can't hear, let the Judge know. If you  
20 can't see something, let the Judge know. If you get too  
21 cold, let the Judge know.

22 Your entire job for the length of this trial is to  
23 pay as close attention to everything. Because some day,  
24 you or somebody you know maybe seated next to me, and you  
25 would want them to have a jury that's conscientious; that

1 was listening; that was paying attention; and that was  
2 giving their entire 100 percent to doing the job of  
3 discovering the truth.

4 I'll talk to you at the end. Thank you.

5 THE COURT: Call your first witness.

6 MS. HENDERSON: Thank you, your Honor. The State  
7 calls Officer Rett Long.

8 Your Honor, may I move this.

9 WITNESS SWORN.

10 THE COURT: Have a seat, pull a chair up. Adjust the  
11 microphone. It's going to amplify your voice. State  
12 your full name and spell your last name for my court  
13 reporter.

14 OFFICER RICHARD LONG: Richard Long, L/o/n/g.

15 THE COURT: Your witness, Counsel. Direct  
16 examination.

17 MS. HENDERSON: Thank you, your Honor.

18 OFFICER RICHARD LONG

19 DIRECT EXAMINATION, MS. HENDERSON:

20 Q Officer Long, what department are you with?

21 A Ridgeland Police Department.

22 Q And how long have you been with them?

23 A Since 2010.

24 Q And where were you before that?

25 A I worked for Hampton County Sheriff's Office.

1 Q Okay. And what year did you graduate from the  
2 criminal justice academy?

3 A 2008.

4 Q Did you do anything prior to that?

5 A Prior to that I was a firefighter and EMT in Jasper  
6 County, Hampton County, and I went to college in  
7 Beaufort.

8 Q Now, what is your official title at Ridgeland Police  
9 Department?

10 A I'm the patrol K-9 officer.

11 Q Okay. And what are some of your duties with that  
12 title?

13 A I handle the patrol dog for tracking narcotics work.  
14 And on the side of that, im still assigned to the Uniform  
15 Patrol Division.

16 Q Okay. And were you working on the night of April 10,  
17 2012?

18 A Yes, ma'am, I was.

19 Q And what were you doing that night?

20 A I was performing patrol duties in the town of  
21 Ridgeland.

22 Q Was anybody in the car with you?

23 A Corporal Smith.

24 Q Okay. At some point that night, did you come in  
25 contact with the defendant, Phillip Monroe?

1       A    Yes, ma'am, I did.

2       Q    Can you please tell the jury what happened.

3       A    Myself and Corporal Smith were traveling east on  
4       Adams Street. I observed a tan Honda turn off of South  
5       Logan onto Adams Street. When it turned onto Adams  
6       Street, it made a turn. And as they turned, they turned  
7       into the opposite lane of traffic. That's when we  
8       performed a traffic stop on the vehicle.

9       Q    That location that you just said, Logan and Adams  
10       Street, is that within the town limits of Ridgeland?

11       A    Yes, ma'am, it is in the town of Ridgeland.

12       Q    Okay. And did you notice who the occupants of the  
13       car were when you initiated a traffic stop on them?

14       A    No, ma'am, I did not.

15       Q    Okay. And what happened once you initiated that  
16       traffic stop?

17       A    As we pulled the car over, we observed that both the  
18       driver and passenger of the car seemed excited or in that  
19       state. And they was trying to open the door as the  
20       vehicle was pulling over. As soon as we saw that, we  
21       excited our vehicle extremely fast to try to stop them  
22       from fleeing from the car is what we thought.

23       Q    Okay. And where did you go when you exited your  
24       vehicle?

25       A    I immediately went to the driver's door.

1 Q Okay. And were you able to identify the driver at  
2 that time?

3 A Yes, ma'am, I was.

4 Q And who was it?

5 A Phillip Monroe.

6 Q And is Phillip Monroe, the driver of that vehicle, in  
7 this courtroom?

8 A Yes, ma'am, he is.

9 Q And where is he?

10 A Mr. Monroe is sitting at the defense table, next to  
11 his attorney, Bob Hughes.

12 Q Thank you.

13 MS. HENDERSON: Let the record reflect he pointed to  
14 the defendant, your Honor.

15 THE COURT: Proceed.

16 MS. HENDERSON: Thank you.

17 BY MS. HENDERSON:

18 Q What happened after you detained Mr. Monroe?

19 A After I detained Mr. Monroe, Corporal Smith informed  
20 me that he found a Crown Royal bag on the ground, and it  
21 was a purple Crown Royal bag. And he said that had fell  
22 out of the car or was in the area of the car during the  
23 traffic stop.

24 Q Okay. Once the bag was located, what did you do?

25 A Both subjects were detained, and I, along with

1 Corporal Smith, opened up the bag to see what was located  
2 and what was in it.

3 Q I'm going to hand you what's been previously marked  
4 for purposes of identification only as State's Exhibit 1.

5 MS. HENDERSON: Your Honor, permission to approach.

6 THE COURT: You may approach.

7 Q Do you recognize that?

8 A Yes, ma'am, I do.

9 Q And how are you able to recognize it?

10 A It is signed on the one bag. The bag's from the  
11 police department.

12 Q And what is it?

13 A This is a purple Crown Royal bag.

14 Q And do you know where that Crown Royal bag is from?

15 A It is from the traffic stop on the 10th.

16 Q And has it been altered or changed in any manner?

17 A No, ma'am, it hasn't.

18 MS. HENDERSON: Your Honor, permission to move  
19 State's Exhibit 1 into evidence.

20 THE COURT: Any objection as to State's 1?

21 MR. HUGHES: No, your honor.

22 THE COURT: Ladies and gentlemen of the jury, State's  
23 Exhibit Number 1 will be admitted into evidence in the  
24 trial of this case, without objection. State's 1 is in  
25 evidence. Has it been pre-marked?

1 MS. HENDERSON: Yes, your Honor.

2 THE COURT: You may publish to the jury.

3 MS. HENDERSON: Thank you, your Honor.

4 ITEM REFERRED TO AS PURPLE CROWN

5 ROYAL BAG MARKED STATE'S EXHIBIT

6 NUMBER 1, ADMITTED AS EVIDENCE.

7 Q Once you had both the occupants detained, what did  
8 you do with the Crown Royal bag?

9 A I opened it to see what was in it.

10 Q And what did you locate inside?

11 A Inside of the bag, we found several types of  
12 narcotics, pills, and then a large, white, powdery  
13 substance. And it was in a clear, plastic bag.

14 Q Okay. And what did you do once you discovered that  
15 the bag contained narcotics?

16 A I field tested the powder substance, and when I field  
17 tested it, I used a narcolight. And I used it to  
18 determine whether or not it was cocaine mix.

19 Q How did you use it to determine that?

20 A You take a very small amount of the actual narcotic.  
21 You place it in it, and you rub it together. If it turns  
22 blue, which it did, that shows that it's a cocaine base.

23 Q It's a cocaine base?

24 A Yes, ma'am.

25 Q After you tested -- I'm sorry -- field tested the

1 cocaine, what did you do with the drugs?

2 A I immediately placed it back in the Crown Royal bag  
3 and sealed it in the evidence bag on the side of the  
4 road, and secured it in my patrol car.

5 Q And what did you do with the occupants of the vehicle  
6 after this?

7 A We separated them at that point in time, and I  
8 transported Mr. Monroe back to the police department to  
9 interview him. And Detective Morris, from the sheriff's  
10 office, transported the co-defendant.

11 Q Now, and once you got back to the office, you said  
12 you went to interview Mr. Monroe. Was he read his  
13 rights?

14 A Yes, ma'am.

15 Q Okay. And he agreed to waive his rights and speak to  
16 you?

17 A Yes, ma'am. He agreed and signed a form we use.

18 Q Okay. And what, if any, statements did he make that  
19 night?

20 A The statements he made that night that the drugs were  
21 not his. Stated the drugs were not his. And he talked  
22 in circles after that.

23 Q Okay. And what did you do with the drugs once you  
24 were back at the office?

25 A We separated the drugs and put them into a larger

1 evidence bag, and secured them in our evidence locker.

2 Q Were the drugs separated into individual bags?

3 A Yes, ma'am, they were.

4 MS. HENDERSON: Beg the Court's indulgence for one  
5 second, your Honor.

6 Officer Long, I have no further questions for you at  
7 this time. Please answer any questions Mr. Hughes may  
8 have for you.

9 THE COURT: Cross-examination.

10 MR. HUGHES: Thank you, your Honor.

11 OFFICER RICHARD LONG

12 CROSS-EXAMINATION, MR. HUGHES:

13 Q Officer Long, how were you were dressed that night?

14 A In my uniform.

15 Q Please describe that.

16 A I wear a green BDU uniform, with an outer vest.

17 Q Sorry. What do you mean a *BDU uniform*?

18 A It's a -- the uniform is, if you had to use  
19 similarities, it looks a Vietnam-style era Marine  
20 uniform, I would guess.

21 Q What equipment did you have?

22 A I had my issued equipment. I have a -- I carry a  
23 firearm, a taser, a baton, and handcuffs.

24 Q Okay. Do you also wear a camera?

25 A Yes, I do.

1 Q Describe that, please.

2 A We have a in-car, mounted camera. And then I wear  
3 what -- at that time, it was a Taser Axon camera. It's  
4 been updated now to a Taser Flex, but I wear a Taser Body  
5 Armor Camera.

6 Q Okay. You're going to have to explain exactly what  
7 that is and what it does, please.

8 A The camera mounts either to the side of your head, by  
9 a headband, or it mounts to your collar, depending on  
10 which application you use. I wear the one that mounts  
11 onto my collar. When it mounts to your collar, you have  
12 a control box on it, which records all the video  
13 evidence. It's turned on at the beginning of a traffic  
14 stop, and normally, it runs continuously. There is times  
15 where it does loose connection because it's not  
16 completely fail safe, and the movements of your body.  
17 But it immediately will turn right back on.

18 Q Okay. Did you record that night?

19 A Yes, I did.

20 Q Now, is this your personal stuff, or is this standard  
21 issue with RPD?

22 A There's a select few of us that wear them at the  
23 police department. The patrol division normally wears  
24 them.

25 Q But it's available to everybody at RPD.

1 A No, it is not.

2 Q And why do you have that?

3 A We wear it because it actually helps the officers if  
4 there's ever a case to where somebody says that we've  
5 mistreated somebody, it's easier to clear the officer's.  
6 It's evidence.

7 Q Plus, it's good to show people exactly what happened.

8 A That's correct.

9 Q This bag, previously marked State 1, did you find  
10 some marijuana in there?

11 A Yes, sir, I did.

12 Q Okay. Now, did you handcuff Courtney Baniel, or did  
13 Officer Smith?

14 A Officer Smith, Corporal Smith.

15 Q I'm sorry. Corporal Smith. After they were placed  
16 in handcuffs, right after the stop, where did you put the  
17 defendants?

18 A Mr. Monroe went to my front passenger seat, and Mr.  
19 Baniel went into Detective Morris' car. I don't know  
20 where at in his car.

21 Q Okay. They weren't placed behind the car first?  
22 Behind --

23 A They were sat down beside my vehicle, separated.

24 Q Okay. Isn't it true that Courtney Baniel picked his  
25 lock on the handcuffs?

1 A No, he never picked his lock.

2 Q They weren't loose and had to be re-tightened?

3 A They may have been double locked, but we never --  
4 nobody never picked their locks.

5 Q Did you write a report on this?

6 A Yes, I did.

7 Q In the report, you stated that you smelled raw  
8 marijuana.

9 A Yes, I did.

10 Q Did you have your dog with you?

11 A Yes.

12 Q Was there any marijuana in the car, other than what  
13 was in the bag?

14 A No, there was no more in the car.

15 Q Let's walk through that night. You see a car pull  
16 off of South Logan Lane. Which way was it headed on  
17 Logan Lane?

18 A It was headed back toward Main Street. So it would  
19 have been headed north on South Logan.

20 Q And it pulls into Adams Street. Going which way?  
21 Left or right?

22 A Right.

23 Q Okay. So going toward Kentucky Fried Chicken.

24 A Yes.

25 Q The back side of Kentucky Fried Chicken.

1 A That's correct.

2 Q Now, the intersection of Logan Lane and Adams Street  
3 is not a ninety degree angle, right?

4 A It is a ninety.

5 Q I thought that Logan Street did sort of an angle like  
6 this, and Adams was like that.

7 A It could be like that, but it's a ninety degree turn,  
8 basically.

9 Q Now, how far over the line did that car go?

10 A Probably a foot and a half.

11 Q So, someone making a turn at an angle would have had  
12 to come to a complete stop, and coming north on Logan,  
13 would have to make a complete stop to turn in to not go  
14 over the line.

15 A They would have to reduce their speed significantly  
16 to make a safe turn, yes, they would.

17 Q As opposed to, say, they were turning left onto Logan  
18 Street, which headed toward the BP station where the  
19 angle is more in their favor.

20 A You still have to reduce your speed to make a safe  
21 turn.

22 Q Right. What was the speed the car was going?

23 A I don't know. I never measured their speed.

24 Q Okay. You get the people out of the car, put them in  
25 handcuffs, put them behind the car. And do what? What

1 are you doing then?

2 A I'm looking through the bag to see what was in it.

3 Q Okay. And that was the bag that Corporal Smith found  
4 that Courtney Baniel had thrown down?

5 A It had came out of the car. We don't know who threw  
6 it down or where it came from, whatever.

7 Q But in your report, you said that Courtney Baniel had  
8 thrown it to the ground.

9 A I may have at that time.

10 Q Now, do you call in Dispatch or do you call in to  
11 somebody?

12 A Yes.

13 Q And run the I.D.s of the people?

14 A Yes.

15 Q Didn't you originally charge Phillip Monroe with  
16 driving under suspension?

17 A Yes, I did.

18 Q And that was because?

19 A He was suspended out of Georgia, not South Carolina.

20 MS. HENDERSON: Begging the Court's indulgence for a  
21 second. May I approach the witness, your Honor?

22 THE COURT: You may.

23 Q What is that?

24 A This is a uncertified copy of a driver's record.

25 Q Okay. What does it say as far -- whose driver's

1 record?

2 A It says it's Mr. Monroe's.

3 Q And what does it say about his driving status?

4 A It says, *No suspension, no disqualification.*

5 Q Okay. Thank you. I'll take that back, if I can,  
6 please.

7 A That is an uncertified copy, not from DMV. It  
8 doesn't have the appropriate stamps on it.

9 Q But if I had gotten this from the Solicitor's office,  
10 you would say it was probably an accurate copy?

11 A I would say it was an accurate copy as they can get.

12 Q Do you know what happened to the driving under  
13 suspension charge?

14 A I not proessed it.

15 Q Okay. Because?

16 A In South Carolina, he is not suspended. His Georgia  
17 license is suspended, and I had not received a copy of  
18 the information forwarded from Georgia DMV.

19 Q But he has a valid South Carolina driver's license.

20 A No, he does not. He has an I.D. only.

21 Q Now, you charged him and Courtney Baniel with  
22 trafficking cocaine, possession with intent to distribute  
23 narcotics, and possession of marijuana.

24 A Yes.

25 MR. HUGHES: No further questions, your Honor.

1 THE COURT: Re-direct.

2 MS. HENDERSON: Nothing from the State, your Honor.

3 THE COURT: As to this witness, subject to my order  
4 in this trial. Counsel approach. Okay.

5 Mr. Bennett, would you approach the Bench, please.

6 OFF-THE-RECORD BENCH CONFERENCE.

7 PRESENT: THE COURT, MS. HENDERSON,

8 MR. HUGHES, STEPHEN C. BENNETT.

9 THE COURT: If you'll step down from the witness  
10 stand, Officer, and if you will go back to the room that  
11 you were previously located in, subject to re-call in the  
12 trial of this case and subject to my order, which you've  
13 been informed about by the solicitor.

14 OFFICER LONG: Yes, your Honor.

15 THE COURT: Thank you. Call your next witness.

16 MS. HENDERSON: Thank you, your Honor. The State  
17 would call Sergeant Kevin Smith.

18 THE COURT: Come on up and be sworn by the clerk,  
19 please.

20 WITNESS SWORN.

21 MADAM CLERK: Thank you.

22 THE COURT: Have a seat. Make yourself comfortable.  
23 Pull that chair up and adjust that microphone to your  
24 height. It's going to amplify your voice. State your  
25 full name and spell your last for my court reporter,

1       please.

2               SERGEANT KEVIN SCOTT SMITH: Kevin Scott Smith,  
3       S/m/i/t/h.

4               THE COURT: Your witness, Counsel.

5               SERGEANT KEVIN SCOTT SMITH

6               DIRECT EXAMINATION, MS. HENDERSON:

7       Q    I'm sorry. I thought you were Sergeant Smith. I  
8       didn't mean to get your title wrong. What agency are you  
9       with?

10      A    I work for the Ridgeland Police Department.

11      Q    Okay. And would you please tell this jury a little  
12      bit about your background.

13      A    Yes, ma'am. I graduated from the University of South  
14      Carolina in 2004, which I have a bachelor of science in  
15      criminal justice and criminology. Once I was in the  
16      process of my final semester, I also started taking the  
17      reserve officer program with the City of Ridgeland Police  
18      Department. Once that was completed, I started as a  
19      reserve officer in 2005, which I was a reserve officer  
20      for about three years, until I went full time in 2008.  
21      Graduated Criminal Justice Academy 2009. Have been full  
22      time since.

23      Q    At the Ridgeland Police Department?

24      A    Yes, ma'am.

25      Q    And what are some of your duties at the Ridgeland

1 Police Department?

2 A I'm currently a sergeant in the patrol team. I'm a  
3 supervisor, and I also perform patrol duties, which is  
4 checking on the town of Ridgeland, responding to calls,  
5 making traffic stops and enforcing traffic laws. Things  
6 like that.

7 Q I'm sorry. Do you supervise other officers?

8 A Yes, ma'am, I do.

9 Q Okay. And when you working on April 10, 2012?

10 A Yes, ma'am.

11 Q And do you remember what you were doing that night?

12 A That night, I was performing patrol duties with  
13 Officer Long.

14 Q And were you a supervisor at that time?

15 A Yes, ma'am, I was a corporal.

16 Q Okay. And at some point that night, did you come in  
17 contact with the defendant, Phillip Monroe?

18 A Yes, ma'am, I did.

19 Q Okay. And do you see him in this courtroom?

20 A Yes, ma'am, I do.

21 Q And where is he?

22 A He's currently sitting at the defendant's seat.

23 MS. HENDERSON: Let the record reflect he pointed out  
24 the defendant, your Honor.

25 THE COURT: Proceed.

1 MS. HENDERSON: Thank you, your Honor.

2 BY MS. HENDERSON:

3 Q Can you please tell the jury what happened that  
4 night.

5 A As Officer Long and I were -- we were traveling east  
6 on Adams Street. As we approached the intersection of  
7 South Logan and Adams Street, we observed a Honda that  
8 was turning off onto Adams onto -- I'm sorry -- let me  
9 take that back. It was turning off of Logan onto Adams  
10 Street, making a right-hand turn. As he turned, he  
11 crossed the center divider line, the yellow line in the  
12 highway. And then, as he proceeded east on Adams Street,  
13 he, again, crossed the line. So, at that point, Officer  
14 Long and I initiated a traffic stop on the vehicle.

15 As the vehicle was stopping, he turned into a  
16 residence that was on East Adams Street. As the vehicle  
17 was coming to a stop, both the driver, which is in the  
18 courtroom, and also, a co-defendant, exited the vehicle.  
19 And at that point, I made contact with the occupants of  
20 the vehicle.

21 Q Okay, you said you made contact with the occupants.  
22 Which occupant did you go to?

23 A I went to the passenger of the vehicle. As they were  
24 coming to a stop, I saw that the passenger door opened  
25 and the passenger got out of the vehicle and began to

1 walk away from the car with hands up. So I went to  
2 detain him, until we could figure out what was going on  
3 exactly.

4 Q Okay. Now, when you say he got out of the car with  
5 his hands up, can you please demonstrate for the jury how  
6 you saw him exit that vehicle.

7 A Yes, ma'am. As he got out of the car, he threw his  
8 hands up like this and started to back away. He backed  
9 into the door, which prevented him from going further.  
10 And I was able to get a hold of him at that point.

11 Q What happened next?

12 A Once I made contact with him, I looked on the ground,  
13 and I saw a purple Crown Royal bag that was bulging,  
14 lying on the ground. Once I saw the bag and saw the  
15 condition it was in, I went ahead and detained him. I  
16 placed him in handcuffs, and I told Officer Long to go  
17 ahead and detain the driver, as well, till we could  
18 figure out exactly what was going on and determine if  
19 there were any weapons involved or things of that nature.

20 Q And once they were both detained, what did you do?

21 A We removed the subjects from the vehicle. We put  
22 them towards the Tahoe, which Officer Long drives. And  
23 then, I recovered the purple Crown Royal bag.

24 Q And did you look in that bag?

25 A Yes, ma'am, I did.

1 Q And what did you locate inside that bag?

2 A Inside the bag, there were several pills, along with  
3 a white, powder substance. We tested it at the scene  
4 with a field test narcotic swipe, which tested positive  
5 for cocaine.

6 Q Okay. And was there also a small amount of marijuana  
7 in the bag?

8 A Yes, ma'am, there was.

9 Q Okay. And once you realized what the bag contained,  
10 what did you do?

11 A I handed the bag over to Officer Long. We took the  
12 contents of the bag out and looked at the drugs, which we  
13 field tested, as well. And both parties were separated.  
14 We had the co-defendant sitting at the back of the Tahoe,  
15 and we had the defendant in the courtroom sitting at the  
16 front of the Tahoe.

17 Q Okay. And what did you do next?

18 A We ended up calling for a tow truck to come to the  
19 vehicle. We requested a deputy, which was Detective  
20 Morris come to help transport, since we were both in one  
21 vehicle. And took both parties into custody.

22 Transported them back to the office. Once we got back to  
23 the office, we then weight the drugs, and also, separated  
24 them and turned them in to evidence.

25 Q I'm going to hand you what's been previously marked

1 as State's Exhibits 1 and 2.

2 THE COURT: Can't hear you, Solicitor.

3 MS. HENDERSON: Thank you, your Honor.. I apologize.

4 Q I'm going to hand you what's been previously marked  
5 for identification purposes only as State's Exhibits 1  
6 and 2.

7 MR. HUGHES: 2 and 3.

8 MS. HENDERSON: I'm sorry, 2 and 3. Thank you, Mr.  
9 Hughes. Permission to approach the witness, your Honor.

10 THE COURT: You may.

11 Q Do you recognize those?

12 A Yes, ma'am, I do.

13 Q And how are you able to recognize them?

14 A They're still in the evidence bags I sealed.

15 Q And how do you know you sealed them?

16 A They have my name on them.

17 Q Okay. And do they appear to have been altered?

18 A No, ma'am.

19 Q Thank you. And once you placed them in individual  
20 bags, what did you do with them?

21 A They were then put into a larger bag, where they were  
22 all contained together and turned in to evidence.

23 MS. HENDERSON: Beg the Court's indulgence for one  
24 second, your Honor.

25 Sergeant Smith, I have no further questions for you.

1 Please answer any Mr. Hughes might have.

2 A Yes, ma'am.

3 THE COURT: Cross-examination.

4 MR. HUGHES: Thank you, your Honor.

5 SERGEANT KEVIN SCOTT SMITH

6 CROSS-EXAMINATION, MR. HUGHES:

7 Q Okay. First thing I want to do is make sure I get  
8 your title right, because I've known you as Corporal  
9 Smith for a long time. You're now a sergeant?

10 A Yes, sir, that's correct.

11 Q Okay. Congratulations.

12 A Thank you.

13 Q How were you dressed that night?

14 A I was in a patrol uniform, which is a brown shirt,  
15 with the patches and metal badge on it. And also, our  
16 green pants that we wear, and a duty belt.

17 Q And what equipment did you have?

18 A That night, I had on my normal issued equipment,  
19 which would be a Glock Model .38, I believe it is. .45  
20 Gap. Also, handcuffs, extra magazines that contain extra  
21 bullets, a baton, a flashlight, boots. Things of that  
22 nature.

23 Q Did you have the magic camera with you?

24 A No, sir, I did not.

25 Q Why not?

1       A    Once I became a supervisor, it was no longer required  
2       for me to wear the Taser Axon I believe is what you're  
3       referring to.

4       Q    Right. But that's available to RPD officers.

5       A    Yes, sir, it is.

6       Q    And that purpose of that is so that people can see  
7       exactly what happened. You don't have to take someone's  
8       word for it. You can see the event. If an officer gets  
9       accused of something, you can exonerate him, or something  
10      like that, correct?

11      A    Correct.

12      Q    Where did you take the defendants?

13      A    They were returned back to the police department.

14      Q    That's the building over here?

15      A    Yes, sir. Town Square. Or One Town Square.

16      Q    Now, you were the passenger of the vehicle the Tahoe.

17      A    Yes, sir, that's correct.

18      Q    And the car you see -- were you all coming east on  
19      Adams or west on Adams Street?

20      A    We were traveling east on Adams Street.

21      Q    Okay. So you were coming from the BP area, headed  
22      toward Kentucky Fried Chicken.

23      A    Yes, sir, that would be correct.

24      Q    And where were you when you saw the car turn off of  
25      Logan?

1 A We were just prior to the intersection of Adams and  
2 Logan Street.

3 Q On the B.P. side.

4 A Correct, we were on the B.P. side.

5 Q And you see a car turn too quickly, go across the  
6 line, swerve back across the line, and you all pulled it  
7 over.

8 A Yes, sir.

9 Q They hit the gas and ran?

10 A No, sir.

11 Q You all cut on the blue lights. What happens?

12 A Once we activated the blue lights, the vehicle then  
13 turned into a parking -- or I'm sorry -- a driveway to a  
14 house. At that point, like I said, I saw the passenger,  
15 which is the co-defendant in this case, he exited the  
16 vehicle, put his hands up, and begin to back away from  
17 the vehicle. That's very atypical behavior for a normal  
18 traffic stop.

19 Q And to be on the safe side, you got out, hey, come  
20 on.

21 A Right.

22 Q Took him into custody. Searched him to make sure he  
23 wasn't armed and all that.

24 A Well, once I found the Crown Royal bag on the ground  
25 beside where he was standing, that's when we went ahead

1 and put him in custody.

2 Q Now, did you write a report on this incident?

3 A I did a supplement report.

4 Q Okay. As the supervisor, you viewed Officer Long's  
5 report.

6 A Yes.

7 Q And when Officer Long said that Courtney threw the  
8 bag to the ground, that would be basically correct?

9 A I don't recall exactly what his report says.

10 Q Okay. But as a supervisor and being on the scene,  
11 you would have made corrections to any mistakes he had  
12 made.

13 A If any mistakes were observed, I would have, I'm  
14 sure, pointed out to him.

15 Q Okay. Now, you arrest Courtney Baniel. You placed  
16 him in custody.

17 A Yes, sir.

18 Q You handcuffed him?

19 A Yes, sir, I did.

20 Q Now, didn't you have cause to go back and double lock  
21 the handcuffs?

22 A I did double lock the handcuffs.

23 MR. HUGHES: No further questions, your Honor.

24 THE COURT: Re-direct.

25 MS. HENDERSON: None from the State, your Honor.

1 THE COURT: As to the witness?

2 MS. HENDERSON: Your Honor, I'd just ask that he  
3 return back to the room.

4 THE COURT: Very well. Sergeant, if you'll return to  
5 the room you were previously in, subject to re-call and  
6 subject to my order, which the solicitor has given to you  
7 concerning this case.

8 A Yes.

9 THE COURT: Thank you. Call your next witness.

10 MS. HENDERSON: Your Honor, may Mr. Hughes and I  
11 approach?

12 THE COURT: Counsel approach.

13 OFF-THE-RECORD BENCH CONFERENCE.

14 PRESENT: THE COURT, MS. HENDERSON,

15 MR. HUGHES.

16 THE COURT: Move along.

17 MS. HENDERSON: Thank you, your Honor.

18 THE COURT: Call your witness.

19 MS. HENDERSON: The State calls Courtney Baniel.

20 THE COURT: Come on up, please, sir, and be sworn by  
21 the clerk right on up here.

22 WITNESS SWORN.

23 THE COURT: Watch your step. You got to step up.  
24 Have a seat right there in that chair. Make yourself  
25 comfortable. Pull the chair up. I want you to get close

1 to that microphone. So pull your chair up, adjust that  
2 microphone to your height. It's going to amplify your  
3 voice. You pull it down if you need to. There you go.  
4 I want you to -- pull it closer. There you go. And  
5 state your full name, and spell your last name for my  
6 court reporter, please.

7 CO-DEFENDANT COURTNEY BANIEL: Courtney Baniel,  
8 B/a/n/i/e/l.

9 THE COURT: Very well. Direct examination,  
10 Solicitor.

11 MS. HENDERSON: Thank you, your Honor.

12 CO-DEFENDANT COURTNEY BANIEL

13 DIRECT EXAMINATION, MS. HENDERSON:

14 Q Courtney, how old are you?

15 A Twenty-three.

16 Q And where were you born and raised?

17 A Right here in Jasper County.

18 Q Okay. Do you have a job?

19 A Yes, ma'am.

20 Q What do you do?

21 A Landscaping.

22 Q And who do you do that with?

23 A My dad.

24 Q Okay. How long have you been landscaping with your  
25 dad?

1 A Four years.

2 Q And are you married?

3 A No.

4 Q Do you have a significant other?

5 A I have a girlfriend.

6 Q You got a girlfriend. Do you refer to her as your  
7 wife?

8 A Yeah, you could say that.

9 Q Okay. And what's her name?

10 A Laquisha.

11 Q Okay. Is that what everybody calls her?

12 A Everybody calls her Sally.

13 Q Everybody calls her Sally? Okay. And do you all  
14 have some children together?

15 A (Witness nodded head.)

16 Q How many?

17 A Two.

18 THE COURT: Don't shake your head. Say yes or no for  
19 the court reporter. Ask the question again, Solicitor.  
20 Give a verbal answer. Say yes or no. Don't shake or nod  
21 your head.

22 Q Do you and Sally have kids together?

23 A Yes, ma'am.

24 Q How many?

25 A Three.

1 Q Are they all your biological children?

2 A No, ma'am. Two of them is when she have -- she have  
3 an older daughter.

4 Q And the oldest daughter is not yours.

5 A Right.

6 Q Okay. But does she call you Dad?

7 A Yes, ma'am.

8 Q So you say you have three children.

9 A Right.

10 Q Okay. And Courtney, are you a little nervous right  
11 now?

12 A Yes, ma'am.

13 Q Okay. Okay. Just make sure you -- I know you're  
14 very soft-spoken, so just make sure that you speak loud  
15 enough so everyone can hear you. Courtney, do you know  
16 Phillip Monroe?

17 A Yes, ma'am.

18 Q How do you know Phillip?

19 A Through my girlfriend.

20 Q And be a little more specific.

21 A Phillip is my girlfriend uncle-in-law.

22 Q Okay. So your girlfriend is the niece of his --

23 A Wife.

24 Q Wife. Okay. How long have you known Phillip?

25 A About five months.

1 Q Before, you know.

2 Q Before the incident?

3 A Yes, ma'am.

4 Q Okay. And Courtney, do you see the person that you  
5 know as Phillip Monroe in this courtroom?

6 A Yes, ma'am.

7 Q Where is he?

8 A Behind you, in the white, striped shirt.

9 Q Okay. At this table? The defense table?

10 A Yes, ma'am.

11 MS. HENDERSON: Let the record reflect he identified  
12 the defendant, your Honor.

13 THE COURT: Proceed.

14 MS. HENDERSON: Thank you, your Honor.

15 BY MS. HENDERSON:

16 Q Courtney, let's talk about April 10, 2012. What time  
17 did you get off work on April 10th?

18 A About 2:30.

19 Q Speak up a little bit for me, okay?

20 A About 2:30.

21 Q Okay. And when did you come in contact with Phillip  
22 that day?

23 A I'd say between 3:00 and 3:30.

24 Q Okay. And how did you come in contact with him?

25 A He came to my house and picked me up from my house.

1 Q Why?

2 A He wanted me to ride with him to Ridgeland.

3 Q Why?

4 A Said he had no license.

5 Q Do you have a license?

6 A Yes, ma'am.

7 Q So he wanted you to ride because you're a licensed  
8 driver?

9 A Yes, ma'am.

10 Q Okay. And did you get in the car with him?

11 A Yes, ma'am.

12 Q Where did you go after that?

13 A We left my house, and he dropped me off at Logan  
14 Lane.

15 Q I'm sorry.

16 A We left my house, and he dropped me off at Logan  
17 Lane.

18 Q Before you left the house, -- I'm sorry. Let me back  
19 up real quick. Before you left the house, did he say  
20 where he was going or why he wanted you -- you know why  
21 he wanted you to ride with him, but did he say what you  
22 all were going or what he had planned?

23 A No, not really. He just said he was going to his  
24 wife.

25 Q Okay.

1 A He was needing me to ride with him through town.

2 Q Okay. Now, back to where you were with your  
3 testimony was you went to Logan Lane.

4 A Yes, ma'am.

5 Q Okay. What happened when you went to Logan Lane?

6 A He dropped me off, and I was standing out there  
7 talking to one of my cousins that stayed by me in my  
8 neighborhood.

9 Q Okay. Where did he go? Was he at Logan Lane with  
10 you?

11 A No, he left. He dropped me off.

12 Q Okay. Did he come back?

13 A Yes, ma'am.

14 Q Okay. About how long was he gone?

15 A I'd say about close to two hours or a hour and 30  
16 minutes.

17 Q Okay. And when he came back, did you get back in the  
18 car with him?

19 A Yes, ma'am.

20 Q Where did you all go after that?

21 A Bay Tree.

22 Q And what part of Bay Tree did you go to?

23 A The first part, older folks part.

24 Q Okay. You kind of divide Bay Tree up in young and  
25 old people?

1 A Well, the smaller part is where the older people  
2 stay.

3 Q Okay. And that's the part you all went to?

4 A Yes, ma'am.

5 Q What did you do at the older person part of Bay Tree?

6 A Nothing. We talked to my grandma, and laughed and  
7 joked with another in the house.

8 Q Okay. And what's her name?

9 A Foxy.

10 Q Ms. Foxy?

11 A Ms. Foxy.

12 Q Okay. So you and the defendant, Phillip Monroe, are  
13 at Bay Tree Apartments talking to your grandmother and  
14 Ms. Foxy?

15 A Yes, ma'am.

16 Q And is that all you all do, is you all just sat  
17 around and talked?

18 A Yes, ma'am.

19 Q Was it daylight when you went to Bay Tree, or had it  
20 turned dark?

21 A It was kind of dark. It wasn't pitch black, but it  
22 was kind of dark.

23 Q Dusk?

24 A Yeah.

25 Q And how long do you think you stayed there talking to

1 your grandma and Ms. Foxy?

2 A It'd been a while. It was -- it was late when we  
3 left.

4 Q Okay. Your wife wasn't worried about you or  
5 anything?

6 A No. I had talked to her and told her where I was,  
7 so.

8 Q Okay. What happened -- what happened next?

9 A We left Bay Tree, and we get stopped by the cops.

10 Q Now, when you say you got stopped by the cops, tell  
11 the jury what happened when the blue lights turned on.

12 A When the blue lights turned on, that's when Phillip  
13 told me -- he threw the stuff in my lap and said, *Take*  
14 *these charges from me.*

15 Q Okay. And what did you say to him?

16 A On his question? I mean, on his answer?

17 Q Um-hmm.

18 A *Hell no.*

19 Q And did he say anything else to you?

20 A Right after I said that, he was, *Boy, don't play with*  
21 *me; I'll kill Sally and your kids.* And that's when the  
22 officer was walking up and I opened the door with my  
23 hands up.

24 Q Okay. And when you opened the door with your hands  
25 up, where was the bag?

1       A    It dropped down out my lap.

2       Q    So it was sitting on your lap where Phillip had  
3       thrown it?

4       A    Right. I never grabbed the bag or anything.

5       Q    Okay. Courtney, where did Phillip grab that bag  
6       from? Do you know?

7       A    Off the signal light.

8       Q    The blinker?

9       A    Yes.

10      Q    Okay. Now, you'd been riding around in this car all  
11      day. Had you not seen that Crown Royal bag?

12      A    I really didn't paid no attention, because you know  
13      how people have stuff hanging from their mirrors and  
14      hanging off the ceiling. I really paid -- paid the bag  
15      no attention.

16      Q    Okay. So you don't remember if you saw it or not.

17      A    No, ma'am.

18      Q    Okay. So, when you got out of the car, you did not  
19      throw the bag back down, right? Is that what you said?

20      A    No, ma'am. It had dropped down my lap. I put my  
21      hands up.

22      Q    Did you ever touch the bag?

23      A    No, ma'am.

24      Q    And why did you get out of the car with your hands  
25      raised?

1 A I just thought that's what you supposed to do.

2 Q Why did you think that's what you were supposed to  
3 do?

4 A I seen it on T.V. like that.

5 Q Okay. You heard the cops say put your hands up, so  
6 that's what you thought you were supposed to do? Okay.

7 A Yes, ma'am.

8 Q What happened after they found the Crown Royal bag?

9 A He dumped it out on the trunk of the car, and that's  
10 when I realized what was going on.

11 Q That's when you realized what was in the bag?

12 A Yes, ma'am.

13 Q Okay. And it's your testimony today that's the first  
14 time you'd seen what was in that bag? Is that what  
15 you're telling this Court?

16 A When he dumped it on the car, yes, ma'am.

17 Q Okay. And what happened after that?

18 A The officers took us to the -- the public jailhouse.

19 Q Courtney, at any point that night, did you tell the  
20 officers that the drugs weren't yours?

21 A No, ma'am.

22 Q Why?

23 A I was still thinking about what he told me. I was  
24 nervous. I ain't -- I didn't know what to say.

25 Q When you say what he told you, what part were you

1 nervous about?

2 A The what he would have did to me, my family, for  
3 telling them it was his drugs and not mine.

4 Q So you never said anything that night to anyone.

5 A No, ma'am.

6 Q Okay. Did you tell your story to the police at some  
7 point, though?

8 A Yes, ma'am.

9 Q Do you remember how many days after you'd been  
10 arrested that you had a chance to talk to the  
11 investigators?

12 A Maybe two or three days later.

13 Q And is what you just told this jury here what you  
14 told those officers that day?

15 A Yes, ma'am.

16 Q And I'm going to ask you one more time, Courtney.  
17 Were those drugs your drugs in that bag?

18 A No, ma'am.

19 Q Did you have any knowledge that those drugs were in  
20 that car?

21 A No, ma'am.

22 MS. HENDERSON: Nothing further right now, your  
23 Honor. Please answer any questions Mr. Hughes might  
24 have.

25 THE COURT: Cross-examination.

1 MR. HUGHES: Thank you, your Honor.

2 CO-DEFENDANT COURTNEY Baniel

3 CROSS-EXAMINATION, MR. HUGHES:

4 Q Mr. Daniels.

5 A Yes, sir.

6 Q You're a licensed driver?

7 A Yes.

8 Q You say a person without a valid license asked you to  
9 ride with him.

10 A Yes, sir.

11 Q Why didn't you drive?

12 A He didn't wanted me to.

13 Q Well, why did he need you? I mean, if he didn't have  
14 a license, why did he need you?

15 A Well, he told me that he would drive. He needed a  
16 licensed driver in the car with him.

17 Q So it's your testimony that he needed a license  
18 driver, but he didn't need a license driver to drive.

19 A Excuse me? You can ask me that again?

20 Q He needed a licensed driver, you say.

21 A Yes, sir.

22 Q But he didn't need that licensed driver to drive?

23 A He didn't wanted me to drive.

24 Q Okay. You say you went to Logan Lane.

25 A Yes, sir.

1 Q What did you do at Logan Lane?

2 A Sat around laughing and joking.

3 Q Okay. Did you smoke any drugs?

4 A No, sir.

5 Q How long were you at Logan Lane?

6 A Maybe about an hour and a half to two hours.

7 Q And then you went to Bay Tree.

8 A Yes, sir.

9 Q And from Bay Tree, where did you go?

10 A I was on my way home, until I got stopped by the

11 police.

12 Q And where do you live?

13 A Cherry Hill.

14 Q Now, tell me exactly where Cherry Hill is.

15 A By Cooler Store, on 462.

16 Q Okay. And you're going from Bay Tree to Cooler's

17 Store on 462?

18 A Going home. That's the way I go home.

19 Q Now, you were charged with trafficking in cocaine,

20 right?

21 A Yes, sir.

22 Q You're looking at a lot of time; aren't you?

23 A Yes, sir.

24 Q Charged with possession with intent to distribute

25 narcotics; weren't you?

1 A Yes, sir.

2 Q You were also charged with possession of marijuana;  
3 weren't you?

4 A Yes, sir.

5 Q The marijuana that was in this bag, State's Exhibit  
6 Number 1.

7 A Yes, sir.

8 Q What happened to that charge?

9 MS. HENDERSON: Objection, your Honor.

10 THE COURT: Sustained. Counsel approach.

11 OFF-THE-RECORD BENCH CONFERENCE.

12 PRESENT: THE COURT, MS. HENDERSON,

13 MR. HUGHES.

14 THE COURT: Step back. Move along. The objection is  
15 sustained, pursuant to *Rules of Evidence 609* and *403*.

16 MS. HENDERSON: Thank you, your Honor.

17 THE COURT: Please proceed consistent with my ruling  
18 explained to counsel at the Bench..

19 MR. HUGHES: Thank you, your Honor.

20 BY MR. HUGHES:

21 Q Now, when you were arrested, you spent some time in  
22 -- when you were arrested on the cocaine and the pills'  
23 charge, you spent time in jail, right?

24 A Yes, sir.

25 Q How long were you in jail?

1 A I think 21 days.

2 Q And you bonded out, right?

3 A Yes, sir.

4 Q Did you like it at the Jasper County Detention  
5 Center?

6 A No, sir.

7 Q Do you think prison would be worse than the Jasper  
8 County Detention Center?

9 A I don't know.

10 Q But you're looking at a lot of time on possession of  
11 those pills with intent to distribute; aren't you?

12 A Yes, sir.

13 Q And you're looking at a lot of time over the  
14 trafficking in that cocaine; aren't you?

15 A Yes, sir.

16 Q You don't want to go to prison; do you?

17 A No, sir.

18 Q And you have told this jury everything truthfully.

19 A Yes, sir.

20 Q You would not lie to just keep from going to prison;  
21 would you?

22 A No, sir.

23 Q And according to you, let me make sure I got this  
24 right, Phillip Monroe picked you up because you had a  
25 license, correct?

1 A Correct.

2 Q But Phillip Monroe didn't let you drive, correct?

3 A Yes, sir.

4 Q And Phillip Monroe took you to Logan Lane and then to  
5 Bay Tree, correct?

6 A Yes, sir.

7 Q And you were going from Bay Tree to Cooler's Store  
8 out at Old House.

9 A Yes, sir.

10 Q Going straight there.

11 A That's where I live.

12 Q Now, where is Bay Tree Apartments? Isn't it right  
13 down here at Low Bottom?

14 A No, sir.

15 Q Where are they?

16 A In the town of Ridgeland, past the post office.

17 Q Okay. That's what I mean. Down here, about two  
18 blocks from here, three blocks from here, right?

19 A Right. Yes, sir.

20 Q Okay. And you'd never seen those drugs. You did not  
21 know there were any drugs in that car.

22 A Right.

23 Q You didn't smell any marijuana?

24 COURT REPORTER: Is that, No, sir?

25 A No, sir.

1 Q Now, after law enforcement handcuffed you and put you  
2 behind the car, didn't you get one of the cuffs loose?

3 A No, sir.

4 Q They didn't have to double lock your handcuff?

5 A No, sir.

6 Q And you've told this jury everything truthfully.

7 A Yes, sir.

8 Q Now, the night of the arrest, you didn't tell law  
9 enforcement this, right?

10 A No, sir.

11 Q Because you say Phillip threatened you and your  
12 family.

13 A Correct.

14 Q Now, didn't he just tell you be 21 and be a man?

15 A What are you asking me?

16 Q Didn't Phillip Monroe just tell you to be 21.

17 A No, sir, that was the only thing he told me.

18 Q What does it mean when he says be 21? Accept your  
19 responsibilities as an adult? Is that what be 21 means?

20 A No. He was asking me to take a charge for him that  
21 wasn't mine.

22 Q You're the one in possession of the drugs. The drugs  
23 were in your possession when the law enforcement  
24 approached that car, right?

25 A It was on the ground.

1 Q Where you threw them.

2 A No, sir.

3 Q Now, you say you got out of the car with your hands  
4 up.

5 A Yes.

6 Q Because that's what you'd seen on television. You  
7 say Phillip had tossed the bag in your lap; that you had  
8 no idea what was in it; you had not smelled any  
9 marijuana, correct?

10 A Yes, sir.

11 Q So you had no idea what was in that bag, but you get  
12 out of the car with your hands up, correct?

13 A Correct.

14 Q Did you try to push those drugs underneath the car  
15 while you were standing there?

16 A No, sir.

17 Q Are you sure?

18 A I'm sure.

19 Q Now, did you try to run that night?

20 A No, sir.

21 Q Well, why were you backing up when law enforcement  
22 approached you?

23 A I'm not sure I was backing up. I just got out of the  
24 car and was holding my hands up.

25 Q But you didn't know anything about any drugs.

1 A Not until he tell me, *Take these charges.*

2 Q You were going from Bay Tree to Cherry Hill. Cherry  
3 Point, right?

4 A Cherry Hill.

5 Q Make sure I get it right. Correct?

6 A Yes, sir.

7 Q You weren't going to Adams Street to go cook some  
8 crack.

9 A No, sir.

10 Q You were going straight home to Cherry Hill.

11 A Yes, sir.

12 MR. HUGHES: No further questions, your Honor.

13 THE COURT: Re-direct.

14 MS. HENDERSON: Beg the Court's indulgence for one  
15 minute, your Honor.

16 Your Honor, I have nothing further at this time.

17 THE COURT: As to the witness, Solicitor?

18 MS. HENDERSON: Your Honor, the State now asks that  
19 he --

20 THE COURT: Return?

21 MS. HENDERSON: Yes, your Honor.

22 THE COURT: All right. Mr. Baniel, you may step down  
23 from the witness stand, and you're to go back to the room  
24 where you were previously located, subject to being re-  
25 called in the trial of this case. You may step down.

1           So, my recommendation is stay away from the jury. Be  
2 courteous. Speak. There's nothing wrong with you  
3 nodding and saying good morning or good afternoon and  
4 walk away. I'll handle the rest, and I'll give them an  
5 instruction, Mr. Hughes. We're in recess till 2:00  
6 o'clock.

7           OFF THE RECORD 12:40 P.M.

8           BACK ON THE RECORD 2:30 P.M.

9           BY THE COURT:

10          THE COURT: Thank you. Please be seated.

11          All right, Madam Foreperson, ladies and gentlemen of  
12 the jury, we'll now continue with the testimony in the  
13 trial of this case. Solicitor, call your next witness.

14          MS. HENDERSON: Thank you, your Honor. The State  
15 calls Lieutenant Daniel Litchfield.

16          WITNESS SWORN.

17          THE COURT: Pull it up. Make yourself comfortable.  
18 Adjust that microphone. State your full name, and spell  
19 your last name for the court reporter.

20          LIEUTENANT DANIEL LITCHFIELD: Daniel Litchfield.  
21 Last name L/i/t/c/h/f/i/e/l/d.

22          THE COURT: Your witness, Counsel. Direct  
23 examination.

24          MS. HENDERSON: Thank you, your Honor.

25          LIEUTENANT DANIEL LITCHFIELD

1 DIRECT EXAMINATION, MS. HENDERSON:

2 Q Lieutenant Litchfield, with what agency are you  
3 employed?

4 A The Ridgeland Police Department.

5 Q And how long were you employed with them?

6 A Since '05, seven-and-a-half years.

7 Q Okay. And can you tell this jury a little bit about  
8 your law enforcement background.

9 A Yes, ma'am. I started out at Hampton City Police  
10 Department in 1997. In '05, I came to work for Ridgeland  
11 Police Department. After a year on patrol, I became  
12 investigator. Been there ever since as an investigator,  
13 since '06.

14 Q And what are some of your jobs or duties as an  
15 investigator?

16 A Investigation of crimes, to include the prosecution  
17 of said criminals, if I can determine.

18 Q If the road guys make a case at night, do you all get  
19 contacted, or how do you become involved in a case that  
20 happens at night when you're off duty?

21 A Typically, if it's serious enough that may require  
22 evidence or an interview of some sort, they also will  
23 call me that night, let me know what they have.

24 Q Okay. But otherwise, how do you become involved?

25 A Usually, the next morning, I come in and check

1 reports, see if there's anything I need to look into if  
2 they don't call me the night before.

3 Q Okay. And did you become involved in the case  
4 against Phillip Monroe?

5 A Yes, ma'am.

6 Q And how did you become involved in this case?

7 A The night of the actual traffic stop, the officers  
8 called me and let me know what they had.

9 Q Okay. And did you do anything else in this case?

10 A Yes. The next morning, when I came in, I started  
11 looking over the actual case to include the evidence, to  
12 determine whether or not I needed to interview Mr.  
13 Monroe.

14 Q And did you interview him?

15 A Yes, ma'am.

16 Q Okay. How many times did you interview Mr. Monroe?

17 A Twice.

18 Q Okay. Do you remember the dates of those interviews?

19 A I think it was April 12 and April 16.

20 Q Okay. So, two days after it, and then a few more  
21 days.

22 A Yes, ma'am.

23 Q Okay. And the first interview, the one that was  
24 April 12, was he *Mirandized*?

25 A Yes, ma'am.

1 Q And did he waive his *Miranda* warnings?

2 A Yes, ma'am, he did.

3 Q And he agreed to talk to you?

4 A Yes, ma'am.

5 Q Okay. What did he say, if anything, about the drugs  
6 in this case to you on that date?

7 A On the 12th, he tried to deny, you know, any  
8 involvement with the drugs.

9 Q Okay. Did he say whose they were?

10 A Yes, he tried to put it on the co-defendant, Courtney  
11 Baniel.

12 Q Okay. And that's pretty much the entire interview on  
13 April 12?

14 A Yes, ma'am.

15 Q Okay. And then you interviewed him again on April  
16 16?

17 A Yes, ma'am.

18 Q Was that your decision?

19 A No, ma'am. He actually contacted investigations  
20 through phone calls, and his wife asking us to talk with  
21 him.

22 Q Okay. And so, you speak with him again on April 16.

23 A Yes, ma'am.

24 Q Okay. Did you read him his *Miranda* warnings again?

25 A Yes, ma'am.

1 Q And did he waive those *Miranda* warnings?

2 A Yes, ma'am, he did.

3 Q Okay. And what did he say to you at this interview?

4 A He was a little forthcoming with the fact that the  
5 drugs were his and Courtney Baniel's.

6 Q Okay. Did he make any -- well, let's back up. Do  
7 you remember exactly what he said?

8 A Yes, he said it was mine and his. We got together.

9 Q Okay. Did he make any mention of the specific drugs  
10 in that bag?

11 A Yes. He discussed the cocaine, the powder cocaine.  
12 Then he also discussed the pills.

13 Q What did he say about the powder cocaine?

14 A He stated that he was going to take the powder  
15 cocaine and turn it into crack cocaine.

16 Q Okay. And what did he say about the pills?

17 A He stated that he received the pills for somebody  
18 else from someone.

19 Q Okay. Investigator -- sorry, your Honor.  
20 Investigator Litchfield, I'm handing you what has been  
21 previously marked for purposes of identification as State  
22 Exhibits 4 and 5. Do you recognize these?

23 A Yes, ma'am, I do.

24 Q How are you able to recognize them?

25 A They have my initials on them.

1 Q Which means that? Which means what?

2 A These are actually video of segments taken from the  
3 full interviews.

4 Q Okay. So you have watched those and you know what's  
5 on those discs.

6 A Yes, ma'am.

7 Q Okay. And the segments that are on those discs, have  
8 they been altered in any way?

9 A The segments, no.

10 Q Okay. And that's an accurate reflection of the  
11 conversation you had with the defendant, Phillip Monroe,  
12 on April 16.

13 A Yes, ma'am.

14 MS. HENDERSON: Your Honor, permission to move  
15 State's Exhibit 4 and 5 into evidence.

16 THE COURT: As to State's 4 and 5, Mr. Hughes?

17 MR. HUGHES: No objections, your Honor.

18 THE COURT: Ladies and gentlemen of the jury, State's  
19 Exhibits 4 and 5 will be admitted into evidence in the  
20 trial of this case, without objection. State's 4 and 5.  
21 You may publish to the jury, Solicitor.

22 MS. HENDERSON: Thank you, your Honor.

23 VIDEO CD REFERRED TO AS APRIL 12

24 INTERVIEW MARKED STATE'S EXHIBIT

25 NUMBER 4, ENTERED AS EVIDENCE.

1 VIDEO CD REFERRED TO AS APRIL 16

2 INTERVIEW MARKED STATE'S EXHIBIT

3 NUMBER 5, ENTERED AS EVIDENCE.

4 BY MS. HENDERSON:

5 Q Investigator Litchfield, while Erin's cuing those up,  
6 when I'm asking you was he *Mirandized*, what does that  
7 mean?

8 A Before we interview anyone, especially somebody  
9 that's arrested, you know, for a crime, we have to read  
10 them *Miranda*, which gives them the opportunity to have a  
11 lawyer present. It's a standard form that we use so that  
12 we do it the same way every time. Explains that what  
13 they can be awarded as part of the interview process.  
14 They have the opportunity to talk to us about it, and  
15 they're informed that anything they say can and will be  
16 used against them in a court of law.

17 Also, they have the right to an attorney, and if they  
18 can't afford one, one will be appointed for them. It  
19 gives them their right to understand what's going on if  
20 they do talk to us.

21 Q Okay. And are they also told in those warnings that  
22 they have the right to stop the questioning at any time?

23 A Yes, ma'am.

24 Q Okay. So those are the warnings that you read to him  
25 prior to speaking to him that he waived and agreed to

1 speak to you?

2 A Yes, ma'am.

3 Q Okay.

4 REPORTER'S NOTE: VIDEO CD, STATE'S  
5 EXHIBIT NUMBER 4, OF APRIL 10  
6 INTERVIEW PLAYING.

7 THE COURT: Just stop it for one second, please. Let  
8 the jury know, so the record's complete, which exhibit  
9 we're looking at.

10 MS. HENDERSON: I'm sorry. Thank you. This is  
11 State's Exhibit 4.

12 THE COURT: Very well. Without objection. Proceed.

13 REPORTER'S NOTE: VIDEO CD, STATE'S  
14 EXHIBIT 4, OF APRIL 10 INTERVIEW PLAYING.

15 BY MS. HENDERSON:

16 Q And is that an accurate reflection of the  
17 conversation you had?

18 A Yes, ma'am.

19 Q And that's what you remember his statements being?

20 A Yes, ma'am.

21 Q Okay. And I know that the jury just heard it, but  
22 it's a little fuzzy. What was the question that you  
23 asked him that prompted the answer?

24 A I asked him, that Crown Royal bag, whose was it.

25 Q Okay. Now, were you present for any other interviews

1 of the defendant -- I'm sorry. Play State's Exhibit 5.  
2 I apologize, your Honor.

3 While we're cuing this up, just so the jury's clear,  
4 what was his answer in response to that question?

5 A He stated that it was ours; the pills were not all  
6 his; not all mine; we had it together.

7 REPORTER'S NOTE: VIDEO CD, STATE'S  
8 EXHIBIT NUMBER 5, OF APRIL 16 INTERVIEW  
9 PLAYING.

10 MS. HENDERSON: Begging the Court's indulgence for  
11 one second, your Honor.

12 I apologize, your Honor.

13 Your Honor, due to my interrupting the video, do you  
14 mind if we publish it again in its entirety?

15 THE COURT: Any objection, Mr. Hughes?

16 MR. HUGHES: None, your Honor.

17 THE COURT: You may re-play it without objection.

18 MS. HENDERSON: Thank you, your Honor.

19 THE COURT: This is State's 5.

20 REPORTER'S NOTE: VIDEO CD, STATE'S  
21 EXHIBIT NUMBER 5, OF APRIL 16 INTERVIEW  
22 PLAYING.

23 BY MS. HENDERSON:

24 Q Lieutenant Litchfield, who is that in that video?

25 A Myself interviewing Phillip Monroe.

1 Q And is Phillip Monroe in this courtroom?

2 A Yes, ma'am.

3 Q And where is he?

4 A Sitting beside Bob Hughes.

5 Q And what is he wearing?

6 A White and grey striped shirt.

7 MS. HENDERSON: Your Honor, let the record reflect  
8 he's identified the defendant as Phillip Monroe.

9 THE COURT: Proceed.

10 MS. HENDERSON: Thank you, your Honor.

11 BY MS. HENDERSON:

12 Q Mr. Litchfield, did you observe any other interviews  
13 of the defendant?

14 A Yes, ma'am.

15 Q And when was that?

16 A I believe on April 30th, following a polygraph.

17 MR. HUGHES: Your Honor, I believe we have a matter  
18 of law that needs to be taken up.

19 THE COURT: Counsel approach.

20 OFF-THE-RECORD BENCH CONFERENCE.

21 PRESENT: THE COURT, MS. HENDERSON,

22 MR. HUGHES.

23 THE COURT: Motion by defense is respectfully denied.

24 I'll make a record at the appropriate time. Please  
25 proceed.

1 MR. HUGHES: Thank you, your Honor.

2 MS. HENDERSON: Thank you.

3 BY MS. HENDERSON:

4 Q Investigator Litchfield, were you present when Brian  
5 Baird interviewed Phillip Monroe?

6 A Yes, ma'am.

7 Q And did he make a statement to Master Sergeant Brian  
8 Baird regarding this case?

9 A Yes, ma'am.

10 Q And what did he say?

11 A He actually told Brian Baird that the drugs were his  
12 that he threw in Courtney Baniel's lap; and that Courtney  
13 had nothing to do with this.

14 MS. HENDERSON: Thank you. No further questions,  
15 your Honor. Please answer any questions Mr. Hughes has.

16 THE COURT: Cross-examination.

17 MR. HUGHES: Thank you, your Honor.

18 LIEUTENANT DANIEL LITCHFIELD

19 CROSS-EXAMINATION, MR. HUGHES:

20 Q Lieutenant Litchfield, I apologize if I refer to  
21 calling you by your first name. We've known each other  
22 for a number of years.

23 A Not a problem, sir.

24 Q First of all, you've worked in Ridgeland since 2005.

25 A Yes, sir.

1 Q Where are Bay Tree Apartments?

2 A It's off of First Avenue, sir.

3 Q Right over here?

4 A Yes.

5 Q And you drive around Ridgeland a lot.

6 A Yes, sir.

7 Q Now, if you were driving from Bay Tree Apartments to  
8 Old House, what route would you take to be the fastest  
9 route?

10 A The fastest?

11 MS. HENDERSON: Objection, your Honor. This is  
12 speculative. And irrelevant.

13 THE COURT: Overruled. It's cross-examination. I'll  
14 allow it.

15 BY MR. HUGHES:

16 A Typically, I would go down Main Street and the way to  
17 the -- underneath the interstate's overpass, and go from  
18 there.

19 Q Straight down Main Street.

20 A Yes.

21 Q Okay. Now, when you interviewed Phillip Monroe, did  
22 he tell you that he was going to a house on Adam Street  
23 to cook the cocaine into crack cocaine?

24 A I don't believe so.

25 Q Did he tell you where to find the paraphernalia?

1 A Yes.

2 Q And where was that?

3 A That was on Skinner's house on Adams Street.

4 Q On Adams Street.

5 A Yes.

6 Q Now, is that located to the east or to the west of  
7 Logan Lane?

8 A I believe it's east.

9 Q So, between Logan Lane and Kentucky Fried Chicken.  
10 Do you know personally where the stop and arrest took  
11 place?

12 A Yes.

13 Q Where?

14 A It happened on Adams Street in between KFC and Logan.  
15 I believe the first yard on the right going toward KFC.

16 Q Just past the church.

17 A Yes, sir.

18 Q Okay. You work for the Ridgeland Police Department.

19 A Yes, sir.

20 Q Now, you're an investigator.

21 A Yes, sir.

22 Q Which is higher than a standard patrolman.

23 A I'd say more lateral.

24 Q And you do a lot of interviews and a lot of work  
25 around suspects.

1 A Yes, sir.

2 Q The video we just saw, did you have a big video  
3 camera when you took it?

4 A Small one.

5 Q But you have a video camera.

6 A Yes.

7 Q The patrolmen have a little thing they wear on their  
8 ear that's a camera.

9 A Yes.

10 Q Do you have access to that?

11 A I have access to. I've never been issued one, but  
12 they're in the squad room.

13 Q Okay. The chief would let you use one.

14 A Oh, yeah. Yes, sir.

15 Q Okay. Do you have video, either from your camera or  
16 from the little thing that they wear on their ear, of  
17 Courtney Baniel -- I'm sorry -- of Phillip Monroe making  
18 the statement on April 30th?

19 A No.

20 Q But you had the accessibility to make one.

21 A As far as the Axon video capabilities, I've never  
22 been to that class, never been issued one, never used  
23 one. But as far as the little handheld recorder, we keep  
24 that in the office, and typically use it for interviews  
25 and stuff at the office.

1 Q Do you have a cell phone?

2 A Yes.

3 Q Is it a Smartphone?

4 A Smarter than me most time.

5 Q Does it have video capabilities?

6 A Yes.

7 Q Did you take a video of the so-called confession with  
8 that?

9 A No, sir.

10 Q Did you have it with you?

11 A Yes, sir. I don't get cell service in the Beaufort  
12 office, but I had it with me.

13 Q Okay. But you had the ability to make a recording,  
14 but you did not do so.

15 A No, sir. Now, if you'd like me to elaborate, I will.

16 Q Sure. Go ahead.

17 A Typically, when we use another agency's equipment or  
18 facilities, we try to use their, also, their rules as far  
19 as that goes. It was on a closed circuit T.V., if you're  
20 referring to the polygraph. And at that time, I --

21 THE COURT: Just a moment, Bob. One second. Yes,  
22 ma'am.

23 MS. HENDERSON: Sidebar, your Honor.

24 THE COURT: Counsel approach.

25 OFF-THE-RECORD BENCH CONFERENCE.

1                   PRESENT: THE COURT, MS. HENDERSON,  
2                   MR. HUGHES.

3           THE COURT: Mr. Litchfield.

4       A    Yes, sir.

5           THE COURT: Would you step around with me here with  
6       me, please.

7                   REPORTER'S NOTE: THE WITNESS, LIEUTENANT  
8                   LITCHFIELD JOINED THE BENCH CONFERENCE.

9           THE COURT: Proceed. Cross-examination.

10           BY MR. HUGHES:

11       Q   And this interview took place in Beaufort County.

12       A    Yes, sir.

13       Q   And Beaufort County does not have the ability to take  
14       videos or do recordings?

15       A    I'm not aware of their equipment or, you know,  
16       procedures for that.

17       Q   Okay. Let's change the subject. What does it mean  
18       when an inmate or a suspect or someone has money put on  
19       the books?

20       A    Typically, their book is like a canteen account for  
21       them to purchase things in the jail.

22       Q   Did you ever put money on the books of Phillip  
23       Monroe?

24       A    Yes, sir.

25       Q   Was it around the 16th of April last year?

1 A Somewhere around that time.

2 MR. HUGHES: No further questions, your Honor.

3 THE COURT: Re-direct.

4 LIEUTENANT DANIEL LITCHFIELD

5 RE-DIRECT-EXAMINATION, MS. HENDERSON:

6 Q Investigator Litchfield, did the money that was put  
7 on his card have anything to do with this case?

8 A No, not at all.

9 Q Did it have anything to do with the statements that  
10 he made to you?

11 A No, ma'am, not at all.

12 Q Anything to do with any future statements?

13 A No, ma'am.

14 MS. HENDERSON: No further questions, your Honor.

15 THE COURT: Re-cross.

16 MR. HUGHES: No further questions.

17 THE COURT: As to this witness, Solicitor?

18 MS. HENDERSON: Your Honor, as with the rest, would  
19 like him to stay.

20 THE COURT: All right. Mr. Litchfield, if you would,  
21 if you would return to the room that where you were  
22 previously. You're subject to re-call in this case in my  
23 order, which has been explained to you by the solicitor.  
24 Thank you. You may step down.

25 A Yes, your Honor. Thank you.

1 THE COURT: Call your next witness.

2 MS. HENDERSON: The State calls Master Sergeant Brian  
3 Baird.

4 MR. HUGHES: Your Honor, may we approach?

5 OFF-THE-RECORD BENCH CONFERENCE.

6 PRESENT: THE COURT, MS. HENDERSON,

7 MR. HUGHES.

8 THE COURT: Stand right there for me, if you would,  
9 Master Sergeant. They need to speak to you before you're  
10 sworn by the clerk.

11 MS. HENDERSON: Again, your Honor, State calls Master  
12 Sergeant Brian Baird.

13 THE COURT: Very well. Would you come around and be  
14 sworn by the clerk, please.

15 MASTER SERGEANT BRIAN MARK BAIRD: Yes, sir.

16 WITNESS SWORN.

17 THE COURT: Make yourself comfortable. Pull up the  
18 chair. Adjust the microphone. State your full name and  
19 spell your last for the record, please.

20 MASTER SERGEANT BRIAN MARK BAIRD: Brian Mark Baird,  
21 B/a/i/r/d.

22 THE COURT: Direct examination, Counsel.

23 MS. HENDERSON: Thank you, your Honor.

24 MASTER SERGEANT BRIAN MARK BAIRD

25 DIRECT EXAMINATION, MS. HENDERSON:

1 Q Master Sergeant Baird, with what agency are you  
2 employed?

3 A Beaufort County Sheriff's Office.

4 Q And can you please tell this jury a little bit about  
5 your law enforcement background.

6 A I started off my career in the United States Marine  
7 Corps as a military policeman. I switched slightly to go  
8 into the Marine Corps Criminal Investigation Division. I  
9 stayed there for about eight years. And then I was  
10 selected to travel with the Naval Criminal Investigative  
11 Service. What most people now know as NCIS. I finished  
12 my Marine Corp career being assigned full time over NCIS.  
13 I retired from there, and came to work for the Beaufort  
14 County Sheriff's Office.

15 Q And how long have you been with Beaufort County?

16 A Since December of 2001.

17 Q And are you sometimes asked to assist other agencies?

18 A Yes, ma'am, I am. Because of my experience,  
19 sometimes I'll be asked to assist other law enforcement  
20 agencies in the area, interviewing and other functions.

21 Q And were you asked to assist in this case?

22 A Yes, ma'am, I was.

23 Q Okay. And did you oblige?

24 A Yes, ma'am, I did.

25 Q Okay. So, do you remember the date that you met with

1       Phillip Monroe?

2       A    I believe it was April 30, 2012.

3       Q    Well, then, I guess I should back up. And my  
4       apologies. When I say they asked you to assist, did they  
5       ask you to interview Phillip Monroe?

6       A    Yes, they did.

7       Q    Okay. And prior to any conversation with him, was he  
8       given his *Miranda* warnings?

9       A    Yes, I advised him of his *Miranda* rights.

10      Q    Okay. And I know the jury just heard what  
11      Investigator Litchfield *Mirandized*, but will you please  
12      tell them what you *Mirandize* him.

13      A    Yes. We have a standard form we use. And what we do  
14      is, we read the form to them, and we ask them to read  
15      along with us. And generally, it states that these are a  
16      statement of your rights. And it says you have the right  
17      to remain silent; anything you say can and will be used  
18      against you in a court of law; you have the right to  
19      speak to an attorney for advice before I speak with you,  
20      and have him or her present during this interview; and  
21      that you are free to terminate the interview, meaning  
22      stop at any time.

23      Q    And these were the rights that were read to him  
24      before he spoke to you?

25      A    Yes, as he read along with me on.

1 Q Okay. And did he waive those rights and agree to  
2 speak to you?

3 A Yes, he did.

4 Q Okay.

5 A And signed for them as such.

6 Q Thank you. And did he make any statements regarding  
7 this case to you?

8 A Yes, he did.

9 Q And what was that statement?

10 A While I was speaking to him, I made the statement to  
11 the effect that the drugs that were in the car were  
12 actually his, because at the time there was a traffic  
13 stop, that the drugs that were taken off the other  
14 person's lap were actually his drugs.

15 Q Okay. Did he mention whether or not the co-defendant  
16 or the other person knew about the drugs?

17 A He said he wasn't involved with them, is what he told  
18 me.

19 Q And is the person that you interviewed that made that  
20 statement to you in this courtroom?

21 A Yes. He's seated next to defense counsel, Mr.  
22 Hughes.

23 Q And do you know his name?

24 A Phillip Monroe.

25 MS. HENDERSON: No further questions from the State,

1 your Honor. Please answer any questions Mr. Hughes has.

2 A Thank you.

3 THE COURT: Cross-examination.

4 MR. HUGHES: Thank you, your Honor.

5 MASTER SERGEANT BRIAN MARK BAIRD

6 CROSS-EXAMINATION, MR. HUGHES:

7 Q Mr. Sergeant.

8 A Sir.

9 Q Preparing for this case, I received a lot of videos  
10 from the solicitor's office. Could you tell me why I do  
11 not have a video of that statement.

12 A My interview with Mr. Monroe?

13 Q Yes. Do you not have the ability to videotape?

14 A No. The interviewing we used, I recently switched  
15 offices, and I did not have the ability to video record  
16 -- record in the room that that interview was done at the  
17 time.

18 Q Does Beaufort County not allow other law enforcement  
19 agencies to videotape when they use your facilities?

20 A If they would have brought video equipment, we  
21 probably would have allowed it. I don't think we would  
22 have denied it.

23 Q But there is no video or audio of this so-called  
24 confession.

25 A That's correct, sir. We did not have the ability to

1 do that at the time.

2 MR. HUGHES: No further questions, your Honor.

3 THE COURT: Re-direct.

4 MS. HENDERSON: Not from the State, your Honor.

5 THE COURT: As to the witness?

6 MS. HENDERSON: Same as the others, your Honor,  
7 subject to re-call, please.

8 THE COURT: Master Sergeant, if you would, please, if  
9 you'd return to the room where you were previously  
10 located. You're subject to re-call in the trial of this  
11 case, subject to my order that was explained to you by  
12 the solicitor concerning testimony.

13 A Yes, sir.

14 THE COURT: Thank you. You may step down. Call your  
15 next witness.

16 A Thank you.

17 MS. HENDERSON: Thank you, your Honor. The State  
18 calls Investigator Cris McIntosh.

19 WITNESS SWORN.

20 THE COURT: Have a seat. Pull that chair up. Adjust  
21 the microphone. State your full name and spell your  
22 last.

23 INVESTIGATOR CHRISTOPHER ALLEN MCINTOSH: Christopher  
24 Allen McIntosh. M/c/I/n/t/o/s/h.

25 THE COURT: Ready, Wanda?

1 COURT REPORTER: Yes.

2 THE COURT: Your witness, Counsel. Direct  
3 examination."

4 MS. HENDERSON: Thank you, your Honor.

5 INVESTIGATOR CHRISTOPHER ALLEN MCINTOSH

6 DIRECT EXAMINATION, MS. HENDERSON:

7 Q Investigator McIntosh, what agency are you employed  
8 with?

9 A Ridgeland Police Department.

10 Q And can you please tell this jury the background  
11 about your law enforcement experience.

12 A Yes, ma'am. After high school, I served four years  
13 in the U.S. Navy. After four years active duty, went two  
14 years active reserves. I started with the Hardeeville  
15 Police Department in late 2001. I graduated from the  
16 Criminal Justice Academy in 2002. I came to the  
17 Ridgeland Police Department in 2007, and became an  
18 investigator in 2010.

19 Q Okay. And what are some of your duties as an  
20 investigator?

21 A We investigate and -- and assisted, attempted the  
22 apprehension, and prosecution of criminal defendants.

23 Q Are you brought in by road officers on incidences  
24 that happened at night?

25 A Yes, ma'am, sometimes.

1 Q And were you brought in on this case?

2 A Not the night of the incident, no, ma'am.

3 Q Okay. When were you brought in?

4 A The following morning.

5 Q Okay. And did you have any contact with the drugs in  
6 this case?

7 A Yes, ma'am.

8 Q And what was that?

9 A The following morning, after reviewing the case along  
10 with Lieutenant Litchfield, I retrieved the -- the drugs  
11 from the evidence locker; I sealed them into a Best bag,  
12 which is a narcotics bag that we use to transport to the  
13 forensics lab in Beaufort.

14 Q And what did you do after you put them in the Best  
15 bag?

16 A Transported them to the forensics lab in Beaufort.

17 Q Okay. And after they're analyzed, what happens?

18 A We receive the results via email, and then the actual  
19 -- the actual drugs, the evidence is returned to us. And  
20 that's then sealed in the evidence locker, pending trial.

21 Q And you go and pick them up?

22 A Yes, ma'am.

23 Q Is that what you did in this case?

24 A Yes, ma'am.

25 Q You took them to the Beaufort County lab?

1 A Yes, ma'am.

2 Q And picked them back up?

3 A Yes, ma'am.

4 Q I'm handing you what's been previously marked as  
5 State's Exhibits 1 -- sorry -- 2 and 3.

6 Your Honor, permission to approach the witness?

7 THE COURT: You may approach.

8 Q Do you recognize those?

9 A Yes, ma'am.

10 Q And how are you able to recognize them?

11 A My signature is across the sealing tape.

12 Q Okay. And do they appear to be altered in any way?

13 A No, ma'am.

14 Q Thank you. Permission to approach, your Honor.

15 Investigator McIntosh, were you also present for  
16 interviews with Phillip Monroe?

17 A Yes, ma'am.

18 Q And did you hear any statements that he made  
19 regarding ownership of these drugs?

20 A Yes, ma'am.

21 Q And as to the April 12th interview, the first  
22 interview, do you remember what statements he made  
23 regarding ownership?

24 A The April 12th interview, he denied any ownership or  
25 knowledge.

1 Q What about the April 16th interview?

2 A The April 16th interview, he stated that they  
3 belonged to both him and Courtney Baniel.

4 Q Okay. And did he mention the pills?

5 A Yes, ma'am, the April 16th interview. He -- he  
6 stated he got the pills from a girl named Tina on Augusta  
7 Avenue who gets them prescribed to her.

8 Q Okay. And were you present at the April 30th  
9 interview?

10 A Yes, ma'am.

11 Q And did he make a statement regarding this case then?

12 A Yes, ma'am.

13 Q Did you hear it?

14 A Yes, ma'am.

15 Q And what did you [sic] say?

16 A He stated that the drugs that night on the traffic  
17 stop belonged to him. He threw them in Courtney Baniel's  
18 lap. And that Courtney Baniel was not involved.

19 Q Okay. And while I have you on the stand, Mr. Hughes  
20 had made some fuss about Courtney's handcuffs being  
21 double locked or whatever. Can you please explain what  
22 tumble locked means.

23 A Yes, ma'am. Double locked is a -- all -- all  
24 handcuffs have a double-lock pin. It's a small pin.  
25 Sometimes on the face and sometimes on the back side.

1 There's a small point on the handcuff key that most  
2 people probably have seen on television and stuff. The  
3 point goes in to push that pin in. This prevents the  
4 handcuffs from -- from binding. Because when you're  
5 sitting in a back seat with them on you, they tend to  
6 bind up, which could injure a suspect. We double lock  
7 them to prevent that so that -- it's standard procedure.  
8 And it's actually required in our department. Any time  
9 you put someone in handcuffs, you are to double lock  
10 them.

11 Q So, it's not a sign that someone was trying to  
12 escape.

13 A Absolutely not. No, no.

14 Q Okay. And lastly, is the person that you were  
15 present was interviewed and that you know as Phillip  
16 Monroe that claimed ownership of these drugs in this  
17 room?

18 A Yes, ma'am.

19 Q And where is he?

20 A Sitting at his defense counsel by Bob Hughes, wearing  
21 a white striped shirt.

22 MS. HENDERSON: Thank you. Your Honor, I have no  
23 further questions. Please answer any questions that Mr.  
24 Hughes may have.

25 THE COURT: Cross-examination.

1 MR. HUGHES: Thank you.

2 INVESTIGATOR CHRISTOPHER ALLEN MCINTOSH

3 CROSS-EXAMINATION, MR. HUGHES:

4 Q Now, I looked at the interviews from the 12th and the  
5 16th. I don't see you in there. Where were you?

6 A The camera doesn't have a panoramic option. It's  
7 just a small Sony Camcorder. We sit it close enough to  
8 where we can pick up the audio. Our interview room,  
9 which is also our municipal courtroom, the counter goes  
10 in a circle. So, therefore, it's -- it's mandatory that  
11 we have the defendant in it. At least one interview.  
12 Litchfield takes that seat. I will be seated next to  
13 Lieutenant Litchfield.

14 Q Okay. How close were you to the camera?

15 A From here to the other end of this small counter  
16 right here. If that.

17 Q So you know how to use a camera and all that?

18 A Yes, sir.

19 Q How long were those interviews?

20 A The April 12th and the April 16th, if I had to guess,  
21 I'd say between 20 and 30 minutes, give or take. The  
22 April 30th, probably a good couple hours.

23 Q Now, do you have a Smartphone?

24 A Yes.

25 Q Does it have the ability to do audio and video

1 recording?

2 A Yes, sir.

3 Q Do you have an audio and video recording of the April  
4 30th confession?

5 A No, sir.

6 MR. HUGHES: No further questions, your Honor.

7 THE COURT: Re-direct.

8 MS. HENDERSON: Nothing from the State, your Honor.

9 THE COURT: As to the witness?

10 MS. HENDERSON: Subject to re-call, your Honor.

11 THE COURT: Very well. Mr. McIntosh, if you would,  
12 return to the room where you were previously. You're  
13 subject to re-call in the trial of this case, subject to  
14 my order. Thank you.

15 A Yes, sir. Yes, sir.

16 MS. HENDERSON: Your Honor, he is the case officer,  
17 so.

18 THE COURT: Oh. I apologize. Have a seat. Call  
19 your next witness.

20 MS. HENDERSON: Thank you, your Honor. The State  
21 calls Jennifer Mills.

22 THE COURT: Come and be sworn by the clerk, please.

23 WITNESS SWORN.

24 THE COURT: Watch your step. You got to step up  
25 there. Have a seat. Make yourself comfortable. Adjust

1 the chair. Adjust the microphone to your height. State  
2 your full name, and spell your last name for my court  
3 reporter.

4 JENNIFER MILLS: My name is Jennifer Mills.  
5 J/e/n/n/i/f/e/r M/i/l/l/s.

6 THE COURT: Your witness, Counsel.

7 JENNIFER MILLS

8 DIRECT EXAMINATION, MS. HENDERSON:

9 Q Ms. Mills, are you recovering from being sick?

10 A I am.

11 Q And you lost your voice.

12 A I did.

13 Q Okay. You just now kind of got it back?

14 A Today.

15 Q Okay. I know this might be tough, but we just need  
16 to make sure that your answers are as clear and as loud  
17 as they can be.

18 THE COURT: Proceed.

19 Q Ms. Mills, who are you employed with?

20 A I'm employed with the Beaufort County Sheriff's  
21 Office Forensics Services Lab.

22 Q And what is your job there?

23 A My job is to chemically analyze materials that are  
24 submitted to the lab by officers that they believe a  
25 controlled drug may be present, and then be prepared to

1       testify in court as to what I found.

2       Q     And Ms. Mills, --

3       THE COURT:   Just a moment.   Yes, sir.

4       MR. HUGHES:  Your Honor, on behalf of brevity, and to  
5     save Ms. Mills' voice, I will be more than happy to  
6     stipulate that she's an expert at drug identification.

7       THE COURT:  Counsel approach.

8       OFF-THE-RECORD BENCH CONFERENCE.

9       PRESENT:   THE COURT, MS. HENDERSON,

10      MR. HUGHES.

11      MR. HUGHES:  Your Honor, to save Ms. Mill's voice, I  
12     am more than happy to stipulate that she is an expert  
13     witness as far as drug identification.

14      THE COURT:  Ladies and gentlemen of the jury, you're  
15     about to hear testimony of a witness who claims to have  
16     special knowledge, skill, training, or education in the  
17     field of drug analysis.  Normally, the law does not  
18     permit witnesses to get on the witness stand and testify  
19     as to their opinion or conclusion.  An exception to that  
20     rule is for those witnesses whom we call expert  
21     witnesses.  Witnesses who have qualified by the Court are  
22     permitted to give an opinion as to expert as to matters  
23     in which they claim to be so skilled.

24      In determining the weight to be given any expert  
25     opinion, you should consider the qualifications and

1       credibility or believability of the expert, reasons given  
2       for his or her opinion. You are not bound by such expert  
3       opinion. You give it the weight, if any, to which you  
4       deem it should be entitled.

5       This witness is qualified in the field of drug  
6       analysis, without objection. You may proceed, Solicitor.

7       THE COURT: Thank you, your Honor.

8       BY MS. HENDERSON:

9       Q   Ms. Mills, can you please tell the jury the standard  
10       procedure you use when you obtain drugs to be analyzed.

11       A   when a request is made for an analysis, the drugs are  
12       brought to the laboratory. At that time, we check to see  
13       that the packages are sealed, in a sealed condition. We  
14       store them until time of analysis.

15       Q   And then what?

16       A   At time of analysis, I remove the drug material, or  
17       suspected drug material, and I will determine the weight  
18       of the substance without the packaging. I'll also do  
19       chemical analysis that includes a color test, a  
20       preliminary color test. Also, I take a portion of the  
21       material and run it on the gas chromatograph mass  
22       spectrograph, and collect this information and provide a  
23       report.

24       Q   And Ms. Mills, if you could please explain to those  
25       of us that don't have knowledge of this, what is the

1 color test and the gas chromatograph spectrum test.

2 A A cobalt test is a cobalt thiocyanate test. Many of  
3 you have seen it on T.V. when they shake the material and  
4 it turns blue. We prepare those reagents ourselves. And  
5 that gives us an indication of what might be present in  
6 that substance.

7 And then we go to the next step. We take a portion  
8 of the powder, and we dissolve it in a liquid. And we  
9 put it on an instrument. It actually has two parts. One  
10 is a gas chromatograph, which has the ability to separate  
11 all the different compounds that are in the material.  
12 The second part is the mass detector. And it has the  
13 ability to identify each chemical. And it matches to a  
14 library that we've prepared. So we bring a color test, a  
15 weight, and the gas chromatogram retention time, and the  
16 mass spec. Put that information together to determine  
17 what substance was found.

18 Q And Ms. Mills, is that the procedure that you did in  
19 this case with these narcotics?

20 A Yes, it is.

21 MS. HENDERSON: May I approach the witness?

22 THE COURT: You may.

23 Q Ms. Mills, I'm handing you what's been marked for  
24 purposes of identification as State's Exhibits 2, 3, and  
25 6. As to State Exhibit 2, do you recognize this?

1 A I do.

2 Q And how are you able to recognize it?

3 A The package that is State's Exhibit Number 2 has a  
4 seal at the bottom of the package that has my initials,  
5 J.E.M.; my laboratory case number for this file results,  
6 2012L0278. And also, in Item Number 1, that I placed on  
7 this package when my analysis was completed.

8 Q And Ms. Mills, what analysis -- what did your  
9 analysis determine about Item Number 2?

10 A Item Number 2?

11 Q State's Exhibit 2. I'm sorry.

12 A State's Exhibit Number 2, an evidence bag contains a  
13 plastic bottle containing 56 round, white tablets, which  
14 were found to contain Clonazepam.

15 Q And which schedule drug is that?

16 A Schedule IV.

17 Q Thank you.

18 MS. HENDERSON: Your Honor, the State asks to move  
19 State's Exhibit 2 into evidence.

20 THE COURT: Any objection as to State's 2?

21 MR. HUGHES: No, your Honor.

22 THE COURT: Ladies and gentlemen of the jury, State's  
23 Exhibit Number 2 will be admitted into evidence in the  
24 trial of this case, without objection. State's 2 in  
25 evidence. You may publish to the jury.

1 MR. HUGHES: Thank you, your Honor. Your Honor, may  
2 I --

3 THE COURT: You may approach.

4 MS. HENDERSON: May I publish at the end?

5 THE COURT: At the end.

6 MS. HENDERSON: Thank you, your Honor.

7 THE COURT: You may do as you desire. Proceed.

8 MS. HENDERSON: Thank you, your Honor.

9 ITEM REFERRED TO AS EVIDENCE BAG  
10 CONTAINING A PLASTIC BOTTLE,  
11 CONTAINING 56 ROUND, WHITE TABLETS,  
12 FOUND TO CONTAIN CLONAZEPAM MARKED  
13 STATE'S EXHIBIT NUMBER 2, AND  
14 ADMITTED AS EVIDENCE.

15 BY MS. HENDERSON: Q Ms. Mills, as to State's  
16 Exhibit 3, do you recognize this?

17 A I do.

18 Q How are you able to recognize it?

19 A Again, State's Exhibit Number 3, the package has my  
20 initials; my case number; and an item number, Number 4,  
21 that I placed on it when I sealed it. And the bag inside  
22 State's Exhibit Number 3, also has my initials, case  
23 number, and item number on them.

24 Q And what were the results of your analysis on State's  
25 Exhibit 3?

1 A The evidence bag containing a plastic bag contained a  
2 white powder substance which contains cocaine, weighing  
3 27.97 grams, without the package.

4 MS. HENDERSON: Your Honor, the State moves State's  
5 Exhibit 3 into evidence at this time.

6 THE COURT: As to State's Exhibit 3, Mr. Hughes?

7 MR. HUGHES: No objection, your Honor.

8 THE COURT: Ladies and gentlemen, State's Exhibit  
9 Number 3 admitted into evidence, without objection.  
10 State's 3 in evidence. Proceed.

11 ITEM REFERRED TO AS EVIDENCE  
12 BAG CONTAINING WHITE POWDER  
13 SUBSTANCE CONTAINING COCAINE,  
14 WEIGHING 27.97 GRAMS MARKED  
15 STATE'S EXHIBIT NUMBER 3, ADMITTED  
16 AS EVIDENCE.

17 BY MS. HENDERSON:

18 Q And Ms. Mills, in relation to State's Exhibit 6, do  
19 you recognize that?

20 A I do.

21 Q And what is it?

22 A This is a recording of my results for Laboratory Case  
23 Number 2012L0278, in reference to State's Exhibits 2 and  
24 3.

25 Q Thank you. Your Honor, State would ask to move

1 State's Exhibit 6 into evidence.

2 THE COURT: As to State's 6, Mr. Hughes?

3 MR. HUGHES: No objection, your Honor.

4 THE COURT: Ladies and gentlemen of the jury, State's  
5 Exhibit Number 6 Will be admitted into evidence in the  
6 trial of this case, without objection. State's 6. You  
7 may publish now to the jury.

8 MS. HENDERSON: Your Honor, may I approach the  
9 witness?.

10 THE COURT: You may.

11 ITEM REFERRED TO AS RECORDING  
12 OF RESULTS FOR LABORATORY CASE  
13 NUMBER 2012L0278 MARKED STATE'S  
14 EXHIBIT NUMBER 6 AND ENTERED AS  
15 EVIDENCE.

16 THE COURT: Counsel?

17 MS. HENDERSON: Your Honor, beg the Court's  
18 indulgence for one second, please.

19 THE COURT: All right. But Counsel, those exhibits  
20 go to my court reporter, not on counsel table.

21 MS. HENDERSON: Yes, your Honor.

22 THE COURT: Ladies and gentlemen of the jury, while  
23 there's a momentary break, understand the exhibits will  
24 be with you in your jury room once you commence your  
25 deliberations.

1 MS. HENDERSON: Your Honor, I have no further  
2 questions for Ms. Mills.

3 THE COURT: Cross-examination.

4 MR. HUGHES: Thank you, your Honor.

5 JENNIFER MILLS

6 CROSS-EXAMINATION, MR. HUGHES:

7 Q Ms. Mills, I'm going to be very, very brief to save  
8 your voice and mine. Was there anything in those drugs,  
9 either the pills or the cocaine, to say who they belonged  
10 to?

11 A No, sir.

12 MR. HUGHES: No further questions, your Honor.

13 THE COURT: Re-direct.

14 MS. HENDERSON: Nothing from the State, your Honor.

15 THE COURT: As to the witness?

16 MS. HENDERSON: She can be released, your Honor.

17 THE COURT: Be excused?

18 MS. HENDERSON: Yes, your Honor.

19 THE COURT: Any objection, Mr. Hughes?

20 MR. HUGHES: None at all, your Honor.

21 THE COURT: Ms. Mills, you may step down from the  
22 trial of this case, and you're excused from the trial,  
23 and you may leave the courtroom at this time.

24 A Thank you, sir.

25 BY THE COURT:

1 obviously respond to any motions at that time. Or do you  
2 want --

3 THE COURT: I'm just asking you, since the jury's  
4 out, so I don't have to bring them back and send them  
5 back, whether or not you're going to rest.

6 MS. HENDERSON: Your Honor, the State is going to  
7 rest.

8 STATE RESTS, OUT OF PRESENCE OF JURORS.

9 THE COURT: All right. Now, let me explain for the  
10 record what has gone on. The State called Daniel  
11 Litchfield to the stand as a witness this afternoon. A  
12 question was asked -- and Wanda, I'm going to ask you to  
13 take a look at this, this evening, because we're going to  
14 finish the trial tomorrow -- *when did you talk to him*  
15 *next?* And his response was, *April 30th, after the*  
16 *polygraph.* At which time, Mr. Hughes stood up, asked to  
17 approach the Bench.

18 Mr. Hughes was informed that I would give the jury a  
19 curative instruction in which I told the jury there was  
20 no evidence of a polygraph in the case that we're trying,  
21 nor did Mr. Litchfield ever state that the defendant took  
22 a polygraph.

23 I offered to give any curative instruction that the  
24 defense requested. Mr. Hughes refused and moved for a  
25 mistrial. I denied the motion for a mistrial. This is

1 true because, Number 1, I don't believe that the question  
2 by the solicitor elicited a response concerning a  
3 polygraph. Number 2, when Mr. Hughes attempted to cross-  
4 examine concerning the April 30th statement, which was  
5 the subject of my *Jackson* -- or in part, the subject of  
6 my *Jackson/Denno* hearing earlier in this trial, again,  
7 the witness referred to a polygraph during cross-examine  
8 without a solicitation by defense counsel. I, again,  
9 informed Mr. Hughes that I would give a curative  
10 instruction. He refused that and wanted a mistrial.

11 It is clear to me that the testimony of this witness,  
12 both on direct and cross, that being Mr. Litchfield, that  
13 there was not an elicitation by counsel to bring out the  
14 fact that there was a polygraph. What I have been told  
15 during the break is that the defendant was taken to  
16 Beaufort Sheriff's Department for the purposes of a  
17 polygraph examination in a completely unrelated case, for  
18 which the defendant has never been charged, that being an  
19 investigation into a murder. And for which he is not  
20 going to be charged or has not been charged. I was aware  
21 of this.

22 I was also aware of the fact that my attorney both  
23 for the State instructed this witness, prior to their  
24 testimony, they were not to mention the word *polygraph*;  
25 they were not to mention the word *murder investigation*;

1 they were not to mention anything about other alleged  
2 offenses that the defendant may have been arrested for or  
3 charged with.

4 It has been my intention throughout the trial to  
5 prohibit the fact that the defendant has been charged in  
6 an-unrelated-that-we're-not-trying drug offense, simply  
7 because I think it's prejudicial; that it would be a drug  
8 offense or arrest; and because we're trying the defendant  
9 for a drug offense. And I have consistently ruled that  
10 that would not be permitted.

11 Now, we did allow the co-defendant to testify that,  
12 when the stop occurred on April 10, 2012, and the State's  
13 Exhibit Number 1, which is the Crown Royal bag, was  
14 allegedly thrown into the lap of the co-defendant; that  
15 the defendant made a statement to the co-defendant, *You*  
16 *need to take this, cause I have other charges.*

17 I instructed the Solicitor to inform the witness that  
18 he could not mention what those charges were, to try to  
19 prevent any prejudice to the defendant. And I wanted to  
20 make sure that the record is complete on that. I'm  
21 asking my court reporter tonight to check testimony of  
22 Mr. Litchfield to make sure what I've stated is correct  
23 concerning the polygraph, and to also check, because an  
24 issue has arisen concerning whether or not there was any  
25 testimony of distribution of drugs. And my recollection

1 of the testimony was there was not any testimony  
2 concerning the sell or distribution of drugs, which would  
3 leave us with one indictment, being a possession charge,  
4 rather than a distribution charge. However, I'm subject  
5 to being corrected if my court reporter tells me, after  
6 listening to Mr. Litchfield's testimony, that my memory  
7 is not correct on that point. I've advised the attorneys  
8 of that during our break.

9 Mr. Hughes, since the State intends to rest, when I  
10 bring the jury back, are there any motions on behalf of  
11 the defendant?

12 MR. HUGHES: Yes, your Honor. For one thing, I'd  
13 like to clear up that Mr. Baniel never said anything  
14 about other charges. He just said Mr. Monroe said take  
15 this -- take the charge on this.

16 THE COURT: All right. And actually, what you're  
17 referring to is his actual trial testimony, as opposed to  
18 what I was told he might say.

19 MR. HUGHES: Correct.

20 THE COURT: So, in fact, that issue became a non-  
21 issue, because he did not make that reference in the  
22 presence of the jury.

23 MR. HUGHES: I just did not want the State to argue  
24 the other way.

25 THE COURT: All right. Then, Wanda, what you'll be

1 looking for is that consistent with what Mr. Daniel said,  
2 as well as what Mr. Litchfield said.

3 All right, Mr. Hughes, what else?

4 MR. HUGHES: Your Honor, as far as the possession  
5 with intent to distribute, I am going to move for a  
6 directed verdict in this matter. The State has not shown  
7 any way, shape, or form any distribution. The only thing  
8 they have, even potentially, is a statement by my client.  
9 They have no other source of information as far as any  
10 distribution. The amount does not constitute a  
11 distributional amount under statute. Therefore, since  
12 they charged him with possession with intent to  
13 distribution, and they failed to prove all the elements,  
14 I'll move for a directed verdict on that.

15 As far as the trafficking in cocaine, your Honor, I  
16 believe they have failed to prove the possession of the  
17 cocaine by my client, and would move for a directed  
18 verdict on that, also.

19 THE COURT: All right. Thank you very much, Mr.  
20 Hughes. As to your motion for a directed verdict as to  
21 possession of cocaine, that he was in possession of the  
22 cocaine for purpose of the trafficking charge, that  
23 motion is respectfully denied.

24 Your other motion will be subject to my court  
25 reporter reviewing the testimony and advising me if there

1 was anything.

2 Solicitor, I'm happy to hear from you in response to  
3 that.

4 MS. HENDERSON: Thank you, your Honor. And I'd just  
5 like to clarify, in addition to Lieutenant Litchfield's  
6 testimony, when we played the tape back, it said what I  
7 thought it said, which was what I wanted to make sure, is  
8 that he says, *I got those pills for somebody*. And  
9 Lieutenant Litchfield said, *You do pills*. And he says, *I*  
10 *don't do pills; I got them for somebody*.

11 THE COURT: But I don't think that's evidence of  
12 distribution. That could be an accommodation. And I  
13 understand that that's what you're hearing. It's  
14 difficult for me, and it'd be difficult for the appellate  
15 court, to understand exactly what's on the audio portion  
16 of that exhibit. I understand that you believe that's  
17 the testimony to support possession with intent to  
18 distribute?

19 MS. HENDERSON: Yes, your Honor. And I thought,  
20 though I am subject to be corrected, that Lieutenant  
21 Litchfield testified further, but like I said, I think --

22 THE COURT: I'm going to have my court -- I'm going  
23 to hold my ruling on that until my court reporter reviews  
24 the record.

25 MS. HENDERSON: Thank you, your Honor.

1 Erin, would you approach?

2 MS. VAUX: Yes, sir.

3 REPORTER'S NOTE: THE COURT AND

4 MS. VAUX AT BENCH.

5 THE COURT: All right, ladies and gentlemen, I'm  
6 informed by the Solicitor that I'm going to go to non-  
7 jury matters after the conclusion after trial tomorrow.  
8 We will finish the trial at approximately 9:30 in the  
9 morning. I say approximately. It's my intention to do  
10 so. But obviously, I've got some pending matters I have  
11 to take care of before we conclude the trial.

12 Court's in recess at least until 9:30 a.m. tomorrow  
13 morning.

14 END DAY TWO, TUESDAY, FEBRUARY 12,  
15 2013, 4:04 P.M.

16 BEGIN DAY THREE, WEDNESDAY, FEBRUARY  
17 13, 2013, 10:02 A.M.

18 BY THE COURT:

19 THE COURT: All right. Let the record reflect that  
20 Mr. Monroe and Mr. Hughes are now present in the case  
21 we're trying. Mr. Hughes, yesterday, made a motion, and  
22 I've got the jury in the jury room. He made a motion on  
23 Indictment Number 2012-GS-27-00189. The indictment was  
24 true-billed as possession with intent to distribute.  
25 It's been amended. In fact, the solicitor even told me

1 last night she still needed to amend it even more because  
2 it still has both Schedule IV and Schedule II in the body  
3 of the indictment. But the Solicitor chose to proceed  
4 only on Schedule IV, Clonazepam, and that's  
5 C/l/o/n/a/z/e/p/a/m, a Schedule IV drug.

6 Mr. Hughes made a motion for a directed verdict on  
7 the issue of possession with intent to distribute.  
8 During the overnight recess, I had Wanda Rowe, my court  
9 reporter, re-play for me the testimony of Mr. Litchfield,  
10 including State's Exhibits 4 and 5. I have reviewed  
11 those with the court reporter in my chambers this morning  
12 prior to commencing court. I grant the defendant's  
13 motion and direct a verdict on the offense of possession  
14 with intent to distribute. I will submit the lesser-  
15 included offense of possession of a Schedule IV drug to  
16 the jury.

17 I have denied Mr. Hughes' motion for a directed  
18 verdict on the indictment charging the defendant with  
19 trafficking in cocaine greater than 10 grams, less than  
20 28, which is 2012-GS-27-00190. With that, and I've  
21 informed the attorneys who listened to the tape of the  
22 testimony with the Court in my chambers this morning  
23 before I moved to re-sentencing, so they are aware  
24 exactly of what the court reporter provided to me.

25 With that, I believe now we are ready to start.

1       sure that on the record that all my motions during the  
2       trial and post the State's resting be renewed.

3       THE COURT: You want to make a motion that you made  
4       at the close of the State's case at the close of all the  
5       evidence for the record.

6       MR. HUGHES: Yes, sir.

7       THE COURT: On the same grounds.

8       MR. HUGHES: Yes, sir.

9       THE COURT: I granted one of your motions, now, this  
10      morning, which was a direct verdict on PWID, Schedule IV.  
11      I denied your motion on the trafficking in cocaine. And  
12      they are noted for the record, and my rulings remain the  
13      same. But they are noted as if made at close of all the  
14      evidence, Mr. Hughes.

15      MR. HUGHES: And I'd also renew my motion for a  
16      mistrial.

17      THE COURT: Well, I don't think you need to renew it.  
18      Are you referring to the fact that where I offered you a  
19      curative instruction, those grounds?

20      MR. HUGHES: Yes, sir.

21      THE COURT: Yes, sir, and I put that on the record  
22      yesterday, Mr. Hughes. And once there, it'll be for the  
23      appellate court to determine. I don't think you're  
24      required to renew that, but I decline to change my  
25      ruling. Your request for a mistrial is respectfully

1 denied.

2 MR. HUGHES: Thank you, your Honor.

3 THE COURT: Counsel approach.

4 OFF-THE-RECORD BENCH CONFERENCE.

5 PRESENT: THE COURT, MS. HENDERSON,

6 MR. HUGHES.

7 THE COURT: Is the State satisfied with the verdict  
8 form?

9 MS. HENDERSON: Yes, your Honor.

10 THE COURT: Is the defendant satisfied with the  
11 verdict form?

12 MR. HUGHES: Yes, your Honor.

13 THE COURT: All right, Counsel, I believe that's  
14 everything now. I will tell the jury the reason we're  
15 starting 30 minutes behind time is because I had  
16 scheduled a re-sentencing of a 2008 case from Colleton  
17 County, which I forgot I scheduled for 9:30 when I was  
18 asked, or I would have told them to come back at 10:00  
19 o'clock rather than 9:30 this morning. So I put the  
20 delay entirely on myself, and not on you, because you  
21 were not the architect of that.

22 Good morning, Dizzy. You okay? Don't turn around.  
23 You know exactly who I'm talking to.

24 State ready to proceed?

25 MS. HENDERSON: Yes, your Honor.

1 appreciate your service. The delay was entirely on me.

2 Now, you've heard the evidence in this case, ladies  
3 and gentlemen. We're now going to hear the final  
4 arguments of the attorneys, followed by my charge to you  
5 on the law.

6 There will first be an argument by counsel for the  
7 State of South Carolina, followed by an argument by  
8 counsel for the defendant. I ask that you give the  
9 attorneys your careful consideration. No one in or out  
10 of the courtroom during argument and charge.

11 Solicitor.

12 MS. HENDERSON: May it please the Court, your Honor.

13 THE COURT: Yes, ma'am.

14 MS. HENDERSON: Mr. Hughes.

15 CLOSING ARGUMENT ON BEHALF

16 OF THE STATE, MS. HENDERSON:

17 MS. HENDERSON: Good morning. Ladies and gentlemen,  
18 let's talk about what happened on the night of April 10,  
19 2012. Start with what Courtney Baniel told us. Now, we  
20 know that he told us that Phillip came by and picked him  
21 up because he wanted a licensed driver in the car with  
22 him. We know they rode around Ridgeland, went to several  
23 spots. He told you where they went, and that they were  
24 on the way to take him home when they got pulled over.

25 Now, Mr. Hughes tried to make a big deal about the

1 route that they took, but there's more than one way to  
2 get to Cooler's than going down Main Street.

3 He testified that, when the blue lights turned on,  
4 Phillip grabbed the Crown Royal bag off the blinder and  
5 threw it in his lap, and told him to take the charges.  
6 When he said no, he said, *Don't play with me; take the*  
7 *charges; I'm going to kill Sally and them kids.*

8 He told you he was scared. He told you he got out of  
9 that car with his hands raised up in the air and let that  
10 bag fall to the ground. And he did that because that's  
11 what he's seen on T.V., put your hands up.

12 He never touched that bag. Why? Because those were  
13 not his drugs. He didn't know what was in that bag until  
14 the officer pulled the drugs out on the back of the car.

15 And the testimony that he gave you yesterday has  
16 remained the same since he told law enforcement. Unlike  
17 Phillip Monroe, who, at first, told you that the drugs  
18 weren't his; they were all Courtney's. That's what he  
19 told law enforcement.

20 Then he tells law enforcement, I'm going to be honest  
21 with you; I'm going to be honest with you; they were  
22 ours; we bought them together.

23 Finally, -- well, and not only did two officers  
24 testify that he made that statement about I'll be honest  
25 with you, the drugs were ours, you saw it on the video.

1 And you can watch that video again if you need to.

2 In addition, he told you where he got the pills from.  
3 He told you he got those pills for someone, from a lady  
4 named Tina.

5 Ladies and gentlemen, you're going to take those back  
6 there with you. You can see for yourself the pills.  
7 Name scratched off. You can take them back there with  
8 you. You can see the cocaine. You're going to be able  
9 to take this back there with you. He's charged with  
10 trafficking, 10 to 28 grams of cocaine. You can take the  
11 drug report back there with you. 27.97 grams of cocaine.

12 He told Investigator Litchfield he was going to cook  
13 that cocaine into crack. And then, when being  
14 interviewed by Brian Baird in Beaufort, he finally comes  
15 completely clean and tells him those drugs were mine; I  
16 threw them in Courtney's lap; Courtney knew nothing about  
17 them. Which is the same thing Courtney has said all  
18 along, and what he told you under oath yesterday.

19 Now, defense tried to make an issue out of the fact  
20 that that interview wasn't recorded. Ladies and  
21 gentlemen, there was no conspiracy not to record that  
22 interview. The room wasn't equipped with recording  
23 devices. Which you have not one, not two, but three law  
24 enforcement officers with 50 years of experience between  
25 the three of them, more than 50 years of experience

1       between the three of them, tell you under oath that he  
2       made that statement; that he said to Investigator Baird,  
3       *The drugs were mine; I threw them in Courtney's lap;*  
4       *Courtney knew nothing about them.*

5           And as I told you, ladies and gentlemen, you can re-  
6       hear any testimony you need to once you're back there.  
7       You can see the evidence. Don't get confused by the  
8       defense's attempt to distract you from the issues and  
9       what really matters.

10          For example, the license. So what if his license  
11       wasn't suspended. It was cured. But that's not why he  
12       was pulled over and it's not why he went to jail that  
13       night. It had nothing to do and had no effect on what  
14       happened that night.

15          Same thing with the handcuffs and the double lock.  
16       Defense tried to make an issue out of that. You heard  
17       Investigator McIntosh explain, that's a standard  
18       procedure. You're always supposed to double lock. It's  
19       for the suspect's safety. No one testified that Courtney  
20       tried to escape from his handcuffs. But regardless,  
21       again, that had nothing to do with the fact that these  
22       were Phillip Monroe's drugs. And he confessed to  
23       ownership of those drugs not once, but twice, after  
24       Courtney refused to. And why did he refuse to admit to  
25       them? Because they weren't his.

1           Now, remember, I told you I would bring you back to  
2           what I told you in the very beginning of this trial, and  
3           that's that Phillip Monroe is a drug dealer. Phillip  
4           Monroe is a drug dealer that wanted a hard-working father  
5           of three to go to jail for his crime.

6           Ladies and gentlemen, it didn't work, and that's why  
7           were here now. And I'm asking you to come back with a  
8           guilty verdict on both of those charges, trafficking in  
9           cocaine, ten to 28; and possession of a controlled  
10          substance. Because, ladies and gentlemen, Phillip Monroe  
11          is guilty beyond a reasonable doubt.

12          Thank you.

13          THE COURT: Mr. Hughes.

14          MR. HUGHES: May it please the Court.

15          THE COURT: Proceed.

16          MR. HUGHES: Ms. Henderson.

17                CLOSING ARGUMENT ON BEHALF

18                OF DEFENDANT, MR. HUGHES:

19          MR. HUGHES: Made a promise to you yesterday. I told  
20          you it was not going to be like anything you ever saw on  
21          television. I also told you that parts of it were  
22          actually going to be boring. I was right. Now, I paid  
23          attention not only what the witnesses were saying. Also,  
24          paid attention to what you were doing. You all paid  
25          attention, and I do appreciate that very, very much.

1           You took an oath yesterday to well and truly try the  
2           defendant at the Bar. But nothing in that oath says you  
3           have to give up your common sense. Ms. Henderson is  
4           right. Courtney Baniél's statement has not changed from  
5           the second day after the arrest. Now, why is that?  
6           Because Courtney Baniel started lying, and didn't change  
7           his lie to reflect the facts.

8           Phillip Monroe is arrested for, among other things,  
9           driving under suspension. So that's the reason why  
10          Courtney is in the car now, because he doesn't have a  
11          license. Therefore, he needed a licensed driver. Not  
12          the truth, but that's the reason why Courtney told it.  
13          Because he knew that Phillip was in trouble because of  
14          his license. Therefore, that's the reason I was in the  
15          car is because Phillip needed a driver. Well, if Phillip  
16          needed a driver, why wasn't Courtney driving?

17          Now, I had no idea there were drugs in the car.  
18          Officer Long testified he walks up to the car and he  
19          smells marijuana.

20          Second lie about Courtney. I didn't know what was in  
21          that bag. He jumps out of the car with his hands up. He  
22          knew what was in the bag.

23          We were going from Bay Tree to Cooler's Store. Now,  
24          if you're going home, you're going directly home. Bay  
25          Tree is over here. Cooler's Store, straight out 462, or

1        whatever that number is now. It used to be 278. Showing  
2        my age. It doesn't involve driving north on Logan  
3        Street, and then turning onto Adams Street.

4        Now, I don't know how many of you know Ridgeland, but  
5        Logan Street runs north and south. It's on the east side  
6        of town. It's the first road, if you're heading on Main  
7        Street, going toward the interstate, it's the first road  
8        you run into after you go through the red lights at Jacob  
9        Smart Boulevard or 17.

10       Now, I asked Detective Litchfield, *What was on Adams*  
11       *Street.* Adams Street is where the stuff to cook crack  
12       cocaine was located. Phillip told Detective Litchfield  
13       that after Detective Litchfield had paid him, put money  
14       on his book.

15       This is 27.9 [sic] grams of cocaine. I have  
16       absolutely no idea what the street value is, but if you  
17       mix it with baking soda and do certain things to it, you  
18       can make crack cocaine, which brings in a lot more money.

19       Now, why is Courtney Baniel in that car, if this  
20       isn't his? Courtney Baniel wants this cocaine made into  
21       crack cocaine, so he gets Phillip Monroe to take him to  
22       where he can cook crack cocaine.

23       Phillip Monroe is not guilty of trafficking. He is  
24       guilty of conspiracy to manufacture crack cocaine.  
25       That's not what he's on trial for. That's something for

1 later. That's not your call. Trafficking is what you  
2 are here for. Trafficking and possession of something  
3 which I have absolutely no idea how to pronounce. I  
4 don't even know the street name of it. Clonazepam. I  
5 don't even know what this does. But the solicitor is  
6 right. The State has ruled that is a Schedule IV  
7 narcotic. And that was located -- where is the State's 1  
8 -- in this. That was located in Courtney Baniel's  
9 possession. Pills, we have no idea what they do.  
10 Cocaine to be cooked into crack. And a drug result that  
11 says what it is.

12 Now, the State has made a lot of comments about the  
13 statements that my client has made. He starts off the  
14 drugs weren't mine. Then the drugs were ours. He was  
15 going to get a cut of the crack. That's conspiracy to  
16 manufacture and possess. That's something that comes up  
17 later, at another time and another place. That's not  
18 what you're here for. You're here for the trafficking.

19 Now, the State thinks that I am going to say there is  
20 a conspiracy between law enforcement about that final  
21 statement. No. Law enforcement officers are hard-  
22 working, underpaid individuals, but they hear what they  
23 want to hear.

24 The movie that I used to love to watch was *My Cousin*  
25 *Vinny*. In *My Cousin Vinny*, there is a scene. Young man

1 is accused of murder. He's being interviewed by law  
2 enforcement. The law enforcement -- the officer says, *Is*  
3 *that when you shot the clerk?* This is the first time the  
4 man had even heard about this. He goes, *I shot the*  
5 *clerk? I shot the clerk?*

6 Later, in court, the law enforcement officer is seen  
7 on the stand, just like law enforcement did yesterday,  
8 and then the defendant said, *I shot the clerk.* He then  
9 repeated himself and said, *I shot the clerk.*

10 The reason why I'm not happy with the fact that we  
11 don't have a video of that final, so-called confession is  
12 because words change meaning by the way you say them. We  
13 didn't hear the inflection. We didn't hear how he said  
14 what he said. And we didn't hear the exact words he  
15 said.

16 Law enforcement did not quote him exactly. They said  
17 he said this, but he said it in such a manner that they  
18 say the way he said it isn't the way a normal person  
19 talks. We didn't hear what Phillip Monroe said on April  
20 30th of last year, because, for some reason or another,  
21 their cell phones weren't working or they didn't even  
22 think that they needed it. Like I said, this is not a  
23 conspiracy by law enforcement. I wanted to hear exactly  
24 what was said. I wanted you to hear exactly what was  
25 said, because you don't know what was said without

1       hearing it.

2               That's one thing which I'm very proud of in Ridgeland  
3       in Jasper County. We have the video capabilities. We  
4       have the chance for the jury to see exactly what happened  
5       and exactly what was said. We have Phillip Monroe  
6       stating, *No, the drugs weren't mine.* That was on the  
7       first interview. Then we have him stating, *Ah, the drugs*  
8       *were ours; we were going -- I going to go cook some crack*  
9       *for Courtney.* Well, this is after Detective Litchfield  
10      had paid him. And then we have the April 30th statement,  
11      which we know what law enforcement heard, but we don't  
12      know what was said.

13             Ladies and gentlemen, my client, Phillip Monroe, is  
14      guilty of a lot of things. What he's not guilty of is  
15      trafficking in crack cocaine. He is not guilty of  
16      possessing these pills. Because these pills and this  
17      cocaine that was going to be turned -- excuse me -- he's  
18      not trafficking in cocaine, because this was going to be  
19      turned into crack. These belong to Courtney, and they  
20      were all in this bag, which was in Courtney's possession.

21             The charges Phillip is guilty of are not your all's  
22      to do anything with. That's for a later place in time.  
23      He is not guilty of trafficking in cocaine. He is not  
24      guilty of possession of these pills.

25             Thank you for your time, for your energy, for your

1 presence, and for your use of your common sense.

2 CHARGE, BY THE COURT:

3 THE COURT: Madam Foreperson, ladies and gentlemen of  
4 the jury, it is now my duty to charge you on the law of  
5 this case. The State of South Carolina has charged  
6 Phillip Monroe with trafficking in more than 10 grams but  
7 less than 28 grams of cocaine. That's Indictment Number  
8 2012-GS-27-190.

9 The State also has charged the defendant, Phillip  
10 Monroe, with possession of a Schedule IV drug, and the  
11 pronunciation is Clonazepam, C/l/o/n/a/z/e/p/a/m. That's  
12 in Indictment 2012-GS-27-189.

13 I remind you, first of all, that the fact that the  
14 defendant was indicted, the fact the defendant was  
15 arrested, the fact the defendant was charged in this case  
16 is not evidence in this case, nor does it create any  
17 presumption or inference of guilt. The indictment is  
18 simply the formal, written instrument, which contains the  
19 charges made against the defendant; that the indictment  
20 is the formal document by which the case is brought into  
21 this court, Court of General Sessions for Jasper County.

22 Now, to the indictments, the defendant has pled not  
23 guilty. And that plea by the defendant of not guilty  
24 places the burden on the State of South Carolina to prove  
25 the defendant guilty beyond a reasonable doubt.

1           A person charged with committing a criminal offense  
2           in South Carolina is never required to prove himself  
3           innocent. I charge you, ladies and gentlemen of the  
4           jury, that it is an important rule of the law that a  
5           defendant, in a criminal trial, no matter what the  
6           seriousness may be, will always be presumed to be  
7           innocent of the crime for which the indictment was  
8           issued, unless guilt has been proven by evidence  
9           satisfying you of that guilt beyond a reasonable doubt.

10           This presumption of innocence does not end when you  
11           begin your deliberations, but it accompanies every  
12           defendant throughout a trial, until you, the jury, reach  
13           a verdict of guilt based on evidence introduced during  
14           the trial of the case, satisfying you of that guilt  
15           beyond a reasonable doubt.

16           The presumption of innocence is not a mere legal  
17           theory. It is not just a legal phrase. It is a  
18           substantial right to which every defendant is entitled,  
19           unless you, the jury, are satisfied from the evidence of  
20           the defendant's guilt beyond a reasonable doubt.

21           What is a reasonable doubt in the law? A reasonable  
22           doubt is the kind of doubt that would cause a reasonable  
23           person to hesitate to act. The State has the burden of  
24           proving the defendant guilty beyond a reasonable doubt.

25           Some of you may have served as jurors in a civil case

1 where you were told that it was only necessary to prove  
2 that a fact is more likely true than not true. In a  
3 civil case, we call that burden of proof by the greater  
4 weight or the preponderance of the evidence. In a  
5 criminal case, such as the case here, the State's proof  
6 must be more than that. It must be beyond a reasonable  
7 doubt. Proof beyond a reasonable doubt is proof that  
8 leaves you, ladies and gentlemen of the jury, firmly  
9 convinced of the defendant's guilt.

10 There are, however, very few things in this world  
11 that we know with absolute certainty. And in criminal  
12 cases, the law does not require proof that overcomes  
13 every possible doubt. If, based on your consideration of  
14 the evidence, you are firmly convinced that the defendant  
15 is guilty of the crime or crimes charged, you must find  
16 the defendant guilty.

17 On the other hand, if you think there's a real  
18 possibility that the defendant is not guilty, you must  
19 give the defendant the benefit of the doubt and find the  
20 defendant not guilty.

21 I remind you, ladies and gentlemen, that during this  
22 trial, I told you at the outset, you and I have had  
23 certain duties to perform. As the trial judge, it has  
24 been my responsibility to preside over the trial of the  
25 case, to rule on the admissibility of evidence offered

1 during the trial of the case; and also, I have a duty to  
2 charge you the law at the conclusion of the case.

3 I remind you that you are to consider, ladies and  
4 gentlemen of the jury, only the competent evidence before  
5 you. If there was any testimony ordered stricken from  
6 the record in this case during this trial, you must  
7 disregard that testimony. You are to consider only the  
8 testimony which has been presented from that witness  
9 stand, any exhibits which have been introduced during the  
10 trial of the case and made a part of the record; and if  
11 there were any stipulations of counsel.

12 As a trial judge, as I told you, I have the  
13 additional duty to charge you the law that applies to  
14 this case. And as the presiding judge, I'm the sole  
15 judge of the law in this case. And it is your duty, as I  
16 told you at the outset of the trial, to accept and to  
17 apply the law as I now state it to you. So, if any of  
18 you on this jury already have some opinion or some idea  
19 as to what you think the law is, or even what you feel  
20 the law ought to be, and it does not agree with what I  
21 now tell you the law is, you must put aside any of your  
22 preconceived ideas or opinions, because each of you took  
23 an oath to accept and to apply the law exactly as I now  
24 state it to you.

25 In every case tried in this courtroom with a jury,

1       you, the members of the jury, become the sole and the  
2       exclusive judges of the facts in the case based on  
3       evidence introduced during the trial of the case. A  
4       trial judge, such as myself, cannot intimate, state,  
5       comment on, or make any statement to you, a trial jury,  
6       about the facts in the case. .

7               So, ladies and gentlemen, since you, the jury, are  
8       the sole judges of the facts in this case, you are not to  
9       infer from what I have said during the progress of this  
10      trial in ruling upon the admissibility of evidence or  
11      anything that I say now during the course of this  
12      instruction to you that I have any opinion whatsoever  
13      about the facts in this case. The law does not allow me  
14      to have an opinion about the facts in this case. This is  
15      a matter that is solely for you, the members of the jury,  
16      based on evidence introduced during the trial of the  
17      case. As jurors, it becomes your duty to determine the  
18      effect, the value, the weight, and ultimately, the truth  
19      of the evidence that's been presented during the trial of  
20      this case.

21             Now, there are two types of evidence that are  
22      generally presented in a trial. And like many things in  
23      the law, we have names for those two general types of  
24      evidence. We call the two types of evidence, which are  
25      generally presented during the trial, direct evidence and

1 circumstantial evidence. Direct evidence is the  
2 testimony of a person who claims to have actual knowledge  
3 of a fact, such as an eyewitness to an event. Direct  
4 evidence is evidence which immediately establishes the  
5 main fact to be proved.

6 Circumstantial evidence, as contrasted with direct  
7 evidence, is proof of a chain of facts and circumstances  
8 indicating the existence of a fact. Circumstantial  
9 evidence is evidence which immediately establishes a  
10 collateral fact from which the main fact may or may not  
11 be inferred. Circumstantial evidence, therefore, ladies  
12 and gentlemen of the jury, is based on inference, and not  
13 on personal knowledge or personal observation.

14 The law makes absolutely no distinction between the  
15 weight or the value to be given to either direct evidence  
16 or circumstantial evidence. Nor is any degree of  
17 certainty or greater degree of certainty required of  
18 circumstantial evidence than of direct evidence.

19 Ladies and gentlemen of the jury, you, as a juror,  
20 when I instruct you to do so, should weigh, consider, and  
21 evaluate all the evidence in this case, both direct and  
22 circumstantial. After weighing all the evidence in this  
23 case, both direct and circumstantial, if you are not  
24 convinced of the guilt of the defendant beyond a  
25 reasonable doubt, you must find the defendant not guilty.

1           On the other hand, after weighing, considering, and  
2           evaluating all the evidence in this case, if you are  
3           convinced of the guilt of the defendant beyond a  
4           reasonable doubt, you must find the defendant guilty.

5           Necessarily, as I told you at the outset, you will  
6           have to determine the credibility or believability of the  
7           witnesses who have testified in this case. It becomes  
8           your duty as jurors to analyze. It becomes your duty to  
9           evaluate the evidence and determine which evidence  
10          convinces you of its truth.

11          In determining the believability of the witnesses who  
12          have testified in this trial, ladies and gentlemen of the  
13          jury, you may believe one witness over several witnesses,  
14          or several witnesses over one witness. You may believe a  
15          part of the testimony of a witness, and reject the  
16          remaining part of the testimony of that same witness.  
17          You may believe the testimony of a witness in its  
18          entirety, or you may reject the testimony of a witness in  
19          its entirety.

20          You may consider whether any witness has exhibited to  
21          you any interest, any bias, any prejudice, or other  
22          motive in this case. You may also consider, as I told  
23          you, the appearance and manner of the witness while the  
24          witness was on the witness stand, which we call the  
25          demeanor of the witness, in judging the credibility or

1 the believability of the witnesses who have testified  
2 during the trial of the case.

3 And as I instructed you during the trial, ordinarily,  
4 a witness cannot get on the witness stand and say my  
5 opinion about this is so and so. *The Rules of Evidence*  
6 ordinarily do not permit witnesses to testify to opinions  
7 or conclusions. An exception to this rule exists for  
8 those witnesses who we call expert witnesses, a witness  
9 who, by education, training, or experience, claims to  
10 have become an expert in some art, science, or  
11 profession, may, if qualified by the court, give an  
12 opinion as an expert as to the subject the witness claims  
13 to be an expert in, and may also give the reasons for  
14 their opinion.

15 You should consider any expert opinion given by a  
16 witness just like any other evidence, give it the weight  
17 you think it deserves. If you decide that an expert  
18 opinion is not based on sufficient education and  
19 experience, or if you decide that the reasons given in  
20 support of the opinion are not sound, or that the opinion  
21 is outweighed by other evidence, you may disregard the  
22 opinion. An expert opinion's testimony is to be given no  
23 greater weight than that of other witnesses simply  
24 because the witness is an expert.

25 I charge you and instruct you and emphasize the fact

1       that the defendant did not testify is not a factor to be  
2       considered by you in any way in your deliberations and in  
3       your consideration of the guilt or innocence of the  
4       defendant., I charge you that that fact must not be  
5       considered by you in any manner whatsoever during your  
6       deliberations. A defendant, every defendant, has the  
7       constitutional right to remain silent. And the assertion  
8       of this right must not be considered against a defendant  
9       in your deliberations.

10       I repeat, under the oath, which each of you took, you  
11       are to draw no conclusion whatsoever from the fact that  
12       the defendant in this case did not testify. The fact  
13       that the defendant did not testify should not even be  
14       discussed by either of you in your jury room.

15       The burden of proof, as I have stated to you, is on  
16       the State of South Carolina. The defendant is not  
17       required to prove his innocence. The burden of proof  
18       remains on the State to prove guilt in this case from  
19       evidence satisfying you, the jury, of that guilt beyond a  
20       reasonable doubt.

21       Now, in order to establish criminal liability or  
22       criminal responsibility, criminal intent is required.  
23       For example, -- and I'm talking about in general -- the  
24       mental state required to be proven by the State for any  
25       particular crime, and I'm going to give you examples of

1 criminal intent, it might be purpose, intent, knowledge,  
2 recklessness, and even in some cases, criminal  
3 negligence. Those are just examples of criminal intent.

4 Criminal intent must be proven by the State beyond a  
5 reasonable doubt. Criminal intent is always a matter  
6 that must be determined by the jury from the  
7 circumstances surrounding the situation based on evidence  
8 introduced during the trial of the case.

9 Now, there is no way for anyone to prove intent to a  
10 mathematical certainty. There is no way that medical  
11 science can dissect a person's brain and determine what  
12 that person had in mind. So, the law says that criminal  
13 intent may be inferred from the circumstances shown to  
14 have existed, based on evidence introduced during the  
15 trial of the case. This, ladies and gentlemen, by  
16 inference, from the evidence, is how you make a  
17 determination as a jury of whether or not any element in  
18 any crime requiring intent was present.

19 It is not necessary to establish intent by direct or  
20 positive evidence, but intent, criminal intent, may be  
21 established by inference in the same way as any other  
22 act, by taking into consideration the acts of the parties  
23 and all the facts and circumstances of the case, based on  
24 the evidence introduced during the trial of the case.

25 Criminal intent is a mental state. It's conscious

1 wrongdoing. It is up to you, the jury, from the  
2 evidence, to determine what the defendant intended to do  
3 based on evidence introduced during the trial of the  
4 case.

5 I charge you, ladies and gentlemen, that mere  
6 presence at a scene, a crime scene, is not sufficient to  
7 prove someone guilty of a crime. A defendant's presence  
8 where a crime is being committed or mere association with  
9 a person who commits a crime, does not make a defendant  
10 an accomplice or an aider or abettor of the person  
11 committing the crime.

12 The burden is on the State to prove every element of  
13 the crime charged. If you find, after reviewing all the  
14 evidence, that the State has proved that the defendant  
15 was only present at the scene of the crime, and they have  
16 not proven beyond a reasonable doubt any other  
17 participation in the crime, then you must find the  
18 defendant not guilty. The law is that proof of at the  
19 scene of the crime is not sufficient to find someone  
20 guilty.

21 Now, if a crime is committed by two or more persons  
22 who are acting together in committing a crime, the act of  
23 one is the act of all. A person who joins with another  
24 to commit an unlawful act is criminally responsible for  
25 everything done by the other person, which happens as a

1     probable or a natural consequence of the acts done in  
2     carrying out a common plan and purpose.

3     For example, two people can be guilty of killing  
4     another person when only one of the two had a gun, there  
5     was only one bullet, and only one of the two fired the  
6     shot that caused the death. If two or more people are  
7     together, acting together, assisting each other in  
8     committing the offense, the act of one is the act of all.  
9     Or, as it is sometimes said, the hand of one is the hand  
10    of all.

11    Prior knowledge that a crime is going to be committed  
12    without more is not sufficient to make a person guilty of  
13    that crime. Mere knowledge that another person is going  
14    to commit a crime, even if the defendant is present when  
15    the crime is committed, is not sufficient to convict the  
16    defendant as a principal. Guilt as a principal is shown  
17    by actual or constructive presence at the scene as a  
18    result of prior arrangement.

19    Therefore, a finding of a prior arrangement plan or a  
20    common scene is necessary for a finding of guilt as a  
21    principal. The State must prove beyond a reasonable  
22    doubt by competent evidence the theory of the hand of one  
23    is the hand of all.

24    A principal in the crime is one who is actually -- he  
25    either actually commits the crime or is present, aiding,

1 abetting, or assisting in committing the crime. When a  
2 person does an act in the presence of and with the  
3 assistance of another, the act was done by both. Where  
4 two or more acting with a common plan are present at the  
5 commission of the crime, it does not matter who actually  
6 commits the crime, all are guilty. The hand of one is  
7 the hand of all.

8 Present at the commission of a crime means to be  
9 sufficiently near to aid and abet and assist in the  
10 commission of a crime. However, mere presence at the  
11 scene of a crime is not sufficient to convict a person as  
12 a principal on the theory of aiding and abetting. Intent  
13 is also, obviously, a necessary element, for there must  
14 have been a common desire or intent to commit the crime,  
15 and the crime must have been committed pursuant thereto  
16 with the person aiding and abetting by some overt act.

17 Intent means intending the result which actually  
18 occurs, not accidentally or involuntarily. Intent may be  
19 shown by acts and conducts of the defendant. The State  
20 must prove these elements, of course, beyond a reasonable  
21 doubt.

22 Now, ladies and gentlemen, there are two indictments  
23 in this case. I'm holding them up for you right now in  
24 my hand. And they charge different offenses against the  
25 defendant, Phillip Monroe. The charges are, as I told

1 you at the outset of my charge, Number 1, that the  
2 defendant, Phillip Monroe, is charged with possession of  
3 Clonazepam, Schedule IV drug in one indictment. He's  
4 also charged with trafficking in more than 10 grams, but  
5 less than 28 grams of cocaine in the other indictment.

6 Each charge in these indictments is a separate and  
7 distinct offense. You must decide each charge separately  
8 as the jury on the evidence and the law that applies to  
9 it, uninfluenced by your decision as to any other charge.

10 The verdict form that I will give you, Madam  
11 Foreperson, ladies and gentlemen of the jury, will have  
12 further instructions on this, but you will be asked to  
13 write a separate verdict of guilty or not guilty for each  
14 charge following the instructions that I'm giving you now  
15 and on your verdict form.

16 I'll now define the offenses for you under the law.  
17 Defendant is charged with trafficking in a more than 10  
18 grams but less than 28 grams of cocaine. We call that  
19 trafficking in cocaine. The State must prove for this  
20 offense beyond a reasonable doubt that the defendant  
21 knowingly delivered, purchased, brought into this State,  
22 provided financial assistance, or otherwise aided,  
23 abetted, attempted or conspired to purchase or bring into  
24 this state, or was knowingly in actual or constructive  
25 possession, knowingly attempted to become in actual or

1       constructive possession of cocaine.

2               Possession may be either actual or constructive.

3       Actual possession means that the cocaine was in the  
4       actual physical custody of the defendant. Constructive  
5       possession means that the defendant had dominion and  
6       control or the right to exercise dominion or control over  
7       either the cocaine itself or the property on which the  
8       cocaine was found.

9               Mere presence at the scene where the drugs were found  
10       is not enough to prove possession. Actual knowledge of  
11       the presence of the cocaine is strong evidence of intent  
12       to control its disposition or use.

13              The defendant's knowledge and possession may be  
14       inferred when a substance is found on property under the  
15       defendant's control. However, this inference is simply  
16       an evidentiary fact to be taken into consideration by  
17       you, along with all the other evidence in the case, and  
18       to be given the weight you decide it should have.

19              I charge you, ladies and gentlemen, that two or more  
20       persons may have joint possession of a drug. For the  
21       offense of trafficking in cocaine greater than 10 grams,  
22       less than 28 grams, the State must also prove, beyond a  
23       reasonable doubt, that the amount of the cocaine, or any  
24       mixture containing cocaine was 10 grams or more, but less  
25       than 28 grams.

1 Defendant is also charged in a second indictment with  
2 possession of Clonazepam, Schedule IV under the code of  
3 law of South Carolina drug.

4 To prove possession for this, the State must prove  
5 beyond a reasonable doubt that the defendant had both the  
6 power and the intent to control the disposition or use of  
7 the Clonazepam. Possession may either be either actual  
8 or constructive. Actual means that the Clonazepam was in  
9 the actual, physical custody of the defendant, based on  
10 the evidence. Constructive possession means that the  
11 defendant had dominion and control or the right to  
12 exercise dominion or control over either the Clonazepam  
13 itself or the property on which the Clonazepam was found.  
14 Mere presence, however, at the scene where the drugs were  
15 found is not enough to prove possession. Actual  
16 knowledge of the presence of the Clonazepam is strong  
17 evidence of the defendant's intent to control its  
18 disposition or use. The defendant's knowledge and  
19 possession may be inferred when a substance is found on  
20 property under the defendant's control. However, this  
21 inference is simply an evidentiary fact to be taken into  
22 consideration by you, along with the other evidence in  
23 this case, and is to be given the weight you decide it  
24 should have.

25 Now, Madam Foreperson, I told you I would prepare a

1 verdict form for you. Pay absolutely no attention to the  
2 order in which I wrote the forms of verdict. I obviously  
3 had to write one before the other, so the order has no  
4 significance whatsoever. I put the title of the case at  
5 the top of your verdict form, Madam Foreperson.

6 It says: *State of South Carolina, County of Jasper,*  
7 *Court of General Session*, which means criminal court.  
8 And has the indictments numbers, 2012 at 189, and 2012 at  
9 190.

10 It then has: *State of South Carolina versus Phillip*  
11 *Monroe, Defendant.*

12 Has the words *Verdict* written in the caption form.

13 There are two questions on your verdict form, Madam  
14 Foreperson and ladies and gentlemen of the jury.

15 Question 1:

16 *We, the jury, by unanimous consent, find*  
17 *defendant, Phillip Monroe, in Indictment Number*  
18 *2012-GS-27-00189, the first form of verdict*  
19 *under Question 1, guilty of possession of*  
20 *Clonazepam, a Schedule IV drug.*

21 If that be your form of verdict, Madam Foreperson,  
22 you would check on the line beside that form of verdict,  
23 guilty.

24 The second form of verdict under Question 1:

25 *Not guilty of possession of Clonazepam,*

1       a *Schedule IV* drug.

2       If that be your form of verdict, you would check on  
3 the line beside that form of verdict for the jury, Madam  
4 Foreperson.

5       You must find one form of verdict or the other. You  
6 cannot find both under Question 1.

7       Under Question 2, on the verdict form:

8               *We, the jury, by unanimous consent, find*  
9       *the defendant, Phillip Monroe, in Indictment*  
10       *Number 2012-GS-27-190, the first form of verdict,*  
11       *guilty of trafficking in more than 10 grams, but*  
12       *less than 28 grams of cocaine.*

13       If that be your form of verdict, Madam Foreperson,  
14 you would place a checkmark on the line beside that form  
15 of verdict under Question 2 on your verdict form.

16       Second form of verdict under Question 2 is:

17               *Not guilty of trafficking in more than*  
18       *10 grams, but less than 28 grams of cocaine.*

19       If that be your form of verdict, you would check  
20 beside that form of verdict under Question 2 on your  
21 verdict form.

22       You must find one form of verdict or the other under  
23 Question 2. You cannot find both. It must be either/or.  
24 And I have an or between each form of verdict on your  
25 verdict form.

1           When you have filled out the appropriate spaces on  
2           your verdict form, Madam Foreperson, you will sign your  
3           name on the line where it says *Foreperson*. I have  
4           already put in today's date. You would then knock on  
5           your jury room door when you've reached a verdict and  
6           completed your verdict form, and we will receive you back  
7           in the courtroom in order for you to publish your  
8           verdict.

9           Now, Madam Foreperson and ladies and gentlemen of the  
10          jury, your verdict must be unanimous. That is, it must  
11          be the verdict of each and every one of you. All twelve  
12          of you must agree on a verdict.

13          Madam Foreperson, ladies and gentlemen of the jury, I  
14          have now charged you on the law in order to help guide  
15          you to a fair and just result in this case. As I've told  
16          you throughout the trial, you're the judges of the facts,  
17          based on evidence introduced during the trial of the case  
18          and based on your determination of the facts, and now the  
19          law, as I have explained it to you, you're soon going to  
20          being your deliberations.

21          Each of you were selected on this jury as fair and  
22          impartial jurors. You have no friends to reward. You  
23          have no enemies to punish. You are sworn in your oath to  
24          fairly and impartially try and determine the facts of  
25          this case, based on the evidence introduced during the

1 trial of the case. And when you comply with your oath to  
2 do so, no one can criticize your verdict.

3 You are to decide this case based solely on the  
4 testimony from that witness stand, any exhibits which  
5 have been introduced into evidence during the trial of  
6 this case, and if there were any stipulations, and  
7 nothing else. You must decide the issues in this  
8 proceeding without any bias or prejudice towards either  
9 party to this case. None of you on this jury can allow  
10 yourself to be governed by prejudice for or against any  
11 person, by public opinion, or by any other arbitrary  
12 factor that is not in evidence in this case such as  
13 emotion or you're feelings.

14 Both the defendant and the State of South Carolina  
15 have the absolute right to expect that each of you on  
16 this jury will carefully and impartially consider all of  
17 the evidence in this case, and that you will follow the  
18 law as I have instructed it to you to be in reaching your  
19 verdict in this case.

20 Now, ladies and gentlemen, I'm going to ask you if  
21 you would briefly -- I hope this will be brief. I don't  
22 want you to begin your deliberations yet. But I'm going  
23 to ask you to go to your jury room in order that I'll  
24 have a chance to review to see if I need to give you any  
25 additional charge.

1           Do not being your deliberations. When it is time for  
2           you to being your deliberations, I will give Josephine  
3           the verdict form and all of the exhibits which have been  
4           introduced into evidence during the trial of the case,  
5           and have her bring the verdict form in to you, along with  
6           All exhibits, and tell you, you may then commence  
7           deliberations.

8           I'm going to ask you to retire to the jury room at  
9           this time. My alternate jurors remain in the courtroom  
10          with me. Please retire to your jury room.

11                   JURORS LEAVE COURTROOM 11:06 A.M.

12          THE COURT: All right, sir, ma'am, I want to thank  
13          you for your service. I've got some good -- I told you I  
14          was going to get you home early this week. Nobody became  
15          ill or for some reason could not continue to serve. This  
16          concludes your service in this case, and this also  
17          concludes your service for the week. You are now, if  
18          you'll listen to me, you are now exempt for jury service,  
19          even if you're chosen for three years, by virtue of your  
20          service. And we'll, of course, be mailing you, Margaret,  
21          that exorbitant check, right, Margaret?

22          MADAM CLERK: Yes, sir.

23          THE COURT: That we pay our jurors. I understand  
24          we're now up to?

25          MADAM CLERK: Ten dollars a day.

1 MS. HENDERSON: No, your Honor.

2 THE COURT: From the defendant?

3 MR. HUGHES: No, your Honor.

4 THE COURT: Would you bring us the jury, please, Jo.

5 JURORS ENTER COURTROOM 11:44 A.M.

6 THE COURT: Madam Clerk, do you want to do it, or do  
7 you want me to?

8 MADAM CLERK: Madam Forelady, I understand you've  
9 reached a verdict?

10 MADAM FOREPERSON HARRIS: Yes, we have.

11 THE COURT: Madam Clerk, you may publish the verdict.

12 MADAM CLERK: *The State of South Carolina,*  
13 *County of Jasper, The State of South Carolina*  
14 *versus Phillip Monroe, Indictment Number*  
15 *2012-GS-27-189 and 2012-GS-27-00190, We,*  
16 *the jury, by unanimous consent, find the*  
17 *defendant, Phillip Monroe, in Indictment*  
18 *Number 2012-GS-27-00189, guilty of possession*  
19 *of Clonazepam.*

20 *Number 2: We, the jury, by unanimous*  
21 *consent, find the defendant, Phillip Monroe,*  
22 *in Indictment Number 2012-GS-27-00190, guilty*  
23 *of trafficking in more than 10 grams, but less*  
24 *than 28 grams of cocaine.*

25 Signed by the foreperson, February 13, 2013.

1 THE COURT: Ladies and gentlemen of the jury, if this  
2 be your verdict as published by the clerk of court, would  
3 you please raise your right hand?

4 Thank you. Let the record reflect twelve hands were  
5 raised.

6 Mr. Hughes, anything from the defendants as far as  
7 the jury's concerned?

8 MR. HUGHES: I request that the jury be polled, your  
9 Honor.

10 THE COURT: Madam Clerk, would you please poll the  
11 jury. Ladies and gentlemen, the clerk will ask you two  
12 questions. She will call your name. I'm going to ask  
13 you to stand when your name's called. She will ask,  
14 number 1, was that your verdict. You will respond yes or  
15 no. She will then ask is that still your verdict. You  
16 will answer yes or no.

17 Madam Clerk, poll the jury.

18 JURORS POLLED, BY MADAM CLERK:

19 MADAM CLERK: Daniel Douglas. Is this your verdict?

20 JUROR DOUGLAS: Yes, ma'am.

21 MADAM CLERK: Is it still your verdict?

22 JUROR DOUGLAS: Yes, ma'am.

23 MADAM CLERK: Thank you. Willie Garret, is this your  
24 verdict?

25 JUROR GARRET: Yes, ma'am.

1 suggested he might. He has been very, very calm during  
2 this hearing. He has not shown violent tendencies.

3 Judge, we're asking, reward him, even though it's  
4 small, give him the 25.

5 THE COURT: Mr. Monroe, is there anything you'd like  
6 to tell the Court prior to sentencing? You step up to  
7 the microphone. I'll be happy to hear from you, if you  
8 wish to tell me anything.

9 BY DEFENDANT MONROE:

10 DEFENDANT MONROE: Well, I have a record and I did  
11 wrong, and I was punished for my record. I came down  
12 here to Carolina for a different change. When I came  
13 down here, the same thing that took me up was the same  
14 thing that bring me down. And I had got --

15 THE COURT: What's the same thing?

16 DEFENDANT MONROE: Well, by me selling drugs.

17 THE COURT: It's a common denominator in court.

18 DEFENDANT MONROE: Well, drugs. Drugs. I was  
19 addicted to selling drugs at the time. And when I came  
20 down this way, I had end up getting hooked on drugs. If  
21 you will look back at the -- the film that when I gave a  
22 statement, you notice how I was on crack out my mind.  
23 And I was cooking up drugs for other guys that's right  
24 here in Jasper County so support my drug habit. And  
25 that's what happen to me now, but I know I couldn't take

1 the traffic -- take the stand because my past  
2 convictions, I know I'd a gotten slayed. So I didn't  
3 take the stand and hoping that I could have a fair and  
4 just trial.

5 But I just want you all to know that, man, I am not  
6 the drug anymore. And for the last year and a half, I've  
7 been down this way, I was using drugs. And I used to  
8 cook drugs for a lot of different guys right here in  
9 Jasper to support my drug habit. And that's what I was  
10 doing with those drugs. That's why I had to be honest  
11 with the detective and I tell the detectives.

12 THE COURT: So you were a cook and you weren't  
13 selling. Is that what you're telling me?

14 DEFENDANT MONROE: Yes, sir.

15 THE COURT: So you prepared them for sale, but didn't  
16 actually sell them yourself. That's what you're telling  
17 me?

18 DEFENDANT MONROE: Yes, sir.

19 THE COURT: But you were using them.

20 DEFENDANT MONROE: Yes, sir. When I came down here  
21 in Carolina, I was weighing like two hundred and  
22 something. When I had came to jail, I was weighing 140.  
23 I lost a lot of weight.

24 THE COURT: I understand. Mr. Hughes, anything else  
25 from the defendant?

1 MR. HUGHES: No, your Honor.

2 THE COURT: Anything else from the State?

3 MS. HENDERSON: No, your Honor.

4 SENTENCE, BY THE COURT:

5 THE COURT: Mr. Monroe, I could not agree with the  
6 jury's verdict more strongly. Clearly, there was  
7 evidence beyond a reasonable doubt of your guilt.

8 First of all, I understand when you tell me that you  
9 have been using drugs, our resources are not what they  
10 should be in South Carolina, but I will certainly  
11 recommend the addiction treatment unit for you while you  
12 are incarcerated in the State Department of Corrections,  
13 because I understand the first step toward dealing with a  
14 problem with drugs is having the courage to stand up in  
15 front of everybody and say I got a problem; I admit I got  
16 a problem.

17 Now, all I can do is offer you some assistance with  
18 that problem. It's up to you to take advantage of it.  
19 You understand that?

20 DEFENDANT MONROE: Yes, sir.

21 THE COURT: All right. Solicitor, his record is  
22 substantial. Mr. Hughes, I don't punish anybody for  
23 going to trial, but your client's record speaks for  
24 itself. On Indictment 2012-GS-27-190, State versus  
25 Phillip Monroe, the indictment for trafficking in.

1 cocaine, the sentence of this Court is the defendant is  
2 committed to the State Department of Corrections for a  
3 term of 27 years.

4 On Indictment 2012-GS-27-189, which is possession of  
5 a Schedule IV drug, the sentence of the Court is  
6 defendant is committed to the State Department of  
7 Corrections for a term of six months. Those sentences  
8 will run concurrent to each other.

9 The defendant is to be given credit for time served  
10 pursuant to the *South Carolina Code Section 24-13-40*.  
11 That is to be calculated and applied by the State  
12 Department of Corrections.

13 I will recommend addiction treatment unit while you  
14 are incarcerated. Good luck to you, sir.

15 MS. HENDERSON: Thank you, your Honor.

16 MR. HUGHES: Thank you, your Honor.

END TRIAL, WEDNESDAY, FEBRUARY  
13, 2013, 12:14 P.M.

WITNESSES

K. Smith - RPD

DOCKET NO. 2012GS2700189

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

September Term 2012

ARREST WARRANT NUMBER

J386242

Arrest Date: April 11, 2012

ACTION OF GRAND JURY

TRUE BILL

NO BILL

FOREMAN

DATE 09.27.12

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

THE STATE

vs.

Phillip Monroe

Indictment for

Drugs / Manuf., poss. of Sch. IV drugs, except  
flunitrazepam

SC Code: 44-53-0370(a)  
CDR Code:0189

After being fully advised as to my legal  
rights, I hereby waive presentment to the  
Grand Jury.

Defendant

Hereby appear in my own proper person  
and plead guilty to the within indictment or  
to

Defendant

Witness:

C.C.C. PLS. and G.S.

TRUE COPY  
MARGARET B. TUCK  
CLERK OF COURT  
JASPER COUNTY, S.C.  
BY: [Signature]  
DATE: 2-14-2013

STATE OF SOUTH CAROLINA )  
COUNTY OF JASPER )

INDICTMENT

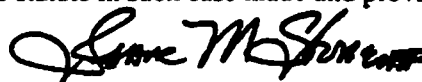
2012GS2700189

At a Court of General Sessions, convened on September 27, 2012, the Grand Jurors of Jasper County present upon their oath:

**Drugs / Manuf., poss. of Sch. IV drugs, except flunitrazepam**

That in Jasper County, South Carolina, on or about April 10, 2012, the Defendant, Phillip Monroe, unlawfully did possess with intent to distribute, dispense, or deliver a quantity of Clonazepam <sup>RX 200 PM</sup> and Hydrocodone, a Schedule IV and II controlled substance as defined by Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



---

Isaac M. Stone, III, Solicitor  
14<sup>th</sup> Judicial Circuit

WITNESSES

McIntosh, RPD

ARREST WARRANT NUMBER

J386243

Arrest Date: April 11, 2012

ACTION OF GRAND JURY

TRUE BILL ☒

NO BILL

FOREMAN *Thelma Abston*

DATE *09.27.12*

Foreperson of Grand Jury  
Date:

VERDICT

*Gibbitt*

*Alfreda Harris* 2/13/13  
Foreperson of Petit Jury  
Date:

DOCKET NO. 2012-GS27-00190

*8/11/12*  
BY: *[Signature]*  
CLERK OF COURT  
JASPER COUNTY, SC  
TRUE COPY

The State of South Carolina  
County of Jasper

COURT OF GENERAL SESSIONS

September Term 2012

THE STATE

vs.

Phillip Monroe

Indictment for

Drugs / Trafficking in cocaine, 10 g or more, but  
less than 28 grams

SC Code: 44-53-0370(e)(2)(a)2  
CDR Code:0387

After being fully advised as to my legal  
rights, I hereby waive presentment to the  
Grand Jury.

Defendant

I  
Hereby appear in my own proper person  
and plead guilty to the within indictment or  
to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA )  
COUNTY OF JASPER )

## INDICTMENT

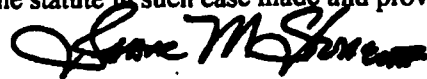
2012-GS27-00190

At a Court of General Sessions, convened on September 27, 2012, the Grand Jurors of Jasper County present upon their oath:

**Drugs / Trafficking in cocaine, 10 g or more, but less than 28 grams**

That in Jasper County, South Carolina, on or about April 10, 2012, the Defendant, Phillip Monroe, unlawfully and knowingly did sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: cocaine, in excess of 10 grams but less than 28 grams; in violation of 44-53-370 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



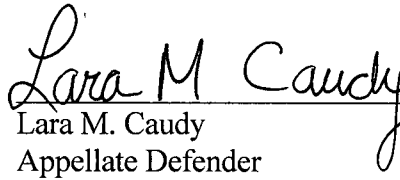
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Isaac M. Stone, III, Solicitor  
14<sup>th</sup> Judicial Circuit

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

January 22, 2014

  
Lara M. Caudy  
Appellate Defender

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

ATTORNEY FOR APPELLANT

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Jasper County

Perry M. Buckner, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,

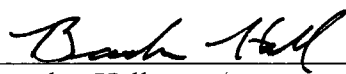
V.

PHILLIP MONROE,

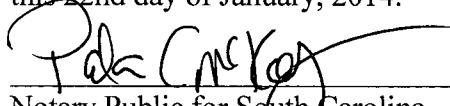
APPELLANT  
\_\_\_\_\_

CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of January, 2014.

  
\_\_\_\_\_  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 22nd day of January, 2014.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 24, 2022.

**RECEIVED**

JAN 22 2014

SC Court of Appeals