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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

On Certiorari to the Court of Common Pleas
Appeal from Berkeley County
Honorable R. Kirk Griffin, Post-Conviction Relief Judge

Appellate Case No. 2024-001521

EMORY W. ROBERTS, #373393,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

SUPPLEMENTAL APPENDIX

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controlled purchase?

A. Correct.

Q. You bought on your own free time?

A. Yes, ma'am.

Q. And you were using at your own free will on your own free time?

A. Yes, at times, yes.

Q. And when you bought during your free time, you had to buy from somebody, right?

A. Yes.

Q. When you bought, they weren't controlled purchases, were they?

A. No, they weren't.

Q. The police did not know you were buying?

A. No, they did not.

Q. When you bought from somebody, you bought from who? Was it The Boys? Was it a friend? Was it Chris? Was it Rico? Was it -- let me go through some names.

A. I haven't seen Rico in over 10 years. And I bought from The Boys.

Q. I'm sorry. What about your brother? You bought from him, didn't you?

A. No. My brother didn't sell heroin.

Q. He didn't sell it?

A. He didn't sell it, no.

Q. But he used it?
A. Occasionally. He was trying to stay off of it and use Suboxone, but it's a struggle. It's an inner demon we deal with.
Q. Well, where is your brother now?
A. He's in prison.
Q. And have you ever been taken to the hospital for your use of heroin?
A. Yes, ma'am.
Q. And has your brother?
A. Yes, ma'am. He tried to kill himself four times in a row because he was tired of the addiction.
Q. Okay. So he didn't use that much, but he used enough to have to go to the hospital, right?
A. He intentionally did that. It's not a -- see, when you use heroin, it isn't the amount of times that you use that is going to take you to the hospital. It's the decision to use too much at one time that could possibly do it.
Q. Okay.
A. And the less you use less frequently, the more likely that is going to happen, because you have no tolerance to it. That's why so many people that get out of jail or get out of rehab end up in that predicament.
Q. So you are saying to this jury that being an addict

is not a choice?

A. I'm saying that being an addict, it makes it very, very difficult to get away from that that you become addicted to. That's what the word actually is defined to mean.

Q. Now, let's talk about this a little bit. You said during your direct examination yesterday that you wanted to have a better relationship with your brother.

A. Yes.

Q. Is that correct?

A. I've said that before, yes.

Q. And that -- let me look at this real quick.

MS. JOHNS: Beg the Court's indulgence, Your Honor.

THE COURT: Uh-huh.

A. Do you remember what context I said that in?

Q. Yes, I'm looking for it. While I'm looking for that, have you ever been homeless?

A. Yes, so to speak. I've had to stay with people, not having my own home, but somewhere to stay, unfortunately.

Q. Did you ever own a car?

A. Many, many years ago.

Q. What kind of car was that?

A. The last car that I owned in my name was a Mustang.

Q. A Mustang?
A. Yes, ma'am.
Q. Last time you had use of a car, what kind of car was that?
A. Honda Civic.
Q. Whose car was it?
A. Amber's.
Q. What happened to that car?
A. The flood that happened before this last hurricane, we were in Summer Village where the car was parked. It flooded over and we didn't have insurance on it at the time. And she was fighting with FEMA to get it fixed, but it killed the battery and the O2 sensors. And there's just several problems with it. There's mildew on the inside. It was kind of in bad shape at the time.
Q. Sir, when you moved to Bluffton, did you do it for the promotion or to get away from Summerville?
A. I actually passed on my promotion and I stepped down in order to get away from the area and go with her and support her in her promotion and her job.
Q. Why did you want to get away from the area?
A. My grandfather had just passed away. I didn't really have anywhere to go. And things were just kind of tough around here at the time. It was just too much to take.

Q. So you were working at Walmart as manager.
A. At that time, that's when I was promoted to go to a specific store, the one in Montague as an assistant. And whenever I actually went to go, after everything with my grandfather settled, they were moving me to another store, the store in Mount Pleasant with an individual that had a bad reputation for trying to make people quit, potentially. And with all the stress and losing my grandfather and the family things that were going on, I really wasn't up to it at the time.
Q. So at that time, you were not using?
A. No heroin, no. It was about six years after that the first time I used heroin.
Q. All right. Now, when you got in trouble, you stated that someone else got in trouble and used you as a fall guy?
A. Yeah. They used me as a person to purchase from in order to get out of the situation or get -- I don't know what kind of deal they were given.
Q. So he's part to blame for you getting caught?
A. I think I'm to blame for me getting caught.
Q. Okay. All right. Now, if you were to get 15 years for each time that you bought heroin or shared it or sold it, that's a lot of the time, isn't it?
A. I think it would be for any heroin addict.

Q. Now, did you actually go into custody for the distribution of heroin counts that they had you on?
A. That I was ever arrested for?
Q. Yes.
A. Yes.
Q. Did you go to jail?
A. Yeah.
Q. And did you spend the night?
A. I did.
Q. Did you get bond set?
A. I had a PR bond, but I had a warrant for paraphernalia or something I had to sit on.
Q. So after that, after this person who became a confidential informant against you, did you go to jail for any of those distribution warrants, because you sold to them?
A. I was arrested for, I guess, each. I went to jail. I was arrested, in which I was confronted by narcotics at that time.
Q. So when you were confronted by narcotics at the time, did they take you to the local detention center?
A. I was in their custody down in Summerville. And then -- no, I was released after I worked for them.
Q. After you signed the agreement, agreed to work for them, you didn't go to jail, did you?

A. Not at that time, no.
Q. Not even the detention center?
A. No. I was in the local jail, which they do have the holding cell and stuff, so I was in custody.
Q. Now, are you technically savvy?
A. Not as I used to be. I don't keep up with technology the way I used to, necessarily.
Q. You have the ability to Google something, don't you?
A. Certainly.
Q. Would you be surprised to know that there are 10-plus more pages on Google for help and recovery for heroin addiction?
A. No, I would not be surprised.
Q. Have you ever heard of a place called Crossroads?
A. I may have heard the name.
Q. What about Serenity Acres?
A. No.
Q. What about some free treatment centers, like Elite Treatment Center?
A. Never heard of that.
Q. Never heard of it?
A. No.
Q. Do you know what methadone is?
A. I have heard of that. I also know it's worse than

heroin withdrawal. It gets in your bone marrow.

Q. Do you know that it's legal to use under the supervision of a physician?

A. I do. I also know that you have to get there every morning before a certain time. And without a ride, being all the way down to West Ashley or Montague, it's kind of hard to get there, because I considered it multiple times. I would actually like to go.

Q. But, instead, you took the easy way out, didn't you?

A. I didn't take the easy way out. I took the way out that would work, because if I don't have a ride to go to a methadone clinic, they cut you off. And then you are right back in the same boat.

Q. Well, you were given the opportunity of a lifetime working with law enforcement, weren't you?

A. I wouldn't say of a lifetime. If I could have avoided the whole situation, I would have. I took the opportunity that made the most sense at the time.

Q. If you had asked law enforcement to help you, they probably would have, wouldn't they?

A. It's intended to be done when this is over. I've spoken to them about that.

Q. All right. So instead of getting up and asking somebody to help you who obviously has the community's

interest at heart, you chose the easy way and went and just got your fixes, right?

A. No, that's not true. They can't be responsible for waking up every single day, six days a week to drive me down somewhere and back.

Q. But you can?

A. I tried. It's not so easy without family that's able to do it and whatnot. Pretty much the only way to even get a ride to go get something accomplished these days is to be able to give somebody what they want. A ride to the methadone clinic doesn't really establish that for people. It's hard to get things done out there in the situation. You get yourself is between a rock and a hard place at the bottom. And it's hard to move around. It's not so simple as you make it sound.

Q. Okay.

A. If I could so easily as hop on my bicycle and ride around the corner to the town of Summerville and go to methadone clinic, you better believe I would do that every day.

Q. But you didn't choose to wake up to do that?

A. I don't have a way to get there. I have asked. I asked my grandparents, my grandfather and all of them, but he's got Alzheimer's. And my grandmother can't do it. My mother is on disability. It's really hard to get those

things accomplished with people on fixed income.

Q. You were working for the Dorchester County Sheriff's Department for six months, weren't you?

A. Yes, they weren't paying me for me.

Q. No, they weren't paying you for it?

A. And they have other things to accomplish. I am not their own CI.

Q. So you don't think if you would called in the morning before eight o'clock and said, hey, Dorchester County officer that I'm working with, would you mind -- let me finish -- would you mind helping me get to the methadone clinic? You think he would have said no?

A. I think most of the times when I contacted the individual I was working for, we didn't get in contact until 11 or 12 that day no matter what time I texted him, because that wasn't his schedule.

Q. When you were driving your Mustang, how many Mustangs were on the road?

A. That's not a feasible question. I have no idea how many Mustangs were on the road.

Q. You have no idea, right? There are thousands on them.

A. Yes.

Q. Did you ever sell a car?

A. Not to an individual. I let my uncle handle that.

Q. And when you were driving around in your girlfriend's Honda, there were hundreds of thousands of Hondas on the road, right?

A. Certainly, yeah.

Q. Did you help her buy her car?

A. Did I help her buy her car? I helped her pay some of her payments.

Q. Not during the transactions? So you wouldn't know what would be involved in buying a car?

A. Ever car I've ever bought has been from an individual.

Q. When you do buy a car from an individual, you have to transfer title; you have to make sure you have insurance; isn't that right?

A. Yeah.

Q. And you have to register it, right?

A. Yeah, not a good example for this situation.

Q. No? Why?

A. The last car I bought, the gentleman had to keep it in his name and I paid him. And he was a close friend. And I drove his car until he was able to get insurance. It was a long time.

Q. All right. When you were at Margaret Drive, who lived there?

A. Q.

Q. When you were at Summer Creek, who lived there?
A. Q.
Q. And when you were at Bear Island, who lived there?
A. Where?
Q. Bear Island Road?
A. Where is Bear Island Road.
Q. You've never been to Bear Island Road?
A. No.
Q. Do you know a guy named G?
A. Uh-huh.
Q. Do you know where he lived?
A. No.
Q. Do you know where Mo lived?
A. He did stay on Arno at the trailer for a period of time. And then he was over in the apartments back over there by Target.
Q. Okay.
A. In that area.
Q. Have you been to his apartment?
A. No, ma'am.
Q. Have you ever been to Whittle Road? That's -- I'm saying that wrong. Hang on one second. You say that I lived in Arno Drive or stayed there? Is there a difference?
A. He was there all the time. I mean, that's where he was at all the time, when he said come by the house, come by

the trailer, you know.

Q. You saw him sleeping there?

A. No, I never really saw him sleeping anywhere.

Q. Did you see his clothes hanging in the closet in Arno?

A. No, but I've seen his car parked there and eating there and fixing meals and staying there after I left and being there when I came back, living there, sitting and watching TV, as anybody would.

Q. Well, did you sit and watch TV in the houses that you don't live in?

A. I have, yes.

Q. Did you fix meals in those houses?

A. Occasionally. I didn't stock the refrigerator.

Q. But you had dinners there or lunch or whatever?

A. Yeah.

Q. Didn't mean you lived there, right?

A. No.

Q. Okay.

A. But I didn't keep my dog there either and things of that nature. I mean, he stayed there.

Q. He stayed there?

A. Uh-huh.

Q. And you are saying this because he had his dog with him?

A. He had his dog there. He would go shopping and bring his food there, and he was always there.
Q. So you hung out with him then?
A. I have been around him for more than five minutes, yes.
Q. So he was your friend?
A. I wouldn't say my friend either, just an acquaintance that I was able to talk to.
Q. But he was more of a friend with you than you were with Q, right?
A. I've known him longer.
Q. Let me find this real quick. Won't take but a minute. Wilhite Drive, did he live there?
A. Doesn't ring a bell.
Q. You've never met him there?
A. I don't know where that location is exactly. Is it another residence?
Q. Yes.
A. Not that I could remember, no.
Q. Is Sissy and Cici the same person?
A. Rosemarie?
Q. I don't know.
A. That's her real name. That's who I would define as Cici, or call her.
Q. So is it Cici?

A. I've called her Cici, personally. I may be incorrect in the pronunciation, but that's Rosemarie.
Q. Who is Sissy?
A. May be the same person. I don't know.
Q. You don't know?
A. I'm not sure. May be a pronunciation thing.
Q. Who is Chica?
A. That may be Rosemarie too. I've heard her called that.
Q. So she has three nicknames?
A. Two I was aware of, called her myself.
Q. And what's your nickname on the street?
A. I don't have one. I just go by Tommy.
Q. Tommy.
Q. You also said on direct examination yesterday that the biggest amount of dope that you bought, which is heroin, was 21 grams?
A. Yes, ma'am.
Q. And you bought that from a guy name Keith, right?
A. I believe so, yeah. He's the one I got it from over there.
Q. Where was Keith when you bought this 21 grams from him?
A. Arno.
Q. And did Keith live at Arno?

A. He stayed there but he had stated to me he didn't live there. He was from out of town somewhere.

Q. Do you know where?

A. Might have been Spartanburg or Orangeburg area.

Q. So how big was this trailer?

A. It had three or four rooms.

Q. Rooms?

A. Yeah, had a living room, kitchen area when you first walked in. I mean, it wasn't a tiny trailer.

Q. Did you ever get back in the back where the bedrooms are?

A. I've been in the living room.

Q. And that's it?

A. Around the rooms, yeah, mainly in the kitchen area.

Q. Did Keith have a girlfriend?

A. He had been with girls before. I don't know if they were his girlfriend or not.

Q. Were the girls there at the house?

A. He had them there at a time after a party or at the bar, but not on a regular basis. They didn't stay all the time, no.

Q. So you knew Keith well enough to party with him?

A. No, I never partied with him. I just seen him. After times people had been out, you can kind of tell when

somebody had been out drinking.

Q. After he's been out, you've been over to his house?

A. To meet him, yeah.

Q. To meet him?

A. Yeah.

Q. How long did Keith live in Arno?

A. Like I said, I'm not sure that he lived there, but he had been over there probably for -- I probably dealt with him for about a year.

Q. A year?

A. Yeah.

Q. Did Chris live there?

A. He was there from time to time too. Like I said, they didn't live there. The only person I knew that was there to begin with was Mo. And then those people would come and they would hang out there. I guess it kind of ended up turning into -- like I said, it's just a main -- the main spot that they would use eventually.

Q. For a year, you said?

A. Yeah. Probably around the time Keith showed up over there and the other guys, it became more of the meet spot. At first, it wasn't. It was very rare that Mo would have anybody come back there. He would just meet you somewhere.

Q. And G, did he live there?

A. Which G?
Q. Well, let's start with a guy named Lassain Johnson.
A. I don't know his real name. There are two Gs. There's, like I said, the one with the dreads that drove the Audi, and then the taller bigger G.
Q. Did he live there too?
A. As far as I know. I don't know that they lived there or not, but they would be there from time to time.
Q. Let's talk about these controlled buys. Law enforcement would call you to tell you that it's time to do a buy. Is that the way it worked?
A. Yeah. They would call me and tell me they wanted me to set something up for that day or the next day. So I would be available.
Q. So when they got in touch with you, how did they get in touch with you?
A. Call or text.
Q. And you would have to respond within -- what was the parameters, an hour or two?
A. As soon as I seen it, I would respond, typically.
Q. And when they set that up, they said, can you arrange a buy today?
A. Uh-huh.
Q. And you said, I don't know, let me check?
A. I just made sure they were on, yeah.

Q. So you had to get back to them before you could actually arrange something, right?

A. I would just call and make sure the phone was ringing. As long as the phone was ringing, everything was pretty typically good. Otherwise, they would cut the phones off. But they were pretty much always good.

Q. So, basically, when they said, we want to do a buy today, you had to make sure that everyone was always good so that you could say to them, yes, it's a go?

A. That or they would have me actually come in and do the call and the check right there.

Q. Now, you never did determine how much that you were willing to buy? They determined that, didn't they?

A. They had asked me in the beginning around what was normal for me to buy. So that way, it wouldn't be off. But the amounts was pretty much, yeah, it was their money and they chose what to do.

Q. They provided you with government money too, didn't they?

A. To purchase the heroin with, yes.

Q. And you were working with them so well that they also paid off your debt, didn't they?

A. They paid the debt that was outstanding with them so that we could continue to go through a purchase. If the debt wouldn't have been taken care of, then it would have

been a cease. I wouldn't have been able to buy.

Q. Then within the middle of these controlled buys, they had to pay you off another debt, $120?

A. Yeah. Somebody -- it was a dealing with a different individual. And we ended up coming into contact with him, and he had threatened me. And I let them know about it, so they took care of that as well.

Q. I'm sorry. Are you done?

A. Yeah. It's not like I brought the debt to their attention so they would pay it off. It was never brought up until my life was threatened.

Q. And this was probably a debt that was owed during the time that you were using?

A. During the time I was using, yeah.

Q. And this was a debt that was created when they were not -- when they did not have you under surveillance; isn't that right?

A. Yeah, I don't even think I was working for them yet when the debt was created.

Q. Okay. Now, the first time you tried to get in touch with Mo, he didn't answer, did he, or the person didn't answer, did he?

A. Which time?

Q. The first time.

A. What do you mean, the first time? The first time I

ever called him.

Q. Yes.

A. The first time I ever called him, he did answer. I spoke to him.

Q. He hung up on you?

A. We got disconnected. I called -- he could have hung up. I don't know. But when I called back, everything worked out. So to think he hung up on me and then spoke to me the second time around, I don't know.

Q. This was not under surveillance of law enforcement, was it?

A. This was well before I had gotten in trouble.

Q. Who drives a blue Dodge Ram?

A. Many people do.

Q. Okay. What was the conflict that time that you were over at Summer Creek and you were confronted about you vouching for your brother?

A. I believe that was over in Fairlawn on Margaret.

Q. Margaret Drive. Okay.

A. Yeah. It was something about my brother had showed up or called and went over to Q's house. And I guess it was assumed or spoken that I had told him to go and that it was okay for him to be over there.

Q. Why would he go over there?

A. He must have been trying to get something for him

or Amy. And Amy was actually hanging out with Q at the time and had his number and whatnot. And why she didn't go herself, I don't know. But she had arranged it for my brother to go over there and use me as the excuse.

Q. Okay. At the time, didn't you say that he and Amy were two peas in a pod?

A. Yeah. They were hanging out quite a bit at the time.

Q. Do you still deal with a fellow by the name of Bobby, who is a white male? No? Do you know who I'm talking about?

A. I have a faint idea, but last Bobby I knew was a Bobby Nusbaum (ph).

Q. What about Agent Mike, still deal with him?

A. No, I haven't seen him in a long time.

Q. Michael Curlin (ph)?

A. No, I don't hang out with him anymore.

Q. And one last thing, Shawana Adams, do you know her? You don't know her?

A. Not by that name.

Q. A/k/a Sissy?

A. Yes, I know who that is. Yeah, Cici.

Q. Is it Sissy or Cici?

A. The way I pronounce it is just different than you.

Q. Her name is Shawana Adams; is that right?
A. If that's what you are telling me, yes. I don't know her government name. If you showed me a photo of her, I can identify her for you.
Q. Is she a white female?
A. She is Hispanic, as far as I'm concerned, Latino. She has a caramel complexion. What her ethnicity is, I'm not sure.
Q. She's not Rosemarie, is she?
A. That's what I know her by is Rosemarie.
Q. Oh, well, let me show you a picture.
A. Okay. And I will let you know if it's the same person.
Q. While I'm looking for her, do you also know a Desmond Smith or Demond Smith?
A. Not by that name, no, ma'am.
MR. UNDERWOOD: Your Honor, may I approach?
(Whereupon, the following bench conference takes place.):
MR. UNDERWOOD: My concern is before she can show that to him to make any kind of identification, she needs to get it marked as an exhibit.
THE COURT: She can use it demonstratively.
MR. UNDERWOOD: Can I have it at least marked?
THE COURT: She can mark it for ID, but she doesn't

have to introduce it. She can use it for demonstrative purposes. Do you have good faith belief it's not her?

MR. UNDERWOOD: That's not, Your Honor.

THE COURT: I got you.

That's not the best picture. Yeah. All right. Thank you.

(Whereupon, a bench conference ends.)

THE COURT: Proceed.

BY MS. JOHNS:

Q. Isn't it true that in the line of work you do now, which is HVAC you said --

A. Yes.

Q. I'm sorry. I forgot you had a job. But your lifestyle leads you to meet a lot of different people; isn't that right?

A. Not as much as it did when I was working at Walmart in management and dealing with the public on a regular basis in masses.

Q. The lifestyle of being a heroin addict leads you to know other people that you have to get to know, right?

A. Some, yes.

Q. They are not always truthful in who they say they are, aren't they?

A. I don't think anybody is always truthful.

Q. So nicknames are a common thing among your culture?

A. Well, not my culture, necessarily, among certain people. I don't have a nickname. There's lots of people that don't have nicknames. I would say there are fewer people with nicknames than there are that go by their nicknames.

Q. You do have a nickname. It's Tommy.

A. That's a regular name. It's not a deceptive name. It still refers to Thomas.

Q. So your name is Thomas?

A. Uh-huh.

Q. That's the birth name that you have; isn't that right?

A. Uh-huh. Uh-huh.

Q. Your nickname is Tommy?

A. But it still identifies with my name. It's not something that's completely suggestive of something else.

Q. Let me rephrase my question. You know a lot of people with a lot of different nicknames, don't you? You are the only one --

A. No, I know other people, yeah.

Q. And there's a lot of different nicknames out there?

A. Sure.

Q. And you happened to remember those nicknames that you need to remember; isn't that right?

A. I try to remember everything to the best of my

ability.

Q. And it's important to remember what you need to remember; isn't that right?

A. Yes.

Q. And it's very important for you to remember what you need to remember in this case, isn't it?

A. It's important for me to -- everything is equally important to remember for me.

Q. Today and yesterday, it's important for you to remember people's names and nicknames, isn't it?

A. It's important to remember everything I can about this case, yes, ma'am.

Q. Thank you. And the reason that that's important to you is because you value your freedom, don't you?

A. That I need to do the right thing at this point, yes. I need to remember what I can to get through what I'm doing, yes, ma'am.

Q. And do the right thing, you say?

A. Yes, for what I need to do now, for me, the right thing for me, the right thing for my girl, the right thing to move on with my life.

Q. And the right thing for you to do for yourself, right?

A. Uh-huh.

Q. And you also mentioned your girlfriend?

A. Uh-huh.
Q. You are doing the right thing for her too?
A. As far as I can see, yes, in my opinion.
Q. And did Dorchester County tell you that they already dismissed her charge?
A. No, they didn't tell me that.
Q. They didn't?
A. No.
Q. She hasn't been having to show up for roll call, has she?
A. No. I haven't had to show up for roll call.
Q. So you at least accomplished that for her, didn't you?
A. I suppose I did, yes.
Q. And now you want to accomplish the same thing for yourself, don't you?
A. Yeah. I was really hoping that it had already been done, but --
Q. So you could avoid this confrontation, isn't that right?
A. Absolutely. I think by human nature, you would like to avoid confrontation, if possible.
Q. Your freedom is also contingent upon two things that they told you. One is telling the truth, right?
A. Yes.

Q. And the other one is a conviction. You said that on direct.

A. Under the initial agreement, yes, ma'am.

Q. So it's important for you that that happens, isn't it?

A. They are kind of contradictory to one another. You've go to tell the truth. And that's basically all I can do is tell the truth. And if it happens, it happens.

Q. When you are telling the truth, it is your hope that that leads to a conviction so you will be free?

A. Sure, yes.

MS. JOHNS: Okay. Thank you. Nothing further.

THE COURT: Any redirect?

MR. UNDERWOOD: Very briefly, Your Honor.

THE COURT: You may proceed.

REDIRECT EXAMINATION

BY MR. UNDERWOOD:

Q. Mr. Sekula, a moment ago, you were asked about the importance of remembering things.

A. Uh-huh.

Q. Was it important for you to remember the nicknames of Mo, Q, Keith and others that you've mentioned prior to being involved with law enforcement?

A. Yeah, absolutely.

Q. Why?

A. I have to know what to call them.
Q. Why was it important to know who they were?
A. So I could deal with them and they would recognize me and I can recognize me and keep up a good relationship.
Q. Why was that important to you?
A. Because I needed to buy heroin then.
Q. Earlier you mentioned something called a burner phone?
A. Uh-huh.
Q. Explain what a burner phone is.
A. It's just a phone that's really not registered to any one individual so that it can't come back to your ownership. So that you can get away with or do things that you won't be held accountable for.
Q. Are you aware if Mo or any of the boys had anything referred to as a Ninja phone?
A. No, they didn't have anything like that.
Q. Are you aware of them ever using any kinds of app's or other devices to disguise their phone numbers?
A. No.
Q. Did Mo or Q or any of the other boys ever use drugs with or around you?
A. I've seen them smoke some pot before.
Q. Did any of them use heroin?
A. No.

Q. Mr. Sekula, has all the testimony that you've given both yesterday and today been the truth?

A. Yes.

Q. Have you been told by anyone to say anything other than the truth?

A. No, absolutely not, just actually encouraged 100 percent to tell the truth.

MR. UNDERWOOD: No further questions, Your Honor.

THE COURT: Sir, you are excused, subject to being recalled.

Call your next witness.

MR. UNDERWOOD: Your Honor, the State calls William Brown.

Your Honor, I've been informed the witness has gone downstairs.

Your Honor, the State calls Detective Brandon Allen.

BRANDON ALLEN,

having been duly sworn, testifies as follows:

THE COURT: State your full name for the record, spelling your last name for the court reporter.

THE WITNESS: Yes, ma'am. Detective Sergeant Brandon Allen, A-l-l-e-n.

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. UNDERWOOD:

Q. Good morning, Sergeant Allen. If you would please introduce yourself to the jury. Tell them what you do for a living.

A. Yes, sir. I'm the sergeant in the Dorchester County Summerville Metro Narcotics Unit. We facilitate all mid-level to upper level narcotics distribution, trafficking investigations for the entire county of Dorchester and the parts of the town of Summerville that encompass Dorchester County, Berkeley County and Charleston County.

Q. How long have you worked in law enforcement?

A. I've been in law enforcement going on almost 10 years.

Q. And how long of that time had you been working narcotics investigation?

A. Going on five now.

Q. What is your current capacity within that division?

A. The current capacity is a mid-level supervisor for detectives that are in the narcotics unit. And I also investigate, as I've stated, distribution, trafficking level cases within the jurisdictional line of Dorchester County and Summerville.

Q. As an investigator in the narcotics division, what type of activities do you do to carry on your investigations?

A. We conduct anything from visual surveillance, mobil surveillance, controlled purchases utilizing CIs, undercover capacity, things of that nature.

Q. Very briefly, what exactly is a controlled purchases? We've had some discussion, but very briefly, what is that?

A. Controlled purchases can be a few things. We either utilize a confidential informant where we outfit them with some sort of audio/video equipment to monitor and record the controlled purchases or, for example, myself, I would go undercover as a person purchasing illegal narcotics.

Q. Sergeant Allen, what capacity were you working in starting in August of 2015 until February of 2016?

A. I was working in the undercover capacity.

Q. And as a result of that, were you involved in operations involving this case that brings us here today?

A. Yes, sir, I was.

Q. What was your role in those operations?

A. I went undercover with the informant and, basically, drove him to meet with the individuals that we were dealing with in this investigation.

Q. Who was the informant you were using?

A. It was Tommy Sekula.

Q. If you would please tell the jury how each of those

operations, as a procedure, would take place.

A. As a procedure, we pick up the confidential informant or meet with him at an undisclosed location. Every time they are searched, strip searched. Their vehicle, if they are utilizing a vehicle, is searched. In this case, we were using our vehicle, so that wasn't necessary. The informant is, as I stated, strip searched. He is then outfitted with some sort of audio/video recording device, whatever equipment we are using for that controlled purchase. And then he is placed in my responsibility and care while the controlled purchases takes place.

Q. And in your responsibility and care, what exactly does that mean?

A. He's basically my responsibility, under my control. I'm responsible for anything and everything that that employment does while I'm in the undercover capacity and he's with me. I'm basically a secondary handler of the informant.

Q. Does that mean you were in close contact with him during that time?

A. Yes, we were side-by-side pretty much during all the controlled buys.

Q. Sergeant Allen, in your experience working as a narcotics investigator, did you ever opportunity to observe and interact with people who are under the influence of

heroin and other drugs?

A. Yes, sir, I have.

Q. Are you familiar with how people behave and appear when they are high on heroin?

A. Yes, sir.

Q. During any of the operations utilizing Tommy Sekula, did he appear to you to be under the influence of heroin or any other drugs?

A. Not while we were conducting our controlled purchases, no. He was coherent. He was awake, things of that nature.

Q. As to these operations, did you play, essentially, the same role or different role in the various controlled buys?

A. I essentially played the same role the whole time. We try to keep things as normal as possible to alleviate any sort of change, anything like that, that could cause is suspicion. So I played the undercover role the whole operation.

Q. Walk the jury how your role in those transactions took place.

A. Once Mr. Sekula met with his handler, Detective Lundberg, I was present, obviously. They connected their searches, their outfitting of the equipment. And then I used one of our undercover vehicles to drive. Tommy and I

would get in the vehicle. After the phone calls and, basically, the buy was set up, and we would drive to that location, whatever location it was for that specific buy. Tommy would then -- I pull up in front of whatever residence. Tommy would get out of the vehicle and conduct the transaction. He would come to me in the vehicle. I would then immediately take control of the heroin that was purchased for that buy. And then Tommy and I would drive back to an undisclosed location where Tommy would then be released to Detective Lundberg as his primary handler.

Q. Once you were given the drug evidence from Tommy Sekula, what did you do with it?

A. I processed the evidence. It keeps the chain of custody pure. That way, it's just Tommy giving me the drugs. I'm taking the drugs, submitting them into evidence to SLED for analysis and, obviously, future court proceedings.

Q. How would that submission process take place?

A. I would take it back to my office. We have an evidence section in the office where we process, field test, package, photograph, and then submit the evidence.

Q. How do you package the evidence?

A. SLED provides -- internally, we have a system where we heat seal the purchased heroin in this case. We date it. We signature it. We sign it, initial it as the person

that's actually conducting the packagings. We then, in turn, SLED provides what's called a BEST kit. It's basically a plastic bag in an envelope that's sealed. And once it's sealed, it can't be tampered with. If it is tampered with, it shows signs of anybody cutting any packagings, anything like that. It is then, in turn, submitted to our evidence technician, who are responsible for getting it to SLED.

Q. Are you familiar with the process of what happens after that, where the drugs go or what happens to them?

A. Once the evidence technicians drop, in this case, heroin off to SLED, from my understanding, an analysis take place for its purity and quantity, things of that nature.

Q. In your capacity as a narcotics investigator, have you had the opportunity to see what their chain of custody forms like that, lab forms look like that?

A. Yes.

Q. So you are familiar with all of the forms?

A. Yes.

MR. UNDERWOOD: Permission to approach the witness, Your Honor.

Q. Sergeant Allen, bear with me, please, sir. I'm going to show you a number of documents. If you can briefly review them. And then I will ask you a number of questions. All of them, please. In general, can you describe the

nature of the documents you were just reviewing?

A. The documents are the SLED documents that show the chain of custody between Agent Wingo, myself as to Agent Wingo or the Dorchester County Sheriff's Office to Agent Wingo to SLED to -- basically, forensic technicians who conducted their analysis of the heroin.

Q. And in that stack of documentation, are there also reports from the analysis that were conducted?

A. Correct, yes, sir.

Q. Just to be clear, Sergeant Allen, you mentioned earlier that when you would receive the drug evidence from the confidential informant, Mr. Sekula, you would then give it directly to SLED. Does that mean that your evidence technicians at Dorchester County or to Agent Wingo, or is there a combination of the two?

A. It was a combination of the two -- well, specifically for Agent Wingo's involvement, Agent Wingo specifically took control of it at that point into SLED.

Q. And would those documents reflect the items submitted by Special Agent Wingo?

A. Correct.

MR. UNDERWOOD: Your Honor, at this time, I believe without objection from the opposing counsel, I would seek to enter into evidence State's Exhibits 126 through 133 and Exhibits 141 through 165.

THE COURT: Any objection?
MR. GRIFFITH: No objection, Your Honor.
MS. JOHNS: None.
THE COURT: Marked and admitted without objection.
(State's Exh. 126, SLED Analysis L15-12537, was received in evidence.)
(State's Exh. 127, SLED Analysis L16-00782, was received in evidence.)
(State's Exh. 128, SLED Analysis L16-00965, was received in evidence.)
(State's Exh. 129, SLED Analysis L16-01604, was received in evidence.)
(State's Exh. 130, Lab Report L15-12537, was received in evidence.)
(State's Exh. 131, Lab Report L16-00782, was received in evidence.)
(State's Exh. 132, Lab Report L16-00965, was received in evidence.)
(State's Exh. 133, Lab Report L16-01604, was received in evidence.)
(State's Exh. 141, Lab Report L16-01873, was received in evidence.)
(State's Exh. 142, Lab Report L15-13834, was received in evidence.)
(State's Exh. 143, Lab Report L16-01822, was

received in evidence.)

(State's Exh. 144, Lab Report L16-01825, was received in evidence.)

(State's Exh. 145, Lab Report L16-01822, was received in evidence.)

(State's Exh. 146, Lab Report L16-01825, was received in evidence.)

(State's Exh. 147, Lab Report L16-01822, was received in evidence.)

(State's Exh. 148, Lab Report L16-01874, was received in evidence.)

(State's Exh. 149, Lab Report L15-10914, was received in evidence.)

(State's Exh. 150, Lab Report L15-13649, was received in evidence.)

(State's Exh. 151, Lab Report L15-13649, was received in evidence.)

(State's Exh. 152, Lab Report L16-01640, was received in evidence.)

(State's Exh. 153, Chain of Custody L16-01640, was received in evidence.)

(State's Exh. 154, Lab Report L16-01873, was received in evidence.)

(State's Exh. 155, Lab Report L16-01874, was received in evidence.)

(State's Exh. 156, Chain of Custody L16-01821, was received in evidence.)
(State's Exh. 157, Chain of Custody L16-01820, was received in evidence.)
(State's Exh. 158, Chain of Custody L16-01819, was received in evidence.)
(State's Exh. 159, Chain of Custody L16-01817, was received in evidence.)
(State's Exh. 160, Lab Report L16-01817, was received in evidence.)
(State's Exh. 161, Lab Report L16-01819, was received in evidence.)
(State's Exh. 162, Lab Report L16-01820, was received in evidence.)
(State's Exh. 163, Lab Report L16-01821, was received in evidence.)
(State's Exh. 164, Lab Report L15-13080, was received in evidence.)
(State's Exh. 165, Lab Report L15-10914, was received in evidence.)
BY MR. UNDERWOOD:
Q. Sergeant Allen, during the controlled purchases that were conducted into this group, how close were you to the proximity of the sales?
A. Close distance, usually at the front of the house,

somewhere close by.

Q. What locations did you drive the confidential informant to?

A. We drove to numerous locations, McDonald's Restaurant on College Park Road, a trailer park off of College Park Road, neighborhood in Dorchester County called Jamison Terrace, a couple different locations.

Q. Do you remember the address of any of those locations?

A. Not off the top of my head, no.

Q. During any of the transactions, were you ever in a position to observe the people that were bringing the drugs to Tommy Sekula?

A. Yes, sir.

Q. How many times?

A. At least on one occasion.

Q. On that occasion, who were you able to observe?

A. The defendant present today.

Q. And who is that?

A. Mr. Hunter.

(Whereupon, the court reporter asked for clarification.)

A. I'm sorry. What was the question?

Q. Which defendant or defendants were you able to observe bringing drugs to Thomas Sekula?

A. Oh, specifically the defendant present today, Mr. Roberts. Excuse me.
Q. Were you ever able to observe Mr. Hunter?
A. Yes.
Q. When were you able to observe Mr. Hunter?
A. The McDonald's on College Park Road.
Q. And do you recall which transaction that was?
A. It was -- I don't recall which one specifically it was. We did so many.
Q. Do you recall what time of day it was?
A. It was still daylight hours in the afternoon.
Q. Explain to the jury what you observed and your position that you were able to see him?
A. Which one specifically?
Q. The one where you saw Mr. Hunter.
A. Mr. Hunter? Mr. Sekula, the informant, got out of the vehicle. And how this specific transaction took place, he would get into Mr. Hunter's vehicle. At that time, obviously, surveillance was being conducted. I'm still paying attention to what's going on, things of that nature. And I was able to identify Mr. Hunter as the driver of the vehicle.
Q. How far away were you?
A. Maybe 30, 40 yards, give or take. It was in a parking lot, small parking lot.

Q. Where were you? Were you outside?
A. No. Excuse me. I was sitting in the undercover vehicle.
Q. Was there anything obstructing your view?
A. Not on that specific time, no, sir.
Q. How long did you have an opportunity to observe the person driving the car?
A. The transactions take a few minutes. There's some casual conversation that takes place between the informant and the person delivering the narcotics. So, you know, three, four, five minutes sometimes.
Q. And that particular instance you were able to see Mr. Hunter, was there anything that was distracting your attention away from observing the driver of the vehicle and Tommy Sekula?
A. No, sir.
Q. Is that because, as you stated earlier --
MS. JOHNS: Objection, Your Honor.
THE COURT: Basis?
MS. JOHNS: Leading.
THE COURT: Sustained. Leading. Rephrase.
BY MR. UNDERWOOD:
Q. Why was your attention undivided?
A. That's my primary function at that point, is the responsibility of the informant. And it's also a safety

thing for me.

Q. In what way is it a safety concern?

A. Any time you have drug traffickers, through my training and experience, weapons are involved, things of that nature. There's a lot of things that can take place. Robberies can happen, things like that. So safety is paramount.

Q. The defendant, Mr. Hunter, have you been present during court proceedings prior to this trial?

A. Yes.

Q. Were you ever able to observe Mr. Hunter at that time?

A. Yes.

Q. The individual, the defendant Justin Hunter, how does the person you saw in court compare to the person you saw driving that vehicle during the transaction?

A. I'm not sure I understand the question. His appearance?

Q. Yes. Was it the same person?

A. Yes, it was.

MS. JOHNS: Your Honor, I would object. Again, leading.

THE COURT: Sustained. Leading. No speaking objections. Rephrase.

BY MR. UNDERWOOD:

Q. Can you compare the person that you saw driving the vehicle and the person that you saw in court, the defendant, Justin Hunter?

A. Yes, sir.

Q. Please make that comparison.

A. Black male, dreads, things of that nature. He's identifiable that way.

Q. Were you able to make what you would call a positive identification?

A. Yes, sir.

Q. How sure are you of that identification?

A. 90 to 100 percent sure.

Q. Sergeant Allen, I'm going to show you this.

MR. UNDERWOOD: Permission to publish State's Exhibit No. 42.

THE COURT: You may proceed.

BY MR. UNDERWOOD:

Q. Do you recognize this individual?

A. Yes.

Q. Who is that?

A. Mr. Hunter.

Q. Thank you. Is that the same individual that you saw selling drugs to Tommy Sekula?

A. Yes.

MS. JOHNS: Your Honor, objection. Leading.

THE COURT: Sustained. Leading. Rephrase.

BY MR. UNDERWOOD:

Q. What have you personally observed Justin Hunter do?

A. Sell Tommy Sekula heroin.

Q. Where did that take place?

A. Specifically, this incident we are talking about is the McDonald's on College Park Road and I-26.

Q. What county is that in?

A. It's in Berkeley County.

Q. Have you ever transported Tommy Sekula to other locations to purchase heroin from Justin Hunter?

A. Yes, sir.

Q. Where were those?

A. There was a road just past the specific McDonald's we are speaking of. I believe it was Arno Drive. I think that's how it's pronounced.

Q. Tell the jury what happened in that transaction.

A. It's a one-way-in/one-way-out kind of neighborhood. We would drive in. I would park. Tommy would get out of the vehicle and walk to that location and conduct the purchase. He would then walk back to me, get in the vehicle and then we would drive back to an undisclosed location.

Q. Can you provide a little more detail as to exactly what you saw the confidential informant do?

A. In that specific situation, I was required to maybe

park a little further away. I was able to see Tommy walk to the residence. Unfortunately, given the neighborhood and given the one-way-in/one-way-out situation, I had to go a little further back. I would see Tommy walk to the house. He would stay inside the residence for a few minutes, conduct his purchase. And then he would physically walk back to me. I could see him walking.

Q. Were you able to observe the confidential informant the entire time walking to and from the residence?

A. Correct.

Q. During that time, did you ever see Mr. Sekula pick anything up?

A. No.

Q. Did he have interactions with anyone else?

A. Not except for who he was meeting with.

Q. Was there another location that you drove Mr. Sekula to for a controlled purchase from Justin Hunter?

A. I think it would have been the residence in the mobile home off of College Park, I believe.

Q. Were there any transactions with Mr. Hunter that took place at a store other than the McDonald's?

A. Sunoco gas station would have been one.

Q. Have you ever had any -- let me rephrase that. Were there ever any occasions that you took Mr. Sekula to

purchase heroin from the defendant Emory Roberts?

A. Yes.

MS. JOHNS: Your Honor --

THE COURT: Basis?

MS. JOHNS: Leading.

THE COURT: Sustained. Leading. Rephrase.

BY MR. UNDERWOOD:

Q. What operations did you conduct with Tommy Sekula regarding Emory Roberts?

A. We purchased heroin from Mr. Roberts.

Q. At what location or locations did that take place?

A. The trailer park off of College Park Road, I don't recall the name of it off the top of my head; the Sunoco gas station, I believe, and that's the ones I recall right now.

Q. Were there any other -- how many different trailers did you go to?

A. Just one specific one.

Q. Could you describe the appearance of that trailer?

A. It's a single-wide standard mobile home, set perpendicular to the road, kind of off-ish-white-ish, tan color maybe.

Q. Did you ever go to another trailer?

MS. JOHNS: Your Honor, I'm going to object to that as leading again.

THE COURT: Leading. No editorial comments. The objection is sustained. Leading. State your objection and I will rule on it. Rephrase.

BY MR. UNDERWOOD:

Q. Did you take the -- do you recall how many different controlled purchases you conducted with Tommy Sekula?

A. Prior to SLED's involvement or during SLED's involvement?

Q. Both.

A. Somewhere in the ballpark of 14 or 15 total.

Q. Do you have any notes with you right now today?

A. Not currently, but they are present in the lobby there.

Q. Do you clearly recall each and every single transaction?

A. No, I do not.

Q. Were you ever in a position to observe the defendant Emory Roberts?

A. Yes.

Q. Please tell the jury how that occurred.

A. The specific purchase I'm speaking of is the trailer park off of College Park Road in Berkeley County. Myself and Tommy drove to this trailer park, parked in front of the mobile home. It was nighttime. Tommy exited the

vehicle, walked up to the door, knocked on the door. Mr. Roberts opened the door. And the back lighting from the trailer made him visible to me. At that point, Tommy went inside, conducted his purchase, and then came back out to the vehicle. That's how I was able to see Mr. Roberts.

Q. And approximately how far away were you?

A. Not even 10, 15 yards. I was basically parked in front on the street in front of the residence.

Q. The individual that you saw in that doorway, is he in the courtroom today?

A. Yes, sir. He's sitting right there.

Q. If you could please describe what he's wearing.

A. The gentleman in the blue shirt sitting at the table to the left of his attorney.

MR. UNDERWOOD: I would ask for the record to reflect he's identified the defendant Emory Roberts.

THE COURT: Proceed.

MR. UNDERWOOD: Court's indulgence, Your Honor.

THE COURT: Yes, sir.

BY MR. UNDERWOOD:

Q. Sergeant Allen, were Justin Hunter and Emory Roberts the only individuals that you took Tommy Sekula to purchase heroin from?

A. No.

Q. Do you recall how many other individuals were

involved?

A. Two to three, more possibly.

Q. Did you ever take -- were there any other drugs involved other than heroin into these controlled purchases?

A. No, sir.

Q. Were the individuals we've been speaking of thus far male or female?

A. Both.

Q. Do you recall any transactions with a female?

MS. JOHNS: Your Honor --

THE COURT: Basis?

MS. JOHNS: I would withdraw.

THE COURT: Objection is withdrawn. You may proceed.

BY MR. UNDERWOOD:

Q. Do you recall any particular transactions with any females?

A. There were, but I wasn't involved in them.

Q. Sergeant, just to be clear, the procedure of the controlled purchases, did you use that same procedure every time?

A. Yes, sir, we used it every time. There's no changes.

Q. And, to your knowledge, has all of the suspected drug evidence that you collected been turned over and

tested?

A. Yes, sir.

Q. And is that reflected in the lab reports and chain of custody documents that were admitted earlier?

A. Yes, sir.

MR. UNDERWOOD: Please answer any questions the defense has.

THE COURT: Mr. Griffith, you may proceed.

MR. GRIFFITH: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. GRIFFITH:

Q. Detective Allen, were you involved in installing the video equipment that your CI used onto the CI?

A. No, sir. That would have been the primary handler's responsibility, Detective Lundberg.

Q. Were you ever the only one there, basically, with the CI when you dropped him off with other people?

A. Correct.

Q. So who installed it?

A. Detective Lundberg would install it and I would turn it on once we got close.

Q. Did you ever view any of those videos?

A. Specifically, no, sir.

Q. So you really didn't have any idea at all what was

in these videos?

A. It wasn't my primary responsibility. Like I said, that was Detective Lundberg's responsibility.

Q. And you never actually saw any drugs change hands; is that correct?

A. No, sir.

Q. So you depended only on what your CI, Tommy, told you happened inside those dwellings; is that correct?

A. We relied on the informant's information and also the audio and video evidence that was obtained through the equipment that was placed on the informant.

Q. So you or the other members of your team or anything like that were never actually with Tommy all the time between the buys; is that correct?

A. Can you specify "between the buys"?

Q. He was not under surveillance constantly during this period of time he was working for you, was he?

A. He was under surveillance any time we were conducting controlled purchases. Is that what you mean?

Q. No. I mean between controlled purchases.

A. In his own personal life?

Q. In his own personal life.

A. No, sir. He was not under constant surveillance.

Q. Mr. Sekula testified that he was using during that time. You just testified that, as far as you know, he never

appeared -- that is, he appeared sober; is that correct?

A. When he was with me, he did not appear to be under the influence, no, sir.

Q. Have you ever been around a heroin user who is coming down off of heroin?

A. Yes, sir.

Q. They appear to be pretty sick, don't they?

A. Yes. Yes, sir, they are.

Q. They appear to be hurting, don't they?

A. Yes, sir.

Q. You never saw that he was hurting, did you?

A. Not when he was working with us.

Q. So would it be -- he testified he was using. So would it be safe to assume then that he was high while he was with you?

A. I can't make that assumption, no, sir.

Q. But a person who was coming down would be sick, wouldn't they?

A. That is the appearance that a heroin user would have, yes, sir.

Q. So you never actually saw any drugs change hands, did you?

A. No, sir.

Q. You never saw Mr. Roberts with drugs or hand drugs to anybody, did you?

A. No, sir.
Q. You were parked at the end of the street at one point you mentioned, and you saw Mr. Sekula walk down the street to a house. You saw him get to the house; is that correct?
A. On that specific buy, yes, sir.
Q. Several of the videos, he seems to walk the same street. Were you present when he walked -- you said that you had to park way down at the end of a cul-de-sac kind of because there was just one way in and one way out?
A. Yes.
Q. How far would you say that was from the house?
A. Block or two maybe.
Q. So pretty long way. And you were in a vehicle; is that correct?
A. Correct, yes, sir.
Q. So as far as seeing anyone come to the door or anything like that, that would be pretty tough, wouldn't it?
A. On that specific controlled purchase, yes, sir.
Q. And on the purchase where you said you saw Mr. Roberts come to the door, you didn't see him hand any drugs to Mr. Tommy, did you, at that time?
A. No, sir, not on that specific one.
Q. But you never saw him hand drugs to him ever?
A. No.

Q. All you saw was he let, according to your testimony, Tommy into the house, correct?
A. He opened the door, yes, sir.
Q. When you were testifying, you identified the person sitting there as Mr. Hunter when you first looked at him?
A. Yes.
Q. You are not really sure what these guys looked like, are you?
A. I misspoke. Yes, sir.
Q. In the picture that Mr. Underwood showed, that gentleman did not have dreads, that is, that we could see?
A. In the passport photo?
Q. Yes.
A. Yes, sir.
Q. You described Mr. Hunter as having dreads?
A. I've seen pictures of him with dreads. I've never seen that passport photo before.
Q. You also testified that you could not remember every single transaction; is that correct?
A. Yes, sir. It's almost two years ago, three years ago. We've done quite a few.
Q. Pretty interesting that Tommy can remember every transaction. How do you suppose that might be?
A. They aren't the only guys I buy drugs from.
MR. GRIFFITH: That's all the questions I have.

Please answer any questions Ms. Johns may have.

THE COURT: Ms. Johns, any questions?

MS. JOHNS: Yes, Your Honor.

CROSS-EXAMINATION

BY MS. JOHNS:

Q. Is it Sergeant Adams?

A. Allen.

Q. Sorry, Sergeant Allen. When did you get involved with Tommy Sekula?

A. When, ma'am?

Q. Yes.

A. At the beginning of this operation.

Q. At the beginning of this operation?

A. Yes, ma'am.

Q. Does that involve whenever you had a CI following him?

A. That wasn't my investigation, no, ma'am.

Q. So were you involved in the interview of Tommy at the very beginning of this operation?

A. I was involved with numerous interviews, yes, ma'am.

Q. Do you remember when the beginning of this operation occurred?

A. No, ma'am.

Q. Do you remember interviewing Tommy at any time?

A. I remember sitting down with Detective Lundberg while he conducted the interview, yes, ma'am.
Q. At that time, did you have Tommy enter into an agreement to cooperate?
A. Detective Lundberg did, yes, ma'am.
Q. And you were present?
A. I was just there as a secondary detective, yes, ma'am.
Q. But you witnessed this agreement, did you not?
A. Correct.
Q. And during this time, were you not aware that Tommy had agreed not to commit other crimes?
A. Yes, ma'am, that's part of our agreement.
Q. And were you aware of distributions that Tommy himself had made earlier that summer?
A. I believe that's how Detective Lundberg became involved with Tommy, yes, ma'am.
Q. And did you work any of those cases with Detective Lundberg?
A. I was present, but not in the capacity of -- I was just a surveillance detective for that portion.
Q. Okay. So the portion where Tommy was dealing drugs, you were just being used as a surveillance officer?
A. Yes, ma'am, correct.
Q. So you were working with this particular group

against Tommy, right?

A. Yes, ma'am. Our whole unit works together.

Q. All right. Do you know what a SLED drug analysis request is?

A. Is it the form that is submitted to SLED for the analysis of the drugs purchased?

Q. Yes. It's basically asking SLED to conduct some sort of lab analysis on drugs.

A. Okay.

Q. Would it surprise you to find there was a request done by your agency where it had Tommy Sekula's name submitted on it during the mix of operation, this operation?

A. I am not aware of it, no, ma'am.

MS. JOHNS: I have nothing further. Thank you.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. UNDERWOOD:

Q. Sergeant Allen, who was the primary agent for Dorchester County involved in this investigation?

A. It was Detective Lundberg.

Q. Again, what was your role?

A. The undercover detective.

Q. What is your primary purpose as the undercover?

MS. JOHNS: Your Honor, I'm going to object.

THE COURT: Overruled. Let's stay within the scope

of cross.

BY MR. UNDERWOOD:

Q. What was your purpose as the undercover officer?

A. My purpose was to drive Tommy and keep control of Tommy during the controlled purchases that were conducted during this operation.

Q. Have you reviewed each and every video that was taken from these operations?

A. I've seen some of them, but Detective Lundberg's responsibility was to review.

Q. At any time while you were observing Mr. Sekula during the controlled purchases, during any of them, did you observe him pick up anything from anywhere while in your vehicle?

A. No, sir.

Q. Did you observe him interacting with anyone and taking something from someone?

A. Do you mean physically conduct a hand-to-hand transaction?

Q. Yes.

A. No.

Q. At the time that Mr. Sekula left your undercover vehicle, did he have any illegal drugs on his person?

A. No, he did not. And that's why we strip search people. So we can say they did not have anything illegal on

them when they were with us, when they left us. And then when they come back to us, obviously, they have the drugs.

Q. Were you able to observe him or was he under observation the entire time from when he left the vehicle to when he got to the place of the transaction?

A. Yes, he was.

Q. At the time he returned to the undercover vehicle in each and every one of these transactions, did he have illegal drugs?

A. Yes.

Q. What did he do with those drugs as soon as he got to the vehicle?

A. He gave them to me.

Q. At the conclusion of each transaction, was Mr. Sekula searched again?

A. He was searched again to ensure that he didn't have any other drugs that we purchased on him.

Q. Was he ever found to be in possession of any of the drugs?

A. No, Your Honor.

MR. GRIFFITH: Objection, Your Honor. These questions are still leading.

THE COURT: He can rehabilitate the witness, but stop leading. Sustained.

MR. UNDERWOOD: Nothing further, Your Honor.

THE COURT: Any objection to the witness being excused, from the State?

MR. UNDERWOOD: None, Your Honor.

THE COURT: From the defense?

MS. JOHNS: None, Your Honor.

MR. GRIFFITH: None, Your Honor.

THE COURT: Sir, you are excused.

THE WITNESS: Thank you.

THE COURT: You're welcome.

Madam Forelady, ladies and gentlemen, we are going to take advantage of this break in testimony to take a brief restroom break. During the break, please do not discuss the case and please leave your notepads in your seats.

(Whereupon, the jury leaves open court at 11:43 a.m.)

THE COURT: Who's the State's next witness?

MR. UNDERWOOD: William Brown, Your Honor.

THE COURT: Is he present?

MR. UNDERWOOD: He is, Your Honor.

THE COURT: We will be at ease for a few moments.

(Whereupon, recess transpired.)

THE COURT: The State ready to proceed? Is the State ready to proceed?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Is the defense ready to proceed?

MR. GRIFFITH: Yes, Your Honor.

MS. JOHNS: Yes, Your Honor.

(Whereupon, the jury returns to open court at 11:55 a.m.)

THE COURT: Call your next witness.

MR. UNDERWOOD: May it please the Court. Your Honor, the State calls William Brown.

THE COURT: If you will come forward to be sworn.

WILLIAM BROWN,

having been duly sworn, testifies as follows:

THE CLERK: Spell your name for the court reporter and state your name.

THE WITNESS: W-i-l-l --

THE COURT: You need to speak into the microphone and state your full name.

THE WITNESS: State your name and spell my last name?

THE COURT: Yes.

THE WITNESS: William Orlando Brown, IV, B-r-o-w-n.

THE COURT: Thank you, sir.

You may proceed.

DIRECT EXAMINATION

BY MR. UNDERWOOD:

Q. Good morning, Mr. Brown. Mr. Brown, how old are

you?

A. 27 now.

Q. How far did you go in school?

A. I gradated with a GED from Denmark Technical College back in -- Strayer University for my business administration degree.

Q. Where are you from?

A. I'm from South Carolina, Charleston.

Q. Have you lived in the Lowcountry your whole life?

A. I moved around, so off and on from South Carolina to Florida to New York to Georgia. So I moved around.

Q. Mr. Brown, are you a defendant in this case?

A. I'm trying to plead, you know, basically, say that I'm innocent, if that's what you are trying to say.

Q. I will rephrase the question. Were you charged in this case?

A. Yes.

Q. Have you entered into a plea agreement?

A. Yes.

Q. In your own words, explain your understanding of that agreement.

A. That I have to testify to, you know, basically clear my name and that I have to cooperate.

Q. Are you required to give truthful testimony?

A. Yes.

Q. What do you get in exchange for giving truthful testimony?
A. Hopefully I'm praying I get probation.
Q. Ultimately, who determines your sentence?
A. The judge and the jury.
Q. You already pled guilty?
A. Yes.
Q. Did you plead to reduced charges?
A. Yes.
Q. Is that in exchange for your truthful cooperation?
A. Yes.
Q. Mr. Brown, do you know an individual called Q?
A. Yes.
Q. How did you meet him?
A. I met him through dogs.
Q. Explain for the jury, please.
A. Okay. I had a pit bull named Cocoa. And I was walking her. And I met him because we was going to breed the dogs together. And that's how I met him.
Q. Where were you living at the time?
A. I was living at 114 Louise Court in Fairlawn in Ladson, South Carolina; that's where.
Q. Whose house was that?
A. That was my father's house.
Q. Did you ever move out of that house?

A. Yes.
Q. When?
A. I would say like in 2005, like in May, May in 2005 -- I mean, 2015. I had moved -- we had moved out because, basically, my dad lost the house, so --
Q. That was in May of 2015?
A. Yes.
Q. Where were you staying after you moved out of the house?
A. That's when Q, he had let me stay with him until I got back on my feet, let me stay with him. I was staying with Q.
Q. Where were you staying with Q?
A. I was staying at Margaret Street, 1040 Margaret Drive.
Q. Whose house was it, yours or his or someone else's?
A. By my understanding, it was his house. But, you know ...
Q. What bills did you pay?
A. I paid no bills. What I had -- I paid no bills.
Q. What did you do? Were you living for free?
A. In return, I had to feed the dogs and clean up the house and sometimes leave, if they handling business or anything, leave.
Q. What kind of business?

A. If Mo pops up, comes over with anything dealing with the drugs, I had to leave, because, you know --

Q. Let's go back just a little bit. Who is Mo?

A. Mo is basically, I would say, the big dog, the head leader of all of it. And so that's Mo.

Q. When you say "all of it", all of what?

A. All of the drugs, all of the -- basically what we here for today.

Q. How do you know that?

A. Observation and, you know, Q told me that Mo is the big dog. He has it all. He's the one.

Q. Let's begin with your observations. What did you see or hear or otherwise observe to make you think that?

A. What I seen was Mo, Mo would come, he would collect the money, he would bring drugs and then he will leave.

Q. Were you present when that happened?

A. Sometimes and sometimes I wasn't.

(Whereupon, a cell phone goes off in the courtroom.)

THE COURT: If that's a telephone, it needs to be turned off. If not, it will be taken. Not silent, not vibrate, off.

You may continue.

BY MR. UNDERWOOD:

Q. How often did that happen?

A. By my understanding, it happened like at least two times a week.

Q. Did you ever have an opportunity to meet Mo?

A. Yes, I had an opportunity to meet him.

Q. Did you meet him?

A. Yeah, yeah. Yes, sir.

Q. Tell the jury how you met him.

A. I met him -- basically, I was coming back inside the house. Mo popped up, and that's how I met him, basically, because he was like, whose, basically, who was me staying in the house. And, you know, I wasn't really doing -- putting in or wasn't part of the team, so he asked. And Q had vouched, saying that I was the person cleaning up the house, feeding the dogs.

Q. You used the expression "part of the team", what do you mean by that?

A. Basically where everything comes, comes from, where everything going, who is getting percentages of the money, who is -- like everything, you know, the whole ringleading, basically everything.

Q. All right. Let's break that down a little bit when you talk about everything. What kind of activity was getting on that you are talking about?

A. Okay. Where the heroin was coming from, where the coke is coming from, where the guns are going, where the

money is being stashed at, where the guns are being stashed, where everything, that's everything.

Q. You mentioned heroin. Have you ever seen heroin while you were at Q's house?

A. Yes.

Q. What were the circumstances at the beginning? What were the circumstances that you would see heroin?

A. At the beginning, the circumstances was just I opened the door, he serves them, and that's it.

Q. When you say "serves them", what do you mean?

A. When the clientele call his phone and they come to the house, they pick up the drugs. That's when I would say addicts or -- I don't know how you want me to say them, the buyers, the users, comes to the house. I open the door and they get served from him.

Q. Was there ever an exchange of money associated with that?

A. Yes, they give him money. He gives them the drugs.

Q. What role did you play in that activity?

A. What role? I open the door.

Q. Did you ever serve people, as you say?

A. Later down the months, yes, I have, like around late nights, when he's asleep, and I'm -- if I'm at the house, then that's when I had to go open the door and I serve them.

Q. And is this still at a house on Market Street we are talking about?
A. Yes.
Q. Did you ever see where the drugs came from?
A. Where it came from, no.
Q. Did you ever see who brought the drugs?
A. One time, yes, and I seen Mo bring the drugs.
Q. How did that happen?
A. He pulled up, got out of the car, and he had the bags. And then they did something with the bags. I left and, you know --
Q. Explain what you mean by "they did something with the bags".
A. How I got to explain it? Basically, when I got back, the bags wasn't there. So, like, I don't know what they did with it, but, you know, the bags was gone.
Q. Do you know what was in the bags?
A. No.
Q. Did anyone tell you what was in the bags?
A. No.
Q. Did Q ever tell you what was going on with that organization?
MS. JOHNS: Your Honor, I'm going to object. And I need to be heard, matter of law.
THE COURT: Approach.

(Whereupon, the following bench conference takes place.):

MS. JOHNS: He's coming from --

THE COURT: She has every right. She can't confront what somebody else said.

MR. UNDERWOOD: The statement of the co-defendant in furtherance of conspiracy is considered the statement --

THE COURT: She has the ability to confront every single person. Can't bring it in through somebody else. He can't repeat what somebody else said unless it's her client, then it's an admission against interest. He can say what he said, implicate him, but not inculpate him. She has every right to confront. Uh-huh.

(Whereupon, the bench conference ends.)

THE COURT: Rephrase.

BY MR. UNDERWOOD:

Q. What did Q tell you about his role and only his role in this group?

A. Basically, he sells drugs. That's his role, that he sells drugs, you know. And he basically just let me know what everything goes for, from a half gram to the ball.

Q. What did he tell you about that?

A. The half gram goes for 65. The grams go for 125. The ball goes for 300.

Q. Did he ever tell you any higher amounts of numbers?

A. No.

Q. Did you ever see anyone else at Q's house selling drugs?

A. Other than Q, it was Chico, used to come over. It was a couple more people, but it was a couple more people that came.

Q. What did those people do?

A. Basically, the same thing, you know, like, they was part of the team. And, you know, they was the ones always sticking around, you know.

Q. How was this team organized?

A. To tell you the truth, I really don't know how it's organized or how -- what -- you know, who gets what and what percentage or anything. I just know that it was -- it's a lot of them. And they get paid for selling drugs. Mo pays them off.

Q. The other people you were talking about, have you personally seen them selling drugs?

A. Personally seen them? Like couple of times, because I never normally don't stick around. So a couple of times I seen them sell it, but not often.

Q. What kind of drugs did you see them sell?

A. Heroin. That's -- yeah, that's about it, heroin.

Q. Earlier in your testimony, you mentioned coke. What was that a reference to?

A. The coke, I don't know how they be getting the coke. I just know that they have coke and, you know, some sales come and they ask for coke and they want to buy coke and they will have the coke and they will sell it.

Q. When you say coke, are you referring to cocaine?

A. Yes.

Q. How long did you live with Q?

A. I lived with him for six months.

Q. So when did you stop living with him?

A. December in 2015.

Q. During that six-month period, how many times did you see people come to that house to buy drugs?

A. A lot. I mean, a lot. It's like 30 -- like 100, like 200, you know, throughout the months. It's a lot.

Q. How many times in a day or a week?

A. In a week, we would at least have the same people come at least 100 times within a week.

Q. At some point, did you begin to participate in the drug deals?

A. Yes.

Q. When was that?

A. When Q asleep at night, and if he was gone and went to the store to get something, or if he was doing something else, then I have to.

Q. You have to what?

A. I have to serve, serve the customers.
Q. Who told you what to serve and how much?
A. Q did.
Q. Do you remember how long you had been living there when you started serving people?
A. It took three months, three months in, with living with him, to start serving people.
Q. What's the largest amount that you would serve to people?
A. The largest amount would be a ball.
Q. What's a ball?
A. A ball is 3.5.
Q. 3.5 what?
A. Grams.
Q. Prior to you beginning to serve, had you already seen people coming --
A. Yes, yes.
Q. -- by the house? Let me rephrase that. Was there a limit as to how much you were allowed to sell anyone?
A. It wasn't a limit. It's whatever money they have, basically, when they come to the house to buy, it's whatever they have. And they have to hit the half a gram, gram, ball price.
Q. Were you ever told to sell more than a ball?
A. No.

Q. Were you aware of any other drugs being sold by this group?
A. Yes.
Q. What kind of drugs?
A. Like I said, coke. They sold sometimes meth. And that's all I know.
Q. You mentioned someone named Chico.
A. Yes.
Q. What role did she play?
A. The same role as him, sell drugs, to my understanding.
Q. Did you ever see her sell drugs?
A. Personally, no, unless, you know, like, if he was doing something. And if he was doing something, then, yeah. But like, personally, like off selling drugs by herself out making moves and doing things, no.
Q. Did you ever see her sell drug at Q's house?
A. Yes.
Q. How many times?
A. Only seen like twice, two times.
Q. What kind of drugs did she sell there?
A. Heroin.
Q. Were there any other people ever present other than Q or Chico during drug sales at the house?
A. Like, yes, there was some other people there.

Just, like, I don't remember their names. Like Chica, Mo, Q. It was -- it's a big dude, you know, a big dude used to be there, and he sometimes used to come, you know. But like right now, off the top of my head, I can't remember his name.

Q. What was his role?

A. Same thing, sell drugs.

Q. How often was Mo present when drugs were being sold?

A. Very seldom. Like, he wasn't really often right there.

Q. What role did he play at that time?

A. What role Mo played?

Q. Yes.

A. He's the head leader.

Q. Mr. Brown, do you use drugs?

A. I smoke weed.

Q. Have you ever used heroin?

A. No.

Q. To your knowledge, did Q ever use heroin?

A. No.

Q. Did Mo ever use heroin?

A. To my knowledge, no.

Q. Did you ever see any guns at Q's house?

A. Yes.

Q. How often would you see guns there?
A. It was guns always in the house. There was guns always in the house.
Q. What kinds of guns?
A. Handguns, you had assault rifles, handguns and assault rifles.
Q. Was it always the same handguns and assault rifles?
A. Not always, no.
Q. Whose guns were they?
A. I don't know. I believe that they are his.
Q. "His" being?
A. Q's, Q's, Mo's, theirs.
Q. Where did the guns come from?
A. Sometimes they come from sales, and other times, I don't know.
Q. What kinds of sales?
A. Sometimes the customers come trade guns for drugs.
Q. What did Q and Mo do with the guns?
A. I don't know.
Q. Where were the guns kept?
A. Other than the few I seen at the house, I don't know.
Q. Were there more guns than what were at the house?
A. I believe so. You know what I mean? They are,

like, the guns that I seen sometimes rotate. And sometimes the guns will leave and more guns will come, you know, like -- I don't know.

MS. JOHNS: Your Honor, I'm going to object.

THE COURT: Basis?

MS. JOHNS: Lack of personal knowledge.

THE COURT: Please approach.

(Wheruepon, the following bench conference takes place.):

THE COURT: Why is it relevant? It's prior bad acts unless you can tie it to the guns found on him. Move on.

(Whereupon, the bench conference ends.)

THE COURT: Objection sustained.

BY MR. UNDERWOOD:

Q. Mr. Brown, after you moved -- you said earlier that you moved to Florida?

A. Yes.

Q. When was that?

A. I moved from Florida, I would say, December 15th, like, around December 15th, 2015.

Q. How long did you stay in Florida?

A. Only stayed a couple -- like a week.

Q. Why such a short time?

A. Because the female that I moved down there with,

basically, she kicked me out because, you know, some other stuff, so I had to leave and come back home.

Q. When you came back home, where did you go?

A. I went to my grandmother's house.

Q. How long did you stay at your grandmother's house?

A. I stayed at my grandmother's house for eight months.

Q. After you came back to South Carolina from your long visit to Florida, did you have any more contact with Q or Mo?

A. Yes.

Q. Describe what kind of contacts you had with them?

A. I had contact because he had gave me a dog from a litter --

Q. Who is "he"?

A. Q. Q gave me a dog from the litter. So I kept the dog. And when I moved down to Florida, I had brought the dog with me. And when I moved back to my grandmother's house, my cousin Sharell already had a dog, and the dogs wasn't getting along. So I had took the dog back over there. And it was the same thing, if I come over, I've got to feed the dog and take care of the dog. So my cousin was like, I can keep the dog as long as I bring a cage back home, you know, if I bring a cage to my grandmother's house.

And at the time I didn't have a job, so when I first moved there, I didn't have a job, so I left the dog over there at his house.

Q. At whose house?

A. Q's.

Q. How often did you go to Q's house because of your dog?

A. I used to go over there, I would say, within a week. I would be over there two, three times a week.

Q. At this time, where was Q living?

A. In College Park in a trailer.

Q. Do you remember the address of the trailer?

A. No.

Q. When did Q move from Margaret Street to the trailer?

A. In that time that I left to go to Florida.

Q. So some time around -- is that sometime around December?

A. I guess, like, when I left to go to Florida, when I came back, there was already a new spot.

Q. Did you ever spend any time other than -- at that trailer, other than taking care of your dogs?

A. No.

Q. Who did you see come to that trailer?

A. I've seen Tommy a couple times.

Q. Tommy who?
A. I don't know his last name. I just know Tommy a couple of times, other than that, I never stay over there long.
Q. Did you ever see drugs sold from that trailer?
A. Yes.
Q. By who?
A. By Q.
Q. Anyone else?
A. No.
Q. Did you ever see Mo at that trailer?
A. No.
Q. Did you ever sell drugs at that trailer?
A. Yes.
Q. How often?
A. Only sold the drugs there two or three times.
Q. Do you remember who you sold to?
A. No.
Q. How many times did you see Q sell drugs from that trailer?
A. The time that I was there, only seen him serve, like, two, three times before I left.
Q. Do you remember who he served?
A. No.
Q. Do you remember what kind of drugs he sold?

A. Heroin.
Q. Do you remember how much?
A. No.
Q. Did you ever see what Q did with the money he got from the drug sales?
A. Gave it to Mo.
Q. Did you see him give it to Mo?
A. Personally, no.
Q. How do you know he gave it to Mo?
A. That was the routine, was after the drugs are gone, Mo comes and gets the money and gives him more drugs.
Q. How do you know that's the routine?
A. Because when I stayed there in Margaret with him, that was the routine. After all the drugs are gone, Mo comes, gives them more drugs, and he gives him the money.
Q. How often have you seen Mo?
A. Not often.
Q. Had you seen him more than once?
A. Yes.
Q. Have you ever talked to him?
A. I talked to him a couple of times.
Q. Was there any discussion about --
A. Drugs, no.
Q. What did you talk about?
A. Basically, what I wanted to do with my life, and

him telling me basically getting my life straight and, you know, go to school and live on.

Q. When you were at Q's trailer, not the house on Margaret, about the trailer, did you ever see any guns at the trailer?

A. Yes.

Q. What kinds of guns?

A. Handguns.

Q. Any other guns or how many guns?

A. All I seen is two.

Q. Do you know where Q kept the drugs?

A. No.

Q. How were you able to serve to people if you didn't know where he kept the drugs?

A. When he had me serve them, it was already out, you know, pretty -- because they would call him and he already have it for them and he will let me know, if he's leaving, to who is coming and how much money that they have and who to give it to.

Q. Is that always how it worked?

A. When I did it, when I was there, yes.

Q. The person that you've referred to as Q, do you know Q's real name?

A. Yes.

Q. What is it?

A. Emory Roberts.
Q. Is Q, Emory Roberts, in the courtroom today?
A. Yes.
Q. Could you point him out, please?
A. Right there.
Q. What's he wearing?
A. Blue.
MR. UNDERWOOD: Your Honor, ask the record reflect he identified the defendant, Emory Roberts.
THE COURT: Proceed.
BY MR. UNDERWOOD:
Q. When was your first interaction with law enforcement involving this case?
A. The day they kicked in the trailer.
Q. What happened?
A. They basically -- what happened, I went over to the house. I brought some dog food. Right when I fed the dog, I didn't get to clean the cage yet, but I fed the dog. Was about to sit down, play the video game, and here comes the flash van.
Q. Were you detained at that time?
A. No.
Q. Did you speak with any of the law enforcement agents?
A. Yes.

Q. At some point, did you meet Special Agent Justin Wingo?
A. Yes.
Q. At what time did you agree to cooperate with the investigation?
A. Right then.
Q. What did you do to cooperate?
A. Gave them my phone.
Q. What else?
A. That day, I gave them my phone. And then they contact me, I said, like, a couple of days later. And other than that, I had to go to Columbia to testify. I had to choose a lineup. And, yeah, that's what I had to do.
Q. You mentioned a lineup?
A. Yes.
Q. What kind of a lineup?
A. It was basically on a sheet of paper with their pictures on it that I had to circle and put my initials by to clues who was who. Who was Q? Who was Mo? Who was Chica.
Q. Did law enforcement tell you which photographs to pick?
A. No, no, sir.
Q. Was there any suggestion who to pick?
A. Say this again.

Q. What exactly did they tell you to do?
A. Pick who was Mo, who was Q, who was Chica.
Q. Did they use specific names to you in your instructions?
A. No, just pick who is who.
Q. When they showed you those lineups, did you recognize anyone in those lineups?
A. Yes.
Q. Did you recognize the person you know at Mo in any of those lineups?
A. Yes.
Q. If you recognized him, what were you supposed to do?
A. Circle and put my initials by.
MR. UNDERWOOD: Permission to approach the witness, Your Honor.
THE COURT: Approach.
(Whereupon, a bench conference takes place off the record.)
THE COURT: Proceed.
BY MR. UNDERWOOD:
Q. Mr. Brown, I'm showing you what's been marked as State's Exhibit 167. Do you recognize that?
A. Yes.
Q. What is that?

A. A lineup with Mo and some other guys on it.
Q. Is this the same lineup that you were shown?
A. Yes.
Q. Did you recognize the person you called Mo when you were shown that lineup?
A. Yes.
Q. Did you initial a photograph on that lineup?
A. Yes.
Q. Are those, in fact, your initials?
A. Yes.
Q. Is that -- are those initials dated?
A. Yes.
Q. Is that when that took place?
A. Yes.

MR. UNDERWOOD: Your Honor, at this time I would move to enter State's Exhibit 167 into evidence.

THE COURT: Any objection?

MR. GRIFFITH: No objection.

THE COURT: Any objection?

MS. JOHNS: No, Your Honor.

THE COURT: Marked and admitted without objection.

(State's Exh. 167, Photographic Lineup, is received in evidence.)

MR. UNDERWOOD: Permission to publish, Your Honor.

THE COURT: You may proceed.

BY MR. UNDERWOOD:

Q. Mr. Brown, is the individual that's circled the person that you knew as Mo?

A. Yes.

Q. Do you know his real name?

A. Yes.

Q. What's his real name?

A. Justin.

Q. Justin, is that what you called him?

A. Yes.

MR. UNDERWOOD: Please answer any questions opposing counsel may have.

THE COURT: You may proceed.

MR. GRIFFITH: If it please the Court, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. GRIFFITH:

Q. Mr. Brown, what were your original charges in this case?

A. A lot. It was bad. It was --

Q. Weren't you --

A. It was heroin with 28 grams, conspiracy.

Q. So you were charged originally with trafficking, distribution of a controlled substance and conspiracy, basically all the same charges that the defendants here with

us today are charged with; isn't that correct?

A. Yes.

Q. Law enforcement has at least given you the hope that you will receive probation in exchange for your testimony; is that correct?

A. Yes.

Q. You said that Mo brought over some bags. What kinds of bags were those?

A. It was black duffel bags.

Q. Black duffel bags?

A. Yes.

Q. Did you ever look inside those bags?

A. No.

Q. So you really didn't know what was in those bags, did you?

A. Right.

Q. Yet you testified it was drugs, but you really don't know what was in those bags?

A. Right.

Q. Now, law enforcement, when you began to -- when you were arrested, they talked to you about cooperating and testifying, didn't they?

A. Right.

Q. And they talked to you about what they wanted you to talk about, didn't they?

A. About the case.
Q. And they basically told you what they wanted you to tell a jury, didn't they?
A. No.
Q. Didn't you just testify, when you were talking that -- the attorney general, assistant attorney general, asked you a question, you said: I don't know if that's what you want me to say; didn't you say that?
A. Say this again.
Q. You said: I'm not sure, is that what you want me to say; didn't you say that just now?
A. I believe so.
Q. Okay. When law enforcement said they wanted you to testify, have you met with them to go over what kind of testimony you would give?
A. Yes.
Q. How many times did you meet with them and go over the testimony?
A. Once.
Q. When law enforcement kicked in the door, how many people were present at the house at that time?
A. At least -- I want to say at least 15. Looked like 10, at least 10 people.
Q. I am not talking about law enforcement; the people that were there with you at the time that were not law

enforcement.

A. Okay, two, just me and him, me and Q.

Q. Are you sure there wasn't a third person there, someone named Shirley?

A. And Shirley.

Q. She was there?

A. Yes.

Q. Okay. So --

A. It's three people there.

Q. First you said two. Now you say three. So you are not really sure what goes on there, I guess. I don't know. But what happened to Shirley Silvis? Was she arrested too?

A. I don't know.

Q. Were you arrested right then?

A. Right then, no.

Q. When were you arrested?

A. I never was. Cooperated.

Q. Okay. By arrested -- okay. Were you taken into custody right then? Did they put you in handcuffs or sit you down and tell you that you are under arrest?

A. No.

Q. Did they arrest anyone else there at that time?

A. Yes.

Q. Who did they arrest?

A. They arrested Q.

Q. He was the only one they arrested; is that correct?
A. Yes.
MR. GRIFFITH: I have no further questions. Please answer any questions Ms. Johns has.
THE COURT: Any questions?
MS. JOHNS: Yes, Your Honor. May it please the Court.
THE COURT: Yes. You may proceed.

CROSS-EXAMINATION

BY MS. JOHNS:
Q. Good afternoon, Mr. Brown.
A. Good afternoon.
Q. Are you getting paid for your testimony today?
A. No.
Q. You sure do seem to work a lot for free, don't you?
A. I mean, at that time, I did lend my hand.
Q. So you were working for -- you said you were working for Q, right?
A. Right.
Q. And in exchange for that, Q was going to give you place to stay?
A. Yes.
Q. But you had places to stay, did you?
A. No.
Q. You couldn't stay with your grandfather?

A. My grandmother. Grandfather is deceased.
Q. I'm sorry, your father. I'm sorry.
A. My father, he left. He left the house, lost the house, moved in with his girlfriend. So I couldn't stay with them.
Q. Did you ask?
A. Yes.
Q. You didn't have any friends from high school?
A. Friends from high school? No, not, like, that I'm close enough to stay with, no. All my friends are off in different states doing in military or doing other things.
Q. Okay. And did you have a lot of possessions, like furniture, automobiles?
A. I did have an automobile that I left at my father's house. Sometimes I go and sleep in. And that's when, like, he found out. So he was like, yo, you don't have to sleep in no car, you can just sleep here.
Q. Okay. And you didn't have a girlfriend, or you couldn't have moved to where the people were in the military? You didn't have any of those options to you? That's what you want this jury to believe?
A. With the girlfriend situation, at that time, I did not have a girlfriend. And when I tried to live with my grandmother at that time, I couldn't live with her because my cousin, she has two other daughters. And something

happened to her when she was growing up, so she really, really don't trust men staying there. So, like, basically, at that time, it was not the right time to stay there.

Q. Okay. And you mentioned some people that was in the military. Were they overseas?

A. Yes.

Q. So the mother, the father and your grandparents were deceased and sisters?

A. No. My grandmother is alive. My grandfather is deceased. And my sister, she -- that's who I live with now. Me and her got a spot together, so ...

Q. So you are working now?

A. Yes.

Q. And I am not here just to try to insult your intelligence. I want to make sure you understand. Most people work and pay rent, right?

A. Right.

Q. Okay. So you were able-bodied back in April 2015 to work, weren't you?

A. Yes.

Q. And you could have gotten a job somewhere, right?

A. I was looking.

Q. You had a criminal record?

A. Now I do. Back then, no.

Q. So you could have worked anywhere? You could have

worked at Walmart, right?

A. I was looking. I was applying.

Q. And how old were you then?

A. I was 25.

Q. 25. Had you had a job before this?

A. Before this, yes.

Q. Where did you work before that?

A. Trash Gurl.

Q. What does that do?

A. Trash Gurl is the dumpster where you go pick up the dumpsters and the Port-A-Potties and you put them on back of the truck. And, basically, take them back to Goose Creek on Red Bank Road to clean them out to go to another station or where they have them or where they need them.

Q. And they paid you well?

A. They paid.

Q. They pay you benefits?

A. No.

Q. They didn't give you any insurance?

A. No.

Q. Okay. Did you have a car back then?

A. Back then, no.

Q. Did you have -- did you get a check or get paid under the table?

A. I got a check.

Q. So you were capable of working. And if you worked, you make money?
A. Correct.
Q. And with that money, you pay for your cost of living?
A. Right.
Q. And cost of living would include rent, correct?
A. Correct.
Q. A cell phone, right?
A. Right.
Q. Electricity?
A. Right.
Q. And food?
A. Right.
Q. Anything else you need?
A. No, that was all.
Q. So instead of finding a decent place to live while working, you made a choice, did you not, to live with Q?
A. Yes.
Q. And this was what you said was based on his offer to you; is that right?
A. Yes.
Q. Now, when you decided that you were going to live with Q, the agreement was that you had to keep the house clean and feed the dogs?

A. Yes.
Q. And that was all you had to do, right?
A. Yes.
Q. Right?
A. Yes.
Q. But, instead, you saw that there was some game going on with Q, isn't that right, an illegal game, right?
A. Right.
Q. And you say that you saw people coming in and buying drugs?
A. Yes.
Q. And they bought drugs from Q?
A. Yes.
Q. And they bought drugs from you?
A. Yes.
Q. And they bought drugs from an unknown person that you don't remember who it was?
A. Right.
Q. And they bought drugs from Chica?
A. Yes.
Q. Also known as Sissy, right?
A. I don't know about Sissy, but I know about Chico.
Q. Also known as Rosemarie?
A. Yes.
Q. Any other names you want to give her?

A. No.
Q. Did they buy drugs from somebody else other than those four that I mentioned?
A. Those are the only ones I know.
Q. You never saw anybody buy drugs from Mo, did you?
A. No.
Q. No. Okay. Now, you had your own little game going on too, didn't you?
A. No.
Q. You didn't? So when you talked to Investigator Wingo over there, didn't you tell him that you were selling to four regulars?
A. Four regulars? Back in January 2015, yes, at the beginning, that's when I had my own game. But then that came to a halt when -- in May, in May 2015, and then that's when I went to jail in June. Got out of jail. My dad lost the house. And then that's when I started living with him.
Q. So you were selling to a guy named Oz, a white male, right?
A. Yes.
Q. You sold to Vicky, white female, right?
A. Yes.
Q. You sold to Chris, a white male?
A. Yes.

Q. And you sold to a white female, Amy Moore, right?
A. Yes.
Q. Do you know who Amy Moore is?
A. Amy Moore, yes.
Q. She is one of the Sekula girlfriends, right?
A. I don't know who girlfriend she is.
Q. You don't know whose girlfriend she is?
A. No.
Q. These were your customers, right?
A. Correct.
Q. And these are the customers whose names you gave to law enforcement, right?
A. Yes.
Q. So what about the people you didn't remember their names? What did you do with them?
A. They went to him.
Q. So if you didn't know their names, you couldn't tell law enforcement who you sold to?
A. Right.
Q. Right?
A. Right.
Q. So there were more than just four people you sold to, right?
A. Yes.
Q. And they were coming in, I think you said, on a

daily basis?
A. Yes.
Q. And not just your customers, right, there were people coming over to the house every day?
A. To the house is always him. They were never --
Q. That's not my question. My question is, your testimony was that there were customers, you called them clientele, that were coming over to the house on a daily basis?
A. Yes.
Q. Now, of those people, of the times every single day, they also came to you and bought drugs from you too, right, at times?
A. At times, yes.
Q. You also said on direct examination that you never saw Mo pick up money, right?
A. Pick up money?
Q. Yes, sir.
A. Yes.
Q. Okay. How much money did you see him pick up?
A. A lot.
Q. Okay. And what denominations were they?
A. I don't know.
Q. Where did he get it from?
A. He get it from Q.

Q. And you saw Q pass him money; is that right?
A. Sometimes.
Q. Okay. And when he passed -- you say Q passed money to Mo?
A. Right.
Q. And where were you at the time when this money was being passed?
A. If I wasn't sitting -- when I seen it, I would have been inside the house sitting around front in the living room.
Q. Sitting around front in the living room, and they would be in the back?
A. Yes.
Q. So you didn't eyewitness this exchange? You assumed there was an exchange, correct?
A. Yes.
Q. Okay. You said it took three months before Q would let you serve anybody; is that right?
A. Yes.
Q. And that your role was that when somebody would come over, you would have to leave, right?
A. Say this again.
Q. You would have to leave when somebody came over to be served, right?
A. No.

Q. No?
A. No.
Q. You could be there when somebody was being served?
A. Yes, I would have to leave if Mo comes.
Q. Oh, you had to leave if Mo comes?
A. Yes.
Q. Okay. So you saw Mo once, right?
A. A couple of times I saw Mo, yeah.
Q. You saw him once when you had a conversation with him?
A. Yes.
Q. Before you had a conversation with him, you saw him once, right?
A. Yes.
Q. Next time you saw Mo, you had a conversation with him, right?
A. Yes.
Q. And the conversation that you had with him, he was trying to help you get your life straight, or at least give you advice, is that fair to say?
A. Yes.
Q. He told you you should get yourself together and go to school?
A. Yes.
Q. And get your life together, that's what he told

you?
A. Yes.
Q. Did he have a gun on him at that time?
A. No, not that I'm aware.
Q. Did he ever point a gun at you in any way?
A. No.
Q. Did anybody in the house ever point a gun at you in any way?
A. No.
Q. Did anybody coerce you into doing anything you didn't want to do?
A. I mean, no.
Q. No? Okay. Now, you stated that when the raid occurred -- do you remember what date that was?
A. No.
Q. Do you remember what month it was?
A. February.
Q. Okay. So you are saying February a raid happened, right?
A. Yep.
Q. Do you remember what year?
A. 2016.
Q. 2016?
A. Yes.
Q. You said you were sitting there and you were

playing video games?

A. Yes.

Q. Playing video games with this female by the name of Silva? What was her first name?

A. Shirley.

Q. You were playing video games with Shirley?

A. No.

Q. Were you playing video games with Q?

A. No.

Q. But you were playing video games?

A. Yes.

Q. What was Shirley doing?

A. She -- at that time, she was doing something. I don't remember what she was doing, but she was doing something where I was playing the video game.

Q. Okay. Did she live there?

A. I don't know.

Q. Well, you lived there, didn't you?

A. No. When the raid -- when the raid came, I was living with my grandmother at that time.

Q. You just happened to be there?

A. Yes, because of my dog was there, because you couldn't keep my dog at my grandmother's house because I didn't have a cage, money for a cage at that time when I first came back.

Q. And were you working when you were living with your grandmother at that time?
A. Yes, that's when I started work, yes.
Q. Where?
A. I started working at Graze in Summerville, the restaurant in Summerville, as a dishwasher.
Q. Now, you mentioned earlier that you had -- let me withdraw that. Okay. After the raid, you said that you were not placed in handcuffs; is that correct?
A. Right.
Q. And they talked to you and told you that you needed to cooperate, right?
A. Right.
Q. And if you didn't cooperate, that you would end up in prison, right?
A. Right.
Q. And they told you that you would be charged with trafficking heroin?
A. Yes.
Q. And they told you that trafficking heroin at that level was 25 to 40 years, correct?
A. Right.
Q. And they also would have charged you with distribution, several counts of distribution, correct?
A. Yes.

Q. And distribution of heroin carries 0 to 15 for a first offense; isn't that right?
A. Yes.
Q. And if you had more than one distribution, they could add them up together and call it consecutive time, couldn't they?
A. Yes.
Q. Did they tell you that they had you on film?
A. Yes.
Q. Or video? Did they let you see it?
A. No.
Q. Okay. Did you have an attorney in this case?
A. Yes.
Q. Did your attorney show it to you?
A. She showed me a paper, but not really the film.
Q. No?
A. No.
Q. And in the paper, could you see yourself clearly in the paper?
A. Yes.
Q. So you are here -- when you first took the stand, you said that you were here to clear your name?
A. Yes.
Q. Is that right?
A. Yes, ma'am.

Q. You want this jury to believe that you didn't have anything to do with this, right?
A. Yes.
Q. And the reason that you are testifying is because you are a victim of circumstance, correct?
A. Yes.
Q. All right. And the reason that you became a victim of circumstance is because you were homeless, right?
A. Right, wrong place, wrong time.
Q. Wrong place, wrong time. And that the choices that you made when you sold heroin was based on somebody else coercing you? Is that what you want this jury to believe?
A. You say it like that, like -- I'm going to have to say, you know, yeah.
Q. Somebody forced you to sell --
A. No, they didn't force me. Basically, it was, you know, like I'm helping you out, so, basically, you got to do this.
Q. Yeah. He's helping you out and you are going to help him out?
A. Right.
Q. And that's the same agreement you have with the government right now, isn't it? They are helping you out and you are going to help them out; is that right?
A. Yes.

Q. Basically, the same bargain, right?
A. Yes.
Q. And you said that you went to Columbia, right?
A. Yes.
Q. And they asked to you come down there, right?
A. To testify, yes.
Q. And did they fly you in?
A. No.
Q. Did they come and get you?
A. Yes.
Q. Okay. So they came to pick you up from here and drove to you Columbia?
A. Yes.
Q. Did they buy you some lunch?
A. Yes.
Q. Did they give you something to wear?
A. No.
Q. Now, do you remember when that was?
A. It was in 2016.
Q. Okay. And at that time, they showed you what has been admitted as State's Exhibit No. 167, didn't they?
A. Yes.
Q. And that was on March the 31st of 2016, wasn't it?
A. Yes.
Q. Okay. But before they collected these six

pictures, they didn't show you a picture of Mo, did they?
A. They showed me that.
Q. But before this, they didn't show you a picture of Mo, did they?
A. No.
Q. They didn't show you a picture of Justin, did they?
A. No.
Q. And you don't know anybody else in this picture; is that correct?
A. No.
Q. So when they present this picture to you, you know that there's a right answer; isn't that correct?
A. Yes.
Q. And not only did they show you six pictures of who they thought was Mo, they also showed you six pictures of everybody else that's charged; isn't that right?
A. Yes.
Q. Which is, what, four or five more other people, right?
A. Yes.
Q. Okay.
A. I believe.
Q. Do you remember seeing other pictures like this?
A. Yes.

Q. That had other people in it?
A. Yes.
Q. And you had to circle a photograph; is that right?
A. Yes.
Q. What else did they tell you you had to do? Testify, right?
A. Yes.
Q. And were you ever taken to jail for these charges?
A. No.
Q. So you didn't have to go to a county jail, did you?
A. No.
Q. So your freedom was never in jeopardy as long as you cooperated; am I right?
A. Basically, yes.
Q. Okay. And this is just -- when you moved into Q's house, you did that for survival, right?
A. Yes.
Q. And you are doing this for survival too, right?
A. Yes.
Q. And even though you had the ability to maintain a law-abiding job, you chose to sell heroin, right?
A. I was trying to get a law-abiding job.
Q. You were trying to?
A. Yes. I was applying every day -- well, six months. That's why I left.

Q. It's not your fault you didn't get a job? That is what you are saying?
A. Right.
Q. And even if you didn't have that opportunity, you still chose to break the law, didn't you?
A. Say this again?
Q. You chose to break the law, didn't you?
A. Yes.
Q. And you broke the law by selling heroin, right?
A. Yes.
Q. And now you are trying to get out of it and hope for probation, right?
A. Yes.
MS. JOHNS: Thank you. Nothing further.
THE COURT: Any redirect of the witness?

REDIRECT EXAMINATION

BY MR. UNDERWOOD:
Q. Mr. Brown, to your knowledge, did Mo give out drugs for free?
A. No.
Q. Did Q give out drugs for free?
A. No.
Q. The drugs that you sold to OZ, Vicky, Chris and Amy Moore, where did they come from?
A. They came from Mo, Q.

Q. Were you charged in the same conspiracy as Mo and Q?

A. Yes.

Q. And did you plead guilty to that?

A. Yes.

Q. Is that because you are guilty?

A. Yes.

MR. UNDERWOOD: No further questions, Your Honor.

THE COURT: Any objection to the witness being excused, from the State?

MR. UNDERWOOD: None, Your Honor.

THE COURT: From the defense?

MR. GRIFFITH: No objection.

MS. JOHNS: No, Your Honor.

THE COURT: Sir, you are excused.

Madam Forelady, ladies and gentlemen, we are going to take advantage of this break in testimony to take our lunch recess. During the break, please do not discuss the case. Please leave your notepads in your seats. We will resume -- it's about 1:02. Why don't we say 2:15.

Don't have any discussion with anybody in and about the courthouse. When everyone arrives, we will resume testimony. Have a good lunch.

(Whereupon, a recess transpired.)

(Whereupon, the jury leaves open court at 1:03

p.m.)

THE COURT: Is there anything we need to take up before the break for lunch, from the State?

MR. UNDERWOOD: I don't believe so, Your Honor.

THE COURT: From the defense, Mr. Griffith?

MR. GRIFFITH: No, Your Honor.

THE COURT: From the defense, Ms. Johns?

MS. JOHNS: No, Your Honor.

THE COURT: Have a good lunch. See you at 2:15.

(Whereupon, recess transpired.)

THE COURT: Is there anything we need to take care of before we resume with the next witness?

MR. UNDERWOOD: I just wanted the Court to be aware that the State does intend this afternoon to enter in a number of firearms that were found as a result of search warrants.

THE COURT: Well, only firearms that are going to come in are ones somebody was charged with, right, unless there's no objection.

MS. JOHNS: I object, Your Honor.

THE COURT: The only firearms that are going to come in are the ones somebody was charged with. Why else would they come in?

MR. UNDERWOOD: Your Honor, there's been some testimony already presented about how people that are

operating drug organizations keep firearms and how --

THE COURT: It's not an element of the offense.

MR. UNDERWOOD: Your Honor, I believe that it's circumstantial evidence to show there was criminal activity taking place.

THE COURT: You don't have to even -- under the law, you don't even have to exchange anything of value for drugs for a drug transaction to take place. I'm hard-pressed to see what element in this case makes it more or less probable other than that raise the character of the accused. If you have a gun that was taken and he was charged with it and you could prove a nexus to the crime, that comes in, because it proves the element of the offense. Otherwise, I'm hard-pressed to see how it's relevant.

MR. UNDERWOOD: Your Honor, the State wasn't going to be eliciting anything about -- doesn't have to elicit character evidence whether or not the firearms were stolen or anything along those lines.

THE COURT: It is character because you want the jury to believe that they were violent and they had these extraneous firearms in their possession. And the fact that they were seized, unless you can tie it to some element of the offense --

MR. UNDERWOOD: Your Honor, there was testimony from William Brown --

THE COURT: I understand what the testimony was. Nobody objected. And once they objected, I sustained it on relevance.

MR. UNDERWOOD: The testimony I was referring to was that the guns were used as currency to purchase the drugs.

THE COURT: I understand that. But unless you can tie the guns that were seized in this house as currency, unless he can identify them and tie them to a particular transaction, it's not relevant. It's not an element of the offense. You don't have to exchange anything of value in a drug transaction for there to be a transaction.

MR. UNDERWOOD: Very well, Your Honor. As to the defendant Mr. Roberts, Your Honor, he is charged with possession of a firearm during the commission --

THE COURT: If you have that firearm, that can come in.

MR. UNDERWOOD: In the presentation of the indictment, several firearms were mentioned. I would ask that we be able to admit --

THE COURT: I don't know. I didn't read anything about any firearms when I read the indictments.

MR. UNDERWOOD: I was referring to when it was presented to the Grand Jury, Your Honor.

THE COURT: That deals with jurisdiction and how

this case gets into court. Has nothing to do with your burden of proof in this case. Lots of things go to Grand Jury that never would come in at trial. It's a one-sided proceeding.

MR. UNDERWOOD: The question I was going to ask the Court, Your Honor, was, were we going to be limited to any particular firearm, or were all the firearms that were found at that location, Your Honor?

THE COURT: I understand what you said.

MR. UNDERWOOD: I'm asking the Court for guidance.

THE COURT: I'm sorry. Say that again.

MR. UNDERWOOD: The Summer Creek address of Mr. Roberts where certain firearms were found, is the State going to be limited to only one of those firearms, or all the firearms from that location?

THE COURT: The case law limits you to -- the only way you can prove your case if you can prove those guns were nexus to a crime. The fact that they were in the residence is not sufficient to meet your burden of proof. You have to prove that they were -- that they were -- you have to provide a nexus for that weapon with the crime or, otherwise, you failed to meet your burden of proof. And it's reversal error.

MR. UNDERWOOD: Yes, Your Honor. They were found

along with trafficking amounts of drugs, Your Honor.

THE COURT: I am not going to rule in advance. You are going to have to try to lay your foundation and introduce your evidence. And they will make a contemporaneous objection and I will go from there. But any guns that are not tied to a charge, I'm just hard-pressed to know why it would be relevant to anything. There are lots of things, I'm sure you found when you execute search warrants, that aren't relevant.

MR. UNDERWOOD: Again, Your Honor, I would just argue that the firearms and locations that are being used to sell drugs are indicative of drug activity.

THE COURT: Supreme Court says you need more than that, don't you?

MR. UNDERWOOD: I believe there has been a nexus established, Your Honor, from several of the witnesses who testified that the weapons were used in the commerce, that weapons were used for protection of those activities.

THE COURT: Is that an element of trafficking or distribution?

MR. UNDERWOOD: It's evidence that that activity is taking place, Your Honor.

THE COURT: Not as I read the case law. Were -- well, you make your attempt to address -- to admit it. They will make a contemporaneous objection. And I will rule. I

like clean records. I don't like things in a record that are unnecessary for the elements of an offense.

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: All right. In advance, do you all have any exception to what he's talking about? Because y'all know what he's talking about and I really don't. Y'all have had the opportunity to look at the discovery and to see exactly what weapons he's referring to. How many firearms are we talking about, for clarity of the record?

MR. UNDERWOOD: Your Honor, if I may defer to Mr. Fernandez, I think he was going to handle those witnesses, Your Honor.

THE COURT: Yes, sir.

MR. FERNANDEZ: 14 or 15, Your Honor.

MR. GRIFFITH: If it please the Court --

THE COURT: I'm talking about in general.

MR. GRIFFITH: Only those at that location.

MR. FERNANDEZ: In general, Your Honor, about 15, I think, quick count.

THE COURT: From where, which locations?

MR. FERNANDEZ: Three different locations. That would be the Bear Island location, Summer Creek location and Patriot Boulevard location.

THE COURT: Mr. Griffith, do you have any objection to the admission of the evidence he's referring to?

MR. GRIFFITH: Your Honor, I would object in that Mr. Roberts was arrested at one of those locations, not all three of those locations, to begin with. And the charge in the indictment is for Emory Roberts's possession of firearms during the commission of or attempt to commit a violent crime. He was not arrested during the commission of a crime, Your Honor. He was arrested pursuant to an investigation wherein the investigation, no firearms were used during any part of that investigation as far as using a firearm as it refers to during the commission or attempt of a violent crime.

Although I know the sale of trafficking in heroin is a considered a violent and serious crime, no firearm was used in the commission of that crime, Your Honor. And I would argue that they are not admissible for that reason. And also, that any -- found anywhere other than -- if they were to be admissible, where he was arrested, because, otherwise, he would not be in possession of those firearms.

THE COURT: Well, you have actual and constructive possession. I guess I need to understand exactly in what context -- are you saying that when y'all executed search warrant, you just found the weapons? Was he near the weapons? Did he have a weapon in his hand?

MR. FERNANDEZ: Depended, Your Honor. Some were in plain accessible locations.

THE COURT: Like where?

MR. FERNANDEZ: Quite clearly, leaning up against walls and within the general living room areas and kitchen areas. And then there were others that were in closets or bedrooms. So they were pretty scattered. But there were certainly weapons within grabbing distance. That's why they executed the search warrant in the manner they did.

THE COURT: I'm looking for the most recent Supreme Court case on that. Conviction got reversed for that very reason. Gun being in the house it's enough. You have to prove a nexus, in other words, held it on somebody, immediately within his reach, that he had it on his person while he was actually conducting the transaction. Just because you got a gun in the house doesn't mean it creates a nexus. Supreme Court has been very clear what their definition of nexus is. And I'm not going to rely on my memory. I'm going to look at it right quick and see exactly what they said.

MR. FERNANDEZ: Just the fact it was used as currency --

THE COURT: That's not enough to prove possession of a weapon. You are talking about two different things. That's a separate charge, separate independent. That has to be proved, one, by establishing that the underlying offense, which is classified as violent, happened. They don't have

to reach possession of a weapon during the commission of a violent crime unless you prove trafficking. Then they can determine whether there was possession of a weapon during the commission of a violent crime and whether that gun was used in the nexus of that offense. Them using guns as currency is not possession of a weapon during the commission of a violent crime. The law contemplates you using that gun to facilitate the crime. I don't think that currency meets that.

And you haven't had a witness that can verify that during one of those transactions that you corroborate with video or audio that a gun was used as currency for that purpose. All of your buys deal with actual currency.

He testified and they let it slide. They didn't object. It's not my job to object. Your witness really didn't have direct knowledge. He surmised that these things had taken place. And then said he wasn't present for any of it. I will look at the law. And then we will go from there.

Do you have any further objection you want to state for the record?

MR. GRIFFITH: Your Honor, I would state that the weapons, they cannot and have not even insinuated that any weapons were ever used during the commission of this crime for the fulfillment of forcing someone or forcing someone,

which I think, I believe, is the intent of the law, is if one were to use a weapon or possess a weapon which one intended to use in the commission of a crime or that it would be possible for one to use the weapon in the commission of that crime. So using that weapon as a means of currency would still not qualify as possession of -- under the spirit of the law, possession of a firearm during the commission or attempt to commit a violent crime.

THE COURT: Ms. Johns, glad to hear anything you would like to tell me.

MS. JOHNS: Thank you, Your Honor. Your Honor, I would object on the basis of relevancy under Rule 401. And I would also object under Rule 404.

THE COURT: The Supreme Court in *State v. Whiteside* says that: Nexus may be established by showing that the firearm further advanced or helped in the commission of the crime.

They further articulated that: A nexus between possession of a firearm and drug trafficking would exist if the firearm is accessible to the trafficker and thereby provides defense against anyone who may attempt to rob the trafficker of his drugs or drugs profits. Similarly, possessing a gun and letting everyone know that you are armed lessons the chance that a robbery will even be attempted.

There's some other language, though.

In sum, we find that the General Assembly's purpose in enacting this statute was to penalized defendants who actually or constructively possess a firearm in order to further a violent crime and who thereby increase the intendant risk of harm. We, therefore, hold that such a nexus must be established in order to convict a defendant of possessing a firearm during the commission of a violent crime.

And they further articulated that the fact that the General Assembly passed the statute does not suggest that the General Assembly intended to criminalize any possession of a firearm, no matter how unrelated during the commission of a violent offense. The purpose was to increase the penalty of engaging in more dangerous conduct, whether that conduct was displaying a knife, firearm or object that appears to be a firearm or possessing a firearm in furtherance of a violent offense.

The General Assembly's purpose would not be furthered by penalizing possession of a firearm that is entirely unrelated to the violent offense. Indeed, finding that no nexus is required may raise constitutional questions in some cases since the second amendment protects possession of lawful firearms by ordinary citizens.

Which is not this situation. There's been no

testimony about them being lawfully armed.

And the court articulated: Mere proof of constructive possession of a firearm is insufficient to support a conviction, possession of a weapon during the commission of a violent crime. The Supreme Court articulated that the statute's plain and ordinary meaning contemplates that the person either had the firearm on their person, was within reach of the person, or they visibly displayed what appeared to be a gun or knife while they were committing or attempting to commit the violent offense. And that's the nexus that the court contemplates.

Yes, sir.

MR. FERNANDEZ: Thank you, Your Honor. So as I understand the Court's ruling, the State was proceeding on a number of avenues. And I think we've limited it now to the charge that's solely for the one defendant. I think our position --

THE COURT: You charged him with possession of a weapon during the commission of a violent crime. Whitesides and the statute, plain language of the statute says -- and if you bear with me one moment: In order to prove possession of a weapon during the commission of or attempt to commit a violent crime, the State must prove beyond a reasonable doubt that the defendant was in possession of a firearm or visibly displayed what appeared to be a firearm

during the commission of a violent crime. In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime.

Of course, trafficking is a violent crime pursuant to 16-1-6.

The State must also prove beyond a reasonable doubt that the weapon further advanced or helped in the commission of the crime, which is just the language articulating nexus, but I don't think -- and I'm going to fast-forward. I think it's a strained reading to say that comes within the ambit of the statute this says aided and abetted in trafficking. That's not kind of aided and abetted that the legislature contemplated.

Now, if they were found in a warehouse and they were exchanging a whole crate of guns for drugs, that's different.

MR. FERNANDEZ: I understand. We do have a number of other items beyond simply firearms that would be suggestive or we would argue is circumstantial to evidence of drug trafficking, things like Your Honor heard testimony about, but digital scales, some --

THE COURT: I think scales, that's clearly what people use.

MR. FERNANDEZ: And cell phones.

THE COURT: I am not going to rule in advance. I'm going to see if you lay your foundation, but when you talk about admitting 14 guns, I think commonsense dictates that's more prejudicial than probative and goes a little beyond what the statute contemplates.

MR. FERNANDEZ: Thank you, Your Honor.

THE COURT: But if you have guns you can put within the nexus of this activity that was within his actual or constructive possession that went merely beyond being in the room -- and, you know, what the legislature contemplated, at least based on my very quick review of Whiteside, is that when -- the whole purpose of it is to cut down on violence in transactions. And that people generally of a certain activity have guns. And as a result of that, people end up getting killed or injured as a result. And it is to deter that.

MR. FERNANDEZ: If I could give everyone a heads-up here, since Your Honor prefers to keep the record clean --

THE COURT: I think we would all have that goal, don't you?

MR. FERNANDEZ: I agree too, Your Honor. So we are clear, what I intend to do on the search warrant witnesses, and this is mostly for the attorneys, I will enter the drugs in first. And shortly after I do the drugs, would be the

part where I'm going to move to admit some of the firearms, at least the Summer Creek location. And that would probably be the point that y'all should object. Okay.

THE COURT: You need to tell them specifically what you are seeking to admit.

MR. FERNANDEZ: We have some pictures of the guns. And I will show them to them right now.

MR. GRIFFITH: Of course, I would object as well, Your Honor, the fact that it is prejudicial against my client. And it's an attempt by the State to make him look more violent than he actually is. Having a gun just in your house, he has a right as a citizen. He has not committed a felony. He is not prohibited from having a gun in his home. And he did not use those guns or arms in any way in the furtherance of the commission of the crime.

Whether they were currency or not is another story, but they haven't proven that at any rate, Your Honor.

MR. FERNANDEZ: These would be the guns we are talking about.

THE COURT: He showed you what he was talking about.

MR. GRIFFITH: I had nothing further other than those objections. I would have further objections when they try to bring them in.

THE COURT: Ms. Johns.

MS. JOHNS: Your Honor, I believe that that guns were taken from Summer Creek. And my guy's search warrant was at Patriot Boulevard. So I don't think --

THE COURT: I think they said both places, didn't they?

MS. JOHNS: Those specifically.

THE COURT: Did they show you ones they seeked to introduce against your client?

While we are on that topic, totally another topic, did you ever contact the bondsman about your client?

MS. JOHNS: Bondsman has been contacted, not by my office --

MR. FERNANDEZ: I contacted, Your Honor.

THE COURT: What did he see?

MR. FERNANDEZ: They said they would get back to me, and they never did.

MR. GRIFFITH: Your Honor, if you would like to hear the motion to exclude these guns right now --

THE COURT: No, because I don't hear things twice. I hear them at one time. And I will hear it in camera, if necessary.

MS. JOHNS: Back to the gun issue --

THE COURT: Are there any guns you seek to introduce against her client?

MR. UNDERWOOD: We will withdraw it at this time,

Your Honor.

THE COURT: Again, just for clarity's sake, if you had a witness that could tie a particular weapon to a particular exchange, I might be more inclined to let it in. But we don't know where those weapons came from. We don't know what exchanges took place. We don't know. It's just too nebulous, too much speculation.

MR. GRIFFITH: There are no charges against any of the other defendants for possession of a firearm at any rate, Your Honor. So only Mr. Roberts was charged in count 15.

THE COURT: If they can prove a nexus to the gun that they seized -- I don't know. I haven't heard it. I don't know whether he was sitting next to it. I don't know whether it was in his lap, his waistband. I don't know. But I will hear it and I will see if they can establish foundationally whether it comes in.

But just to admit 14 guns that were seized as a result of a search warrant, I don't know where they came from. I don't know who they belong to. I can't tie them to a particular transaction. It's problematic.

Again, if you had a witness that could say, I was there and I saw them exchange a Ruger or a Glock for this particular amount of drugs on this particular day, it was stored in the closet, that's different.

All right. Are we ready to proceed? State ready to proceed?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Defense ready to proceed?

MS. JOHNS: Yes, Your Honor.

THE COURT: Who is your next witness?

MR. UNDERWOOD: The State's next witness is Craig Valentine.

(Whereupon, a recess transpired.)

MS. JOHNS: Regarding the order from the bench about the jury charges, I know I've been before Your Honor many times before, I know how thorough you are.

THE COURT: You are kind.

MS. JOHNS: My only question is that your general conspiracy charge, would that be pursuant to the trafficking statute?

THE COURT: Well, the trafficking statute really doesn't have conspiracy within it. The section that they use is plain old trafficking. And, really, I've debated whether hand-of-one charge will cover that or whether you need to charge on conspiracy, because the statute doesn't talk in terms of conspiracy. It says aid or abet, which is really conspiracy. But really what's dispositive is the aiding and abetting and amount.

So, I mean, I will defer to y'all, if you want. I

have conspiracy and hand-of-one included. And then I will have charged conference. I am not just going to blindside.

MR. UNDERWOOD: On that note, the statute does contain a conspiracy element.

THE COURT: Says aid and abet.

MR. UNDERWOOD: Contains conspire as well.

THE COURT: Yeah, all that language is here.

MR. UNDERWOOD: I do intend to prepare a conspiracy charge concerning trafficking. If I can get that to the Court briefly after we break.

THE COURT: Yeah, I will be glad to consider it, but if I instruct it, I'm just going to instruct on trafficking and then conspiracy, what it requires to establish a conspiracy. I think it's sort of redundant. And I like to keep things cut and dry for a jury. You can argue aiding and abetting and conspiring within the words in the statute. There's like aid, abet and conspire, a litany of words that really amount to conspiracy. But I think probably what jury is going to listen to more is the amount and the inference, although it's one they can consider or disregard. But we will have charge conference.

I just need -- I just like to get things well in advance so that if there's a case that's relied on, I can read it and give any request you have appropriate consideration. I don't want to rush through it. Because,

you know, you can fix a charge before. It's hard to fix a charge after.

MR. UNDERWOOD: In regards to the timetable, Your Honor, would an e-mail by maybe six o'clock be sufficient to give that to Your Honor? I have a version of it.

THE COURT: You can bring it to me in the morning. I'm trying very hard not to work after work anymore. Although I probably will go to Charleston this evening and sign orders. But I'm trying. It's hard to teach -- you know, it's hard to teach me new tricks, but I'm trying. Drives my secretary crazy, because I go on her desk and she's like: You've been in here; I told you to stay off of my desk.

All right. Are we ready? State ready?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Defense ready?

MS. JOHNS: Yes, Your Honor.

MR. GRIFFITH: Yes, Your Honor.

(Whereupon, the jury returns to open court at 2:46 p.m.)

THE COURT: Ladies and gentlemen, I hope y'all had a pleasant lunch. We will resume testimony. I ask you to give counsel your full attention.

MR. UNDERWOOD: The State calls Craig Valentine.

THE COURT: Ladies and gentlemen, we apologize for

the delay.

CRAIG VALENTINE,

having been duly sworn, testifies as follows:

THE CLERK: State your name for the court reporter.

THE WITNESS: Craig Valentine.

THE COURT: Tell me your full name.

THE WITNESS: Craig Valentine.

THE COURT: Spell your last name for the court reporter.

THE WITNESS: V-a-l-e-n-t-i-n-e.

THE COURT: You may proceed, Mr. Underwood.

MR. UNDERWOOD: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. UNDERWOOD:

Q. Good afternoon, Mr. Valentine. Sir, how old are you?

A. 24.

THE COURT: Could you speak up.

THE WITNESS: 24 years old.

THE COURT: Thank you, sir.

BY MR. UNDERWOOD:

Q. Where do you currently live?

A. 209 Knightsbridge Drive, North Charleston, South Carolina.

Q. How far did you go in school?

A. Year and a half of college.
Q. Where did you go to college?
A. Trident Tech.
Q. Are you employed?
A. I was.
Q. Where?
A. I worked for the private airport, Atlantic Aviation, three and a half years.
Q. What did you do there?
A. I fueled private jets.
Q. When did you stop working there?
A. When I had an addiction.
THE COURT: I'm sorry, sir. Can you repeat your last answer?
THE WITNESS: When my addiction started.
BY MR. UNDERWOOD:
Q. What addiction is that?
A. Addiction to -- it was pills at the time.
Q. When was this?
A. Around my 18th -- around 18 to 21.
Q. How did you become addicted to pills?
A. Prescribed them, then taken away off them.
Q. What happened that you first got prescribed pills?
A. Wisdom teeth pulled.

Q. What kinds of pills were you prescribed?
A. Percocets.
Q. At what point did you become addicted to those?
A. Well, I got the prescription refilled like three different times because I got dry sockets. So, I don't know, after about four months of doing it, then I turned to street drugs.
Q. Why did you turn to street drugs?
A. Started withdrawing.
Q. What kind of symptoms did you suffer from with your withdrawal?
A. Like the flu times 10.
Q. Describe what that was like.
A. Diarrhea, nausea, throwing up, sweats, uncomfortability, restless legs, a lot of different things.
Q. Which drug at that time were you withdrawing from?
A. Well, I just started to notice I was getting sick without the pills. And then I started buying like Roxy 30s on the street and stuff.
Q. When you say Roxy 30s, what are you referring to?
A. Oxycodone, 30 milligrams.
Q. Where were you getting those pills from?
A. Dealers.
Q. Did you ever seek medical treatment about trying to get off of those pills?

A. I turned to every hospital at least probably three or four times begging for help, but since I didn't have insurance, they just gave me papers with rehabs on them and sent me away.

Q. How long were you dependent upon pills?

A. Probably from 18 to 21 or 22.

Q. What happened after that?

A. Turned to heroin.

Q. How were you introduced to heroin?

A. Just it was cheaper. And I was introduced by somebody that said I had to shoot it up in a needle to use it. And that's kind of when I started using heroin in a needle.

Q. Are there other methods that you used to take heroin?

A. I've snorted it.

Q. What's your preferred method?

A. I prefer not to do it, but preferred method at the time was using -- was snorting at first. Now it's using a needle.

Q. Have you been continuously addicted to heroin since that time, since you were about 21 or 22?

A. Yes.

Q. When you first became addicted to heroin or first started using heroin, how were you getting supplied?

A. I was getting supplied by just people who would get it for me.

Q. You used the term "middleman", what does that mean?

A. That means there was somebody who knew where to get heroin, and I would call them, and they would ride with me and use my money to get the dope.

MR. UNDERWOOD: If it please the Court, Your Honor.

MR. GRIFFITH: If I could pull that mic closer to him.

THE COURT: The mic is stationary. If he can help him with the chair, that would be helpful. Is that better?

MR. GRIFFITH: Yes.

BY MR. UNDERWOOD:

Q. You mentioned riding with people. How would a transaction like that, using the middleman, take place from start to finish?

A. Basically, telling him how much money you have, they say what you can get, and then they get a little bit out of the bag for doing it for you.

Q. Why wouldn't you just go to the supplier yourself?

A. Sometimes you don't know them yet.

Q. What difference does that make?

A. I mean, you have to know somebody to deal with somebody, you know.

Q. Why do you have to know them?

A. Just the name of the game, I guess. I mean, you just have to know somebody or be introduced.

Q. How severe would you describe your addiction to heroin?

A. Severe.

Q. Has your addiction to heroin affected your personal life in any way?

A. It's ruined my life.

Q. How so?

A. Lost everything, lost my job, my family, my friends.

Q. How did you end up losing those things? What about your addiction made that happen?

A. Stealing money from them, doing stupid things, always in jail.

Q. Obviously, based on your attire, are you in jail right now?

A. I am.

Q. Why are you in jail right now?

A. For probation violation.

Q. What are you on probation for?

A. Second-degree burglary.

Q. Have you had to -- let me rephrase that question. Have you ever stolen anything to support your habit?

A. That's how I supported my habit was stealing.

Q. Why wouldn't you just go and get a job to have money to support your habit?

A. Because I got a second-degree burglary charge and, I don't know, my job at the airport meant everything to me, and nothing felt right since. I couldn't find anything I loved like it. And with a felony, it's put a dent in any kind of career that I tried to get.

Q. What happened that made you lose your job at the airport?

A. I was the supervisor, so I was the only one that could tow airplanes out of the hangar in the morning. And I overslept two hours because I was hungover from doing pills all night.

Q. So that was before you started using heroin?

A. Yeah. So I lost that job due to the people not being able to take off.

Q. As a result of that, you mentioned, obviously, the burglary charge. Have you had several arrests and convictions for stealing related to your addiction?

A. I have.

Q. Mr. Valentine, I want to take you back to the year 2014. At that time, who were you getting your heroin from?

A. 2014?

Q. Yes.

A. I guess The Boys.

Q. Who were The Boys?
A. Dealers I met on College Park and Ladson.
Q. How did you meet them?
A. Through a girl and another friend.
Q. Tell the jury how that happened.
A. Well, the girl was middleman for me. And then when she was kind of gone, I moved in with a friend. And he had the direct connection to them as well. And when he moved away, I was given the phone number. And then I started to call them myself.
Q. Who was the girl?
A. Her name was Bianca.
Q. You mentioned that Bianca was middleman for you. How often would that happen?
A. Every day, well, until I didn't see her anymore. I mean, that was like a couple-week-long period, like six-week long period, I guess.
Q. Do you remember what time frame that was, what month, what part of the year?
A. It was probably just 2014, like you said, prior -- warmer months, so probably summer.
Q. How long was Bianca middlemanning for you?
A. I think she just did it three to five weeks, maybe three to six.
Q. How many times a day would you go?

A. Maybe up to two times, two or three.
Q. How much heroin would you get on each of those transactions?
A. Maybe half gram to a gram and a half.
Q. Would Bianca get heroin?
A. I don't know if she purchased any, but she would get some out of mine.
Q. Why would she get some out of yours?
A. For doing the favor.
Q. Did Bianca use heroin as well?
A. She did.
Q. Where would Bianca -- well, who drove you or Bianca?
A. I drove.
Q. Where would you drive Bianca to get the heroin?
A. Trailer park on College Park Road.
Q. Do you remember the name of the trailer park?
A. I do not know the name of the trailer park.
Q. Do you remember the street?
A. Arno.
Q. Was that the only place that Bianca took you?
A. Yeah, but -- I mean, yeah, she just took me there.
Q. When Bianca took you there, did you ever go inside?
A. No.

Q. Did you ever see who she was getting the drugs from?
A. No.
Q. Are you aware of any other locations that Bianca went to get heroin for you?
A. No, she just took me to College Park motel.
Q. What happened after Bianca was no longer serving as your middleman?
A. I was on a rough patch, and I was staying with a friend. And then he was kind of doing that.
Q. What was your friend's name?
A. J.T.
Q. Did J.T. have a source of supply for heroin?
A. He did.
Q. Who was his source of supply?
A. The Boys as well.
Q. Was it the same group?
A. Same group, uh-huh.
Q. When did you begin using J. T. as your middleman?
A. Right when Bianca left.
Q. Was there a time period in between, or was it immediate?
A. It was pretty much immediate, right after she was gone.
Q. Where would J.T. take you to get the heroin?

A. Either College Park or Ladson Road.
Q. When you say College Park --
A. The trailer park on College Park.
Q. The same one?
A. The same one.
Q. You mentioned Ladson, where in Ladson?
A. I think the name was Fairlawn.
Q. Do you remember what street?
A. I forget the name of the street.
Q. What kind of a building was it?
A. Just a one-story building. I don't know.
Q. Was it a house?
A. Oh, yeah, it was a house, yeah.
Q. When you first started dealing with J.T., which location did he take you to?
A. The Ladson one.
Q. How often would J.T. take you to Ladson?
A. Every day.
Q. How much heroin would you get each time?
A. Probably about a gram and a half. He would probably get about the same.
Q. Did you ever go, at that time, while J.T. was your middleman, did you ever get to go inside the house?
A. No.
Q. Did you ever see who J.T. was getting the heroin

from?

A. No.

Q. How long were you going to that house in Ladson before J.T. took you to the College Park area?

A. I mean, it just depended on who was readily available, you know. We would go to both.

Q. You mentioned it depended on -- I understand, if I heard you, who was available; is that what you said?

A. Yes, first person we would get to.

Q. What do you mean by who was available?

A. Which person in the group would answer the phone first, who would come through first.

Q. How would you contact the group?

A. Well, he would call through the phone.

Q. Did Bianca do the same thing?

A. Yep.

Q. Do you know who Bianca was contacting?

A. Somebody Mo and Q. That's all I know.

Q. Do you know who J.T. was contacting?

A. Same names.

Q. Mo and Q? You mentioned depending on who was available. Explain to the jury how that worked.

A. I mean, it's really who was available is who is there with the heroin and ready for us to come through immediately.

Q. How many people were involved in this group that you called The Boys?
A. I would assume --
MS. JOHNS: Objection, Your Honor.
THE COURT: Basis?
MR. GRIFFITH: Objection. Calls for conjecture.
THE COURT: Please approach.
(Whereupon, the following bench conference takes place.):
MR. UNDERWOOD: I asked him how many people were involved in this group, how many people.
THE COURT: You have to establish that he was there and walked out to meet The Boys.
(Whereupon, bench conference ends.)
THE COURT: Rephrase.
BY MR. UNDERWOOD:
Q. How long did J.T serve as your middleman?
A. A few months.
Q. Do you remember when he stopped?
A. He decided to pack up and leave his home, try to get clean.
Q. Do you remember when that was?
A. Probably end of the summer of 2015.
THE COURT: Sir, can you speak up for us, please?
THE WITNESS: 2015 I'm guessing. It was awhile

ago.
BY MR. UNDERWOOD:
Q. After J.T. left, how did you get heroin?
A. I got the number to The Boys myself and started getting heroin for myself.
Q. How did you get the number for The Boys?
A. J.T.
Q. I'm sorry, can you speak up?
A. J.T.
Q. How did you get it from him?
A. I asked for it and he gave it to me.
Q. Did you call that number?
A. I did.
Q. Did anyone answer it?
A. They did.
Q. Who did you speak to?
A. Mo.
Q. Is that the first time you had ever had direct interaction with Mo?
A. That is.
Q. What happened in that phone call?
A. I told him the situation of people being gone. And he had seen me, my car, at least a few times. I know he had to have. And I told him that I needed dope. And he said come on.

Q. Where did he tell you to go?
A. College Park.
Q. Where on College Park?
A. That street I told you, Arno.
Q. Did you go?
A. I did.
Q. What happened when you got there?
A. I was sold heroin.
Q. Where did the sale take place?
A. In the driveway.
Q. Who sold the heroin to you?
A. Mo.
Q. Do you remember how much heroin it was?
A. Probably about gram and a half.
Q. Was anyone else there?
A. Not that I recall. Not at that time.
Q. After that transaction, when was the next time you've talked to Mo?
A. Probably the next day.
Q. What happened the next day?
A. Same thing.
Q. If you could elaborate, please.
A. Called and asked to buy dope, and I was told to come over.
Q. Did you go to the same place?

A. Yeah. I knew I went there a couple of times before I went anywhere else.

Q. You said a couple of times, meaning two, or couple times meaning a random number?

A. A random number, probably six or seven times.

Q. How much heroin would you buy at that location each time?

A. When my addiction started getting bad, I was running no less than a half gram, but I was -- I mean, if it was a bad day, I would try to get almost a gram to a ball.

Q. When you say "a ball", what does that mean?

A. That means 3.5 grams.

Q. Did anyone other than Mo at that trailer sell you heroin?

A. Another person, but I don't know their name or anything like that.

Q. Do you remember what they looked like?

A. Rick Ross.

Q. Excuse me?

A. The singer, Rick Ross.

Q. He looked like the singer Rick Ross?

A. Yeah. If you want me to elaborate, beard, big, tall, black guy, beard, always had shades on.

Q. How many times did you buy from that individual you called Rick Ross?

A. Several, up to probably -- I probably seen him like 20 or 30 times.

Q. How many times at that particular location?

A. I only seen him at that location. It was probably, like I said, 20 or 30 times.

Q. What happened in those 20 to 30 times?

A. Just buy dope every time, rolled up, bought it, left.

Q. Did you ever stay to socialize?

A. No.

Q. What was the most amount of heroin you purchased, first from the individual you just referred to as Rick Ross?

A. A ball or 3.5 grams.

Q. How often would you buy that much?

A. Often.

Q. What does often mean?

A. At least four days of the week, three days.

Q. For how long of a period of time?

A. Probably about eight months to a year, I would assume. I don't know. It's been a while.

Q. What about Mo, how many times at that location did you buy from Mo in total?

A. Probably about 20 times.

Q. Was the ball, the 3.5 grams, is that the largest amount you ever bought from that group?

A. I've bought a quarter.
Q. What is a quarter?
A. 7 grams.
Q. Is that referred to as a quarter of an ounce?
A. Quarter of an ounce.
Q. Did you buy from any other individuals at that trailer on Arno?
A. Not really.
Q. Did you ever see anyone else there buying heroin while you were there?
A. There was a little bit of traffic, yeah.
Q. What do you mean by a little bit of traffic?
A. I've seen people come through there the same time, you know.
Q. What were they doing?
A. The same thing I was.
Q. Which was?
A. Buying heroin.
Q. How much were you charged for heroin by Mo?
A. $160 a gram.
Q. Did you have a different price when you dealt with Rick Ross?
A. No.
Q. Do you know any of the other individuals you said that were coming and going you referred to as traffic?

A. No, not really, no.
Q. Were there any other locations that you went to get heroin from Mo?
A. Ladson.
Q. And is that the same house you referred to earlier?
A. It is. That's the only two places I've ever been.
Q. When did you start going to the house in Ladson?
A. Around the same time, after the six or seven times I went to College Park, you know, just they all -- I mean, I guess everyone was kind of a group, so just was sent whichever way.
Q. Did you start going to Arno, stop and then go to Ladson, or were you going to both?
A. Back and forth.
Q. Who would you deal with when you went to the house in Ladson?
A. Q.
Q. Who was Q?
A. Part of the group.
Q. How did you meet Q?
A. Mo.
Q. What happened?
A. Mo just sent me there.
Q. Why did Mo send you to Q?

A. Because I guess Mo is the leader.

MS. JOHNS: Your Honor, I object.

THE COURT: Sustained. Speculation. Lack of foundation.

Ladies and gentlemen, you will disregard the last question and answer. Give it no consideration in your deliberations. You may rephrase the question.

BY MR. UNDERWOOD:

Q. What was the purpose for your being sent to Q?

A. College Park, people are busy, I guess.

Q. Why did you go to Q?

A. Because he was available.

Q. Available for what?

A. To serve me.

Q. And by "serve you", what do you mean?

A. Sell me dope.

Q. What kind of dope?

A. Heroin.

Q. That first time, did you contact Q directly?

A. No, I think I was just sent there.

Q. How were you sent there?

A. Mo told me over the phone to just go to him.

Q. And why did you -- why were you speaking to Mo on the phone at that time?

A. Because that was the number I had at first, the

only number I had, as I recall.

Q. You said at first. Did you later have another number?

A. Yeah.

Q. What was -- who had that other number?

A. I'm sorry. What was the question?

Q. You said you had Mo's number, then you had another number. Whose number was the next number?

A. Q.

Q. Who gave you Q's number?

A. Mo.

Q. For what purpose did he give you that number?

A. So I could go there to get dope, Ladson.

Q. The first time that you went there to Ladson, did you go inside?

A. I did.

Q. What happened when you got inside?

A. Checked for a wire and sold dope.

Q. What do you mean "checked for a wire"?

A. Patted down.

Q. You were patted down?

A. I was patted down.

Q. Who patted you down?

A. Q.

Q. Was anyone else there?

A. No.
Q. After you were patted down, what happened?
A. I was sold dope and left.
Q. How much were you sold?
A. Probably about a gram, around that.
Q. What kind of drugs was the dope?
A. It was heroin.
Q. How much did you pay for it?
A. Probably $160. If it was a gram, 160.
Q. After that interaction, did you go back to Q?
A. Yeah, I went back and forth to both locations.
Q. How often would you go to Q's house?
A. Off and on, I mean, 50/50 really.
Q. How many times do you think you went to Q's house?
A. Numerous. If I had to put a number on it, maybe like 100, 100 times or so. I don't know.
Q. What did you do each of those times?
A. Bought heroin.
Q. Was there any other reason for you to go there?
A. No.
Q. How much heroin would you buy from Q at a time on a regular basis?
A. Anywhere from half gram to a ball.
Q. Did you ever purchase more than a ball from Q?
A. No.

Q. Did you ever see anyone else at Q's house?
A. Rarely.
Q. Who?
A. Friends, I guess.
Q. Do you know any of their names?
A. I don't.
Q. Was Mo ever at Q's house?
A. I've never seen him there.
Q. Where have you seen Mo?
A. College Park.
Q. Anywhere else?
A. No.
Q. Do you know where Mo lived?
A. I do not.
Q. You've mentioned the term The Boys several times. Who are The Boys?
A. Just a group of people doing what I've been talking about. That is just what they were referred to by, I guess, J.T. mostly. That's just kind of the name that was picked up on.
Q. How many of the people in that group that you call The Boys have you personally met?
A. Pretty much just who we talked about.
Q. For the jury, please say the names.
A. Mo and Q.

Q. Did you ever meet anyone else in that group?
A. Not that we talked about. The guy with the beard and the glasses, I don't know his name.
Q. The person that you referred to as Q, do you know his real name?
A. I do not.
Q. Is the person you know as Q in the courtroom today?
A. Yes.
Q. Where is he?
A. There. (Witness indicating.)
Q. Would you describe his clothing, please?
A. Blue collar button-up.
MR. UNDERWOOD: Your Honor, I ask the record to reflect that he's indicated the defendant Emory Roberts.
THE COURT: You may proceed.
BY MR. UNDERWOOD:
Q. The individual you know as Mo, do you see him here in the courtroom today?
A. No.
MR. UNDERWOOD: Permission to approach the witness, Your Honor.
THE COURT: You may.
MR. UNDERWOOD: If I may publish State's Exhibit 42.
Q. Do you recognize that individual?

A. Yeah.
Q. If you could speak into the microphone, please.
A. Yeah.
Q. Who is that?
A. That looks like Mo.
Q. Do you know Mo's real name?
A. I do not.
Q. Did you ever have any discussions with Mo about how the group that you knew as The Boys was put together?
A. No.
Q. Do you know from your own personal knowledge who was in charge of that group?
A. Seemed like Mo was.
Q. What did you observe --
MS. JOHNS: Objection, Your Honor.
THE COURT: Basis?
MS. JOHNS: Speculation.
THE COURT: Overruled.
BY MR. UNDERWOOD:
Q. What did you observe to make you think that?
A. Just the way things were handled, I guess.
Q. What about the way things were handled?
A. Seemed like he was in charge.
Q. Give an example. What happened that made it seem like he was in charge?

A. Phone calls, just demeanor, really, and interactions. Just seemed like -- you know if you rolled into a business, you can tell who the general manager is. You know what I'm saying?

Q. You mentioned the calls, what do you mean by calls?

A. Calls.

Q. What about the calls that made it seem like he was in charge?

A. I don't know. I would call him to kind of get the direction.

Q. What about his demeanor made you think that he was in charge?

A. Just how he gave direction, you know he was in charge.

Q. Who did he give direction to?

A. Me and whoever was -- he was in charge of.

Q. Who was he in charge of?

A. The Boys, I guess.

Q. If you could just refer to their names, who would he give directions to?

A. I mean, I guess he could tell Q sometimes --

MS. JOHNS: Your Honor, objection.

THE COURT: Sustained. Speculation, lack of personal knowledge. You can establish foundation for his rational perception if you can continue to pursue this line

of questioning. Please proceed.
BY MR. UNDERWOOD:
Q. Please don't guess. Based on what you have actually seen or heard, what made you think that?
A. He's in charge. I just know that. I mean, you just know when someone is in charge, just like I know this judge is in charge. There's a jury. They are making the decision, but I know this judge is in charge.
Q. Well spoken, sir.
MS. JOHNS: Objection, Your Honor.
THE COURT: Basis?
MS. JOHNS: Editorializing.
THE COURT: I will let it slide. Overruled.
BY MR. UNDERWOOD:
Q. In total, do you have any idea how much heroin you bought from the group you know as The Boys?
A. I don't know an exact number, but I would say a lot.
Q. Do you have any idea how much money you've paid them for heroin?
A. Thousands.
Q. To your knowledge, did Mo use drugs?
A. No, I don't think so.
Q. To your knowledge, did Q use drugs?
A. No, I don't think so.

Q. Why don't you think so?
A. Just, I don't think they used drugs. Never did see any kind of addiction or anything, you know, that would make me believe that they were on drugs.
Q. Did either of them every demonstrate the kind of symptoms you described earlier of withdrawal?
A. No.
MR. UNDERWOOD: Thank you. Please answer any questions opposing counsel has for you.
MR. GRIFFITH: If it please the Court, Your Honor.
THE COURT: Mr. Griffith.

CROSS-EXAMINATION

BY MR. GRIFFITH:
Q. Mr. Valentine, thank you for coming. Who was J.T.?
A. A friend.
Q. What does J.T. stand for?
A. Actually, I don't know.
Q. Were you offered any consideration under your charges to testify here today?
A. No, I'm still in chains.
Q. No one has offered you to say anything to the solicitor for you -- has someone offered to say something to the solicitor for your --
A. No, I've already been charged.
Q. So what year did you say you first started that you

met Q and Mo? What year would that be?

A. I guess met personally was 2015, late 2015.

Q. What month 2015?

A. Probably springtime. I don't remember it being cold, so probably spring or summer.

Q. Was it 2014 or 2015?

A. It was -- I think actually started 2014 is when I started getting middleman, and then kind of got them myself. And then it ran into 2015.

Q. I mean, specifically Q, what year and what month did you first encounter Q?

A. I couldn't tell you the month.

Q. Well, what year?

A. Probably 2014 or '15. I know it was one of them times.

Q. You don't know which year it was, '14 or '15?

A. It was probably late '14 and ran into '15.

Q. Would it surprise you to find out that Mr. Roberts was in New York until March of 2015?

A. Maybe it was 2015, but I know it was that time period.

Q. When you called that telephone number, the one that you said -- would a different person answer that telephone different times?

A. Which telephone number are you referring to?

Q. You said first you had one number and different people --

A. Right, Mo's phone number first.

Q. Would Mo always answer that phone?

A. Yes.

Q. No one else answered it?

A. Not that I knew.

Q. What about the second phone number, who answered that?

A. Q.

Q. Did anybody else ever answer it?

A. No.

Q. We were talking about The Boys. Did you get that name from law enforcement?

A. I got that name from the street. It's kind of just a nickname, I guess.

Q. Among the users?

A. Yeah.

MR. GRIFFITH: Okay. I have no further questions.

THE COURT: Ms. Jones.

MS. JOHNS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. JOHNS:

Q. Mr. Valentine, what did you plan on doing with your

career at the private airport?

A. Actually, two weeks before I was fired, the regional manager told me I was going to be a general manager there for Virginia, a little airport. So I planned to just further grow in the company, really.

Q. That was a company that you started or were you working for a company?

A. No, further grow in the company that I worked for, Atlantic Aviation.

Q. Did you want to get a pilot's license ever?

A. Yeah. Why not?

Q. Did you work on that at all?

A. I did not. Actually, I flew a couple of times with out of Mount Pleasant, but it wasn't any logged-in hours.

Q. And there's certainly options out there where you could learn to get a pilot's license locally, correct?

A. Yes, there is.

Q. Did you ever pursue any of that at all?

A. Not since my addiction. I haven't pursued anything.

Q. Before your addiction, did you pursue anything of value?

A. Before my addiction?

Q. Yes, sir.

A. That's all I did was try to succeed.

Q. And then you said that this monster came in to your life, right?
A. Right.
Q. It was introduced to you by a woman, Bianca, right?
A. Yes.
Q. Was Bianca your girlfriend?
A. No.
Q. Okay. Did she ever become your girlfriend?
A. No.
Q. Y'all did not have a relationship?
A. We had no kind of emotional or physical relationship.
Q. And you say that this addiction to heroin began because you were using it with opioids?
A. Yes.
Q. And opioid was for pain, because you had dry sockets?
A. Yes.
Q. After your wisdom teeth were removed?
A. Yes.
Q. All four of them were removed?
A. All four.
Q. You were how old then?
A. About 17, almost 18.
Q. Had you graduated from high school yet?

A. I was just about to graduate.
Q. Did you ever graduate?
A. I did.
Q. Did you get a GED or did you get a high school diploma?
A. I got a high school diploma.
Q. From what school?
A. Fort Dorchester.
Q. How did you meet Bianca?
A. She was ex-girlfriend of a friend, and I just kind of got in touch with her because I knew she used.
Q. Oh, okay. So you sought her out?
A. Yeah, I did.
Q. And you knew she used what?
A. Heroin.
Q. Okay. So you want this --
A. I'm sorry. I knew she got high. And then I was kind of introduced to heroin.
Q. You knew she got high?
A. Right.
Q. What did she get high on?
A. I knew she got high on opioids, or whatever, pills. I was just trying to get pills at the time, kind of led to heroin.
Q. So when you say you knew she got high, you are not

being drug specific about what she got high on; you just knew she did drugs?

A. No, I knew from her and her ex-boyfriend's relationship they used pills, opioids.

Q. And what else?

A. I mean, they used an assortment of drugs, but I knew that was their main choice.

Q. What was her boyfriend's name?

A. Justin.

Q. All right. How was he your friend?

A. We just kind of linked up somehow. I don't know, mutual friends.

Q. Mutual friends?

A. Yeah.

Q. You don't have any recollection of the meeting?

A. Of the meeting?

Q. Yeah.

A. I don't.

Q. Were you all getting high together?

A. We knew each other before we got high.

Q. So did Justin just end up calling you one day and say, hey, bro, let's hang out?

A. No.

Q. Did you call him and ask him that?

A. I didn't really care to hang out with him that

much. I just knew what he was into, and that was that. This whole town is basically on drugs now.

Q. Okay.

A. You know, seeing it, it's bad.

Q. Whose fault is that, do you think?

A. I don't know, whoever is shipping in a bunch of heroin.

Q. And you are buying it, right?

A. I was.

Q. Okay. Now, you stated that you are currently at the Dorchester County Detention Center; is that right?

A. I am.

Q. And how long have you been there?

A. I've been there seven days tomorrow.

Q. I'm sorry, repeat that.

A. Seven days tomorrow.

Q. Seven days. Seven days?

A. Yeah.

Q. Okay. How are you feeling?

A. I feel okay today.

Q. Okay. What about yesterday, was it a bad day?

A. Yesterday was a better day.

Q. Okay.

A. A few days before that was a little rough.

Q. Are you getting any medication or treatment while

you are in the county jail?

A. No.

Q. Okay. And so it's just cold turkey for you?

A. It was this time.

Q. What about last time?

A. Last time I withdrawed from was 40 days long.

Q. Did you get any help with any medication then?

A. About three weeks after I got there, because medical treatment in jail is not the best.

Q. Right. So you got clean because you were there for four months, right?

A. I was there for -- I was in jail for like three months.

Q. Three months? That was a whole 90 days. And you were clean, right?

A. I was clean.

Q. And you got released; is that right?

A. Then I got released.

Q. You got placed on probation?

A. Got placed on probation.

Q. As soon as you got placed on probation, how long did it take you before you went back out on the streets and decided that you wanted to buy heroin again?

A. Two days.

Q. Somebody force you to go buy heroin after that

stint in jail?

A. No.

Q. Your choice, wasn't it?

A. It was my choice.

Q. You said you lost your family because of your drug addiction?

A. Yeah, I've lost a lot.

Q. Does that mean your mother and father?

A. I have my mother and my sister.

Q. Okay. Did they try to help you out the best they know how?

A. They did.

Q. You stole from your mother before, right?

A. I have.

Q. You stole from your sister too, right?

A. I have, not in a long time, but I have.

Q. Okay. And when this was going on and somebody, your mother, became concerned about you, you lied to her, didn't you?

A. Yeah. I guess I tried to hide my addiction as long as I could.

Q. By hiding that, that means that you lied to her, did you not?

A. I mean, I guess, yeah. I lied to my mom as probably anybody would at that age doing those drugs would

probably lie to their mom.

Q. And you lied to her when you stole from her, didn't you?

A. Yes.

Q. And --

A. Well, tried to. She knew, because she's a mom.

Q. All right. You lost a lot of friends as well, didn't you?

A. I have lost friends, but I have friends that still locate me.

Q. I'm sorry. I didn't mean to interrupt you.

A. I didn't mean to interrupt you.

Q. So you lost friends to this addiction?

A. I have.

Q. But you've made new friends through this addiction?

A. I have.

Q. And they are users, aren't they?

A. Some are users and some are not. I have a 50/50 set of group of friends. I would say the ones that don't use are the better ones.

Q. All right. Now, you also said that you did stupid things because of this addiction. Do you remember saying that, when you were talking to Mr. Underwood?

A. Sure, yeah.

Q. What were some of those stupid things?
A. Shoplifting, pretty much just taking drugs.
Q. Do you think stealing something that doesn't belong to you is a very honorable thing to do?
A. I think it's a very dishonorable thing to do.
Q. But you did it anyway?
A. Well, drugs are very expensive. And when you are sick, you do anything to fix that.
Q. Do you know what it means to Google something?
A. To Google?
Q. Yes, sir.
A. I do.
Q. Would you be surprised to know that if you Googled heroin treatment, Berkeley County or Charleston, South Carolina, do you know how many Google searches come up?
A. Well, I wouldn't know, because I've searched everywhere for help. I don't have insurance. So there's not very much help for someone without insurance.
Q. Would you be surprised that there are some services that are at no cost?
A. They are not in town.
Q. Okay.
A. That I know of.
Q. Have you ever heard of Serenity Place?
A. That name rings a bell. Where is that at?

Q. That's local.
A. Could you please tell me what area?
Q. I don't know.
A. Well, if it is, I bet it takes a long time to get in.
Q. What about your family, do they have the ability to help you get off heroin?
A. My mom just lost pretty much everything in a divorce to my dad, who was military, who had insurance. I could have been on insurance until I was 26 or 23, whatever it was. But he cut me off because he found out I was a user and left my mom.
Q. So he left your mom because of you?
A. Pretty much what it looks like. He made it look like in the divorce. He left my mom because they had problems, but he used me as a lot of defense in the divorce.
Q. And why was he not happy with the way your mom was handling the situation?
A. Oh, I didn't ever say he wasn't happy with the way my mom was handling the situation. They were unhappy. They weren't in love anymore.
Q. You got the feeling he blamed you?
A. I got the feeling he was worried about his career because of my decisions.

Q. Why would you think he would be concerned about that?
A. Because he's Air Force.
Q. And why would that upset his job?
A. I don't know. Honestly, I resent him very much for leaving the way he did. I don't know. I really don't understand the whole situation. It still bothers me today.
Q. So some of the other stupid things you did is that you would leave your house in the middle of the night, right, and not come home for days? This is some of the stupid things you would do when you were living with your mom?
A. I've done that, but I'm also an adult, so I can do that.
Q. Right. Okay. And you also said that you used to steal to support your habit; is that right?
A. Uh-huh.
Q. In fact, you have that conviction for a burglary, second degree?
A. Yep.
Q. And that's housebreaking, isn't it?
A. Yes.
Q. And you broke into somebody's house when they weren't home, didn't you?
A. I did.

Q. And you stole things from them, didn't you?
A. I pawned their lawn equipment while they were out of town, thinking I could get it back before they got back. That's what happened.
Q. Did you know these people?
A. They were my neighbors.
Q. What year did you start using heroin, Mr. Valentine?
A. 2014 or '15.
Q. The first time you bought heroin, who did you buy it from?
A. First time I got heroin was middleman through Bianca. Like I say, first time I bought heroin was when I went to Mo.
Q. So earlier when you said that you got your heroin from J.T., that wasn't true?
A. I said those were middlemen.
Q. Oh, so there's a difference. I didn't know that.
A. Yeah. I was saying they got it for me before I met anybody personally. They would get it for me. And I would break them off or give them some of the drugs for doing it.
Q. Okay. Okay.
A. When they were gone, then I got my drug connection to them.

Q. Let me see if I got this straight. If you called them a middleman, that means that they are not a dealer; is that right?

A. No. They are just an addict trying to get a little fix.

Q. An addict just trying to get a fix, so --

A. Pretty much, or helping me to help them, you know.

Q. Okay. So let me see if I get this straight. They are helping you help them?

A. Right. I'm getting a bag with my money, but they are going to get some out of that bag for doing me that favor.

Q. Did they ever pitch in with you, some of their money to get some?

A. Sometimes.

Q. So then your testimony was that they would buy the heroin and then they would give you some of what they bought, right?

A. Not out of what they got with their money, but out of my money, they would get some of it. And then I got the rest. And whatever they got with their money is whatever they did.

Q. Let me see. Basically, you are going into a restaurant, you are eating a meal, and you are asking for separate checks; is that right?

A. They are taking me -- I'm taking them -- I pick them up to go get heroin, because they know the heroin dealer. And if they have their own money, they probably don't tell me about it, or they do, just to get a deal, a better deal. But most of the time it will be, I just have my money, whatever they do is in their pocket, they sneak that so they don't have to do nothing. The deal there is, maybe they got more, you know, and give it up. I am not trying to be rude. And whatever money I use to purchase heroin with, they will come out, give it to me, and then I will open that bag and I will give them some heroin for doing that.

Q. So you would pay them with heroin to accommodate what you needed?

A. Right.

Q. Okay.

A. I hope you didn't take that any kind of rude way. I was just trying to explain it.

Q. No, not at all. Thank you for saying it.

So when the two of you would go and buy dope, they are buying dope and you are buying dope, but you are keeping your business to you and they are keeping their business to them?

A. Yeah, most of the time.

Q. So when they went to get dope and they got back

into your car, they distributed dope to you; isn't that right?

A. Yeah.

Q. And then whatever you did with your dope, if you went to Bianca and you gave some to her, you are distributing dope to her too, right?

A. Well, she would normally just pull what she needed, pull what she would get out.

Q. Or whoever you were doing dope with, when you gave it to them, you are distributing it to them, aren't you?

A. Well, I mean, sometimes I would give them a little. But most of the time, they will take the bag and get what they are going to get out of it, and then give me the bag.

Q. Now, you said that there's a street nickname The Boys, street nickname The Boys?

A. Oh, yeah.

Q. Any other street nicknames you know about that were floating around out there?

A. No.

Q. No? Okay. So how long -- when was the last time you were using heroin, about a week ago?

A. Yeah, because I just --

Q. The last time you got heroin, who did you get heroin from?

A. Some person off of Ashley Phosphate.

Q. Okay. Just a regular person, not a middleman?
A. No, I got a middleman.
Q. Okay. You got a middleman?
A. Yeah.
Q. Do you know who that person got it from?
A. Somebody named J.
Q. Did you ride with him to get it?
A. Yeah.
Q. Can you describe who it was that sold it to him?
A. I mean, I don't -- are we here to talk about that though?
THE COURT: Sir, if you could just answer the question yes or no.
THE WITNESS: No, I cannot describe really the person.
Q. Can you describe the house?
A. Just one-story little house.
Q. What area of town?
A. Ashley Phosphate.
Q. Is that the only house you can get heroin from?
A. Yeah.
Q. The only house?
A. Yeah.
Q. Now, this phone number that you called, you said you got this phone number because your good friend J.T.

moved away from Charleston area?
A. Yes.
Q. And so you knew he had a number; is that right?
A. Right.
Q. You called him and you asked him for the number?
A. For the phone number, yes.
Q. He gave you the phone number; is that right?
A. That's correct.
Q. And you are telling this jury that you dialed up this phone number, and whoever answered the phone was just ready to deal with you, right?
A. Yeah, because they've seen my car around.
Q. Okay. And you know that they've seen your car around? How do you know that?
A. Because I pulled in their driveways. I would assume they would have seen my car.
Q. All right. What kind of car was it?
A. Volkswagen Jetta.
Q. Did you say, I'm the guy with the Volkswagen Jetta? That's what you told them?
A. Yeah.
Q. And the person who was on the other end of the phone said, come through?
A. Yeah.
Q. Have you ever heard that person's voice before?

A. I had not.
Q. So you want this jury to believe that this boss man, the one in charge, who doesn't know you, is going to come out of the house and just sell you dope?
A. Yeah.
Q. Okay.
A. Why not?
Q. You said that you are here today without any agreement; is that right?
A. Without any agreement.
Q. Okay. How did this agency or sheriff deputy get in touch with you?
A. I got in touch with them.
Q. Okay. So you got in touch with them. Was it this arrest or previous arrest?
A. Second-degree burglary arrest in 2015.
Q. So in 2015, you got in touch with them?
A. I did.
Q. And that was Dorchester County Sheriff's Department; is that right?
A. I was in jail still and spoke with Detective Melendez.
Q. And who does he work for?
A. I don't think he works for them anymore, but he worked for either Summerville or Dorchester County. It

was -- I met him on Deming Way. I just don't know which building, county it was for.

Q. You told him you had information that might help them out?

A. Yeah.

Q. And who did he put you in touch with?

A. I forget his name, but it was a narcotics agent.

Q. What does he look like?

A. Long hair, white.

Q. How big?

A. Probably six-foot.

Q. How many times did you talk to him?

A. Two, three, four times.

Q. What did you tell him that you were expecting out of your cooperation?

A. I was trying to look for immunity, but I ended up just not really doing anything with the narcotics team.

Q. So when you were looking for immunity, the arrangement was that you would become a confidential informant, correct?

A. The arrangement was we just met up and talked. There was no setup or anything for me to be an informant at the time. We just talked. And I kind of gave them a little information. Should have had a lawyer there, I guess, maybe.

Q. When you talked to him, did he talk to you about possibly cooperating with the government?

A. Yeah, he did.

Q. Now, you have some college, so I know that you are a smart person.

A. I appreciate that.

Q. You had an expectation that you giving this information would help you out, didn't you?

A. Not giving the information, maybe -- I mean, it was talked about that they wanted me to buy dope. I never did that.

Q. That means becoming a confidential informant?

A. Right. So I never did that, because it just didn't happen. So whatever information I did give, I knew wasn't going to get me out of anything. So I took my punishment and got my probation, whatever, all of that.

Q. So you went into it without being serious?

A. I was serious.

Q. But you didn't agree to become a confidential informant, did you?

A. I did not.

Q. And once you got out, two days later, you were back on the street, right?

A. I don't know if I went exactly out that day, but it wasn't long after.

Q. Two days later, I think you said; is that right?
A. Probably.
Q. And then when you got picked up on a probation violation, you got in touch with them again, didn't you? In fact, I think you spoke with Detective Wingo, did you not?
A. Yeah, he came and asked me if I would come testify.
Q. Okay. And this time, you didn't want to lose your opportunity, did you?
A. What do you mean, what opportunity?
Q. With your expectation of some sort of leniency?
A. There's nothing that can be done.
Q. There's nothing that can be done?
A. I mean, what -- there's nothing that can be done. I've been charged. I violated probation.
Q. And you are awaiting a judge's order regarding how much time is going to take away from you; isn't that right?
A. I'm awaiting a probation hearing that could either put me in inpatient rehab or maybe prison.
Q. Okay. So prison is a likelihood, correct?
A. It is.
Q. You don't want to go to prison, do you?
A. No.
Q. And you did not enjoy your three months being in the county jail last time, did you?

A. No.
Q. And you realize that if you contacted somebody in narcotics and gave up information, that would probably set you free, correct?
A. I didn't know if it would, but --
Q. But it happened, didn't it?
A. When was I set free? I'm sitting in chains right now.
Q. I'm talking about when you committed the second degree and grand larceny?
A. I wasn't set free from that.
Q. You were out of jail?
A. I bonded out.
Q. You bonded out and then that was after you helped them, correct?
A. Yeah. I mean, I gave them --
Q. You are free, right?
A. I wouldn't say that. I paid for it.
Q. You paid for it by giving them information, right?
A. Why would -- you are contradicting -- you are being contradictive. I paid my bond with my money.
Q. Why didn't you get out the first time you went for a bond hearing then? Why did it take three months?
A. What do you mean? No, no, no, no. I missed a -- I had a bench warrant for missing the court date which had my

first plea. So I had to sit in county -- first of all, I sat in Berkeley County for two months or 40 days for two shoplifting charges. Then I went to Dorchester County and waited a month and a half for court for the second-degree burglary.

Q. Okay. So you didn't show up for court and there was a bench warrant?

A. Yes, ma'am.

Q. And you didn't show up to court because you were addicted to heroin?

A. Yeah, I guess.

Q. Well, it's either that or you didn't know?

A. I missed court for personal reasons.

Q. Okay. And the personal reasons was the same reason you lost your job at the airport; you slept in?

A. No, I didn't sleep in. I just -- I couldn't make the court hearing. But addiction runs around it. But I didn't miss it because I needed a bag of dope or something. I just missed it because I had problems with my car and stuff like that.

Q. So your car couldn't get you to court, right?

A. Yeah.

Q. And you didn't have any friends to take you?

A. Suspended license and car -- little car trouble here and there, whatever.

Q. And your mom --
A. And money has been all spent.
Q. Mom wouldn't help you anymore?
A. No, she probably would have. I just didn't ask for help that day.
Q. All right. When you are talking about the trailer on Arno Drive, who lived there?
A. I don't know who owned that or lived there, but I just went there to get drugs.
Q. And did you say in your direct testimony that when you went there, you never went in that house?
A. I've never been in that house.
Q. When you went to the house in, I guess, Ladson, did you go in that house?
A. I have been in that house.
Q. When you went in that house, you never saw Justin Hunter, did you?
A. Who?
Q. Justin Hunter?
A. Who is that?
MS. JOHNS: Right. I have no further questions.
THE COURT: Any redirect?
MR. UNDERWOOD: Court's indulgence, please.

REDIRECT EXAMINATION

BY MR. UNDERWOOD:

Q. Sir, when did you stop dealing with The Boys?
A. I guess after I got out of jail, really, for -- actually, been a few months after I got out of jail for the second-degree or bonded out.
Q. When was that?
A. That was 2015.
Q. Do you remember what time of year?
A. I think it was -- maybe March or April, I don't know.
Q. Excuse me?
A. March or April. I don't know. I don't remember it being cold.
Q. You mentioned that after you got out of jail the first time you were clean for two days. Who did you go to after two days?
A. I think I actually got middleman, because I owed them money. So I think we went to The Boys, but I got middleman.
Q. Why did you owe them money?
A. I don't remember.
Q. Who middlemanned for you?
A. I do not remember. I'm assuming -- I hate to say it, but I'm pretty sure that's how it went down, because I owed them money and they don't want to do it until I pay them.

Q. Why would you have a debt to them?
A. Maybe got fronted.
Q. What's fronted?
A. Loaned.
Q. Loaned what?
A. Heroin.
Q. How does that arrangement work?
A. Just ask for -- say, hey, you know, can I get a front, which is a loan, and I will pay you back. And it's up to them.
Q. When you say a loan, what are you getting?
A. I'm getting the dope before the money is there.
Q. Like a credit arrangement?
A. Credit.
Q. Mr. Valentine, has all the testimony you've given here today been truthful?
A. As truthful as I could be.
MR. UNDERWOOD: No further questions, Your Honor.
THE COURT: Any objection to the witness being excused, from the State?
MR. UNDERWOOD: None, Your Honor.
THE COURT: From the defense, Mr. Griffith? Mr. Griffith, any objection to the witness being excused?
MR. GRIFFITH: No objection, Your Honor.
THE COURT: Ms. Johns?

MS. JOHNS: No, Your Honor.

THE COURT: Sir, you are excused.

Madam Forelady, ladies and gentlemen, we are going to take advantage of this break in testimony to take a brief restroom break. During the break, please do not discuss the case. And please leave your notepads in your seats.

(Whereupon, the jury leaves open court at 4:02 p.m.)

THE COURT: We will be at ease for about five minutes so the jury can use the restroom.

(Whereupon, a recess transpired.)

(Whereupon, the jury returns to open court at 4:12 p.m.)

THE COURT: The State ready?

You may call the next witness.

MR. FERNANDEZ: Thank you, Your Honor. May it please the Court. The State calls Aaron Rawl.

THE COURT: Sir, if you would state your full name and spell your last name.

THE WITNESS: R-a-w-l, Aaron.

AARON RAWL,

having been duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. FERNANDEZ:

Q. Lieutenant Rawl, please introduce yourself to the

jury and give them a little information about yourself, your education and your current work.

A. Lieutenant Aaron Rawl with State Law Enforcement Division. Been there 10 years. First four years were with the Grand Jury. After that I was on DEA task for four years and came back and now I'm lieutenant over one of our narcotics unit.

Q. And when did you get involved in law enforcement, what year?

A. 2007.

Q. And did you attend college anywhere?

A. Yeah, University of South Carolina, graduated with a master's in political science and minor in business.

Q. And what type of responsibilities have you had throughout your time in SLED? I know you mentioned Grand Jury.

A. Grand Jury, I did some undercover, then was a case agent on a few case. Initiated cases, investigated them from start to finish. And then at a DA, I worked on federal conspiracy cases, wire taps, all sorts of things there. And then back at the Grand Jury, again same thing, working large conspiracy cases throughout the State and different counties. Now as lieutenant, I supervise six agents right now.

Q. Lieutenant Rawl, is it safe to say that most of

your experience has been in the narcotics realm and conspiracy cases?

A. My entire career at SLED has been in narcotics.

Q. Lieutenant Rawl, did you have occasion to assist with the investigation we are here for this trial?

A. I did.

Q. What was your -- what role did you play in assisting in the investigation?

A. I executed one of the search warrant at 1001 Bear Island Road, Apartment 531, summerville.

Q. And how was that search warrant obtained for 1001 Bear Island Road?

A. Justin Wingo, I believe, was the applicant on the warrant signed in the county of Berkeley. I can't tell the judge's signature, but through a circuit court judge.

Q. And who was Justin Wingo?

A. He's the case agent on this case.

Q. And you mentioned 1001 Bear Island Road in Summerville, South Carolina. What county is that located in?

A. Berkeley.

Q. And when executing a search warrant, please describe that situation, what that involves to the jury.

A. Basically, on this one, we knock and announce, breach the door, make sure the house -- in this case it's an

apartment -- is secure. Detain the people within there. Whoever is the owner of the apartment, the search warrant is read to them. Make sure they understand. If they have any questions, answer any questions for them about the search warrant. And then the apartment is searched and evidence is seized and chain of custody through to the evidence to the lab.

Q. And in executing the search warrant, what day was this done on?

A. February 8th, 2016.

Q. What was your specific role in the execution of this search warrant at Bear Island Road?

A. I was the, I guess, team leader of that, of the group that was assigned to 1001 Bear Island Road. And I was the evidence custodian at the location.

Q. Okay. And please tell us what that means to be the designated evidence custodian?

A. That means anything located of evidentiary value, if it's located by me or anybody else, I'm called to it. I photograph it. And I seize it from where it is located. Nobody else seizes the evidence. When it's done, search warrant is over, I maintain care and custody of all evidence until it's either put into nondrug evidence lockers or submitted to the lab for testing.

Q. And as part of your responsibilities in being the

evidence custodian, did you have a chance or an opportunity to create a report of all that went on during the execution of the search warrant?

A. Yes.

Q. Why would you create a report, for what purpose?

A. To document it, everything that we found. We have to leave a receipt with the apartment owner, apartment of what we seized from the apartment, just because it's good ethics -- or not ethics, but, you know, it's good business to write everything down. We got to remember what we did to document everything that was seized from the apartment, who was there, what date it is. Long time, you can't remember, things like that.

Q. And are all the items y'all seized or took as part of the investigation in this case, did you document all of this things and where they were located?

A. Yes.

Q. And does your report assist you in recalling where they were located?

A. Yes.

Q. If an item was located within this 1001 Bear Island Road, did you document where it was located?

A. The room it was located from and photographed within the room.

Q. And for every item that was seized, did you

actually lay eyes on where it was located prior to actually taking it into your custody?

A. Yes.

Q. And that goes for every item seized in your report?

A. Yes.

Q. Thank you. Agent Rawl, if you bear with them one moment, I'm going to present you with a few items.

MR. FERNANDEZ: Your Honor, permission to approach the witness?

THE COURT: You may. Give me the numbers you have in your hands.

MR. FERNANDEZ: Yes, Your Honor. This is State's Exhibit 66, 67, 68 and 69.

THE COURT: Any objection from counsel?

MR. GRIFFITH: No objection, Your Honor.

MS. JOHNS: I have no objection.

THE COURT: Marked and admitted without objection. You may proceed.

(State's Exh. 66, Drug Kit L16-01819, was received in evidence.)

(State's Exh. 67, Drug Kit L16-01817, was received in evidence.)

(State's Exh. 68, Drug Kit L16-01820, was received in evidence.)

(State's Exh. 69, Drug Kit L16-01821, was

received in evidence.)

BY MR. FERNANDEZ:

Q. I'm handing you what's been marked in evidence as State's Exhibit 66, as well as prior evidence admitted State's Exhibit 161. Will you please take a look at both of these items and tell me if you recognize them?

A. Yep, I do. Hold on a second while I get the lab numbers out of my report. Okay.

Q. Are you familiar -- let's start with State's Exhibit No. 66. Are you familiar with what that is?

A. Yes.

Q. Could you please tell the jury what that is?

A. This is a bag of green plant-like material, which is marijuana and --

Q. One second, what sort of packaging is it in?

A. Clear plastic baggies, like corners of Ziploc bags, or just regular clear plastic bags that don't have a Ziploc.

Q. Has the evidence contained therein been placed into what's called a BEST evidence kit?

A. It has.

Q. What is the purpose of that?

A. To make sure the integrity of the evidence is contained within there until it's delivered to the lab and tested.

Q. Does it have a tamper-proof seal on it to make sure that it's not removed before it's supposed to be removed?

A. Yes.

Q. Is that evidence that you personally seized from Bear Island Road?

A. Yes.

Q. How do you know it's you who seized it?

A. It's written in my report. And I'm the one who signed it. I sealed it.

Q. Thank you. And after submitting -- after taking that evidence that was seized, taking it into evidence and placing the BEST kit, what did you do with it?

A. Secured it in the toolbox in my truck and transported it to the lab for testing.

Q. And was it, in fact, tested?

A. Yes.

Q. And where did you locate this particular piece of evidence?

A. Bear with me while I flip back to my report. This was located in Bedroom No. 2, which is the back left corner bedroom of the apartment.

Q. And I apologize for not doing this earlier. Can you explain for the jury, give them a brief synopsis what kind of location this was, Bear Island Road?

A. It's an apartment complex. As you entered, the

kitchen and dining room to your right. First bedroom is to your left. And living room and second bedroom was back to -- we call them bedroom one and two. That's how I can label where stuff was located.

Q. Thank you. Was this particular piece of evidence submitted to the SLED lab for testing?

A. It was.

Q. And what was the result, if you would publish that, please?

A. Came back marijuana found in the one tested at net weight of 1.1 grams. And the other was cocaine found in the sample tested with a net weight of 1.88 grams.

Q. All right. Thank you. Agent Rawl, I'm handing you what's been marked and admitted as State's Exhibit 67 and State's Exhibit 160. Will you please take a moment to review those and tell me if you recognize them?

A. I do.

Q. Okay. And please walk us through, similarly what you did before, please tell us how you recognize that package?

A. It was located within the house. I photographed, seized it. And then I signed, sealing it in the BEST evidence kit.

Q. What would that piece of evidence be when you seized it on the scene, what was the description of it?

A. Three clear plastic bags containing a brown powder substance.

Q. And was there similar to the other previous testimony you provided? Did you do the same for all pieces of evidence at Bear Island?

A. They would have been secured in the BEST kit, and per policy, put in the lockbox in back of my truck and transferred to the lab.

Q. Was this particular piece of evidence also tested?

A. Yes.

Q. If you would, is that the lab report for that particular piece of evidence?

A. Yes, it is.

Q. And how do you know that?

A. The lab number that's printed on here with the lab report.

Q. Please publish the result of that test.

A. Three plastic bags containing powder substance. Heroin found in the three samples tested, net weight of 1 grams.

Q. Thank you. Agent Rawl, I'm handing you what's been marked as admitted as State's Exhibit No. 68 and 162. Would you please, as you've done before, review those and tell me if you recognize them?

A. I do.
Q. Walk us through how you know that and what it reveals?
A. Again, it's documented in my report. And this was located in bedroom 1. I photographed it, secured it, and signed, sealing it in this BEST evidence kit.
Q. And was this also tested by the SLED lab?
A. It was.
Q. What was the result, if you would publish for the jury?
A. Three plastic bags containing powder substance came back cocaine found. In the samples tested, three tested, total net weight of 2.15 grams. One plastic baggie containing a crystal substance, results are methamphetamine found in the one sample test with net weight of .65 grams.
Q. Thank you. Lieutenant Rawl, I'm handing you State's Exhibit 69 and 163. Will you please take a moment to review those. And let me know if you recognize them?
A. Yes, I do.
Q. What are they and where were they found and how do you recognize them?
A. They were located in a safe within the closet of Bedroom No. 2.
Q. And how would you describe the materials?
A. One's a clear plastic bag containing white powder

substance. And, two, clear plastic bags containing black tar substance.

Q. Similar to the others, was this handled by yourself?

A. It was. And I signed, sealing it in the BEST kit.

Q. And after providing that to the SLED, for SLED analysis, what was the result?

A. Plastic bag containing powder substance, cocaine found in the one sample tested with net weight of 98.72 grams; two plastic bags containing dark brown sticky substance, no controlled substance detected in the sample tested.

Q. Thank you.

A. Two tested.

Q. And you know that's the test for that bag how?

A. The lab number matches up with the BEST kit.

Q. Thank you. Lieutenant Rawl, I handed you what's been marked as -- I'm sorry.

THE COURT: Any exception, Mr. Griffith?

MR. GRIFFITH: No objection.

MS. JOHNS: No, Your Honor.

THE COURT: What number?

MR. FERNANDEZ: This would be State's Exhibit 76 and 77.

THE COURT: Marked and admitted without objection.

(State's Exh. 76, digital scale, was received in evidence.)

(State's Exh. 77, digital scale, was received in evidence.)

BY MR. FERNANDEZ:

Q. Mr. Rawl, I'm handing you what's been marked and admitted as State's Exhibit 76 and 77. Would you please take a look at those. And let me know if you recognize them. And please, if you would, describe for the jury where they were found and what they were?

A. They are are digitals scales. One is a Digitz, with a Z, not a S, digital scale located by me in the upper cabinets of the kitchen. And the other one is one Match Weight digital scale located by me on the TV stand in Bedroom No. 2.

Q. In your narcotics experience, what would a digital scale typically be used for by narcotics trafficking organization?

A. Weighing out drugs for sale, putting them in bags so they know how much to is when they sell it.

MR. FERNANDEZ: Your Honor, this is State's Exhibit 79.

THE COURT: Any exceptions, Mr. Griffith or Ms. Johns?

MS. JOHNS: No objection, Your Honor.
MR. GRIFFITH: No, Your Honor.
THE COURT: Marked and admitted without objection.
(State's Exh. 79, blender tops, is received in evidence.)
Q. Agent Rawl, I'm handing you what's been marked as admitted as State's Exhibit 79. Will you please review that and let us know where you located it and what it is?
A. These are blender tops that were located in the upper cabinets of the kitchen.
Q. What would be the significance of blender tops in this sort of residence?
A. When it's all put together with the blenders and some other things that were in the kitchen with it, it's used for mixing cocaine with cutting agents.
MR. UNDERWOOD: Your Honor, this is State's Exhibit 80.
THE COURT: Any objection?
MR. GRIFFITH: No objection, Your Honor.
MS. JOHNS: No, Your Honor.
THE COURT: Marked and admitted without objection.
(State's Exh. 80, Inositol powder, is received in evidence.)
BY MR. FERNANDEZ:
Q. Agent Rawl, I'm handing you State's Exhibit 80.

Will you please take a look at that and tell us what that is.

A. It's a bottle of inositol powder.

Q. Where was this item located?

A. It was located in the kitchen, I believe the same place as the blender.

Q. What would be the significance of inositol powder?

A. Inositol is a very common cutting agent for cocaine.

Q. Could you please describe for the jury what a cutting agent is, you said mixing before, and how that would relate?

A. Correct. When drug dealers get, say, an ounce of cocaine, they will mix it with another ounce of inositol, blend it all together and now they have two ounces of cocaine to sell. It takes down the purity of the cocaine, but you have more to sell.

MR. FERNANDEZ: Your Honor, this is State's Exhibit 81. It is a variety of items.

THE COURT: Any objection?

MR. GRIFFITH: No objection, Your Honor.

MS. JOHNS: None.

THE COURT: Marked and admitted without objection.

(State's Exh. 81, Acetone, sifter, brush, scoop and spoon, is received in evidence.)

BY MR. FERNANDEZ:

Q. I'm handing you what's been marked and admitted as State's Exhibit 81. There are a number of items in there. Can you please identify them and let us know where you located them?

A. One is a sifter. One is a brush, a small spoon, ice cream scoop and bottle of acetone.

Q. Where were they located?

A. Located in the upper cabinets of the kitchen along with the blender and inositol.

Q. What would be the significant of those items?

A. It's used for cutting cocaine. It's also used for purifying cocaine.

Q. Would that be the acetone?

A. Acetone would purify it, yes.

Q. Walk us through that process.

A. If you are using cocaine and/or you buy cocaine that may not be good cocaine that you know of, if you mix it with acetone, mix it up in a cup or put it in a blender, the acetone -- cocaine does not dissolve in the acetone. But the cutting agents will. So you mix it all together, the acetone absorbs all the cutting agency, and leaves you nothing but pretty pure cocaine. Pour that into the sifter, the cocaine is left on top of the sifter, everything else goes through the acetone.

Q. Your Honor, this would be -- I apologize. Just trying to do similar --

THE COURT: Just give me the numbers.

MR. FERNANDEZ: 78, 82, 83, 84.

THE COURT: Any objection?

MR. GRIFFITH: No objection, Your Honor.

MS. JOHNS: Not from Hunter.

THE COURT: Without objection.

(State's Exh. 78, blender top, received in evidence.)

(State's Exh. 82, blender, received in evidence.).

(State's Exh. 83, blender, received in evidence.).

(State's Exh. 84, blender, received in evidence.)

BY MR. FERNANDEZ:

Q. Agent Rawl, the items marked as 78, 82, 83, 84, can you please take a look at these individually. And let's walk through. And tell us which one you are referring to when you first address it?

A. This is the bottom of a blender of a NutriBullet.

Q. That's number what? Sorry.

A. That is No. 84.

Q. Okay.

A. No. 83 is another bottom of a KitchenAid blender or

grinder. No. is 82 is a Hamilton Beach, bottom electrical end of a blend or grinder. And No. 78, this is the attachments and cups and tops of the various --

Q. Where were these items located?

A. Also in the upper cabinets of the kitchen.

Q. If you would, please tell us what the significance of these items would be to a drug trafficking organization?

A. Again, they went with the tops from the before as well. Put them in there to really mix up the cutting agent and the cocaine, so you get a good even blend throughout the cocaine. Where if you just dump all the inositol on top of the cocaine and start bagging it up, you may bag all the inositol in one bag and no cocaine. So blend it up, get it good and pure together, and make it easy so everything is -- would be the same.

MR. FERNANDEZ: These are State's Exhibit 72 through 75.

THE COURT: Any objection?

MR. GRIFFITH: No objection, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: Marked and admitted without objection.

(State's Exh. 72, Gold iPhone, received in evidence.)

(State's Exh. 73, Red Motorola cell phone, received in evidence.)

(State's Exh. 74, Black Samsung, received in evidence.)

(State's Exh. 75, White LG cell phone, received in evidence.)

MR. FERNANDEZ: Permission to approach the witness.

BY MR. FERNANDEZ:

Q. I'm handing you what's been marked and admitted as State's Exhibit 72, 73, 74 and 75. Will you please identify each of these for the jury and detail where you found them?

A. 72 is a gold Apple iPhone. I believe that was taken off of Ms. Rosemarie Quezada, who was at the residence there.

73 is a red Motorola cell phone. I'm not sure where that was taken, probably off somebody's person, if I don't have it written down as being located anywhere. May be taken off somebody's person. I'm not sure.

74 is a Samsung cell phone located in the upper cabinets of the kitchen.

And the white LG cell phone was located in bedroom two in the closet.

Q. And what would be the significance of having multiple cell phones?

A. A lot of times in the drug world, people have multiple cell phones, because, one, you have one for your

customers, one for your supplier, or you have one you talk to your family and friends on that you don't do drug business on, and one you talk to all your customers and everybody else on, or you have a phone, you get a new phone because you change numbers a lot to keep detection from law enforcement.

MS. JOHNS: Objection, Your Honor.

THE COURT: Approach.

(Whereupon, the following bench conference takes place.):

MR. FERNANDEZ: Jones is a co-defendant who has previously pled. The address located at Arno Drive address you had already heard about. That's the only non-Justin Hunter document. And there's a miscellaneous envelope which appears to be a ledger.

THE COURT: Whose handwriting is that?

MR. FERNANDEZ: We don't know it's a ledger of money.

THE COURT: Yeah, but who is going to make sure somebody that can tie it to the --

MR. FERNANDEZ: We can tie the Bear Island address.

THE COURT: You can't tie that piece of paper. That's problematic. I will think about that piece of paper, but the rest of it comes in. That piece of paper will be marked for ID only until I can hear it outside the jury's

presence, show he had dominion and control over it.

(Whereupon, a bench conference ends.)

THE COURT: Overruled.

BY MR. FERNANDEZ:

Q. Permission to approach?

A. Yes, sir.

Q. Agent Rawl, I'm handing you a number of documents, will you please look through them collectively and let me know if you recognize them and where they were seized?

A. Yeah. I recognize them. Some of the miscellaneous paperwork was received from the upper cabinets of the kitchen. And the rest of it was seized from Bedroom No. 2.

Q. If you would, let's take it one by one, if you would, and please state which State's exhibit you are relying on?

A. Exhibit No. 49 is a vehicle registration to a Justin Gordon Hunter with the address of 1128 Wilhite Drive in Ladson to an Audi 4S.

Q. Thank you.

THE COURT: Which number is that again?

THE WITNESS: 49.

THE COURT: That will be marked and admitted subject to the objection.

(State's Exh. 49, Audi vehicle registration, is

received in evidence.)

A. 50 is another vehicle registration to a BMW, 2006 BMW to a Justin Gordon Hunter, at the same address, 1128 Wilhite Drive in Ladson.

THE COURT: What number is that, please?

THE WITNESS: 50.

THE COURT: Marked and admitted subject to the objection. Overruled.

(State's Exh. 50, BMW registration, is received in evidence.)

A. 51 is a State Farm bill with Justin Hunter's name on it.

THE COURT: Marked and admitted subject to the objection.

(State's Exh. 51, State Farm bill for Justin Hunter, is received in evidence.)

Q. Is there an address on it?

A. 1128 Wilhite Drive in Ladson.

52 is another State Farm Insurance bill to Mr. Justin Hunter at 1001 Bear Island Road, Apartment 53 in Summerville, South Carolina

THE COURT: Marked and admitted subject to the objection and overruled.

(State's Exh. 52, State Farm bill for Justin Hunter, is received in evidence.)

A. Number 53 is an itemized list of an insurance claim on Mercedes with Justin Hunter and Lassain Johnson. This time with address of 721 Arno Drive.

THE COURT: Marked and admitted subject to the objection and overruled.

(State's Exh. 53, Joint Declaration Page, is received in evidence.)

A. 54 are two insurance cards, one with -- both having Justin Hunter and Lassain Johnson's name on them for a 2008 Mercedes. As far as addresses go, no address.

THE COURT: Marked and admitted subject to the objection and overruled.

(State's Exh. 54, Joint insurance cards, is received in evidence.)

A. Number 55 is a Comcast Cable bill or maybe cell phone bill with Lassain Johnson's name on it, with 721 Arno Drive, Ladson, South Carolina, as the address.

THE COURT: Marked and admitted subject to the objection and overruled.

(State's Exh. 55, Lassain Johnson's cable bill, is received in evidence.)

A. 56 is a state of South Carolina insurance policy bill for the Audi A4, 2005 with Justin Hunter's name on it at 1001 Bear Island Road, Apartment 531, Summerville, South Carolina.

THE COURT: Marked and admitted and objection overruled.

(State's Exh. 56, Justin Hunter's ID cards, is received in evidence.)

A. Last one is a credit card bill for Capital One Platinum Mastercard with a Roy G. Hunter and co-signer Justin Hunter at 1001 Bear Island Road, Apartment 531, Summerville, South Carolina.

THE COURT: Marked and admitted subject to the objection and overruled.

(State's Exh. 57, Capital One statement, is received in evidence.)

THE COURT: The credit card bill is 57, correct?

THE WITNESS: I'm not sure.

THE COURT: 57.

Q. Lieutenant Rawl, I'm handing you --

THE COURT: Do not, I already indicated that is ID only until I can hear argument. Give it to the court reporter. It's marked as ID only. What number is that?

MR. FERNANDEZ: That would be 58.

THE COURT: 58, ID only.

(State's Exh. 58, Envelop ledger, is marked for identification.)

MR. FERNANDEZ: Your Honor, this would be the next batch of documents, would be State's Exhibits 59 through 65,

Your Honor.

THE COURT: Any objection, Mr. Griffith?

MR. GRIFFITH: No objection, Your Honor.

THE COURT: Any objection, Ms. Jones?

MS. JOHNS: No, Your Honor.

THE COURT: Without objection, 59 through 65.

(State's Exh. 59, Visa Gold card ending in 1154, was received in evidence.)

(State's Exh. 60, Visa Gold card ending in 5770, was received in evidence.)

(State's Exh. 61, Moneygram receipts, was received in evidence.)

(State's Exh. 62, Emory Roberts's Social Security card, was received in evidence.)

(State's Exh. 63, Emory Roberts's New York ID card, was received in evidence.)

(State's Exh. 64, Emory Roberts's New York ID card, was received in evidence.)

(State's Exh. 65, Emory Robert's debit card, was received in evidence.)

MR. FERNANDEZ: Permission to approach the witness?

THE COURT: You may.

BY MR. FERNANDEZ:

Q. I'm handing you what's been marked be State's Exhibit 59 through 65. Will you please take a look through

them and let me know if you recognize them.

A. I do.

Q. Where were these items discovered?

A. The items were discovered in the kitchen and Bedroom No. 2.

Q. If you would, please go through each one and let the jury know what they are.

A. 59 is a Visa Gold Dot card. Valued customer name on it.

THE COURT: I'm sorry. I didn't not hear.

THE WITNESS: Valued customer name on it, no name, just a Gold Dot card.

56 is another Visa Gold Dot card loaded with money.

Q. If you would, will you please tell the jury what the significance of those cards would be?

A. In the drug world, a lot of drug dealers use Gold Dot cards to move money around, because you can take money on and off of them through different cards. You can load them up to maybe 500, I believe. Some go higher, some go lower. And that's how they can move money around without having cash on them.

Q. Thank you.

A. Number 61 are MoneyGram payment system receipts, five of them.

Q. MoneyGram receipt is for what now?

A. Again, for wiring money. Most of the time, if your supplier, say, is in New York and you are in South Carolina, it's -- you may have to get the money to them before they will give you the drugs. And you have to wire it to whatever account or location they tell you to wire it to.

Q. Thank you.

A. Number 62 is Social Security card of Emory Roberts Jr.

63 is a New York State identification card of Emory Roberts Jr.

64 is another New York State identification card for Emory Roberts Jr.

Q. Thank you.

A. And last one, 65, is a TD Visa debit card with Emory Robert Jr.'s name on it.

Q. Permission to again approach the witness, Your Honor.

I'm handing you what's been previously marked State's Exhibit 42 and entered into evidence. Will you please take a look at that and let me know if you also recognize it?

A. I do.

Q. And what is it?

A. It is Justin Gordon Hunter's passport.

Q. And did you locate that item in Bear Island

apartment complex?

A. I did.

Q. Where did you locate it?

A. Bedroom No. 2.

MR. UNDERWOOD: No further questions from the State, Your Honor.

THE COURT: Any questions from Mr. Griffith?

MR. GRIFFITH: Yes.

THE COURT: You may proceed.

CROSS-EXAMINATION

BY MR. GRIFFITH:

Q. May it please the Court, Your Honor.

All of these items were taken from Bear Island; is that correct?

A. 1001 Bear Island Road, Apartment 531 in Summerville, South Carolina.

Q. Okay. And this -- the NutriBullet, NutriBullet that was entered into evidence, a lot of people may own that to mix vegetables with, right?

A. Sure.

Q. So that doesn't necessarily mean that somebody was using it for some other purpose, does it?

A. Not necessarily.

Q. And the Inositol, that's really vitamin B, isn't it?

A. It's a dietary supplement, yeah.
Q. A dietary supplement. The scales that you found, they could be used for weighing out things to figure out how many calories are in them?
A. It's a small person eating that little bit of food.
Q. Maybe it's really a person trying to eat light, but isn't that true?
A. You can weigh anything on a scale.
Q. Absolutely. Did you find any persons there when you arrived?
A. Yes.
Q. Who was there?
A. Rosemarie Quezada. And then during the search warrant, Mr. Lassain Johnson appeared at the door.
Q. But you did not find Mr. Emory Roberts there, did you?
A. No, sir.
Q. Did you find any duffel bags there?
A. None that were seized, no.
MR. GRIFFITH: Thank you. No other questions.
THE COURT: Ms. Johns.
MS. JOHNS: Thank you, Your Honor.
THE COURT: You're welcome.

CROSS-EXAMINATION

BY MS. JOHNS:

Q. Agent Rawl, did you submit any of these items to SLED for fingerprint testing?

A. Did not.

Q. Could you tell whether or not my client Justin Hunter handled any of these items?

A. No, ma'am.

Q. Do you know whether or not Mr. Justin Hunter and Mr. Johnson were in the car-selling business together?

A. No, ma'am.

Q. You have some documents there, do you not, that say that there is insurance in both of their names; is that right?

A. Yes.

Q. Okay. And then you also have some paperwork concerning an Audi A4?

A. Right.

Q. And, to your knowledge, did you know whether or not Mr. Johnson drove an Audi A4?

A. Not to my knowledge. I don't know.

Q. And there is some information about 2005 BMW; is that right?

A. I believe so. That's what I read on the registration.

Q. Do you know what model that is?

A. I'm not sure. It's on the registration.
Q. Do you know what color it is?
A. No, ma'am.
Q. And then there was, I think, two Mercedes, right?
A. I'm not sure. Could have been the same one, just two different documents.
Q. And do you know whether or not the Mercedes belonged to Mr. Johnson?
A. I do not. It's registered to whoever's name is on the registration card.
Q. Did you find any keys that corresponded with the Mercedes?
A. No, ma'am.
Q. Did you find any keys that corresponded with an Audi?
A. No, ma'am.
Q. Did you find it on the person of Mr. Johnson when he came to the house?
A. I don't believe so, no.
Q. You don't know or you don't --
A. I don't know. I don't believe so. We didn't take them, so I'm not sure. He had to drive to get there, so ..
Q. Did you find a bill of sale in those listed documents?
A. No.

Q. You did not?
A. No, ma'am.
Q. Any of these debit Visa cards to valued customer, where do you buy these?
A. You can get them anywhere, CVS, Walmart, you name it.
Q. And did you run any of these or call the number to see if there was any money on any of these cards?
A. I did not.
Q. Do you know if any of these cards belonged to Mr. Hunter?
A. I do not, no, ma'am.
Q. And none of these were run fingerprint tested either?
A. No, ma'am.
Q. Are any of these items that stack with this Visa card or any of them illegal to own?
A. No.
Q. These cell phones that you found, I don't know the item number, but let me just refer them -- refer to them as the cell phones that have been admitted during your testimony. Did you run the serial number to any of those phones to prove ownership of those phones?
A. I did not, no, ma'am.
Q. You cannot connect any of those cell phones to

Justin Hunter; is that correct?

A. I'm not sure if anybody asked to, but I did not.

Q. You did not?

A. No, ma'am.

Q. And some of these, like State's Exhibit 81, they are general household items, correct? For example, there's a strainer in here.

A. Right.

Q. And you said that it was commonly used to sift drugs?

A. When they are found with drugs and all together with the grinders, you put two and two together.

Q. I am not trying to put two and two together.

A. They are not illegal to own or anything. You can find them in any household.

Q. I just want to know, did you submit this to the lab to test it for drugs?

A. No, I did not.

Q. Let me also ask you, for example, State's Exhibit No. 72, which is the Apple cell phone, would you call this a drop phone?

A. No, I would not.

Q. How about LGX, State's Exhibit 75, would you call this a drop phone?

A. Possibly, but probably not.

Q. Probably not? Would you call it a smartphone?
A. Smartphone, yes.
Q. Smartphones usually are not drop phones; is that correct?
A. A lots of smartphones can be found very cheap at Walmart and places like that. I'm pretty sure everything is a smartphone these days.
Q. Okay. With regard to the arrangement of the house at Bear Island Road, Apartment 531, did you find any clothing that belonged to Justin Hunter?
A. I can't say any clothing belonged to anybody unless they are wearing it.
Q. So was there anything that you found at Bear Island Road that would indicate to you that it belong to Justin Hunter?
A. Nothing that had his name on it, no, ma'am.
Q. No monograms, no nothing?
A. No, ma'am.
Q. It looks like a two-bedroom apartments; is that right?
A. Correct.
Q. Was one bedroom considered a master's?
A. Yes.
Q. Which bedroom was that?
A. The bedroom over -- bedroom No. 1. Well, I guess

maybe, maybe not a master. Neither one of them -- just one bedroom in the apartment, so one of the bedrooms didn't have its own bathroom. So I can't say it was a master's bedroom in the apartment.

Q. So neither of the bedrooms had a bathroom attached to it; is that right?

A. Correct.

Q. And as far as the way that the bedrooms were furnished, was one more likely to be a master bedroom?

A. I would say yes.

Q. Did you take any photographs of it?

A. There's photos from stuff in the room, yes. I would say bedroom No. 1 would be your master, if you are going to call one a master's.

Q. And that's based on you taking photos; is that right?

A. Correct.

Q. And was Bedroom No. 2 set up as a bedroom or storage office?

A. Bedroom.

Q. Have a bed in it?

A. Uh-huh, and a nightstand.

Q. Any clothes in the closet?

A. Uh-huh.

Q. What kinds of clothes, adult or children?

A. Adult.
Q. Male or female?
A. Male.
Q. And what about bedroom No. 1?
A. Female.
Q. So one was male and one was female?
A. Correct.
MS. JOHNS: Okay. Thank you. Nothing further, Your Honor.
THE COURT: Any redirect?
MR. FERNANDEZ: None, Your Honor.
THE COURT: Any objection to the witness being excused, from the State?
MR. FERNANDEZ: Not from the State, Your Honor.
THE COURT: From the defense?
MR. GRIFFITH: No, Your Honor.
MS. JOHNS: No, Your Honor.
THE COURT: Sir, you are excused.
Madam Forelady, ladies and gentlemen, we are going to take advantage of this break in testimony to take our evening recess. During the break, please do not discuss the case in any manner whatsoever. Do not watch or read any media accounts about this case, if any, or do not to research on any type on the Internet.
We will report at 9:30. Come directly to your jury

room. And as soon as everyone has arrived, we will resume testimony. I hope you have a great evening. If you would leave them in your seats. If you would attach your name tag to your notepads, we will secure them during the recess. Hope you have a good evening. See you in the morning.

(Whereupon, the jury leaves open court at 5:00 p.m.)

THE COURT: Is the anything before we adjourn for the evening, from the State?

MR. FERNANDEZ: Your Honor, I guess the only question I would have is what Your Honor intends to do about the letter, the envelope.

THE COURT: Unless you have somebody that can tie somebody's handwriting to do that, I can't find any probative value in that. It's left to too much speculation. There's been testimony there's a lot of people that frequented that particular residence. And unless you have someone -- and it looks like a female's handwriting. Doesn't look like a man's handwriting, based on what you showed me at the bench, if my memory serves me accurately. Unless you can tie it to one of the defendants, I don't know, you might be able to get it in through Ms. Quezada, if she can identify whose handwriting it is.

MR. FERNANDEZ: Thank you, Your Honor.

THE COURT: Anything before we break for the

evening, Mr. Griffith?

MR. GRIFFITH: No, Your Honor.

THE COURT: Ms. Johns?

MS. JOHNS: As a matter of housekeeping, I would like to know if the Attorney General's Office, how many more witnesses.

THE COURT: I was going to ask that question next. I need to know if there's anything --

MS. JOHNS: No, Your Honor.

THE COURT: Are there any other witnesses on this list you will not be calling? Maybe I should go, Michael Vasquez, which was No. 11.

MR. FERNANDEZ: We do intend to call Vasquez, Your Honor.

THE COURT: Jason Wells?

MR. UNDERWOOD: Yes. We intend to call Wells.

THE COURT: Willie Smith?

MR. UNDERWOOD: No, Your Honor.

THE COURT: Shana Sorrells?

MR. UNDERWOOD: No, Your Honor.

THE COURT: Maribeth McCormack?

MR. UNDERWOOD: No, Your Honor.

THE COURT: Douglas Robinson?

MR. UNDERWOOD: No, Your Honor.

THE COURT: Lynn Black?

MR. UNDERWOOD: No, Your Honor.

THE COURT: Kevin Hamm?

MR. UNDERWOOD: No, Your Honor.

THE COURT: Your Honor, if I can defer until tomorrow, depending on how one of the other agents testifies.

THE COURT: Mike Guererre.

MR. UNDERWOOD: Mike Guererre, Your Honor, the same, Your Honor.

THE COURT: And Deputy Tanner?

MR. UNDERWOOD: The same.

THE COURT: JJ Evans?

MR. UNDERWOOD: We do not intend to call.

THE COURT: And Ms. Quezada?

MR. UNDERWOOD: To be determined, Your Honor.

THE COURT: That leaves us with about four witnesses, best case 7, worst case 6. Yeah, 6. I'm sorry. I can't count.

All right. Now, do either of you plan to present any witnesses, Mr. Griffith? I'm going to, of course, explain to your client his Fifth Amendment right against self-incrimination. I assume you have no record to impeach his credibility, as y'all indicated to me he had no record in South Carolina and a New York record, but it involved drugs?

MR. UNDERWOOD: Your Honor, he had other charges as well as the drug charges.

THE COURT: Like what?

MR. UNDERWOOD: I believe under New York law, would be considered armed robbery, misdemeanor.

THE COURT: Menacing isn't probative of truthfulness. What else does he have?

MR. UNDERWOOD: As to the felony, Your Honor, I don't believe it rises to a felony.

So far, Your Honor, as I'm going through, the only felony charges I see that are not drug-related or weapons-related, he has a criminal mischief charge, which is listed as a felony from the State of New York, appears to be several counts of that as well as damaging property.

THE COURT: I haven't heard anything yet that would rise -- that would come within something that would bear on his veracity or his truthfulness.

MR. UNDERWOOD: There's an aggravated criminal intent. I don't think that would affect veracity either.

THE COURT: You are not seeing anything you would use to be able to use to impeach his credibility.

MR. UNDERWOOD: This rap sheet is rather lengthy. I apologize.

THE COURT: Take your time. I want to be able to have a meaningful conversation with Mr. Griffith when we get

to that point. And it's better that he knows ahead of time.

MR. UNDERWOOD: I don't see any charges that go directly to veracity.

THE COURT: I'm sorry?

MR. UNDERWOOD: I don't see any charges that go directly to veracity. There are a number of felonies, but they are related to other matters, Your Honor.

THE COURT: So at this point, I haven't heard you tell me anything that you would be able to use to impeach his credibility or probative of his truthfulness; is that correct?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Do you all anticipate any witnesses? Just for planning purposes, I need to know.

MR. GRIFFITH: I do not anticipate any witnesses, Your Honor. I have talked to Mr. Roberts about whether or not he should testify and --

THE COURT: I will go over that with him in detail.

MR. GRIFFITH: I don't believe he intends to testify.

THE COURT: Huh?

MR. GRIFFITH: I don't believe he has any intention to testify.

THE COURT: We will go over that. And I will go over his rights with him and also give you another opportunity to speak to him, if you need to.

Do you anticipate any witnesses?

MS. JOHNS: No, Your Honor.

THE COURT: So neither of you have put any evidence in, have you?

MS. JOHNS: No, Your Honor.

MR. GRIFFITH: We may have one piece of document to put into evidence, Your Honor. It's just a matter of his location during a period of time that's been talked about that would prove that he was someplace else.

THE COURT: Okay.

MR. GRIFFITH: I have yet to discuss it with Mr. Roberts to be sure.

MR. ROBERTS: I have a copy of my record. I can bring that tomorrow.

THE COURT: Go over that with Mr. Griffith.

Anything else we need to take up before we adjourn for the evening, from the State?

MR. UNDERWOOD: Yes, Your Honor. Briefly, as to the proposed exhibit that Mr. Griffith just mentioned, I would just like to get a copy of it ahead of time.

THE COURT: I assume he will.

MR. GRIFFITH: Absolutely.

MR. UNDERWOOD: Since the defense, from both defenses, indicated that they do not intend to call any witness, we would ask that Lieutenant Dorsey and Thomas Sekula be excused from their subpoena.

THE COURT: Any exception? Lieutenant Dorsey is the gentleman that I took testifying about drug activity under advisement. I researched the matter. I was ready to rule on it. I asked Mr. Underwood if he still wanted to call him. He said he was withdrawing him as a witness. And he wanted to release him from his subpoena. And Mr. Sekula, of course, is the confidential informant. So do we need keep -- I excused him subject to recall, anticipating whether the State may want to call him in redirect or if y'all wanted to call him in either of your cases in chief. But if you don't plan to, they are asking if both can be relieved from their subpoenas.

MS. JOHNS: As far as Justin Hunter is concerned, I do not have an objection in releasing Lieutenant Dorsey. However, with Tommy Sekula, they have witnesses that they have yet to determine whether or not she is going to testify or they are going to testify. And I am not real comfortable I can get him back here.

THE COURT: I don't have a problem not releasing him. I just need a yes or no answer.

MS. JOHNS: I would prefer he not be released.

THE COURT: Mr. Griffith?

MR. GRIFFITH: I would join.

THE COURT: Lieutenant Dorsey will be released. Mr. Sekula is still subject to recall.

MR. UNDERWOOD: Thank you, Your Honor.

THE COURT: You're welcome. Anything else we need take up, from the State?

MR. UNDERWOOD: Nothing, Your Honor.

THE COURT: Defense, Mr. Griffith?

MR. GRIFFITH: Nothing, Your Honor.

THE COURT: Ms. Johns?

MS. JOHNS: No, Your Honor.

THE COURT: Have a good evening. See you in the morning at 9:30.

(Whereupon, the court adjourns for the day.)

(Whereupon, the trial continues on July 27, 2017.)

THE COURT: The State ready to proceed?

MR. UNDERWOOD: Your Honor, if we can have just one minute, Your Honor, we are trying to organize some of our exhibits?

THE DEFENDANT: Good morning, Your Honor. I have --

THE COURT: Wait one second.

What exactly are we waiting on? What are you doing?

MR. UNDERWOOD: I think we can proceed, Your Honor.

THE COURT: Okay. All right. Sir, you said you wanted to address the Court?

THE DEFENDANT: Yes.

THE COURT: You need to stand. Tell me what you need?

THE DEFENDANT: I have a problem with counsel right now.

THE COURT: Ah-huh.

THE DEFENDANT: The testimony of this guy, Craig Valentine yesterday, all right, we spoke that I was in New York and I was, in fact, incarcerated during that time. All right? It was told to me to bring my record. And I have it and I can show that. Now he's fighting against me about --

THE COURT: Well, I don't know. Depends. What is it that you have to show him that would corroborate what you are saying?

THE DEFENDANT: My rap sheet, my rap sheet.

THE COURT: Is it certified? Where did you get your rap sheet?

THE DEFENDANT: From them.

THE COURT: How does that show you were incarcerated?

THE DEFENDANT: Shows the dates and everything.

THE COURT: It shows when you were incarcerated?

Rap sheets only show when you are charged with something. It doesn't show when you are in custody. It only shows what you were charged with, the date you were charged, and the disposition of the charge. It doesn't show when you were in jail. You have to get the record from the jail that you were in showing that you were incarcerated from a particular date to a particular date. Your rap sheet doesn't show that.

THE DEFENDANT: I can show that I was in New York.

THE COURT: You would be in New York on the date of the arrest, but you could have conceivably left New York within hours of being arrested and being released on bond. So what date are we speaking about??

THE DEFENDANT: 2014.

THE COURT: What date?

THE DEFENDANT: January 13th date and then you have a February 19th date.

THE COURT: Say that for me one more time?

THE DEFENDANT: It's a date of January 13th and then there's a date of --

THE COURT: Of what year?

THE DEFENDANT: Of 2014.

THE COURT: And what's the next date?

THE DEFENDANT: February 19th.

THE COURT: Of what year?

THE DEFENDANT: 2014.

THE COURT: Okay. And what does that rap sheet say that you are saying supports your position? What does it say? What does it say about January 13th and February 19th that you say confirms you were in custody??

THE DEFENDANT: I'm confirming I was in New York. I was in custody --

THE COURT: No, but what does the rap sheet say itself? What does it say about those dates??

THE DEFENDANT: As far as me being -- it says the charge.

THE COURT: Yeah, but does it say you were arrested? A rap sheet -- you can have charges that go on a rap sheet, but you may not have come into custody yet. Like, there are people who have charges pending, warrants pending. It goes into NCIC. But I don't know if they were picked up yet?

THE DEFENDANT: Can we subpoena that I was in --

THE COURT: What institution were you located in??

THE DEFENDANT: Nassau County Correctional Facility.

THE COURT: Where is that located??

THE DEFENDANT: East Meadow, New York. I'm just saying it because they sat up here, listened to this guy, I don't even know this guy. And he testified to all of these

things, and I was in New York. May, June of 2015, I might have --

THE COURT: You said May and June of 2014 you were in jail in New York?

MR. ROBERTS: No, no, that I was present down here, when I first came down here. That's what I'm saying. Like, 2014, I was -- this wasn't even a thought. I was in Vermont. Prior to that, I was in Vermont.

THE COURT: In 2014??

THE DEFENDANT: Yeah. After I got out of jail, I was in Vermont for a little while. Then I was in New York.

THE COURT: Okay. The question still becomes what do you have to corroborate that??

THE DEFENDANT: Well, I definitely was incarcerated, so if we can --

THE COURT: How were you incarcerated? Did he tell you what facility it was, Mr. Griffith, so you can confirm it?

MR. GRIFFITH: He didn't indicate what facility it was, Your Honor. He said he was incarcerated. I had the fear that if we opened the door to his --

THE COURT: Yeah. It's a double-edge --

THE DEFENDANT: This is by far the worst thing I've ever been accused of. I don't care. It can't get no worse

than this, Your Honor.

MR. GRIFFITH: I've been trying to help Mr. Roberts understand, with the help of others, that if he were to open the door, at this point, the jury has no idea who he is. But if he opens the door and they bring in his entire record, then they will have a preconceived mind --

THE COURT: It really would be prejudicial to you. See, right now, as you remain silent -- here's how it works. The State has the burden of proof. You could sit at that table and never say a word. You don't have anything to prove. The burden is on them. They have to prove your guilt beyond a reasonable doubt. As long as you are silent, there's nothing they can say. They can't use your own words against you.

You can't just get on the stand and say, I was in Nassau County. It doesn't stop there. They get to ask you about everything else. That's a dangerous road to go down. It's a rabbit hole. And I agree with your lawyer, it's not in your interest.

Now, I've dealt with New York before. It's a nightmare. It's a hit or miss if they ever send the record, if they still have it, that you were in New York in 2014. Because he's probably going to have to talk to 100 people. And each person talking to him is going to give him a different answer. And they may never get you what you are

looking for. I don't want to disparage another state, but, you know, when I deal with other states, I'm thankful that I live here. Let's just leave it at that. Because we may not be the best, but we are incredibly organized, if nothing else.

And then your memory may be faulty about it. But you being -- you getting on the stand and say, yeah, I was in Nassau County on this date and I was in Nassau County on this date, you don't have anything to corroborate it. So then that puts you between a rock and a hard place by corroborating what you are saying, because you are just saying it. So you said it? You could be not telling the truth?

THE DEFENDANT: Can I speak?

THE COURT: Uh-huh.

THE DEFENDANT: I asked him for this thing about being prejudicial. I'm the only defendant sitting here with all of this mass of evidence --

THE COURT: No. That defendant is sitting there. He's just being tried in his absence. And that's what I'm going to tell the jury. He didn't show up and we get to try him in his absence just like he was here.

THE DEFENDANT: Yeah, but, Your Honor, you know what I'm saying. The jury is looking at me over here with all of these things being brought out.

THE COURT: I have found that juries are very discerning people, very discerning people, with varying backgrounds. And they take their duty very seriously. So, I think you should take advantage -- and the other thing that happens that you are not thinking about is, when you keep your mouth closed and you present no evidence, your lawyer gets last argument, which means that his voice is the last voice the jury gets to hear before they deliberate. That's a very valuable commodity. You might want to consider that?

THE DEFENDANT: All right.

THE COURT: Take his advice?

THE DEFENDANT: All right.

THE COURT: In the meantime, Mr. Griffith, if you need assistance in trying to locate, I just have had to deal with other institutions in other states, just trying to even secure the presence of somebody, and it's a nightmare. But if you want to take a shot at contacting Nassau, I have found that New York operates like five different states within one state, they all have their own rules in every borough, nightmare. Yeah. I don't know if they will even have his records from 2014. But if you want to take a shot at finding them, you would still have to have a witness to introduce them through, which becomes -- well, I guess if it was certified, you could ask the case agent, I guess. But I

don't know that you would want to soil your client that way by indicating he has a string of arrests in another state. I'm at a bit of a loss.

Because what Mr. Griffith is going to do -- and I'm just going to sort of jump into traffic -- he's going to impugn the credibility of those witnesses. He's going to say that they all lack veracity because they are all addicts and they will say anything to get out of jail. He can attack their credibility without you ever opening your mouth. And you might want to take his advice?

THE DEFENDANT: All right.

MR. GRIFFITH: Thank you, Your Honor.

THE COURT: Is there anything else we need to take up before we proceed with trial? We had a late -- we've had late jurors all week, but I suspect -- when I was coming in, I saw 526 was backed up in both directions. So I don't know if that affected them getting here. It's a parking lot. There was nothing moving. So I tend to be a little lenient about something like that, because we pay them $10 a day. And if they get stuck in traffic, I am not going to rail them about it.

The State ready to proceed?

MR. UNDERWOOD: We are, Your Honor.

THE COURT: Defense ready to proceed, Mr. Griffith?

MR. GRIFFITH: Yes, Your Honor.

MS. JOHNS: Yes, Your Honor.

THE COURT: Bring in the jury. Thank you, sir.

Who is the State's next witness?

MR. UNDERWOOD: Jason Wells, Your Honor.

THE COURT: Is he in court?

MR. UNDERWOOD: He is.

(Whereupon, the jury returns to open court at 9:57 a.m.)

THE COURT: Good morning, ladies and gentlemen. I hope everybody had a pleasant evening. We are now going to resume testimony.

Call your next witness.

MR. FERNANDEZ: Thank you, Your Honor. May it please the Court. The State calls Jason Wells.

THE COURT: Sir, if you will come to the stand and be sworn.

JASON WELLS,

having been duly sworn, testifies as follows:

THE COURT: State your full name, sir, and spell your last name for the court reporter.

THE WITNESS: Jason Wells, W-e-l-l-s.

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. FERNANDEZ:

Q. Jason, good morning. Would you please tell the

jury with whom you are currently employed?

A. Yes, I'm a special agent with the South Carolina Law Enforcement Division.

Q. Thank you. Could you also tell the jury a little about yourself, your education and your career in law enforcement.

A. Yes. I'm a 1998 graduate of Auburn University. And I began my law enforcement career in 1999 with the Columbus, Georgia Police Department as a patrol officer. In 2000, I became a special agent with the Georgia Bureau of Investigation. And I was employed there as a drug enforcement agent through 2004. I relocated to South Carolina and was a deputy sheriff with the Lexington County Sheriff's Office. And in 2005, I began with SLED. And have been with SLED ever since, primarily as a drug enforcement investigator. And the last five years, I've been working drug investigations with the State Grand Jury.

Q. And if you would, please tell us a little bit about your responsibilities as an investigator in the State Grand Jury unit. What kind of duties do you have and investigations do you conduct?

A. Yeah. With the State Grand Jury, I primarily have been investigating drug trafficking conspiracies, which every case I've worked on has been on multi-state investigation. They've involved marijuana, heroin,

methamphetamine, cocaine.

Q. How much of your law enforcement career has been dedicated to drug enforcement?

A. Out of the 17 years I've been in law enforcement, 10 of them have been dedicated solely to drug trafficking.

Q. And how many multi-county or multi-state drug narcotic trafficking conspiracy investigations have you been associated with?

A. Effectively, seven.

Q. And were you assisting in the case we are here for today?

A. Yes.

Q. And who was the lead case agent on that case?

A. Agent Justin Wingo.

Q. And what was your role in investigating this drug conspiracy?

A. Okay. On February 8th of 2016, my responsibility was to oversee the execution of a search warrant at an apartment in Ladson, South Carolina. It was located at 9698 Patriot Boulevard, Apartment 618. And this was the residence of Justin Gordon Hunter.

Q. And what was your designation for this execution of this search warrant?

A. Okay. It was to oversee the overall search warrant and to write the -- write out the investigative report.

Q. Did you also serve as evidence custodian for that search warrant?

A. Yes, yes.

Q. And please tell the jury a little bit about what that involves.

A. Okay. So at a location such as this here, I set up a station where the evidence is brought to me. I document all the evidence on our evidence receipts and write the overall report. And my other responsibility was to get the evidence turned in. Drug evidence is turned into our lab. Any currency that's found is turned into our finance department. Nondrug evidence is turned into our State Grand Jury evidence room. And I think that's all the type of evidence we would collect at this point.

Q. Any time a piece of evidence is located during a search warrant, are you notified of its location?

A. Yes.

Q. And once notified of its location, what then would you typically do for all pieces of evidence that are collected?

A. Well, the evidence is photographed. We generally had a person that takes all of our photographs. And then I would collect the evidence and document it. And it's transported by me to our lab.

Q. Do you collect the evidence in its initial location

or is the evidence brought to you in some central location?

A. Well, in this specific search warrant, we had somebody responsible for actually picking up the evidence from where it was originally sitting and bringing to me at the apartment. I had just set up a station, yeah.

Q. And are you familiar with the layout of this apartment?

A. Yes, somewhat.

Q. Could you just briefly describe the location, the complex itself, and then the actual apartment that you would have searched?

A. Yeah. This was a multi-story apartment complex. And this particular apartment, I believe it was a three-bedroom apartment, three-bedroom, two-bath apartment.

Q. Once entering the front door, kind of describe the general layout.

A. Yeah. The master bedroom was located -- you come into a small foyer area. And the master bedroom was located on the left. The kitchen was straight ahead of you. There's a living room there. And then you go back to the two other bedrooms and a bathroom.

Q. And specifically regarding any narcotics evidence that's recovered, what would you do when retrieving a piece of drug evidence?

A. Okay. We seal those in what's called a BEST kit. And then they go to the SLED lab. And we request a drug analysis on those.

Q. Would you have been the one to have taken that sealed evidence to the lab?

A. Yes.

MS. JOHNS: No objection.

THE COURT: Mr. Griffith?

MR. GRIFFITH: No objection, Your Honor.

THE COURT: What number is that?

MR. FERNANDEZ: Your Honor, this is State's Exhibit 119.

THE COURT: 119 is marked and admitted without objection.

(State's Exh. 119, Drug labeled L16-1874, is received in evidence.)

BY MR. FERNANDEZ:

Q. Agent Wells, I'm handing you what's been marked State's Exhibit 119 now into evidence, as well as what's been marked and entered into evidence previously at State's Exhibit 155. If you would, please take a look at these two items and familiarize yourself with them. And let me know if you recognize what they are.

A. Yes. This is a bag of green leafy material. There are eight bar-shaped pills in here. There's a bag of white

powder.

Q. And the best kits they were placed in, do you recognize the name on the person who documented that?

A. Yes, that's my name.

Q. So is that, in fact, the BEST kit that you sealed on scene?

A. Yes.

Q. And could you tell us where you located these items in the apartment?

A. Yep.

Q. And I apologize asking questions before you do that --

A. These were located in multiple locations. Just one second.

Q. As evidence custodian for this search warrant, did you document everything that went on in the form of a report?

A. Yes.

Q. And do you use that report to rely on specific information for a later date?

A. Yes. The bag of white powdery substance here was found by Special Agent Regina Douge in the master bedroom of the vanity, second drawer from the bottom on the left side of the sink.

There's a black digital scale in here. And a

digital scale is something that is -- we find a lot at people's residences who are involved in drug distribution. That's used for weighing drugs. This was found by Special Agent Regina Douge also on the countertop of the master bedroom vanity -- master bathroom vanity.

There's a metal spoon in here that contains a white powdery residue that was found by Specialty Agent J.J. Evans in the master bathroom vanity, second draw from the bottom on the left side of the sink. So that spoon was also -- it was located with the bag of white powdery substance here.

Bag of eight bar-shaped white pills were found by Special Agent Ryan Shipley in the top drawer of the nightstand on the right side of the bed when you are facing the bedroom in the master bedroom.

Q. And I think you testified before, but then you did package those items in a BEST kit and transported it to the SLED laboratory for analysis?

A. Yes.

Q. And if you could, the second document I handed you, are you familiar with what that is?

A. Yes. This is a SLED drug analysis report.

Q. And if you would, the SLED lab number, does it match the items from the report on the items that you turned in?

A. Yes.

Q. And just read into the record the lab number, if you would?

A. The lab number is L16-01874.

Q. And is that the same as on your items?

A. Yes.

Q. If you would, please publish for the jury the results of the examination of those items?

A. Okay. The white eight bar-shaped pills come back as a Schedule IV substance called alprazolam.

The white powdery substance says, no controlled substance detected.

The green leafy material says that marijuana was detected. And it weighed 4.11 grams.

The digital scale in here tested positive for Schedule I controlled substance known as heroin.

And the metal spoon also tested positive for heroin.

And those both say no weight was obtained, so a residue.

Q. Thank you.

MR. FERNANDEZ: Your Honor, this is State's Exhibit 120.

THE COURT: Any exception?

MR. GRIFFITH: No objection.

THE COURT: Ms. Johns?

MS. JOHNS: No, Your Honor.

THE COURT: Make sure if there are any reports referred to that, the exhibit number is referenced. 120 is marked and admitted without objection.

(State's Exh. 120, Tupperware labeled L16-1873, is received in evidence.)

BY MR. FERNANDEZ:

Q. Agent Wells, I'm handing you what's been marked and admitted as State's Exhibit 120. Will you please take a look at this item and let me know if you recognize it.

A. Yes.

Q. Please tell us what that is and where you located it.

A. This is a plastic Tupperware container and a plastic lid to a coffee grinder. These were located by Special Agent J.J. Evans in the bottom cabinet of the master bathroom vanity.

Q. Is that the same general area as the other items were discovered?

A. Yes.

Q. And what would be the significant of otherwise ordinary household items? What would be the significance when in proximity to the other items we just discussed?

A. Well, these items -- I notated that they both contained a -- they both were suspected of containing a drug

residue. And these were items that could be used for mixing substances in them.

MR. FERNANDEZ: Your Honor, this would be State's Exhibit Nos. 138, 139, 140, 169, 170, 172, 173, 174 -- I apologize if they are out of order, Your Honor -- 171, 177, 176, 178, 179, 180 and 181.

THE COURT: Any exception from Mr. Griffith?

MR. GRIFFITH: No exception, Your Honor.

THE COURT: Ms. Johns?

MS. JOHNS: Your Honor, I would object to State's Exhibit 172, 173, 174.

THE COURT: Those will be marked for ID only at this point. We will take them up outside the jury's presence in a moment.

138 through 140 are marked and admitted without objection. 169, 170, 171, 176, 177, 178 and 179, 180 and 181 come in without objection.

(State's Exh. 138, Rule to Vacate, was received in evidence.)

(State's Exh. 139, Capital One Statement, was received in evidence.)

(State's Exh. 140, Direct Auto Insurance statement, was received in evidence.)

(State's Exh. 169, Photo lineup, was received in evidence.)

(State's Exh. 170, Photograph, was received in evidence.)

(State's Exh. 171, Photograph, was received in evidence.)

(State's Exh. 176, Photograph, was received in evidence.)

(State's Exh. 177, Photograph, was received in evidence.)

(State's Exh. 178, Photograph, was received in evidence.)

(State's Exh. 179, Photograph, was received in evidence.)

(State's Exh. 180, Photograph, was received in evidence.)

(State's Exh. 181, Photograph, was received in evidence.)

MR. FERNANDEZ: Permission to approach the witness?

THE COURT: You may. And let me see 172 through 174 while you are doing that.

BY MR. FERNANDEZ:

Q. Agent Wells, I'm handing you back the exhibit you just reviewed as 120. I'm also handing you what's been admitted and entered into evidence as State's Exhibit 154. Would you please review that and compare the lab numbers for each of those.

A. Yes. The lab number on this drug analysis report is L16-01873.

Q. How does that compare to the Tupperware and coffee grinder inside?

A. Yeah, it matches with these two containers.

Q. And was that container, in fact, tested by the SLED laboratory?

A. Yes. It's two plastic containers with residue. And result, they tested positive for heroin, a Schedule I controlled substance.

Q. Thank you. Agent Wells, during the course of this search warrant, did you also locate miscellaneous paperwork at the residence?

A. Yes.

Q. And I believe you also testified, but please verify that you also took pictures of the residence as well?

A. Yes, that's correct.

Q. Beginning with documentation, I'm going to handing you -- permission to approach, Your Honor.

THE COURT: You may.

Q. I'm going to hand you what's been marked and entered into evidence as Exhibit 138, 139, 140 and 181. Will you please take a moment to review these items and let me know if you recognize them.

A. Yes.

Q. Going one by one, will you please tell me what piece of evidence you were referring to and describe to the jury what it is.

A. This first piece is invoice from Enterprise Rent-A-Car. And the renter of the vehicle is Justin Hunter.

This next document is a past-due invoice from Direct Auto and Life Insurance in the name of Justin Hunter.

And the -- it was a piece of mail, and the mailing address on here is 1001 Bear Island Road, No. 531 in Summerville, South Carolina.

Q. Agent Wells, please refer to the other one as well. Can you clarify for the record what piece of evidence you are referring to, the numbers?

A. State's Exhibit 140.

Q. And that would be?

A. This is the Direct Auto and Life Insurance past-due invoice.

Q. And the previous piece of evidence you referred to, the Enterprise Rental agreement?

A. Yes, this is State's Exhibit 181.

Q. Okay. And I'm sorry, for the former exhibit, yellow piece of paper there, what's the address that was located on it?

A. 1001 Bear Island Road, No. 531, Summerville, South Carolina, 29483.

Q. Thank you. Please proceed with the next items.
A. This next document is State's Exhibit No. 139. And it is a Capital One Platinum Mastercard statement. And it is in the name of Roy G. Hunter, care of Justin Hunter. And the address on here is 1001 Bear Island Road, Apartment 531, Summerville, South Carolina.
Q. Thank you. Finally, could you please describe what that last piece of paper is.
A. This is State's Exhibit No. 138. It is a State of South Carolina, Berkeley County, court document.
Q. Who are the names listed on it?
A. Okay. The name on here -- I may not -- hope I pronounce this right, Ramel Brown, and address -- this is the plaintiff on this court document. The address is 721 Arno Drive, Ladson, South Carolina.
Q. Thank you. And, again, for the record, where were these items seized from, the location?
A. Those, I believe, were seized out of the BMW.
Q. What was the address, location address?
A. Yeah, the location where they were seized from was 9698 Patriot Boulevard, Apartment 618, Ladson, South Carolina.
Q. Thank you.
MR. FERNANDEZ: Permission to approach, Your Honor.
THE COURT: You may.

BY MR. FERNANDEZ:

Q. I'm also going to show you -- and I believe you testified already to having provided photographic evidence of this apartment complex as well.

A. Yes.

Q. I'm handing you what's been marked as State's Exhibits in evidence 169, 170, 171, 176, 177, 178, 179 and 180. Will you please take a moment to review these pictures and let me know if you are familiar with them. And Agent Wells, we will go through one by one on the screen, but let me know if you are familiar with these pictures.

A. Yes.

MR. FERNANDEZ: Your Honor, permission to publish for the jury.

THE COURT: Proceed.

BY MR. FERNANDEZ:

Q. Agent Wells, beginning with State's Exhibit 169, will you please tell me what we are looking at and how much currency that is.

A. Yes. This is $3,000 of US currency found by Special Agent Ryan Shipley in the chest drawers, specifically the second drawer from the top in the master bedroom. That drawer also contained male clothing, including underwear and socks.

Q. Okay. Publishing State's Exhibit No. 179, what

bedroom is this a picture of?

A. This was the master bedroom.

Q. Publishing State's Exhibit No. 178, what is this a photograph of?

A. This was a photograph of the chest of drawers.

Q. And what kind of clothing -- is this the master bedroom?

A. Yes.

Q. And what kind of clothing was location in the master bedroom chest of drawers?

A. Male clothing.

Q. That would be adult male clothing?

A. Yes.

Q. This is State's Exhibit No. 180, what are we looking at?

A. This is a picture looking into the master bedroom closet.

Q. And, again, what type of clothing, articles of clothing were located in this closet?

A. Male clothing.

Q. Publishing State's Exhibit No. 170, please review this and let me know what we are looking at.

A. This is a picture of the master bedroom bathroom vanity top. There is the black digital scale with the heroin residue located on it. And besides that is a box of

plastic baggies.

Q. What would be the significance -- we already know the significance of the scale and residue. What would be the significance of the plastic baggies?

A. That is an indication of someone who is involved in drug distribution. I've seen this many times, where baggies will be located next to scales. The baggies are used to package narcotics and weigh them on the scale.

Q. Thank you. This is State's Exhibit 171. What is that?

A. That's a photograph of the box of baggies that was located on the master bathroom vanity top.

Q. Thank you. Also publishing State's Exhibit No. 177. Let us know what that is.

A. This is a Social Security card in the name of Justin G. Hunter.

Q. Where was this located?

A. I don't have that specifically in here where that was located. I do have a note of miscellaneous papers being found in a Victoria's Secret bag in the master closet.

Q. And you documented all of these papers, paperwork, and provided them to the evidence custodian?

A. Yes.

Q. Publishing State's Exhibit 176. Will you please tell us what that is.

A. Yes. This is a New York State identification card in the name of Justin G. Hunter.

Q. Was that also located in the miscellaneous paperwork?

A. Yes.

MR. FERNANDEZ: Beg the Court's indulgence one minute. Your Honor, this is State's Exhibit 168.

THE COURT: Any objection?

MR. GRIFFITH: No objection, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: Without objection, admitted.

(State's Exh. 168, Money counter, is received in evidence.)

BY MR. FERNDANDEZ:

Q. Handing you what's been marked and entered into evidence Exhibit 168, please take a look at this and tell us what it is, if you would.

A. Okay. This is a money counter, currency counter.

Q. And where was it located?

A. It was found by Special Agent J.J. Evans on the top shelf in the master bedroom closet above the male clothing.

Q. What would be the significance of a money counter?

A. This was something I've seen on a few occasions, primarily by a -- someone who is not a low-level drug

distributor. This is someone who is going to be on the upper level, who is receiving bulk amounts of cash. And they will use this machine to count the cash for them, basically to speed up the process, yeah.

Q. Are these pieces of machinery typically inexpensive?

A. No. This would be what I would think would be an expensive piece of machinery.

Q. Thank you.

MR. FERNANDEZ: Your Honor, I believe that just leaves the last few documents.

THE COURT: We will deal with those outside the jury presence. Are these the only other questions you need to ask of the witness?

Any cross-examination, Mr. Griffith?

MR. GRIFFITH: If it please the Court, Your Honor.

CROSS-EXAMINATION

BY MR. GRIFFITH:

Q. Special Agent Wells, was there anybody home when you guys executed this warrant?

A. Well, when we arrived at the apartment complex, we were looking for a vehicle that was a BMW that was known to be driven by Mr. Hunter. The vehicle was not there, so we did not approach the apartment. We sat in the parking lot and conducted a surveillance and waited on the vehicle to

arrive. Didn't wait very long. The vehicle arrived. Mr. Hunter and a female named Viviana Serrano exited the vehicle. They had a small child with them. And I stayed in the vehicle that I was in, doing surveillance while Agent Wingo and Lieutenant Dorsey and one of the local investigators approached.

They got into a vehicle with Mr. Hunter and drove off. And Lieutenant Dorsey and myself at that point, we approached Ms. Serrano. She was presented the search warrant. And she unlocked the apartment with a key that she had. And nobody was inside the apartment when we went in.

Q. Mr. Rogers (sic) wasn't there at all? I mean, Roberts.

A. No, sir, there was nobody there.

Q. No evidence of that.

CROSS-EXAMINATION

BY MS. JOHNS:

Q. Hello, Agent Wells. I want to ask you about this machinery you said.

A. Okay.

Q. Have you ever bought one?

A. I've never bought one.

Q. Is it illegal to have one?

A. No.

Q. Okay. And your basis for saying that it's

expensive is based on you've seen it online?

A. I have not looked up this particular piece, but ...

Q. When was the last time you looked up a piece?

A. Well, I know there are different models of these. And being expensive is relative to someone on how much money you have. But to me, this would be an expensive piece of equipment.

Q. To you it would?

A. Yes, ma'am.

Q. I'm going to give you a stack of documents --

MS. JOHNS: May I approach, Your Honor? I'm sorry.

THE COURT: That's okay. Yes.

BY MS. JOHNS:

Q. -- documents that have already been entered into as an exhibit. One is an Enterprise Rental receipt, No. 181; No. 140 is a Direct Auto Life Insurance document; State's Exhibit 139, Capital One credit card statement; 1 is a magistrate's court order to show cause with Ramel Brown's name on it. Those, I think those five documents right there, did you say you found them inside the apartment or inside a car?

A. I believe these documents were found in the BMW that they -- that Mr. Hunter arrived in.

Q. So this -- these five documents were inside a car that Vivian Serrano and Justin Hunter arrived in, correct?

A. Yes.
Q. And with regards to State's Exhibit No. 176, which is the New York State identification card, would you please publish the date of issue?
A. Yes. It's March 20th of 2013.
Q. Okay. Did you get a lease for the apartment at Patriot Boulevard?
A. I did not, no.
Q. You did not?
A. No.
Q. So you don't know who actually had tenancy at that apartment, do you?
A. No. That would have been done before my involvement in this. I assume by -- that's part of obtaining the search warrant, is knowing who's on the lease.
Q. Did you review any document with regards to who was on the lease?
A. No.
Q. Do you know what kind of employment Viviana Serrano had?
A. We had some casual conversation, but I do not remember that.
Q. Do you know if she worked in a service industry where she would receive tips?
A. I don't have all of that.

MS. JOHNS: Thank you. Nothing further.

THE COURT: Madam Forelady, ladies and gentlemen, I have a very brief matter of law to take up with counsel. During the break, please do not discuss the case and please leave your notepads in your seats.

(Whereupon, the jury leaves open court at 10:37 a.m.)

THE COURT: What's the objection to State's 172 and 173 and 174?

MS. JOHNS: Your Honor, I believe 173, 174 is the unfolded piece of paper that was found in 172.

THE COURT: Uh-huh.

MS. JOHNS: And I would object, one, based on relevancy, and also authenticity. I don't know where that came from, who wrote it or who it belonged to, really. And then again, I would argue that it may be -- I think it's irrelevant. I think it's not authenticated. And I would object on those grounds.

THE COURT: For what purpose is the State offering this document?

MR. FERNANDEZ: Your Honor, the notes were found in the residence of Justin Hunter, specifically, I think and I believe the bedroom location. Your Honor, the notes appear to be a list of individuals with phone numbers attached. And I would elicit testimony from Agent Wells describing

conduct consistent or familiar with his investigation as to why someone might have, in addition to the drugs and the evidence of narcotic trafficking, why he might have a list of individuals with different phone numbers.

THE COURT: Do you have anything that can authenticate that this is, in fact, Mr. Hunter's handwriting?

MR. FERNANDEZ: Your Honor, it was found in his bedroom.

THE COURT: Do you have anything to corroborate this as his handwriting?

MR. FERNANDEZ: No, Your Honor.

THE COURT: Do you have anything that would tie any of these numbers to the transactions you are alleging took place?

MR. FERNANDEZ: Your Honor, I believe one of the phone numbers is Tommy Sekula.

THE COURT: You believe or it is?

MR. FERNANDEZ: I would have to review the list again, but I believe so.

THE COURT: Anything further from the State?

MR. FERNANDEZ: Other than potentially verifying for Your Honor that number, then, no.

THE COURT: Do you take a position on the note, Mr. Griffith?

MR. GRIFFITH: No, Your Honor. I join Ms. Johns in her objection.

THE COURT: I am constrained to sustain the objection on 172, 173 and 174. They are speculative at best. They cannot be authenticated. In addition, it's hearsay. Somebody else's handwriting that you can't corroborate. They will be marked for ID only.

Get the jury for me, please.

Is the State going to have any redirect of this witness?

MR. FERNANDEZ: No, Your Honor.

THE COURT: Who's the State's next witness?

MR. FERNANDEZ: Misael Vasquez.

(Whereupon, the jury returns to open court at 10:41 a.m.)

THE COURT: Does the State have any redirect of the witness?

MR. FERNANDEZ: No, Your Honor.

THE COURT: Any objection to the witness being excused, from the State?

MR. FERNANDEZ: None.

MR. GRIFFITH: None, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: Sir, you are excused.

Madam Forelady, ladies and gentlemen, I hate to

make you get up and get down, but we have another brief matter of law we need to take up. During the break, please do not discuss the case. And please leave your notepads in your seats. Should be about five minutes. Gives you a chance to use the restroom as well.

(Whereupon, the jury leaves open court at 10:42 a.m.)

(Court's Exh. 2, State's request to charge, was marked for identification.)

(Whereupon, recess transpired.)

THE COURT: Please bring in the jury.

(Whereupon, the jury returns to open court at 10:50 a.m.)

THE COURT: The State may call its next witness.

MR. FERNANDEZ: Thank you, Your Honor. May it please the Court. The State calls Misael Vasquez.

MISAEL VASQUEZ,

having been duly sworn, testifies as follows:

THE CLERK: State and spell your name for the court reporter.

THE WITNESS: My name is Misael, M-i-s-a-e-l, V-a-s-q-u-e-z.

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. FERNANDEZ:

Q. Agent Vasquez, with whom are you currently employed?

A. SLED.

Q. Please tell the jury a little bit about yourself, your education, career, even before law enforcement, and then what brought you into law enforcement.

A. I've been with SLED for about little over six and a half years. Before that, I was in the military. I was serving as a Korean linguist. And afterwards, I finished my term, I went to USC. Got a bachelor's degree. And then I went to on Richland County. I was with Richland County before I was with SLED. When SLED, I started working in the gang task force. We did gang grand jury cases. And then after that, I worked grand jury --

(Whereupon, the court reporter indicates she's having trouble understanding the witness.)

Q. Could you just repeat what you've just said about the gang task force and the State Grand Jury.

A. I worked the gang task force. And we did State Grand Jury cases. And after working that, I went to work in the State Grand Jury SLED in the narcotics cases.

Q. And what are your responsibilities and roles as an investigator or agent with the State Grand Jury narcotics unit?

A. Our role is to investigate multi-jurisdictional

narcotics groups and organizations. We investigated pretty heavy. The cases take a while to investigate. And we have -- we do it through purchases of undercover narcotics. We do it through testimony as well.

Q. Agent Vasquez, how many years do you have experience with narcotics investigations, particularly trafficking conspiracy investigations?

A. I've been investigating trafficking conspiracies for about four years now.

Q. Agent Vasquez, did you have an opportunity to assist in the investigation of this trafficking conspiracy?

A. I did.

Q. And what was your role with this -- first, who was the case agent for this particular investigation?

A. Case agent was Justin Wingo. And my role in the investigation was to serve the warrant on 116 Summer Creek.

Q. And is that Summer Creek Drive?

A. Summer Creek Drive, yes.

Q. And what county is that located in?

A. Berkeley.

Q. What day did you -- first of all, was this -- what brought you to Summer Creek, what mechanism? Why were you there?

A. Agent Wingo was conducting a case. He conducted several undercover buys from this individual. And this was

the residence where he lived.

Q. And what was your role in the execution of this search warrant at this residence?

A. I was taking home evidence, document it and turn it in to SLED.

Q. And as the custodian of evidence and documentation, what does that involve? What would you typically do?

A. Typically, when you go into these places, you set up a center command post, if you would like. And then you assign certain agents to certain rooms, so you know what came from which room and by which agent. Once they spot these things of importance, whatever we would be investigating, they come get me, and I document it.

Q. And by document, did you prepare a report as a result of all of these items that you found?

A. Yes.

Q. And what kind of things would you put in your report?

A. I would have put in any narcotics, any ledgers, any weapons, any -- and anything that they could use to either manufacture, store the narcotics.

Q. And do you, in fact, have a copy of your report?

A. I do.

Q. Why would you want a copy of your report? Why would you use a report later?

A. To just refresh everything up. It's been awhile, and to have it as evidence.

Q. Now, Agent Vasquez, did you also -- could you please tell the jury a little bit about the location itself? What kind of neighborhood this was and the physical building you entered into?

A. The neighborhood was the neighborhood of mobile homes. And they were various kids running around the road. And he was towards the back of the neighborhood. His trailer, I believe, was yellow -- I'm sorry, white and blue. And that's where he lived.

Q. And if you would, please detail the interior of the mobile home at 116 Summer Creek Drive.

A. When you first go into the mobile home, you enter on the left-hand side. There's a little ramp or deck before you go into the mobile home. There is -- immediately after the door, there's a couch. And immediately in front of you, there's a table. And couple of bedrooms down the hallway, and finally a bedroom in the back.

Q. And what day did you execute this search warrant again?

A. The search warrants was executed on February 8th, 2016.

Q. Thank you. Please tell the jury a little bit about the execution of this search warrant. Was it -- how did it

go down, actually, the operation?

A. Okay. We met before serving the warrant as a team and decided how we were going to approached this. I was introduced to my teammates for the day. And then we went to the house. Once we went to the house, Berkeley County Sheriff's SWAT team made an entrance into the building.

Q. Was this a forcible entry?

A. Yes, it was.

Q. And please describe to the jury, for those who haven't seen that, what does that involve?

A. It involved them knocking on the door, announcing themselves, and either opening the doors by means or throwing in some kind of fashion.

Q. Thank you. And did you document who was found inside of the mobile home at 116 Summer Creek?

A. Yes.

Q. And who was there, physically located there when they affected entry?

A. Mr. Orlando William, Orlando Brown -- I'm sorry, Henry Roberts and William Orlando Brown.

Q. Thank you. Now, when you collected evidence from Summer Creek, when agents were in the interior of the unit, did you actually physically lay eyes on the location where the evidence was discovered, or did they bring it to you in a central location?

A. I physically laid eyes on the location. Like I said, they came and got me when they found something. And I went to photograph it in the location where it was found.

Q. If you located any piece of evidence, but particularly narcotics, evidence of narcotics, what did you do with the narcotics evidence?

A. The narcotics evidence was photographed. It was documented and put into SLED BEST kit.

Q. What's a BEST kit?

A. BEST kit is a kit where we document chain, who had the drugs, where it came from, the suspect, the address, the case number. And you submit it all to SLED lab for processing.

Q. And would you have sealed that BEST kit after placing narcotic evidence into it?

A. Yes. It is sealed with a seal that shows it hasn't been tampered with, hasn't been opened or closed.

Q. What did you do with that sealed BEST kit of narcotics evidence? What did you do with that once you sealed it and the operation had concluded?

A. It was transported to Columbia for SLED analysis.

MR. FERNANDEZ: Your Honor, this is State's Exhibits 92, 93 and 94, as well as previously entered exhibits.

THE COURT: Well, they've already been admitted.

Any objection to State's Exhibit 92 through 94, Mr. Griffith?

MR. GRIFFITH: No objection, Your Honor.

THE COURT: Ms. Johns?

MS. JOHNS: No, Your Honor.

THE COURT: Marked and admitted without objection.

(State's Exhs. 92, Drugs Labeled L16-01823, was received in evidence.)

(State's Exhs. 93, Drugs Labeled L16-01825, was received in evidence.).

(State's Exhs. 94, Drugs Labeled L16-01822, was received in evidence.)

BY MR. FERNANDEZ:

Q. I'm handing you what's been marked and admitted as State's Exhibit 92 and 147. Will you please review No. 92 and tell me if you recognize that particular piece of evidence?

A. It's one of the BEST kits I used.

Q. How do you know it's one of the BEST kits you used?

A. I put my name on it. And when we submit it in the lab, you get a case number. So when you get it back, it matches the case number on the report.

Q. What is inside of that BEST kit?

A. Inside the BEST kit we had --

Q. Before we publish the actual results, tell me what

it is that you collected at the location.

A. In this one, we had a plastic sandwich bag containing 11 individually wrapped baggies containing a brown powder substance found inside an Intex brand air pump that was inside a box in the far right kitchen cabinet. And that was as soon as you come in to the right.

Q. Okay. And referring to -- I apologize, State's Exhibit No. 147, do the SLED lab numbers on both exhibits match? And if so, could you read those into the record?

A. Yes, the lab number is L16-01823.

Q. Okay. And if you would, please publish for the jury what the results of the SLED analysis for that bag was?

A. They found marijuana in the sample tested.

Q. Did it give a weight?

A. Yes, it was 1.03 grams.

Q. I'm now handing you what's been marked as State's Exhibit No. 93 and 146. Will you please review, first number 93, and let me know if you recognize that piece of evidence?

A. I do.

Q. And how do you recognize it?

A. It was collected from a kitchen table. It was hidden in the knit cap.

Q. And what was in the particular BEST kit there?

A. A couple of baggies with a brown substance in them,

and also a little clear substance in here as well.

Q. And were you the one who collected those pieces of evidence?

A. Yes.

Q. How do you know that?

A. Because I was the one documenting everything. Holden was the one that found it. And I would have documented it and grabbed it all.

Q. Is your name on the BEST kit?

A. Yes, it is.

Q. Please, if you would, then refer to the next State's Exhibit No. 146. And if you would please compare the SLED lab numbers to ensure that they are the same?

A. They are.

Q. And if you would, please read that lab number into the record?

A. L16-01825.

Q. And what was the result of the SLED analysis of that package?

A. The results of the SLED analysis was three plastic baggies were containing heroin in the sample tested. And total net weight was 3.09 grams.

And the other bags contained methamphetamine. And the net weight for that was 1.65 grams.

Q. I'm now handing you State's Exhibit 94 and 145.

Please review State's Exhibit No. 94 and tell me if you recognize what that is.

A. I do.

Q. And what is it?

A. Several baggies containing brown tar-like substance.

Q. And where were they located?

A. On the kitchen table.

Q. And was that, in fact, evidence that you collected and stored in the BEST kit?

A. Yes.

Q. And how do you know that?

A. I collected it and I put it in the BEST kit.

Q. Okay. And after returning that to the SLED lab for analysis, do you have the analysis number? Would you please compare the lab numbers to ensure they are the same.

A. They are.

Q. And if you would, please read that number into the record.

A. L16-01822.

Q. Thank you. And please publish the results of that analysis to the jury.

A. Heroin was found in the sample tested, with total net weight of 4.9 grams.

Q. Thank you.

THE COURT: Any objection?
MS. JOHNS: No, Your Honor.
MR. GRIFFITH: No objection, Your Honor.
THE COURT: What number is that?
MR. FERNANDEZ: 97 and 98.
THE COURT: Marked and admitted without objection.
BY MR. FERNANDEZ:
Q. I'm handing you what's been marked as State's Exhibits and entered into evidence, State's Exhibit 97 and -- I'm sorry, Your Honor, 96 and 97. I apologize.
THE COURT: 96 and 97 marked and admitted without objection.
(State's Exh. 96, Air pump box, was received in evidence.)
(State's Exh. 97, Air pump, was received in evidence.)
BY MR. FERNANDEZ:
Q. Please take a moment and review State's Exhibit 96 and 97. And let me know if you recognize those items.
A. I do recognize these.
Q. Tell me what they are.
A. They are --
THE COURT: I'm sorry, I couldn't understand your answer.
A. Pump you fill air mattresses with, an air pump.

Q. Where were these items located and what was the significance of that?

A. These items were located in the kitchen cabinet. And they had -- they contained drugs in the little compartment here where the batteries should go. And this pump was inside this box inside the cabinet with drugs inside of it.

MR. FERNANDEZ: Thank you. Your Honor, this is State's Exhibit 169.

THE COURT: Any objection?

MR. GRIFFITH: No objection, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: Marked and admitted without objection.

(Exhibit 169A, digital scales, is received in evidence.)

BY MR. FERNANDEZ:

Q. I'm handing you what's been marked and admitted as State's Exhibit 169. Please take a moment to review those items.

A. Okay.

Q. Do you recognize the contents of those, of that bag?

A. I do.

Q. Please tell the jury what they are and where they were located?

A. These are little scales used to measure out narcotics before you sell them out and put them in individual little bags.

Q. Where were they located?

A. They were located in the -- on the kitchen table.

MR. GRIFFITH: Objection, Your Honor.

THE COURT: Approach.

(Whereupon, the following bench conference takes place.):

THE COURT: Are any of these that he's charged with?

MR. FERNANDEZ: Yes, Your Honor.

THE COURT: Which one is he charged with? You can't -- no, you can only charge one. Okay?

MR. GRIFFITH: They were not in his personal possession. This was in the living room. That's where Mr. Brown was sitting. My client was in the bedroom.

THE COURT: We will take it up outside the jury's presence. Is this the last question you are going to ask this witness?

MR. FERNANDEZ: Yes.

THE COURT: Madam Forelady, ladies and gentlemen, I have a matter of law to take up with counsel. During the break, please do not discuss the case. And we appreciate your patience.

(Whereupon, the jury leaves open court at 11:11 a.m.)

(Whereupon, recess transpired.)

THE COURT: What's the basis of the objection's Mr. Griffith?

And for the court reporter, we are referring to Exhibits 184, 183 and 182 in descending order.

MR. GRIFFITH: Your Honor, this is a handgun that was found on a couch at 116 Summer Creek where Mr. Brown and Mr. Roberts, along with a female, were arrested. At that location, that gun was placed -- that is to say, it was photographed as being on that couch where Mr. Brown testified that he was sitting. He testified that my client was in a back bedroom.

Your Honor, my client did not have this gun in the furtherance, he was not arrested with this gun in the furtherance of the commission of the crime. The gun was not pointed at anyone. It was not in his possession. It was brought in to prejudice the jury in an attempt to make him look more violent and, of course, be found guilty of the possession of a firearm in accordance with a violent crime. But, Your Honor, this tends to be more prejudicial to the client rather than producing anything for the State in a positive manner. And it wasn't in his possession. And, in fact, of course, it was next to Mr. Brown, as I've stated.

THE COURT: Ms. Johns, do you have any position on it?

MS. JOHNS: Your Honor, I don't know that I have standing for Summer Creek Drive. If I did, I would join in the objection based on it being more prejudicial. I would say it would be inflammatory more than probative, and I would object.

THE COURT: Anything from the State?

MR. FERNANDEZ: Yes, Your Honor. The State would offer the evidence. And allow me to clarify our position. There were a number of firearms in this location. I believe with the assertion that Mr. Brown was located in the front chair or the couch in the entryway, and that then the defendant, Mr. Roberts, was located in a back bedroom. As Your Honor can see, a number of those long rifles were located in the back bedroom, as well as a pistol, handgun, the Glock was located in the back bedroom. The State would proceed on the theory of constructive possession.

All the firearms, and I would elicit that testimony from Agent Vasquez, that all the firearms were certainly within the dominion and control of Mr. Roberts. It was his location. It was his residence. There have been a number of both testimony and video showing him living there. In addition, Your Honor, all of the firearms that they seized were accessible and within seconds of an individual.

Certainly, if he was in the bedroom, they located it in a dresser in the bedroom --

THE COURT: What was located in the dresser of the bedroom?

MR. FERNANDEZ: Correct, Your Honor.

THE COURT: No, I said what? I don't see a picture.

MR. FERNANDEZ: We don't have a picture of that. It's in the report.

THE COURT: Yeah, but I don't have a picture of that, so I can't consider that.

MR. FERNANDEZ: I would ask Your Honor if I can proffer some evidence then from the witness.

THE COURT: Without a picture of it, I am not going to let him testify to that.

MR. FERNANDEZ: Okay.

THE COURT: It's prejudicial. What I need to know is which gun did you charge him with possession of a weapon during the commission of a violent crime and what's the nexus to that charge? The statute contemplates someone using it in furtherance of the crime, that being brandishing it, showing it, or having the ability to show it to someone while they were in the commission of the crime, not simply going into a house, executing a search warrant and taking a bunch of weapons. That's not what the statute

contemplates.

MR. FERNANDEZ: I believe I can get Your Honor a case, but we would rely on just the simply constructive possession ability --

THE COURT: That case was before. The Supreme Court said what it said about nexus. It is not probative. The Supreme Court been very clear about what -- and the case that this grew out of was similar to this. The Supreme Court said you have to prove a nexus. Person can't just be around a gun while something is being committed. You have to prove a nexus, that it was used in furtherance of it.

Yes, sir.

MR. GRIFFITH: Your Honor, they have not proved either that during any of the videos or any of the testimony of any of the people who they brought in to testify about buying or appearing at this residence, that Mr. Roberts brandished or possessed a gun. They have no evidence saying that that -- that the gun appeared in, along with the commission of any of the crime, Your Honor. And so in furtherance of the crime, doesn't fit in this case.

And the prejudice and, in fact, being inflammatory, as Ms. Johns's mentioned, nature of this evidence would cast Mr. Roberts in the light that is, of course, favorable to the State and unfavorable to him. But it would prejudice the jury so much that they would feel, I believe, compelled

to find disfavor --

THE COURT: I'm listening. Anything further from the State?

MR. FERNANDEZ: Yes, Your Honor. I would reference testimony that we have had specifically regarding the possession of firearms.

THE COURT: You had a very generalized statement made by a witness who cannot prove any nexus. He could not tie any one gun to any one transaction. He testified that he usually was not present during transactions. At some point, they became comfortable with him and eased him into making transactions, but they never conducted a transaction where a gun was exchanged. Everything he said really was speculative. There was no objection, therefore, there was nothing for the Court to rule on. But that doesn't mean, as the gatekeeper, I'm going to let it all in, because it has to pass the scrutiny that's required.

Possession of a weapon during the commission of a violent crime requires the State to prove beyond a reasonable doubt that the defendant was in possession of a firearm or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime. And in order for him to be found guilty of that, you would have to prove beyond a reasonable doubt that that particular weapon further advanced or helped in the

commission of the crime.

I am not aware of any case law that says constructive possession of a gun proves possession of a weapon during the commission of a violent crime. I'm looking right now to make sure my memory is accurate, but I am not aware of any such precedent.

MR. FERNANDEZ: If you give me one moment, I can give you that cite I was speaking of. And also, to clarify the record, beyond the currency exchange that the firearms were used for, there was testimony about them using the guns for protection.

THE COURT: You have to prove that he used it with one of these transactions or that he was using it when you went into this residence to execute this search warrant; otherwise, it's not coming in.

MR. FERNANDEZ: Thank you.

THE COURT: Now, 184 is more prejudicial than probative. It will be marked for ID only.

Now, I'm -- y'all concede, there was no testimony from Mr. Brown about sitting in the vicinity of a gun on a sofa. He testified he was sitting on the sofa when they came in to the house. I would have to assume, ergo, he was sitting by this gun. But there's been no testimony about that.

MR. FERNANDEZ: Your Honor, I can provide you a

case.

THE COURT: I'm listening.

MR. FERNANDEZ: State v. Hamilton, 486 S.E. 2nd.

THE COURT: SC?

MR. FERNANDEZ: S.E. 2nd, 512, specifically page 516. And I will read, Your Honor --

THE COURT: I just need you tell you the year and what court.

MR. FERNANDEZ: 1997, Court of Appeals.

THE COURT: I think Supreme Court was very clear that everything before their decision supersedes. That moot decision superseded all of that, but I will look at that. It will be marked for ID only. That is ID only. I sustained the objection on No. 184. And I've taken under advisement 182 and 183.

MR. FERNANDEZ: I was going to say that case is what the State would rely on for its nexus, the reliability of the case would support our position.

THE COURT: Give me a moment, please.

This is not a possession of weapon case. This is about burglary second. And you charged burglary second as an element of another offense. And you get a qualifying jury charge. How is this relevant to what we are talking about?

MR. FERNANDEZ: I may have given you the wrong

case. This is an e-mail. I'm reading it. I'm sorry.

THE COURT: That's okay. If you have something else you want me to look at, I will be glad to.

MR. FERNANDEZ: Yes, *State v. Whitesides*, 725 S.E. 2nd, 487. I believe that is, Your Honor --

THE COURT: All of these cases are factually driven. In Whiteside, there was a tip. They found him in his car with a gun in the side panel of his car. He got out of the car. They searched him. And he had marijuana and he had the gun right in the side panel. That was clearly a nexus. I agree with the decision in this case. These facts are not comparable to these facts.

MR. FERNANDEZ: Okay.

THE COURT: However, I do think it is a factual issue as to whether he had constructive or actual possession of a weapon.

And that would be for you to argue, Mr. Griffith, to the jury. Mr. Brown did testify Mr. Roberts was armed and -- well, in general, had weapons to protect himself. And that the whole purpose of the statute is to guard against behavior -- and I'm talking about possession of a weapon during the commission of a violent crime. The purpose of the legislation within the meaning of the statute was to guard against those offenders who used a gun while they are trafficking in any kind of illicit substance or

committing any other kind of offense, whether it be a robbery, a burglary or otherwise. The whole purpose is for firearm to be accessible and allow them to provide a defense against someone who might attempt to rob them, thereby committing another crimes in furtherance of the initial crime. You can argue to the jury that Mr. Brown was sitting on the sofa and this isn't your client's gun.

Now, why do we need two pictures of the gun?

MR. FERNANDEZ: One is a zoomed out version and the other is closeup to better see the gun.

THE COURT: I will let 182 and 183 in subject to the objection.

(State's Exh. 182, Photograph, is received in evidence.)

(State's Exh. 183, Photograph, is received in evidence.)

THE COURT: Anything further before we proceed, from the State?

MR. FERNANDEZ: No, Your Honor. And this is for ID?

THE COURT: That's to the court reporter for ID.

MR. FERNANDEZ: That would be all, Your Honor.

THE COURT: Anything further before we proceed, Mr. Griffith?

MR. GRIFFITH: Nothing, Your Honor.

MS. JOHNS: No, ma'am.
THE COURT: Please bring in the jury.
THE FERNANDEZ: For housekeeping purpose, I did forget a couple of pieces of evidence.
THE COURT: Did they agree to it?
MR. FERNANDEZ: I believe they will.
THE COURT: What numbers are they?
MR. FERNANDEZ: 185, 186, 187, 188.
THE COURT: Any objection?
MR. GRIFFITH: No objection, Your Honor.
MS. JOHNS: No, Your Honor.
THE COURT: 185 through 188 will be marked and admitted without objection.
(State's Exh. 185, Cell phone, was received in evidence.)
(State's Exh. 186, Cell phone, was received in evidence.)
(State's Exh. 187, Cell phone, was received in evidence.)
(State's Exh. 188, Cell phone, was received in evidence.)
(Whereupon, the jury returns to open court at 11:47 a.m.)
THE COURT: We will now resume questioning the witness.

You may proceed.

MR. FERNANDEZ: Thank you, Your Honor.

BY MR. FERNANDEZ:

Q. Agent Vasquez, I'm handing you what has been marked and admitted into evidence as State's Exhibits 185, 186, 187 and 188. Will you please review these items. And let me know if you recognize them. And if so, where they were located, or what they are and where they were located?

A. This one here is a plastic Samsung flip phone. It was located on the kitchen table. And it was documented and evidenced into evidence of the Grand Jury.

Q. And what number would that be, the one you referred to?

A. This would be number 17 --

Q. I'm sorry, on the State's Exhibit.

A. 188.

Q. Thank you.

A. This is a black LG Smartphone. It was found also on the kitchen table. It was also logged into evidence in the Grand Jury.

Q. What number is that State's Exhibit?

A. Exhibit No. 185.

Q. Thank you.

A. This is one of two HTC smart phones that were found also on the kitchen table. And they were also put into

evidence in the Grand Jury.

Q. And what exhibit is that?

A. This one is Exhibit 187. And this one is Exhibit Number 186.

Q. Okay. Thank you. Agent Vasquez, I'm handing you back State's Exhibit 94 and 145. You previously read those into the record. I want to also read, if you would, read both parts of the SLED analysis.

A. The results are 11 plastic bags, each containing a powder substance. Heroin was found in the sample tested. Total weight of those were 4.9 grams. The maximum was attainable --

(Whereupon, the court reporter indicates she's have trouble understanding the witness.)

MR. FERNANDEZ: Can you please read that slower.

A. The maximum attainable statutory threshold has been met for the substance. Gross weight, including the packaging of the remaining substance is 4.22 grams.

Q. Thank you. Agent Vasquez, I'm now handing you State's Exhibit No. 182 and 183. Will you please review these for me and let me know if you recognize those photographs.

A. Yes, I do.

Q. Could you please give a very brief description about the location those photographs were taken?

A. These photographs were taken on a couch. The couch was located right as you walk into the door to the right-hand side.

Q. Thank you. Is this a true and accurate representation of what you personally viewed in your duties as an evidence custodian at this location?

A. Yes.

Q. Agent Vasquez, I'm showing you State's Exhibit 182. Please tell the jury what they are viewing?

A. Again, that's a couch located by the front door. You can see the window back behind it.

Q. And in reference to this location, where would the kitchen be?

A. It's a mobile home. It wasn't that wide. So basically was as wide as this couch would be here. Kitchen table would be right where he's standing. And then kitchen, right where you guys are.

Q. So a matter of feet?

A. Matter of feet, yes.

Q. And what is located on the right side of the couch cushion?

A. Handgun.

Q. Do you know the model and make?

A. It's a Ruger P-90 handgun.

Q. I'm going to show you State's Exhibit 193. What is

this a picture of?

A. That was of the weapon found on the couch.

Q. Same make and model you just stated?

A. Yes.

MR. FERNANDEZ: Beg the Court's indulgence.

THE COURT: Yes, sir.

MR. FERNANDEZ: No further questions from this witness, Your Honor. Thank you.

THE COURT: Mr. Griffith.

MR. GRIFFITH: If it please the Court, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. GRIFFITH:

Q. Agent Vasquez, were you present when the agents entered the trailer?

A. No, sir. The SWAT team has training doing that. So we stood back behind and let them do it.

Q. After they entered the trailer, did you then enter the trailer?

A. Yes, I did.

Q. And you testified there were two people there. You testified that Mr. Brown was there and that Mr. Roberts was there. Was anyone else there?

A. I do believe there was a female there.

Q. So there were three people there, not two?

A. Yes.

Q. Mr. Brown testified as to where he was and where the other people were. Were you aware of where other people were when they were arrested?

A. I was aware that Mr. Brown was sitting on the couch and that Mr. Roberts was further back in the residence.

Q. So Mr. Roberts was not on the couch, is that what you are telling me? Isn't that true?

A. That's true.

Q. All these items that you picked up in there, were fingerprint analysis done on any of those?

A. No, sir.

Q. Were they found in anyone's possession, that is, in their pockets or anything like that?

A. No. They were found on the kitchen table with various other mail and such things as that.

Q. So there was no real way to tell whose items they were, is there?

A. No, sir, but they were in his control and dominion.

MR. GRIFFITH: I have no further questions.

THE COURT: Ms. Johns.

MS. JOHNS: I have nothing for this witness.

THE COURT: Any redirect from the State?

MR. FERNANDEZ: No, Your Honor.

THE COURT: Any objection to the witness being excused, from the State?

MR. FERNANDEZ: None.

THE COURT: From the defense?

MR. GRIFFITH: None, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: Sir, you are excused.

MR. UNDERWOOD: Who is your next witness?

THE COURT: Approach.

(Whereupon, a bench conference takes place off the record.)

THE COURT: Madam Forelady, ladies and gentlemen, we are going to take advantage of this break in testimony to take our lunch recess. We anticipate that the next witness might be fairly lengthy, so we are going to let y'all go to lunch. And then we are going to resume testimony.

We are going to break until 1:15. That gives you an hour and 15 minutes. During the break, I had to look at the clock because one time I sent my jury out for two hours and didn't realize it. I was looking for the jury and I was pacing. And my clerk said, I thought something was wrong because you told them to come back two hours from now. I said, why didn't you stop me? You know I can't count. Little joke at my expense.

We will resume at 1:15. If you will return

directly to your jury room, please do not discuss the case with anyone. Don't watch, read or listen to any media accounts. And don't have any contact with anyone in or about the courtroom when you return. Thank you for your patience this morning. Leave your notepads in your seats.

(Whereupon, the jury leaves open court at 11:57 a.m.)

THE COURT: Is there anything before we break for lunch from the State?

MR. UNDERWOOD: Nothing, Your Honor.

THE COURT: From the defense?

MR. GRIFFITH: No, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: We will finish with Agent Wingo. You indicated that's your last witness?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: I will hear motions, of course, advise the defendant of his constitutional rights, and probably let the defense, if they don't have any witnesses, rest. And we will do charge conference and close and charge in the morning, because I don't charge and close after three o'clock. It's not a good idea ever unless you want to spend the night at the courthouse.

Please make sure that the court reporter has all the exhibits, that you don't have any on your tables. Y'all

have a good lunch. I will see y'all at 1:15.

(Luncheon recess was taken.)

THE COURT: The State ready to proceed?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Defense ready to proceed?

MR. GRIFFITH: Yes, Your Honor.

MS. JOHNS: Yes, Your Honor.

THE COURT: Please bring in the jury. You can bring in the jury.

(Whereupon, the jury returns to open court at 1:18 p.m.)

THE COURT: The State may call its next witness.

MR. UNDERWOOD: Your Honor, the State calls Special Agent Justin Wingo.

JUSTIN WINGO,

having been duly sworn, testifies as follows:

THE CLERK: State your name for the court reporter.

THE WITNESS: My name is Justin Wingo, W-i-n-g-o.

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. UNDERWOOD:

Q. Agent Wingo. If you would please take a moment and introduce yourself to the jury. Tell them about your education, training and current career.

A. Yes, sir. Good afternoon, everyone. I'm Special

Agent Justin Wingo with the State Law Enforcement Division. I'm a narcotics agent who specializes in large-scale drug trafficking conspiracies with multi-county, multi-state impact.

I graduated from The Citadel, class of 2014. After graduating from The Citadel, I was an intern with SLED for little over six months. I believe it was in November I got hired on as a narcotics agent with SLED. Two weeks later, they shipped me off to the Criminal Justice Academy, where I graduated in March of 2015. After graduating, I was placed into an FTA program with Lieutenant Max Dorsey. And six months later, I guess I did enough for him to prove that I was a sufficient agent. And he cut me loose. And then I was given this case.

Q. Agent Wingo, how did SLED become involved in this case?

A. Early September 2015, Lieutenant Dorsey approached me and stated that Dorchester County reached out for some help, saying they had a large organization that was trafficking heroin around this area. I drove down here and met with Dan Lundberg and another investigator. He briefed me on the case saying they had done about six buys on a couple of individuals, Justin Gordon Hunter, known as Mo, and Emory Roberts, known as Q. These were buys occurred in Dorchester County.

He also stated that he had a CI, Tommy Sekula, who was able to purchase heroin from this organization. He stated that they had some limitations as there were locations outside of Dorchester County, which is his jurisdiction, as well as that Mr. Sekula was able to purchase larger amounts of heroin than what the Dorchester County Sheriff's Department could afford.

Q. And what do you mean by that?

A. When you purchase heroin -- heroin is a very expensive drug. 14 grams of heroin could run you right around 1,000 to $1,100 Because of Dorchester County being a smaller department, they aren't able to have as access to as much money as I do. I'm able to come in and purchase larger quantities of the drug, to a certain extent.

Q. Obviously, did SLED agree to assist with the case?

A. Oh, yes, sir. I agreed to assist. And I sat down and I met with Mr. Sekula. He and I talked for little over just about four hours about everything, his knowledge of the organization, who he knew was in the organization, how he knew them. We talked about the buys that he had done with Dorchester County and how long he had been involved.

Q. What was the next step in your investigation?

A. After interviewing Mr. Sekula, we arranged a buy. And if I can refer to my notes, I believe the first buy that we did was on September 23rd, 2015. We conducted a buy on

Mr. Roberts.

That buy occurred at Margaret Drive over there in that Ladson, Fairlawn. We bought seven grams of heroin, two 8 balls, for just around $600.

Q. If you could, explain to the jury what your role in that transaction was and how the transaction played out?

A. Yes, sir. Throughout this investigation, I partnered up with Detective Lundberg as the lead case agent. I was responsible for conducting or assisting in conducting the buys, ensuring the safety of Mr. Sekula, monitoring the technical equipment, as well as signing out or swearing to any warrants, search warrants or arrest warrants that may need to be issued.

On this particular buy, we picked Mr. Sekula up. He doesn't have a driver's license. We picked him up and brought him to an undisclosed meeting location in Dorchester County. We stripped searched him. We always strip search every single CI before a buy to ensure they have no evidence on them -- no illegal drugs, weapons or money. It's the same strip search they do in the jails. It's a full squat and cough cavity search.

After that, we place -- what we do is we place recording equipment on them for their safety as well as the collection of evidence. Yesterday, some of the defendants testified that they -- he used the term "wire". What a wire

is, it's a transmitting device that I will place on Mr. Sekula or any other CI. It allows me to listen in to whatever is going on, while also recording what's going on. I can hear -- I don't know if you notice in some of the videos how Mr. Sekula seemed to be kind of talking to himself. He's actually talking to me, because I can hear him. And I was a short distance away able to monitor.

This ensures the safety of that CI itself. Obviously, buying and selling drugs is a very dangerous game. People get robbed all the time. And I always tell my CIs that this is not worth your life. If anything goes wrong, help, help, help, and just get out of there. We have to stay close enough to ensure their safety, because if they do say help, we have to get there fast and make sure they are okay.

So we would place this recording device on Mr. Sekula after searching him. And then we would give him -- I would give him money from the State to purchase this evidence. And in this case, it was $600. That money is documented on the back of my vouchers that I submit to SLED.

He then gets in the car with Detective Brandon Allen. And he drives him to that location. Mr. Sekula gets out of the car. He goes into this location. Meets with Mr. Roberts. Conducts the transaction. Comes back out.

And he gets in the car with Detective Allen.

As soon as he gets in the car with Detective Allen, both Mr. Sekula and Detective Allen knew that the rule was that Mr. Sekula was to give the heroin immediately to Detective Allen.

He gave the heroin to Detective Allen. Detective Allen then drove Mr. Sekula back to the meeting location where he met myself, Detective Lundberg, and other members of the surveillance team.

Let me expand on that. Surveillance team, when we do these buys, it's not just one, two or three people. Usually, it's a group of people. And we have cars that are in the area looking for suspicious activity or trying to gain more intelligence on the subject that we are buying from. This also plays into the safety role, because we don't know how many people would be in a house or the situation that may unfold. And it's always better to have more people there than not enough.

Once they get back to the meeting location, Detective Allen relinquishes custody of that heroin to me. I place the heroin into a BEST bag, seal it up. I then take that BEST bag and submit it to the lab in Columbia for evidence for analysis.

MR. UNDERWOOD: Permission to approach the witness, Your Honor.

THE COURT: Yes, sir.

BY MR. UNDERWOOD:

Q. Special Agent Wingo, I'm handing you what's been marked as State's Exhibit 117. Do you recognize that exhibit?

A. Yes, sir, I do.

Q. I believe that has already been entered into evidence without objection.

THE COURT: What number?

MR. UNDERWOOD: 117, Your Honor.

THE COURT: Proceed.

BY MR. UNDERWOOD:

Q. Agent Wingo, whose name appears on that?

A. My name does.

Q. Is it a signature?

A. Yes, sir, it is.

Q. What does that signify?

A. That I placed these drugs into this BEST kit.

Q. What did you do with that BEST kit after placing the drugs inside?

A. I took it to the SLED lab in Columbia and requested a drug analysis on them.

Q. I'm now handing you State's Exhibit 118, which has already been admitted into evidence.

A. Yes, sir.

Q. Do you recognize that?
A. Yes, sir, I do. It's the laboratory report from the lab.
Q. How does that relate to the BEST kit in Exhibit 117?
A. The lab numbers correspond from what's on this to what's on this.
Q. Which means what?
A. That this evidence was analyzed by the lab and they had given me a report on it, which here is 7 plastic bags containing powder substance. Heroin found in sample tested. Total net weight of 7.10 grams. Confidence level for it is 99 percent.
Q. Is that the conclusion of that particular transaction?
A. Mr. Sekula was searched again, strip-searched again to make sure that he did not have any other evidence on him. He was then -- the audio/video equipment was removed from him. He then sat down and provided me a written statement of what happened. He signed that statement. And we took Mr. Sekula home.
Q. What was the next step of your investigation?
A. Next step of that investigation was to conduct another buy. September 25th of 2015, we conducted another controlled purchases utilizing Mr. Sekula as the

confidential informant. This buy occurred on an individual at the time we knew as G. Later on, we identified him as Lassain Johnson. We were able to identify him during the search warrant at 1001 Bear Island Road, where Mr. Johnson was trying to enter the residence while we were conducting the warrant. He was arrested.

We -- we picked Mr. Sekula up. He was taken to this meeting location. He was strip-searched. We put the recording evidence or the recording equipment on him for safety of him and the collection of the evidence. I gave him $600, but I actually gave him 720, because he had to pay a debt off to another individual there.

We were instructed by Mr. Johnson to go to the Sunoco on College Park Road right there. Mr. Sekula and Mr. Allen get in the undercover vehicle. Mr. Allen drives Mr. Sekula to the Sunoco. Myself and Agent Lundberg, along with other members of the surveillance team, were there. I was at a gas pump and other members were scattered out throughout that gas station and McDonald's beside it.

Mr. Lassain Johnson is observed pulling up with another black male. They exit the vehicle and meet Mr. Sekula in the women's bathroom of that gas station where they -- Mr. Sekula purchases the heroin from Mr. Johnson.

After this transaction occurs, Mr. Sekula comes back out, gets in the car with Detective Allen. Immediately

hands the dope to Detective Allen -- excuse me, the heroin to Detective Allen. And we all meet back at the meeting location where Detective Allen hands me the suspected heroin. And I secure it to another SLED BEST kit.

Q. Agent Wingo, where did this particular transaction take place again?

A. At the Sunoco on College Park.

Q. What county is that in?

A. Berkeley County.

Q. The previous transaction we discussed from September 23rd, where did that take place?

A. Dorchester County.

Q. Agent Wingo, I'm now handing you State's Exhibit 124. Do you recognize that item?

A. Yes, sir, I do.

Q. What is that?

A. These are the drugs that were purchased -- this is the SLED BEST kit that contains the drugs that were purchased from Mr. Johnson on that date.

Q. Whose signature appears on that BEST kit?

A. Mine.

Q. What does the signature signify?

A. That I was the one that put these drugs in the SLED BEST kit.

THE COURT: Any objection?

MR. GRIFFITH: No objection, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: What number is that?

MR. UNDERWOOD: 124, Your Honor.

THE COURT: Thank you. Marked and admitted without objection.

(State's Exh. 124, Drug labeled L15-13080, is received in evidence.)

BY MR. UNDERWOOD:

Q. Agent Wingo, now handing you State's Exhibit 164, which I believe has already been admitted into evidence. Do you recognize that?

A. Yes, sir, I do. It is the lab report for these drugs.

Q. How do you know that the lab report in Exhibit 164 relates to the drug evidence in Exhibit 124?

A. Because the lab number on the report is the same lab number that is on this BEST pack right here.

Q. Was the evidence inside that BEST kit tested by the SLED laboratory?

A. Yes, sir, it was. It was two Ziploc bags containing a powder substance. Of the two tested, heroin was found, a total of 6.92 grams. The confidence level for that is 99.7 percent.

Q. Was that the conclusion of that transaction?

A. We -- after placing this heroin in this BEST kit, Mr. Sekula was then strip-searched once again. We removed the equipment from him. He sat down and provided a written statement of what had happened on that transaction. He signed it. After that, we took him home.

Q. Agent Wingo, what was the next thing that you did?

A. We conducted another buy. This buy was on September 30th, 2015.

Q. How did that transaction take place?

A. We utilized Mr. Sekula again to act as a confidential informant to purchase drugs, this time from Mr. Hunter. He was taken -- we were purchasing 14 grams of heroin from Mr. Hunter at this time. That's an expensive purchase. We were being charged $1,100. And we also had to pay off a debt that Mr. Sekula owed Mr. Hunter for selling Mr. Hunter -- or exchanging an Airsoft gun for some heroin in a previous transaction. We were spending a total of $1,350 that day.

We took -- picked Mr. Sekula up, took him to a meeting location. He was strip-searched again. We placed all of the recording equipment that we used, the wire on him. He was given the money. I documented the money and I gave it to Mr. Sekula. He got into the undercover vehicle with Detective Allen. He and Detective Allen drove to -- if my memory serves me, it's going to be the McDonald's on

College Park right there, to the left of the Sunoco.

We observed Mr. Hunter arriving in a gray BMW with the license plate of LMQ-556. We were close enough to be able to get that tag. Mr. Sekula gets into the car with Mr. Hunter. They conduct the transaction. Mr. Sekula exits the vehicle, then enters the undercover vehicle with Detective Allen again. Immediately gives the heroin to Detective Allen.

After giving the heroin to Detective Allen, Detective Allen and Mr. Sekula meet myself and Investigator Lundberg and other members of the surveillance team back at this location. Detective Allen relinquishes the heroin to me. And I place it into a SLED BEST kit.

Q. And the location of that transaction was again?

A. In Berkeley County.

Q. Now, handing you State's Exhibit 113, do you recognize that?

A. Yes, sir, I do.

Q. What is that?

A. These are the drugs that I placed into the SLED BEST kit.

Q. How do you know that that is the BEST kit that you placed those drugs into.

A. Because my signature was on there.

Q. Was that evidence submitted to the SLED laboratory

for analysis?

A. Yes. I took it to the lab and submitted it will for drug analysis.

Q. Now handing you State's Exhibit 109. Both exhibits are already entered into evidence. Do you recognize 109?

A. Yes, sir, I do.

Q. What is that?

A. This is the lab report for the evidence collected in this BEST kit.

Q. What were the results of the analysis?

A. That heroin was found in the sample tested. It was 13.96 grams, with a confidence level of 99.7 percent.

Q. What else did you do in relation to that transaction?

A. After securing the evidence, we stripped searched Mr. Sekula, was strip-searched again to make sure there were no other drugs on him again or money. He was then -- the recording equipment was removed. And then he sat down and provided a written statement to me of what happened during those events, where he signed it. After that, we took him home.

Q. What was the next thing you did in your investigation?

A. We then conducted another buy on Mr. Hunter utilizing Mr. Sekula. This was on October 28th of 2015. We

picked Mr. Sekula up, just as always. He was taken to a meeting location where we strip-searched him. He was then wired up with the wire and recording equipment. He then was given -- this buy was for 14 grams again. So it was $1,000. And I gave him the documented money. He gets into the car with Detective Allen. He is driven to that location, which was the Sunoco right there in Berkeley County on College Park.

Mr. -- he's waiting there with Detective Allen. Surveillance team is down on a trailer down -- Arno Drive is right there, right beside that Sunoco. It's not far at all. You could walk to it if you wanted to. We had surveillance personnel down there. And observed Mr. Hunter go to that residence, enter it, come back out. And then he drove to the Sunoco to meet us.

He pulls in with a gray BMW 7 series. It has a temporary tag on it. He is -- I'm clear enough to see him because I took a cell phone video of Mr. Sekula exiting his car after the transaction. They were sitting there and I was close enough. I was at a gas pump behind him where I could pull my cell phone up. And I took that video. You can clearly see Mr. Sekula exiting the vehicle, Mr. Hunter driving off.

Mr. Sekula then gets in the undercover car with Detective Allen. And gives the heroin immediately to

Detective Allen. After giving the heroin to Detective Allen, they meet us back at this location. Mr. Sekula is then once again strip-searched. I take the evidence and place it into a SLED BEST kit, and submit it to the lab for analysis.

Q. Agent Wingo, I want to follow up on a few things. You mentioned the video. Is that the same video that we watched here in court earlier in this trial?

A. Yes, sir, it was.

Q. Was that video a fair and accurate portrayal of what you saw at that time?

A. Yes, sir, 100 percent.

Q. Agent Wingo, how was the surveillance able to observe -- specifically, what did they observe about Mr. Hunter driving to the trailer on Arno and into the Sunoco station? Did they observe where he came from?

A. No, sir, we didn't observe where he came from. We had an agent sitting down. It's an one-way-in/one-way-out road. All those roads dead ends. You have to turn around. They are all gravel. So you can sit somewhere and you have to see somebody come in. And then there's no back way out of that trailer park. We sat there. Our the surveillance team would sit there, observe Mr. Hunter come in, go to that residence on Arno. He gets out, comes back, gets in his car. And they are able to follow him to the Sunoco.

Another -- we were utilizing the number that Mr. Hunter or Mr. Sekula had for Mr. Hunter at that time, which was (843) 469-5400. Mr. Hunter answered that number directly.

Q. Agent Wingo, I'm now handing you what's been admitted as State's Exhibit 112 and State's Exhibit 110. Do you recognize each of those items? And please identify them by their exhibit number.

A. Yes, sir, I do. State's Exhibit 112 contains the heroin with my initials on it placed into a bag. This is the SLED BEST kit that I placed it in.

State's Exhibit 110 is the actual lab report for this heroin. You can tell that this is the actual lab report because this lab number and the lab number up here in the corner match up.

Q. What were the results of the analysis performed?

A. The substance that was in this bag tested, it was 14.03 grams. And the confidence level for that weight is 99.7 percent.

Q. What else did you do as part of that particular operation?

A. We, again, took Mr. Sekula. He was strip-searched The audio/video recording equipment was removed from him. We sat down. He and I sat down and he provided a statement to me of what all happened during that transaction. And then we took him home.

Q. What did you do next in this case?

A. We then took -- did another deal with -- on December 14th. This deal occurred with Mr. Hunter. We utilized Mr. Sekula again to conduct a controlled buy from Mr. Hunter. This deal occurred at the Walmart in Summerville down there. Like every other time, we picked Mr. Sekula up. He's strip searched. He is placed equipment on him. He's given documented money. He then gets in the car with Detective Allen. And we all -- he's driven to the Walmart in Summerville. Mr. Hunter is observed driving up in a gray BMW.

Mr. Sekula gets in the car with Mr. Hunter. A transaction occurs. Mr. Sekula gets out. We purchased an eight-ball 3.5 grams, also known as an eight-ball in the drug world, because it's an eighth of an ounce, for $300.

Mr. Sekula then gets back in the car with Detective Allen. He immediately hands that heroin to Detective Allen. And we all meet at the meeting location. Detective Allen gives me the heroin as soon as we get back. Mr. Sekula is immediately strip-searched And I place the heroin into the SLED BEST bag.

Q. Agent Wingo, let me ask you a few more questions concerning this particular transaction. Where were you located when the transaction took place?

A. I was in the Walmart parking lot in the front seat

of Detective Lundberg's truck monitoring the wire.

Q. How close were you to where the activity took place?

A. I would say probably 60, 70 yards.

Q. Were you able to witness what took place?

A. They were inside of a car. I was able to observe the car pull up, pick Tommy up and -- he didn't stop. He picked Tommy up and it was like he rolled up. And there's a frontage road right there. He stopped at that stop sign where that frontage road is. And Tommy got out of the car after that.

Q. Were you able to observe Tommy Sekula then walk back to the undercover vehicle?

A. Yes, sir.

Q. Did he make any stops between Mr. Hunter's vehicle and the undercover vehicle?

A. No, sir. And when you monitor that wire, you can pretty much tell what they are doing. If they are walking, you hear their pants and shirt rubbing together, like on the video. And Tommy would always talk to himself or make some kind of comments. And you could hear him. There wasn't that much of a delay of silence until he got back in the car and then Mr. Allen would let us know, hey, he refers to him in the Charlie on the video. Charlie is back in the car. Deal went good.

Q. What vehicle did Mr. Hunter drive to that transaction?

A. It was a gray 7 Series.

Q. 7 series of what make?

A. I'm sorry, BMW.

Q. And what county did that occur in?

A. He believe that Walmart is in Berkeley County.

Q. Special Agent Wingo, I'm now showing you State's Exhibit 114 and State's Exhibit 111, both of which have already been placed into evidence. Could you identify each on them by their exhibit number, please.

A. Yes, sir. State's Exhibit 114 is the heroin that was purchased from Mr. Hunter on that date. It was placed in the SLED bag by me, because my initials are on this BEST kit.

State's Exhibit 111 is the lab report for this drug evidence. You can tell that it's this lab report because the lab numbers match up on this BEST kit on this report.

The results from this buy are that heroin was found in the sample tested. Net weight is 3.30 grams. Yes, ma'am, 3.30 grams, with a confidence weight or confidence level for 99.7 percent.

Q. Did that conclude your activity for that transaction?

A. No, sir. Mr. Sekula was then immediately

strip-searched again. We removed all the buy equipment, the recording equipment used in that buy from him. Tommy sat down. And he and I had a conversation about what happened, wrote it out in a statement. He signed it. And then we took Tommy home.

Q. What was the next thing you did to further your case?

A. Then we conducted another buy on January 7th of 2016. We conducted this buy on Mr. Roberts. It occurred at 116 Summer Creek Drive. That trailer is off College Park Road. We were able to purchase an eight-ball of heroin for $300 from Mr. Roberts. Like before, we picked Mr. Sekula up. He was strip-searched. We placed the recording equipment on him and gave him the recorded State-documented funds.

He then got into a vehicle with Detective Allen, where he was driven to 116 Summer Creek Drive, observed by Detective Allen entering the residence, leaving the residence. He gets back into the car with Detective Allen. Immediately gives the heroin to Detective Allen. And then they meet us back at the meeting location.

During this specific buy, it's kind of hard to sit down in that trailer park, because if you don't belong there, people are going to kind of pick you out. So there's a little barbecue spot, Bessinger's barbecue is directly

across the street from that location. And I was able to pull in -- Detective Lundberg and I were able to pull into that location. And I was close enough that I could hear the wire and everything else going on throughout that buy and get to Tommy fast if I needed to, but I was far enough away that, hey, what is this random vehicle doing sitting here, so ...

Q. What happened when Detective Allen and Mr. Sekula got back to the meeting location?

A. Detective Allen gave me the heroin. I placed it into the BEST kit. And Mr. Sekula was immediately strip-searched.

Q. This location, what was that address again?

A. 116 Summer Creek Drive.

Q. What county is that located in?

A. Berkeley County.

Q. Is this the same site of the search warrant Mr. Vasquez testified about earlier?

A. Yes, sir, it was.

Q. Agent Wingo, I'm now handing you what's been admitted into evidence as State's Exhibits 115 and 116. Will you please examine those and identify them by their exhibit numbers?

A. This is State's Exhibit 116. It is the actual heroin that we purchased from Mr. Roberts that night at 116

Summer Creek Drive.

Q. How do you know that?

A. Because my name is right here. My signature is right here on this BEST pack.

Q. And the other exhibit?

A. Exhibit -- State's Exhibit 115 is the lab report for these drugs. You can tell that because these two lab numbers match up from the report and on the drugs. The results from this buy are four plastic bags containing powder substance. Heroin was found in the sample tested. All four bags were tested. Total Net weight of 3.38 grams. And the confidence level is 99.7 percent.

Q. What else did you do regarding that transaction?

A. We obtained a search warrant on that transaction. But to further the investigation, we chose not to serve it at that time.

Q. What was the next step in your case that you took?

A. We took and -- after taking this, making this buy, Mr. Sekula again was immediately strip-searched. He then was able to sit down with me. We took all the recording equipment off of him. He provided another statement to me about what happened during this buy. He signed that statement and we took him home.

Q. What did you do next to further your case?

A. We conducted another buy. This time it occurred on

January 14th of 2016. We utilized Mr. Sekula. We picked him up again. We strip-searched him. We had him reach out to Mr. Hunter, Justin Hunter. And Hunter directed us to the Walmart in Summerville. Mr. Sekula was strip-searched. We gave him the recording equipment. Placed the wire on her. I gave him documented funds. It was $300. We were buying 3.5 grams of heroin from him.

We were able to see Mr. Hunter leave his residence at 9698 Patriot Boulevard. He left in a gray BMW 7 Series bearing license plate LTQ-710. He was then -- he pulls into the Walmart. Mr. Sekula enters Mr. Hunter's vehicle. They conduct the deal. After conducting the deal, Mr. Sekula exits Mr. Hunter's vehicle. He then comes and gets in the undercover vehicle with the Detective Allen. After getting in the vehicle with Detective Allen, he then immediately gives Detective Allen the heroin, just as all times before. And he and Detective Allen meet us back at the meeting location. Detective Allen gives me the heroin. And Mr. Sekula is immediately strip-searched.

I then take that heroin and place it into the SLED BEST bag and submit it to the lab for analysis.

Q. And what else did you do to complete that operation?

A. We -- Mr. Sekula was then strip-searched. We took the recording equipment off of him. After recording

equipment was off, he sat down and provided a statement to me. After getting that license plate number, we were able to successfully run those license plates, that license plate LTQ-710 from that BMW through South Carolina DMV, and confirmed that that BMW did, in fact, belong to Mr. Hunter.

Q. Agent Wingo, I'm now handing you what's been marked and admitted into evidence as State's Exhibit 131 and what is now marked for identification as State's Exhibit 121. Could you please identify each of those exhibits, please?

A. This is the heroin that was purchased and placed into the SLED BEST kit from Mr. Hunter. This is my signature on it.

MR. UNDERWOOD: Your Honor, at this time I move to admit State's Exhibit 121 into evidence.

THE COURT: Has that already been admitted, Madam Court Reporter?

THE COURT REPORTER: No.

MR. GRIFFITH: No objection, Your Honor.

THE COURT: Ms. Johns?

I thought it was already admitted. Admitted without objection.

(State's Exhibit 121, Drug labeled L16-0782, is received in evidence.)

BY MR. UNDERWOOD:

Q. How do State's Exhibit 131 and 121 relate to each

other?

A. They have the same lab number on them. Up here in the corner, this is the lab report for this evidence.

Q. What were the results of the analysis on that evidence?

A. There was a powder substance tested. Heroin found in the sample tested, a net weight of 3.45 grams, with a confidence level for the weight is 99.7 percent.

MS. JOHNS: No objection.

THE COURT: What are those numbers again?

MR. UNDERWOOD: Your Honor, these are State's Exhibit 194, 195 and 196.

THE COURT: Any objection, Mr. Griffith?

MR. GRIFFITH: No objection, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: Marked and admitted without objection.

(State's Exh. 194, Vehicle plate registration from the DMV BMW 7 Series with the license plate number LTQ-710, was received in evidence.)

(State's Exh. 195, Vehicle plate registration for BMW 7 Series belonging to Justin Gordon Hunter, was received in evidence.)

(State's Exh. 196, DMV Vehicle customer list DMV of all vehicles owned by Mr. Justin Gordon Hunter, includes a 2005 Audi A4, License Plate LSF-463; a 2007 BMW 5 Series

with license plate LMQ-556; and a 2006 BMW 7 Series with a license plate LTQ-710, was received in evidence.)

BY MR. UNDERWOOD:

Q. Please identify for the jury State's Exhibit 194, 195 and 196 by their exhibit numbers.

A. 194 is a certified copy of the current plate from the DMV for a BMW 7 Series with the license plate number LTQ-710. That plate comes back to a Justin Gordon Hunter.

The State's Exhibit of 195 is the current title, certified from the DMV, current title of a BMW 7 Series belonging to Justin Gordon Hunter.

And State's Exhibit 196 is a vehicle customer list provided by the DMV, certified for all vehicles owned by Mr. Justin Gordon Hunter, and includes a 2005 Audi A4, License Plate LSF-463; a 2007 BMW 5 Series with license plate LMQ-556; and a 2006 BMW 7 Series with a license plate LTQ-710.

Q. What significance does the information in those DMV records give to you as part of your investigation?

A. We were able to obtain those license plates. Both of those vehicles were utilized during controlled purchases with Mr. Hunter. We were able to observe him pull up, and successfully get the tag number from both BMWs, both the 5 Series, the LMQ-556 license plate. I believe that was on September 30th.

And the second one we were able to get that LTQ-710 license plate after successfully following him from 9698 Patriot Boulevard off of the 7 Series.

Q. As to the 5 Series, license plate LMQ-556, was there any significant dates related to that on those documents?

A. No, sir, not on the document itself for the 5 Series.

Q. What about for the 7 Series with the license plate LTQ-710?

A. Yes, sir. That plate was issued on 10/27/2015. On the buy of 10/28, he shows up in this vehicle. It just has a temporary tag on it.

Q. Again, were both of those BMWs listed to owner Justin Hunter?

A. Yes, sir, as well as the Audi.

Q. Agent Wingo, what was the next step in your investigation?

A. We then conducted another buy. This time it was on January 19th of 2017 -- excuse me, 2016. This buy occurred with Mr. Roberts and Mr. Brown at the residence of 116 Summer Creek Drive, right there in Berkeley County again, right off College Park Road. The deal went. We picked Mr. Sekula up. He was taken back to a meeting location where he was strip-searched. After being strip-searched, we

placed the recording equipment and wire on him. We gave him $300 of documented funds. After that, we were directed by Mr. Roberts to come to the residence of 116 Summer Creek Drive. Once we got that, Mr. Sekula was driven by Detective Allen to that residence.

He exits the vehicle. Enters the trailer. From watching the video, you observe Mr. Brown conduct the transaction with Mr. Sekula. Mr. Sekula then exits the vehicle -- I'm sorry, exits the trailer, and enters the vehicle with Detective Allen, where he immediately hands the heroin to Detective Allen.

After handing the heroin to Detective Allen, they meet us back at the meeting location. After meeting us at the meeting location, I secure the heroin from Detective Allen and place it into a SLED BEST kit. Mr. Sekula is immediately strip-searched. And I submit that BEST kit to the lab for analysis.

Q. I'm now showing you what's been marked for identification as State's Exhibit 123. Do you recognize that item?

A. Yes, sir. That is the BEST kit that I sealed the heroin that we obtained from Mr. Brown on that buy.

Q. How do you know it's the same BEST kit?

A. Because my signature is on it.

MR. UNDERWOOD: Your Honor, at this time, I move to

admit State's Exhibit 123 into evidence.

THE COURT: Any objection?

MS. JOHNS: No, Your Honor.

MR. GRIFFITH: No.

THE COURT: Marked and admitted. What was that number again?

MR. UNDERWOOD: 123, Your Honor.

THE COURT: 123 marked and admitted without objection.

(State's Exhibit 123, Drug labeled L16-0965, was received in evidence.)

BY MR. UNDERWOOD:

Q. I'm now handing you State's Exhibit 132. Can you explain how 132 and 123 relate to each other?

A. This is the lab results for the drugs that were in this BEST kit we bought from that address. The results are there's a Ziploc bag containing four plastic bags containing powder substance. Heroin found in the sample tested of -- they tested one, but when they test one, sometimes the lab states that the maximum attainable statutory threshold has been met for this substance. The total weight is 2.61 grams. And the confidence level for that weight is 99.7 percent.

Q. Can you explain to the jury what that threshold language means?

A. That if they -- if there's a certain amount of a product, testing these drugs is very expensive, and they are able to test one and confirm that that is actually that substance, I am not 100 percent familiar, but it shows the total weight as well as the confidence level for it.

Q. Was there any other activity from law enforcement regarding that particular transaction?

A. Yes, sir. Like I said, Mr. Sekula was immediately strip-searched. He takes the -- we take the recording equipment off of him. He and I sit down, have another conversation about what occurred in that buy, write it out in a statement. He signs it. After that, we take him home.

Q. What was the next step in your investigation?

A. We then conducted a buy on February 2nd of 2016. This buy occurred on Mr. Roberts at 116 Summer Creek Drive for 3.5 grams of heroin. We utilized Mr. Sekula to conduct this buy. We picked him up. He was strip-searched. We placed the audio/video recording device on him, as well as the wire. I gave him $300 from state money, state documented funds.

He was then driven to this residence by Detective Allen. Detective Allen was -- at this time, it was night. He was able to pull up into the driveway and observe Mr. Sekula walk straight up the porch and be led in by Mr. Roberts. The transaction occurs. Mr. Sekula is then

observed walking straight out of that front porch, down the steps, and gets back into the undercover vehicle, where he immediately hands the heroin that was purchased straight to Mr. -- or Detective Allen.

We then drive or meet them back at the meeting location, where Detective Allen immediately hands me the heroin. And Mr. Sekula is immediately strip-searched. I take the heroin that was purchased and place it in a SLED BEST kit, submit it to the lab for an analysis.

I really remember this buy because, after reviewing the video, it was a really good video. You can clearly see what happened inside that trailer on that night, that transaction that occurred.

THE COURT: Any objection?

MS. JOHNS: No, Your Honor.

MR. GRIFFITH: No objection, Your Honor.

THE COURT: What number is that?

MR. UNDERWOOD: 122, Your Honor.

THE COURT: Marked and admitted without objection.

(State's Exh. 122, Drug labeled L16-1604, is received in evidence.)

BY MR. UNDERWOOD:

Q. Agent Wingo I'm now handing you what's been admitted into evidence State's Exhibit 122 and State's Exhibit 133. Referring to them by exhibit number, can you

explain how they relate to each other?

A. State's Exhibit 122 is the BEST kit that I placed the heroin purchased from Mr. Roberts in immediately after that buy. It's also the same BEST kit I submit to the lab for analysis. My signature is right here on the front of it.

State's Exhibit 133 is the lab report for this BEST kit. The lab number on this BEST kit itself and the lab number on this report match up.

The results are heroin found in sample tested, net weight 3.35 grams. Confidence level for that weight is 99.7 percent.

Q. What was the next step in your investigation, Agent Wingo?

A. Next day, we conducted a controlled buy utilizing Mr. Sekula. This time we were going to purchase some methamphetamine. We texted Mr. Hunter. And he responds to go to Main Street. We picked Mr. Sekula up, or after we picked Mr. Sekula up, we contacted Mr. Hunter about purchasing the methamphetamine. And he responds to go to Main. Mr. Sekula is strip-searched. We place the audio and video recording equipment on him. He then was given money, State-documented funds. He drives with -- he arrives with Detective Allen to the Azalea Square Shopping Center right there. I believe that's PetSmart, a Kohl's and Target all

right there in a row.

Surveillance personnel are sitting in the parking lot. I'm sitting in the parking lot. And we are able to observe Ms. Quezada leave 1001 Bear Island Road, walk across the street, because the apartment complex I believe is Vista Sands, which is right there within walking distance of that shopping center. She walks across the street. I'm able to observe her meet with Mr. Sekula. They conduct a transaction. And we are able to observe her walk all the way back to that apartment and go back in Apartment 531.

Q. Agent Wingo, the apartment complex and shopping center you mentioned, are they in Berkeley County?

A. I believe so.

Q. Now, Agent Wingo, where were you positioned during that transaction?

A. I was in the front seat of Detective Lundberg's truck in that parking lot, probably safe to say 40 to 60 yards away from the actual buy. I didn't have -- it was -- parking lot is kind of empty. It was later on in the day. So you had a clear view of Mr. Sekula, as well as when Ms. -- excuse me, Ms. Quezada came up, we could see both on them. They sat down on a bench together and conducted the buy.

Q. What was her full name?

A. It's Rosemarie Quezada. Tommy referred to her as

Cici.

Q. How were you able to identify Cici as Rosemarie Quezada?

A. She was at the residence of 1001 Bear Island Road when we conducted the search warrant on that residence.

Q. Were you able to recognize her from your own personal observations?

A. Yes, sir, I was. After the buy, Tommy gets back in the car with Detective Allen. He immediately hands the methamphetamine to Detective Allen. They drive back to the meeting location where they meet us. Detective Allen immediately hands me the methamphetamine. And Mr. Sekula is immediately strip-searched. We take -- I take the methamphetamine. And I place it in that BEST kit and seal it up and submit it to the lab for analysis.

Tommy, we take the recording equipment off of him. Sit him down. We debrief him again, where he writes a statement of what happened during those events. He signs it. And we took him home.

Q. Agent Wingo, now handing you what's been marked for identification as State's Exhibit 125. Do you recognize that?

A. Yes, sir, I do. This is the methamphetamine placed in the BEST kit with my signature on it.

MR. UNDERWOOD: Your Honor, at this time, I move

that State's Exhibit 125 be admitted.

THE COURT: Show it to counsel.

MR. UNDERWOOD: I did.

THE COURT: Any exception?

MS. JOHNS: No, Your Honor.

THE COURT: 125 marked and admitted without objection.

(State's Exh 125, Lab Report L16-01640, is received in evidence.)

BY MR. UNDERWOOD:

Q. I'm also handing you State's Exhibit 152. Using -- referencing that by exhibit numbers, can you explain how they relate to each other?

A. Yes, sir. This the BEST kit with the lab number on the top. This report has the same lab number on it as this BEST kit does. It was a Ziploc bag containing plastic corner containing crystal substance. The results of that were methamphetamine were found in the sample tested of .87 grams. And the confidence level for that weight is 99 percent.

Q. Was there anything else to that transaction, Agent Wingo?

A. No, sir, not in that transaction.

Q. Agent Wingo, throughout these transactions, you've mentioned strip searches before and after.

A. Yes, sir.

Q. What were the results of those searches?

A. At all times they were negative. Mr. Sekula was never found with anything, any illegal substance on him before the buy or after the buy. They are very thorough strip searches. They take the soles of the shoes out. They take the battery out of his phone to make sure there's nothing there, squat and cough to make sure he hadn't stuck anything where he wasn't supposed to stick it. And throughout all of these buys, Mr. Sekula never had an issue with any kind of contraband being found on him.

Q. Agent Wingo, did you conduct any further controlled purchases in this case?

A. No, sir, at this time, we reached a point in our case where we had -- we felt it was time to further it beyond controlled buys. So myself, Lieutenant Max Dorsey and Detective Lundberg and some of his supervisors, all met down here and created an ops plan. We obtained search warrant for the three location, for 116 Summer Creek Drive, for 1001 Bear Island Road, and then 9698 Patriot Boulevard. We were able to obtain search warrants for those.

Since there were three locations, we had to create an op's plan to get teams together for those locations. Lieutenant Aaron Rawl was the team captain, if you will, team leader for 1001 Bear Island Road. Special Agent Jason

Wells was the team leader for 9698 Patriot Boulevard. And Special Agent Vasquez was the team leader for 116 Summer Creek Drive.

We knew that we needed some help conducting an entry into one of those residences, entry referring to securing the residence for safety of law enforcement to be able to come in and search the residence. That was the 116 Summer Creek Drive. So we utilized the Berkeley County SWAT team to create our -- conduct the entry into that residence.

Q. Agent Wingo, what were the results of that search?

A. Of the three searches?

Q. Well, if you can break them down, beginning first with, I suppose, Bear Island Road, what was --

A. At 1001 Bear Island Road, there were drugs found. There was money found. And I believe there were firearms that were found. There was evidence or items found that are evident to drug dealing and trafficking, I believe, scales, the blenders, some Inositol powder.

Q. Please continue.

A. At 116 Summer Creek Drive, there were drugs found. I believe there were numerous firearms found and also scales and stuff that are conducive to drug trafficking or drug dealing and drug trafficking.

At that time 9698 Patriot -- at 1001 Bear Island Road, there were also documents found that belonged to

Mr. Roberts, that belonged to Mr. Hunter, that belonged to Mr. Johnson, and that belonged to Ms. Quezada. Passports, driver's license, school IDs, Social Security cards, all that information was found at 1001 Bear Island Road that belonged to those individuals.

There were -- at 9698 Patriot Boulevard, which is Mr. Hunter's residence, there were numerous documents found that showed Mr. Hunter connected to 1001 Bear Island Road. There were documents. There were scales found that had heroin residue. There was Tupperware found that had heroin residue on it, large stacks of money, a money counter and firearms.

MS. JOHNS: Your Honor, I object.

THE COURT: Basis?

MS. JOHNS: Please approach.

(Whereupon, the following bench conference takes place.):

MS. JOHNS: I object to the testimony of firearms because the whole reason the firearms, all three of them --

MR. UNDERWOOD: I told him that we didn't need to talk about firearms.

THE COURT: Okay. Well, I will just strike it, strike the testimony and sustain the objection.

(Whereupon, the bench conference ends.)

THE COURT: The objection is sustained. Ladies and

gentlemen, you are to disregard the last two questions and answers in their entirety. You are to give it absolutely no consideration in your deliberations.

You may proceed.

(Whereupon, the bench conference ends.)

BY MR. UNDERWOOD:

Q. Agent Wingo, as the results of those searches, what were you able to determine about the relationships between Rosemarie Quezada, Lassain Johnson, Justin Hunter and Emory Roberts?

A. As a result of those searches, finding all the evidence that we found at those locations, we were able to see that there was a relationship between those four individuals. Like I said, we found information, passports and such at 1001 Bear Island Road. We found information at 9698 that had those other addresses listed on it.

Q. Agent Wingo, aside from the search warrants, were there any other investigative techniques that were used in the investigation of this case?

A. Yes, sir. During the execution of the search warrants, myself and Agent Lundberg, Danny Lundberg and Lieutenant Dorsey attempted to approach Mr. Hunter, seeing if he wanted to cooperate. We were conducting surveillance right before the search warrant was executed. And observed Mr. Hunter -- the BMW was parked right in front of his

house, that gray 7 Series was parked in front of his house. Mr. Hunter was observed pulling up in the Audi. He, his wife and small child got out of there. We approached Mr. Hunter. We had our vests on clearly marked as police. When we approached him, Mr. Hunter became very stand-offish. He kind of, I will use the term, squared up against us right there.

And for the safety of myself and the other officers, we placed him in the investigative detention. We placed him into the front seat of the Detective Lundberg's truck. After searching him, we found two phones and a wallet. And he was taken to another parking lot of the complex.

After that, we sat down and I Mirandized Mr. Hunter. I used the card that I always use to Mirandized people. I carry it right here in my credentials case. I pull it out. It's kind of warn. I read to it Mr. Hunter. And he acknowledged to me that he understood his rights and that he agreed to talk to us.

After that, Mr. Hunter confessed that he was involved in trafficking heroin. He had been involved in trafficking heroin since winter of 2015. He said that he began trafficking heroin when he met a female down here named Sonia. He was introduced to another male through Sonya named R. I believe -- he briefly bought heroin from R.

He then began purchasing heroin from an individual known as B.K. And that went on for about six months. Then Mr. Hunter told me that he would go to New York. He would fly to New York with the money for the heroin in his pocket, and he would stay at the specific hotel. And if I'm correct, the hotel is the Gateway Inn. And he told me address is 1780 Sunrise Highway. He would meet an individual at that hotel known as Fresh. And then he would have a female transport it back down.

He would go down there and I think he bought -- I would have to refer to my notes here. He bought 40 grams of heroin from Fresh for right around $1,600. After that, Mr. Hunter gave me a list of customers that he would sell to. There was three specifically he told me about. One was a male named Parker. He would sell him around an eight-ball.

Another was a male known as Chuck. Chuck was a white male. He had a girlfriend. He drove a work truck. Mr. Hunter told me he sold at least a gram.

And the third was an individual named Tom who he sold heroin through throughout Dorchester and Berkeley Counties.

After this, Mr. Hunter became very emotional after telling me these things and asked me to take him to jail. So I placed him under arrest. And he was transported to

jail in Columbia.

Q. At that time, when Mr. Hunter was placed under arrest, was there anything seized him?

A. Yes, sir. There were two cell phones, an iPhone and a little blue flip phone, and then his wallet.

Q. Agent Wingo, I'm now showing you what's been marked for identification as State's Exhibits 189, 190, 191, 192 and 193. Could you identify what each of those items are?

A. 189 is that little blue cell phone I took off Mr. Hunter.

190 is the Apple iPhone that was taken off Mr. Hunter.

191, that's Mr. Hunter's driver's license.

Q. Where did that come from?

A. His wallet.

Q. The wallet was seized?

A. Yes, sir.

192 is a receipt that was found in the wallet for the Gateway Inn located at 1780 Sunrise Highway. It shows -- has Mr. Hunter's name on it right here and shows him being up there January 25th, 2016.

And then Item No. 193 is another gold Green Dot card, which, like Lieutenant Rawls said yesterday, it is usually --

MS. JOHNS: Your Honor, I object.

THE COURT: Sustained. Hearsay.

THE WITNESS: That, through my training and experience, I've seen be used by other drug traffickers to move large amounts of money around.

Q. Where was that?

A. That was also in Mr. Hunter's wallet.

MR. UNDERWOOD: Your Honor, at this time the State to move into --

THE COURT: The phones have already come in, haven't they?

MR. UNDERWOOD: These are different phones, Your Honor.

THE COURT: Oh, never mind. I may have the numbers wrong.

Any objection?

MR. GRIFFITH: Without objection.

MS. JOHNS: No, Your Honor.

THE COURT: Marked and admitted without objection.

(State's Exh. 189, Cell phone, is received in evidence.)

(State's Exh. 190, Cell phone, is received in evidence.)

(State's Exh. 191, Justin Hunter's driver's license, is received in evidence.)

(State's Exh. 192, Gateway Inn receipt, is

received in evidence.)

(State's Exh. 193, Green Dot card, is received in evidence.)

BY MR. UNDERWOOD:

Q. First Exhibit 193, 190, 189, 192, Agent Wingo, what is the significance of this receipt that was found in Mr. Hunter's wallet?

A. That receipt corroborates with the statement that he gave me of where he would go up in New York to purchase or meet the individual to purchase the heroin. He stated that it was at the Gateway Inn located at 1780 Sunrise Highway.

Q. State's Exhibit 191, Agent Wingo, do you recognize the individual in that driver's license?

A. Yes, that's Mr. Justin Hunter.

Q. Is that the same individual you took the confession from?

A. Yes, sir, it is.

Q. Agent Wingo, did Mr. Hunter give you any of his personal identifying information or contact information?

A. Yes, sir, he did. When we interview these people, we try to get as much information from them as we can. He gave me his date of birth, Social Security number, his address. He gave me some telephone numbers, how much he weighed, how tall he was, his South Carolina driver's

license number. He gave me that. He told me his work status, which at the time was unemployed. He provided me a telephone number of (843) 496-5400.

Q. Sorry. What was that number one more time, please?

A. Telephone (843) 496-5400, but after reviewing it, I realized that I was slightly dyslexic, and it's actually 469. I've messed up on that number a couple of times when writing reports. After looking back, I realized that that number was also utilized on the October 28th buy to contact Mr. Hunter.

And also, after reviewing some of the Western Union receipts that Mr. Lundberg found in the trash, that same number is listed on those as well.

MR. UNDERWOOD: Beg the Court's indulgence, Your Honor. Your Honor, request permission to publish State's Exhibits 39 and 40.

THE COURT: You may proceed.

BY MR. UNDERWOOD:

Q. It's a bit grainy on the projector, but, Agent Wingo, can you make out the phone number right here?

A. Yes, sir. That is (843) 469-5400. And right above it is the sender's name, which is Justin Hunter.

Q. 140, can you make out that phone number?

A. (843) 469-5400, same sender, it was Justin Hunter.

Q. And how does that phone number relate back to the controlled purchases you conducted?

A. That is the same phone number that was utilized to contact Mr. Hunter on the controlled purchase that we used. Mr. Hunter answered the phone as well as called us back from that number.

Q. Agent Wingo, earlier in your testimony, I may have skipped over a question, did you conduct any controlled purchases on anyone other than Emory Roberts, Rosemarie Quezada, Will Brown and Justin Hunter?

A. Yes, sir, we did. We conducted a buy on an individual known only to us as Keith. I'm going to have to reference my report to make sure that I have the date correct on that. That buy occurred at the -- I do remember we utilized Mr. Sekula to purchase heroin from an individual known as Keith. The buy -- he was strip-searched and driven to the trailer park writ in Arno. He was then -- there's -- so the way this trailer park is set up, it's one long street. And then on the left, there is streets that go down into dead-ends, kind of like that. The trailers are back to back. There's not really many fences you can kind of walk back and forth through it.

Mr. Sekula, after being driven there by Mr. Allen, he met with this individual we know as Keith on the street, right behind the trailer for Arno Drive, like, he walked

through the yard to the trailer or to the road right there and met Mr. Sekula. The deal occurred. Mr. Sekula got back into the vehicle with Detective Allen, where he handed Detective Allen heroin. The heroin was then -- they drove back to the meeting location with the surveillance team. Detective Allen handed me the heroin. And Mr. Sekula was immediately strip-searched again. I took the heroin and placed it into a SLED BEST kit where I submitted it to the lab for analysis.

Q. To your knowledge, was that analysis performed?

A. Yes, sir, it was.

Q. Now handing you State's Exhibit 142, do you recognize that?

A. Yes, sir, I do. That is the -- excuse me, that is the lab report for the drugs that I placed into the BEST kit.

Q. What were the results of that analysis?

A. Heroin was found, a total weight of 14 grams. And the confidence level for that weight is 99 percent.

Q. Agent Wingo, were there any other investigative techniques used during the investigation of this case?

A. During this investigation, myself and Detective Lundberg conducted many, many hours of surveillance on Mr. Hunter. And we were able to obtain what is known as a mobil tracking device, which is basically a tracker that you

place on to a vehicle. And then that tracker sends a signal to computer database where you are able to locate and see where all that vehicle had been going. I was able to pull the reports from that tracker.

Q. When did you -- were you successful in placing the tracker on Mr. Hunter's vehicle?

A. Oh, yes, sir, I was.

Q. When did that take place?

A. January of 2016.

Q. What vehicle was the tracker placed on?

A. We placed it on the gray 7 Series BMW that we determined was the primary vehicle Mr. Hunter drove through just conducting surveillance on him. And we were able to obtain quite a few locations where Mr. Hunter went.

Q. As relates to the case that we have discussed during this trial, what locations did the vehicle go to according to the GPS tracker?

A. According to the GPS tracker, it visited Patriot Boulevard numerous of times. It visited 1001 Bear Island Road, as well as Summer Creek Drive numerous times.

Q. Agent Wingo, were you able to approach any other individuals for cooperation in this case?

A. Yes, sir. After Mr. Hunter questioned he wanted to go to jail and he was arrested, I then drove to 116 Summer Creek Drive where I was introduced to Mr. Brown by

Lieutenant Leslie. Lieutenant Leslie already Mirandized Mr. Brown and they were talking. Lieutenant Leslie of SLED informed me that Mr. Brown was wanting to cooperate. And Mr. Brown and I sat down and started talking about his involvement in the organization.

One of the things that we do is, we get cell phones, people use cell phones for everything nowadays. They usually have a good amount of evidence on them. Mr. Brown, I presented him with a consent to search form for his cell phone. He signed it. And I was able to take that cell phone and examine it. I was able to look at that cell phone and tell that there was nothing pertinent on Mr. Brown's cell phone itself that was going to help me further my case against them.

Then when I brought the cell phone back to Mr. Brown, I brought with me some photo lineups. I met Mr. Brown at a meeting location in Dorchester County, myself and Lieutenant Rawl. I would take the photo lineup, Mr. Brown, do you see anybody on this page that you know? I wouldn't tell him who was on there, you know who he was supposed to be looking for. It was, do you see anybody on this page that you know? If you do, circle them and put your initials.

Q. And how many photo lineups did you show him at that time?

A. I believe four.
Q. What were the results of showing him those lineups?
A. He was correctly able to identify Ms. Quezada, Mr. Roberts, Mr. Hunter, as well as, I believe, Mr. Johnson as well.
Q. How are these lineups created?
A. You send a photo lineup request to a -- SLED has a fusion center. It's an intelligence gathering group where they are able to analyze data that comes in. They create photo lineups. They run tags for us. Basically, it's our operations desk. I would send a request in to an analyst. And they created the photo lineups for me.
I've never created a photo lineup, so I don't know how they did it, but I just know that she sent me the e-mails -- actually, had to go pick them up from the analysis that day in Columbia at their office.
Q. Do you know where the photographs come from that are used in the lineups?
A. They either come from previous jail mug shots or South Carolina DMV.
Q. And, again, did Justin Hunter have a South Carolina driver's license?
A. Yes, sir, he did.
MR. UNDERWOOD: Court's indulgence, Your Honor.
Q. Agent Wingo, going back to the GPS tracker you

discussed, how long was that tracker on Mr. Hunter's vehicle?

A. From beginning of January up until the time when I met Mr. Hunter and we seized that vehicle.

Q. Was that the day of the search warrant?

A. Yes, sir, it was.

Q. What date was that?

A. If I recall, it was February 8th. We seized the vehicle and it was placed into a Dorchester County impound yard.

Q. Who placed the tracker on the vehicle?

A. Detective Lundberg did at one time. And there were two times -- because the first tracker kept dying. There was a faulty battery in it or something like that. And so we've had to switch the tracker out. So we switched the tracker out. And one time one of the agents that -- another narcotics agent with SLED assisted me in putting that on there. And he put it on there. I was there for both of those placements, though.

Q. Agent Wingo, as relates to confidential informants, how do narcotics agents interact with those confidential informants to convince them to become confidential informants? Are there any threats involved?

A. No, sir. It is -- throughout all my training with Lieutenant Dorsey and all the other narcotics agents that I

have, you are not to threaten them in any way. You are not to promise them anything. You are not to try and scare them or, you know, anything like that. That is a decision that has to be made on their own free will. And if they say no and they want to leave, you let them. Not leave, per se, but if they agree -- they don't want to cooperate, you leave it alone. You just let it go.

Q. When you became involved in this investigation, please describe what kind of personal interaction you had with the confidential informant, Thomas Sekula.

A. Prior to meeting Detective Lundberg and Tommy, I knew nothing of Tommy. I knew nothing of his charges. I knew nothing of what Dorchester County, their agreement with him. That wasn't my dealings. I was -- I left that to the sole responsibility of Detective Lundberg. I utilized Tommy. We had some basic rules that Tommy and I went over, you know, you can't keep the drugs, you can't keep the money, you can't break the law while you are working for me, kind of deal. But I never promised to me anything.

That was all Detective Lundberg, he and Tommy had an agreement that they had worked out with the Dorchester County Sheriff's Office.

Q. During the time that you were working with Tommy Sekula, did he commit any misconduct during any of the controlled purchases?

A. No, sir, not at all. He was always -- like I said, during all those controlled buys, he always went in or met with whoever, came right back out and gave the drugs directly to Detective Allen. On all strip-searches, there was nothing found, no paraphernalia, no drugs. He was always clean as far as no -- nothing illegal was ever found on Mr. Sekula.

MR. UNDERWOOD: Your Honor, may I have one moment?

Q. Agent Wingo, the equipment that was used during the controlled purchases, the audio/video equipment, who did that belong to?

A. That was Dorchester County Sheriff's Office. They provided the audio and video equipment for all buys. Mr. Sekula was familiar with that equipment. He knew how to use it. You can't really bring a film crew in when you are doing these drug buys. And the CIs are already nervous going in to conduct these as it is. So to kind of calm them down, the more familiar they are with whatever they are using, usually the smoother things go. So I didn't introduce any new equipment. Mr. Sekula continued to use the same equipment that Detective Lundberg had used on him throughout the whole investigation.

Q. At any time did Mr. Sekula do anything for you to doubt his reliability or veracity?

A. Not while he was working for me, no, sir.

MR. UNDERWOOD: Thank you. Please answer any questions opposing counsel has.

THE WITNESS: Yes, sir.

MR. GRIFFITH: If it please the Court, can we have a brief break?

THE COURT: Sure. ladies and gentlemen, we're going to take a brief recess. During the break, please do not discuss the case and please leave your notepads in your seats. We appreciate your patience.

(Whereupon, the jury leaves open court at 2:44 p.m.)

THE COURT: We will be at ease for about ten minutes.

(Whereupon, a recess transpired.)

THE COURT: Everybody sufficiently refreshed? The State ready to proceed?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Defense ready to proceed?

MR. GRIFFITH: Yes, Your Honor.

MS. JOHNS: Yes, Your Honor.

THE COURT: Please bring in the jury.

(Whereupon, the jury returns to open court at 2:58 p.m.)

THE COURT: You may proceed.

MR. GRIFFITH: May it please the Court, Your Honor.

CROSS-EXAMINATION

BY MR. GRIFFITH:

Q. Agent Wingo.

A. Yes, sir, that's Agent Wingo, Mr. Griffith.

Q. Did you ever see with your own eyes Mr. Roberts hand any drugs to anybody?

A. With my own eyes, no, sir; through other investigative techniques.

Q. When you talk about the confidence level of 99.7 percent, you say the confidence level of the weight, isn't that what we are talking about?

A. That's what the lab report said.

Q. But the confidence level of the weight, that means that they took something, weighed it, and they are very confident that what they weighed weighs that much?

A. Sir, I'm a narcotics agent, not at a chemist.

Q. That's not the percentage of heroin in that sample, is it?

A. Again, sir, I'm a narcotics agent. I am not a chemist. I am not in the lab. And I couldn't tell you how they test that stuff. You would have to reference a chemist.

Q. What you are saying is, when you repeat that, and when you've read that, you've said the confidence level of the weight was 99.7 percent; isn't that correct?

A. You got a specific lab report you are referencing?
Q. You said that on every lab report.
A. That's what the lab reports say.
Q. Okay. So if I mix a gram of heroin with 27 grams of baby powder, it's going to come up, yep, that sure does weigh 28 grams. But that doesn't mean it's 28 grams of heroin, does it?
A. That means there's heroin in there, sir. But, again, I am not a chemist.
Q. Okay. Now, did you participate -- you were present when calls were made by Tommy; is that correct?
A. Yes, sir. When he was working for me, we directed who Tommy called.
Q. But at no time when those calls were made did anyone pick up the phone and say, hi, this is Mr. Hunter?
A. In drug trafficking organization, people use a lot of nicknames. Obviously, you are not going to say, it's Timothy Griffith, I've got heroin to sell you. You use a lot of nicknames to avoid detection and get caught.
Q. Let me rephrase it. At no time did anyone pick up the phone and say, hi, this is Mo, or, this is G, or, this is Q, or, this is any name?
A. Sir, when you call someone you are familiar with, do you see, hey, is this my mom, or do you automatically begin talking? Because the level or relationship that

Mr. Sekula had with these individuals was familiar enough that they could recognized each other's voice.

Q. But they did not identify -- what I'm saying is --

A. I understand what you are saying.

Q. They did not identify --

A. No, sir. Nobody ever picked up the phone and said, this is Q or Mr. Roberts.

Q. Okay. So you don't know who really answered that phone, do you?

A. No, sir, I guess I don't know who was on the other end that picked that phone up.

Q. Okay. The quantity of heroin that Mr. Hunter in his statement said he bought, 40 grams for $1,600, is that what you told us?

A. Let me refer to my notes for that, but -- I apologize, sir. Yes, sir. It is -- he purchased -- the most heroin he had ever purchased from Fresh was 40 grams for $1,600. Usually, if you've been dealing with an individual long enough --

MS. JOHNS: Objection, Your Honor.

THE COURT: Basis? Basis of the objection?

MS. JOHNS: Nonresponsive.

THE COURT: Overruled. Sir, you may continue your answer.

THE WITNESS: Usually when you are dealing with an

individual, through my training and experience, it seems that if you were dealing with an individual buying significant amount of weights of something --

MR. GRIFFITH: Objection. Nonresponsive.

THE COURT: Repeat the question. And, sir, you may answer yes or no.

MR. GRIFFITH: I asked --

THE COURT: Neither of you speak over me. Repeat the question, Mr. Griffith.

BY MR. GRIFFITH:

Q. I asked you if you paid $1,600 for 40 grams?

A. Yes, he did.

THE COURT: Continue.

Q. So did you ever actually observe when Mr. Tommy went into that -- any of those homes, did you observe Mr. Roberts actually with your own eyes at all?

A. Sir, I answered that question one time. I never personally observed Mr. Roberts. You can watch videos and stuff and see him on there, but I never observed him.

Q. Okay.

MR. GRIFFITH: I have no further questions. Please answer any questions Ms. Johns has.

THE COURT: Ms. Johns.

MS. JOHNS: Thank you, Your Honor. May it please the Court.

THE COURT: Sir, please don't compromise your representation by speaking out loud. If you need a break to speak with your lawyer, I will give that to you. You may proceed.

MS. JOHNS: Thank you, Your Honor.

Your Honor, beg the Court's indulgence for one moment.

THE COURT: Uh-huh.

CROSS-EXAMINATION

BY MS. JOHNS:

Q. It's been a long week, Investigator Wingo.

A. Yes, ma'am.

Q. How are you? Okay. When was the first time you met Tommy?

A. It was beginning of September, ma'am, when I first -- when I was introduced by Detective Lundberg to Mr. Sekula.

Q. And Detective Lundberg gave you his case file, did he not?

A. At that time, he didn't physically give it to me. He and I reviewed the case file together. He informed me of what investigation up to the point of me becoming involved he had conducted.

Q. And if you were going to get involved in an investigation of another law enforcement agency, you need to

know everything, don't you?

A. Up to a certain extent, ma'am. I need to know what involves me, what I'm signing up to do, as far as what targets we are buying from, how much money we may be spending, what kind of drug we are buying.

Q. Is it fair to say that it would be unsafe if you entered into an investigation and you didn't know everything you were dealing with?

A. In what regard, ma'am?

Q. In other words, you have to know who the officers are, correct?

A. Yes, ma'am.

Q. You have to know who their confidential informants are, correct?

A. Yes, ma'am.

Q. And you have to know who the targets are, right?

A. Yes, ma'am.

Q. And you were informed of all three of those thing, were you not?

A. Yes, ma'am, I was.

Q. And when you met with Tommy for the first time, do you remember the date?

A. I don't remember the specific date, no, ma'am, I met with Tommy. I didn't document every time I sat down and talked with Tommy or had contact with him with Investigator

Lundberg.

Q. You didn't document that?

A. Not every single time. I documented the debrief that Tommy and I conducted.

Q. I am not talking about the debrief. I'm talking about every time you met with Tommy about anything concerning this case.

A. It's obviously documented in the buys. It is --

Q. I understand it's the buys. That's not my question. My question is, did you document each and every time you met with Tommy? Yes or no?

A. No, ma'am.

Q. And you do not remember the date that you first were introduced to Tommy, do you?

A. No, ma'am, I don't.

Q. Now, when the buy that had occurred on September -- bear with me.

A. Yes, ma'am.

Q. The first buy that you mentioned when Tommy bought from Q, what was the date of that?

A. That was September 23rd.

Q. Okay. And had you interviewed Tommy before you set him up with the money to go buy from Mo or Q or G or Cici? Did you talk with him?

A. I sat down and talked with Tommy. I also had sat

down and talked to Detective Lundberg with Tommy.

Q. Right. Okay. The decision that was made in regard to the amount of drugs that were to be purchased was made by you and Detective Lundberg, correct?

A. Yes, ma'am, it was.

Q. And part of the reason for that is that you have to request funds in order to provide to the confidential informant to pay for the drugs, correct?

A. Yes, ma'am, I do.

Q. So the more funds that you request, the more drugs you can buy; isn't that right?

A. Not necessarily, no, ma'am. Sometimes it depends on how many drugs the bad guy has. That really determines what I buy and don't buy. It's not how much money I have in my little buy bag. It depends how much money or how much the amount of drugs that they have.

Q. Okay. And if you are informed that an amount of drugs can be purchased, you have to provide the funds for that, don't you?

A. Yes, ma'am. I provide the State-documented funds that were obtained from SLED.

Q. Now, the State-documented funds, when you say State-documented funds, you put in a request for the funds, correct? That's the first step?

A. I take and -- there's a process you have to go

through. It's very lengthy process that involves a lot of people signing, to include majors and captains and lieutenants.

Q. Okay. So one of the steps is that you have to request the funds, correct?

A. That is correct.

Q. Another one of the steps is that you make photocopies of the funds, do you not?

A. No, ma'am. SLED's policy is we do not make photocopies. We notate them on the back of the confidential vouchers, which we turn into our captain, or we turn into our approval, our supervisor, in my case, Lieutenant Dorsey, so he can prove it. He looks at the back of the voucher. He sees it and it goes on. SLED'S policy and -- Dorchester County makes photocopies. SLED, we are not permitted to make photocopies of the money. That is not our policy.

Q. In this case, there are photocopies made of the money of every buy, correct?

A. No, no, ma'am, not on my buys. On the six Dorchester did, there are.

Q. So you don't have marked money that you give to an informant? Is that what you are telling us today?

A. In regards to marked money, in what regard, ma'am?

Q. How do you know whether the money that is being used is the funds that you provided to the confidential

informant? You don't know how that's done?

A. Because I'm the one that writes the serial numbers on the back of the voucher directly from that money.

Q. So you write down the serial numbers?

A. Yes, ma'am. The process is, we establish a price. I take the money. And I have a voucher. I take on the back of that voucher and I write the domination. And I go down through those denominations, and I list out each serial number on the back of that voucher.

Q. That's how you keep track of the money, correct?

A. Yes, ma'am, it is.

Q. And it's also how you can actually go in and arrest somebody if they have one of those marked bills on there; it would be on their possession, correct?

A. I'm sorry?

Q. If Tommy goes in and pays the drug dealer the money, and you arrest the drug dealer, then if he has any of that money with the serial numbers on it, you know he got that money from Tommy, right?

A. Usually that's what happens, yes, ma'am.

Q. Okay. Now, I'm going to refer to a few of these forensic services laboratory reports. And I'm just going to refer to them one at a time.

State's Exhibit No. 106, the date on that is August the 11th of 2015; is that correct?

A. No, ma'am.
Q. What is the date of the incident then?
A. September 17th.
Q. Sorry. September 17th?
A. Yes, ma'am. This is not my buy.
Q. Okay. On that particular drug analysis form, there is a SLED lab number, correct?
A. Yes, ma'am, there is.
Q. And there's a case number listed; is that right?
A. There is a Dorchester County case number listed. There's not a SLED case number listed.
Q. Okay. And under that, there's a box that has the letter S in it; is that right?
A. Yeah, ma'am, there is.
Q. And besides that it says FNU/LNU, right?
A. Yes, ma'am, there is.
Q. What does FNU mean?
A. First name unknown.
Q. And the LNU, what does that mean?
A. Last name unknown.
MS. JOHNS: Okay. And, Your Honor, approach the witness?
THE COURT: You may.
BY MS. JOHNS:
Q. State's Exhibit 130, is that the same situation,

first name unknown, last name unknown?

A. Yes, ma'am. But, again, these are not my buys.

Q. I didn't ask you if they were your buys. Just asking what they say.

A. FNU/LNU right next to the subject box.

Q. What is the incident date on that?

A. September 17th.

Q. And showing you State's Exhibit No. 107, read the incident date on that, please.

A. September 17th.

Q. Same one? Sorry.

A. I'm sorry. I apologize. The incident date is 8/27.

Q. And, again, first name unknown, last name unknown, correct?

A. Yes, ma'am, that's what it says.

Q. All right. And then referring to State's Exhibit No. 142, what date, incident date is that?

A. 10/19/2015.

Q. And what does it state under subject?

A. Keith LNU.

Q. So Keith last name unknown?

A. Yeah, ma'am, that's what that means.

Q. Okay. Thank you.

A. Yes, ma'am.

Q. Do you have a written copy of the interview that you conducted with Tommy on October the 15th, 2015?

A. Up here, ma'am, with me right now?

Q. No. Did you produce one?

A. Yes, ma'am. I submitted an interview to the case file.

Q. Okay. And the interview would state that on October the 14th, that you interviewed Tommy or Thomas Sekula?

A. That's correct, yes, ma'am.

Q. And during this interview, you pretty much asked him certain questions about where he was getting his drugs from, correct?

A. I told Mr. Sekula to pretty much tell me his life story from the first time he started using drugs up until that day.

Q. Okay. Did you think that he told you this life story?

A. He was pretty detailed when he told me, yes, ma'am.

Q. And did you reduce those details to writing in your opinion?

A. Not in my opinion. I reviewed my notes that I had taken during that interview. And I transferred it from what I had taken from that interview and put it on that, in that -- from those notes and put it in the report. I didn't

put an opinion in there.

Q. Okay. Were you able to investigate a man by the name of Rory Maine?

A. I'm sorry, ma'am?

Q. Were you able to investigate a man by the name of Rory Maine?

A. Rory Maine? I am not familiar with that. I never investigated somebody named Rory Maine.

Q. Well, this is a name that was provided to you by Tommy, right?

A. Yes, ma'am. I believe that that was someone he had dealt with in previous years prior to meeting me.

Q. Okay. The fact that somebody he dealt with in previous years, does that mean that that person is no longer using drugs?

A. No, that's not what that means, no, ma'am. But that's not what -- that person -- I had no idea who that person was. Tommy provided it to me.

Q. Right. Okay. And then there's another man by the name of Troy McDowel, same situation, correct?

A. Yes, ma'am.

Q. And then a guy named Rico?

A. Yes, ma'am.

Q. All right. Hispanic man named Flaco, do you remember that conversation you had with Tommy?

A. Is that included in that interview too, ma'am?
Q. Uh-huh.
A. Yes, ma'am, I remember it.
Q. All right. And Matthew Simpson?
A. Yes, ma'am, I remember these names.
Q. And do you remember that Matthew Simpson was one of his dear friends?
A. I don't know if he used the term "dear friend" in this interview. He said that he knew Matthew Simpson.
Q. Did he say Matthew Simpson was a friend of his?
A. I would have to refer to that interview. If you don't mind, could I look at it?
Q. Yeah.
A. Yes, ma'am, he states that he is a friend.
Q. Did you investigate or focus on a Matthew Simpson?
A. No, ma'am, not at that time, I did not.
Q. White male by the name of Brandon Timblin (ph)?
A. No, ma'am.
Q. Did you obtain any phone numbers from him?
A. I may have in that interview, just to see how much Tommy knew, I guess, how familiar he was with the subject. But, no, ma'am, I did not. I did not personally say, Tommy, give me his number so we can work on him.
Q. All right. With regard to Simpson, he said that he

had purchased 50 times from him; do you remember that?

A. Yes, ma'am.

Q. And is that -- do you consider that a lot?

A. I mean, for a -- yes, ma'am.

Q. Okay. And with this case, what you have so far is that you have Tommy purchasing while you were on the case four times?

A. While I was off the case?

Q. While you were on the case, Tommy purchased from Mr. Justin Hunter four times?

A. Under my control and direction.

Q. Okay. So in comparison, when Tommy buys from Matthew Simpson 50 times and he buys from Justin Hunter four times, that's a little skewed, don't you think?

A. The amounts he was buying from Mr. Simpson and the amounts he was buying from Mr. Hunter probably, I assume varied. I don't think he was getting 14 grams from Mr. Simpson.

Q. That is a choice you made, though, wasn't it?

A. Yes, ma'am.

Q. Okay. And then there was a guy name Bengi and a guy named John. I guess the last names are not known or last name unknown?

A. I would assume, yes, ma'am.

Q. Then you have several other people, Justin Gordon

Hunter, a/k/a Mo listed. You have a guy name G listed, a guy named Q listed, last name unknown. You have a guy named Jacob. Did you focus on Jacob?

A. At the time we started -- we attempted to buy from Jacob. Jacob wasn't in this organization anymore when we started buying drugs.

Q. How do you know that?

A. Because if he was in this organization, I bought drugs from him.

Q. Well, what about some of these females you didn't focus on? Because the drug organization doesn't only focus on people who sell, but also focuses on people who buy, don't they?

A. Occasionally, yes, ma'am.

Q. Because, actually, Tommy is a buyer, right?

A. Tommy is an addict.

Q. Right. But he's a buyer in this organization, is he not?

A. He's a user in this organization. It's a supply and demand thing.

Q. Let me break it down.

A. Yes, Tommy buys drugs from Justin Hunter.

Q. Now, Tommy buys the drugs from anybody where he can find it, right?

A. Well, under my direction and control, Tommy was

buying drugs from Justin Hunter.

Q. And he bought drugs from other people that have been accused, correct?

A. Yes. He also bought drugs from Mr. Roberts. He also bought drugs from Ms. Quezada. He also bought drugs from Mr. Johnson. He also bought drugs from Ms. Keith LNU.

Q. And he bought those drugs from those people at your direction?

A. He was strip-searched. He had audio/video recording devices on him. He was under the control of an undercover officer. He was using the money that was given to him by the State. He would go purchase these drugs and immediately relinquish custody of them to that undercover officer and be strip-searched again.

Q. We have heard that from you already on direct. That's not what I'm asking you about. I'm asking you, first of all, is a buyer considered a part of a drug organization?

A. Yeah, ma'am, they are.

Q. So when you interview Tommy and you've receive information about his brother, do you investigate his brother at all?

A. No, ma'am, I don't. I am not -- I didn't receive information about Tommy's brother.

Q. Well, let me refresh your memory.

MS. JOHNS: May I approach?

THE COURT: You may.

THE WITNESS: Yes, ma'am. Where he sold to his brother or -- yes, ma'am. He does mention his brother in this.

BY MS. JOHNS:

Q. Okay. And who is -- is it Sylvia Silva, the girl that was found at the Summer Creek house?

A. Ma'am, I don't know who that was. She was someone else found at that location doing execution of the search warrant.

Q. Do you remember her name?

A. If I can recall correct, I think her name was Shirley. I didn't have any contact with her.

Q. You are right, her name was Shirley, Shirley Silva. You didn't have any contact with her?

A. No, I never met her at all. Another SLED agent interviewed her.

Q. Did she have to sign up to be a CI?

A. In what regard?

Q. In the fact that she gave a statement admitting her involvement in drugs?

A. You don't have to sign up to be a CI to give a statement. Mr. Valentine wasn't a CI.

Q. But he was definitely looking for something, wasn't he?

A. He met with us. He was in an agreement -- he and Detective Lundberg had talked about that. I just took a statement from him.

Q. And when you took the statement from Craig Valentine, you knew that even though -- you don't outwardly promise anybody anything, right --

A. No, ma'am, I don't promise anybody anything in regard to the CI when we meet them. I've been taught through training and experience not to promise anyone anything, because I ultimately don't make the decision of what happens to them.

Q. Okay. But you do make decisions about what the CI does, don't you?

A. Yes, ma'am, I do.

Q. And you didn't threaten Craig Valentine or Tommy Sekula, did you?

A. No, ma'am, I did not.

Q. Well, who is it that informed them how much time they could get; was that you?

A. No, ma'am, I did not. I am not a lawyer.

Q. Okay.

A. And I am not a prosecutor. I am not -- I am familiar with the drug laws, but I would not ever

specifically say, if you don't do this, you are getting a range of 4 to 7 years.

Q. Well, in this case, it's not 4 to 7 years. It's 25 years, isn't it?

A. Ma'am, I never informed Tommy Sekula any length of time that he was getting. I never informed Craig Valentine of any length of time that he was getting. I was even unaware of Craig's charges until after I met him and Detective Lundberg told me.

Q. When did you meet him? Let's get to that.

A. I believe it was some time in October of 2015.

Q. '15, right? Okay.

A. Yes, ma'am.

Q. And when you interviewed him, was he locked up or was he free?

A. He was free, ma'am.

Q. Did you follow him, because he was clearly a heroin addict? Did you investigate him?

A. I had no reason to investigate Mr. Valentine.

Q. You didn't? Even though he told you that he was a user?

A. Yes, ma'am.

Q. Okay. There are 14 people, 14 names that Tommy gave you about people he was selling to. Did you investigate any of the people that were buyers in his

organization?

A. I was not working down in this investigation. I was working up to cut the head off the snake. It would not make sense for me to take Tommy and try to go and buy heroin from people he was selling to, when I could take Tommy and sell to people he was selling from.

Q. Do you think Tommy is the only person these 15 people were buying heroin from?

A. Do I think that Tommy was the only person these people were buying heroin from? I don't know no, ma'am.

Q. Well, you know a little bit about the drug trade, don't you?

A. But I don't know the people specifically. I don't know what they were doing.

Q. Right. Okay. That's fair. Now, who lived at Arno Drive?

A. Ma'am, I don't know who lived at Arno Drive.

Q. Okay. During your scope of your investigation, did you ever obtain a lease regarding the rent on that residence?

A. No, ma'am, because during the scope of my investigation, that -- that property was vacated and it wasn't used anymore. We didn't make -- I think we made one buy there. When I came in to the investigation, then that property became obsolete. We never dealt with it, had to go

back there anymore. We started dealing with Margaret Drive, Summer Creek and Bear Island Road, and then various meeting locations throughout the counties.

Q. There was some testimony from one of your key witnesses, Craig Valentine, that he purchased drugs directly from a man named Justin Hunter who he didn't even know.

A. I can tell you that Justin Hunter has been observed going to that residence and leaving that residence and then meeting us for a drug deal.

Q. Then the fact that you didn't get the proper information about who was living there is not helpful to this investigation, is it?

A. That property right there became kind of obsolete. There were more properties coming up. They were moving around. It didn't make sense at that time.

Q. Didn't make sense to you?

A. No, ma'am, because I was focusing on where he was going.

Q. Okay. So when you do your investigation, you are just focused on what you are focused on. And with regards to who actually had dominion and control over Arno Drive does not matter to you? Is that what you are telling us?

A. Who actually had dominion and control over Arno Drive? I mean, it matters to me, ma'am. But it also has no relevancy on what goes on there. I mean, you know -- I

mean, it does, but I also, through training and experience, I know that drug traffickers usually don't put their names on a lease, the same way they don't register their phone numbers in their name, because this helps to avoid detection. If I pull the lease and saw Justin Hunter's name on there, I think he would be smart enough not to do that.

Q. Do you think he's smart enough to register a BMW in his own name?

A. Shows that he did, ma'am.

Q. So you didn't even try, did you, to get a lease?

A. No, I did not.

Q. You didn't try to get a lease for Summer Creek either, did you?

A. No, ma'am, I did not.

Q. And you didn't try to get a lease for these fine apartments buildings, for example, 1001 Bear Island Road? You didn't find the lease for that?

A. We inquired about Bear Island Road. Detective Lundberg inquired about that on his own.

Q. I am not asking you what he was told. That's hearsay.

A. No, ma'am. They never gave us a piece of paper about who lived there.

Q. What about Patriot Boulevard where you claim Justin Hunter's wife lived, did you get a lease there?

A. No, ma'am. I believe that was his girlfriend. And no, ma'am, I did not. But I can tell you that I've seen his car parked out there many, many times.

Q. And you've seen many cars parked out there, haven't you?

A. It's a parking lot.

Q. Exactly. It's a parking lot. So there's a BMW parked out there, right?

A. With a tag on it that comes back directly to Justin Hunter.

Q. Right. So he's not trying to hide the fact that he owns a car, is he?

A. No, ma'am.

Q. Okay. Now, when your investigation focused on Justin Hunter, you didn't have an identity of him until March the 31st of 2016, correct? That's when Will Brown picked him out of a photo lineup?

A. Ma'am, I ran his tag and was able to see, obviously, he had those cars registered in his name. I then ran his DMV from that customer number and was able to print a picture out. And I met Mr. Hunter personally in February of 2016. February 8th, I met him. I didn't need Mr. Will to pick him out to tell me who he was.

Q. Then why did you do it?

A. To corroborate that Mr. Brown knew him.

Q. You went ahead and did a photo lineup that you didn't really need to know because you already knew Mr. Hunter, right?

A. Me and Mr. Brown weren't together every time that Mr. Brown and Mr. Hunter hung out. Mr. Brown --

Q. Agent Wingo, will you listen to my question.

A. Yes, ma'am.

Q. I don't mean to interrupt you, but I'm trying to get a point across. You made a photo lineup with Justin Hunter's picture in it?

A. Yes, ma'am.

Q. And you showed it to Will Brown, who already knew Justin Hunter, right?

A. Yes, ma'am.

Q. Okay. And the reason that he knew him is that he was acquainted with him; isn't that right?

A. Yes, ma'am.

Q. And you did that, but you didn't go get leases for any of these residences? That's all I'm asking.

A. I showed Will Brown a photo lineup, that's correct.

Q. Now, do you know the relationship between Justin Hunter and Lassain Johnson as far as whether or not they are related?

A. No, ma'am.

Q. Did you ask anybody?

A. No, ma'am.
Q. What about the relationship between Justin Hunter and Rosemarie Quezada, do you know anything about their relationship?
A. No, ma'am.
Q. All right. Do you know whether or not Justin Hunter had more than one girlfriend?
A. I'm not investigating his personal life, ma'am.
Q. You did investigate a girlfriend. What's her name?
A. I didn't investigate a girlfriend. I met Ms. Serrano when I executed that search warrants.
Q. And you went into her house, correct?
A. With a search warrant.
Q. Right. And, therefore, you investigated her, correct?
A. Sure.
Q. All right. And you said that she is his girlfriend; is that right?
A. He said that she's his girlfriend.
Q. Okay. So he told you that she was his girlfriend?
A. That's correct.
Q. All right. Now, did Rosemarie Quezada say that she was Lassain Johnson's girlfriend?
A. Rosemarie Quezada wouldn't talk to anybody.
Q. So you didn't find it important to find out whether

or not any of these people were related by blood or marriage?

A. No, ma'am, I did not.

Q. Okay. Were you involved in the decision about whether or not to pursue Will Brown's charges?

A. Those decisions were left to Mr. Underwood. He's the prosecutor.

Q. Okay.

A. I provided him with the facts and he makes the decision.

Q. All right. So did Mr. Underwood make the decision as to whether or not you should interview Mr. Will Brown?

A. No, ma'am, Mr. Underwood didn't make that decision. Mr. Brown was cooperating and so I made that decision to interview him.

Q. Okay. That's what I was asking.

A. I made that decision to interview Mr. Brown, yes, ma'am.

Q. Okay. All right. That's good. Did you -- you stated that at the day of February 8th, when you finally met Justin Hunter, that you put him into Lundberg's truck; is that correct?

A. Front seat of Lundberg's truck, yes, ma'am.

Q. And did you put him in handcuffs?

A. Yes, ma'am, because Mr. Hunter --

Q. Squared up, is what you said?
A. That's right.
Q. Okay. That's the reason you put him in handcuffs, is that your testimony?
A. Yeah, ma'am.
Q. And when you put him in Mr. Lundberg's truck, you put him in the front seat, right?
A. Yes, ma'am. And I climbed in the back behind him.
Q. All right. At the time you took his personal items -- let me back up. Did you search him after you handcuffed him?
A. For officer's safety, he was given a pat-down. He had his wallet and phones on him. He then was placed in the handcuffs and put in the front seat of Detective Lundberg's truck.
Q. So you removed his personal effects or personal items from his pockets, right?
A. He may have had them in his hands. He was getting in his car.
Q. So you removed these personal items from his pockets or out of his hands getting out of his car, right?
A. He was being placed in the investigative detention for officer safety reasons. These items were --
Q. I understand that.

A. Yes, ma'am. Yes, ma'am. Sure. I wouldn't say -- yes, ma'am, I did.

Q. Okay. Did you search the BMW?

A. No, ma'am, I was interviewing Mr. Hunter.

Q. Somebody else searched the BMW?

A. That responsibility was given to Special Agent Wells and his team.

Q. And you said that they arrived in an Audi?

A. Yes, ma'am. That Audi -- I think the model is an A4, I think. I'm not 100 percent sure. I would have to refer to my notes.

Q. I think there's something in evidence that lists him as an owner of an Audi 84; is that right?

A. Yes, ma'am, it's on that DMV.

Q. Right, right here. Do you need to look at this?

A. No, ma'am, I've seen this.

Q. So they arrived in the Audi, he and his girlfriend and a child, right?

A. Yes, ma'am.

Q. Did you instruct somebody to search the Audi?

A. Ma'am, my role in this was, I approached Mr. Hunter, and then I left that area where the Audi -- the BMW and all that were, and I drove to the top of the parking lot. I can tell you that that Audi and that BMW were both seized and are sitting in an impound lot right now.

Q. Very good. Now, did you instruct somebody to search the Audi?

A. I was not on that scene.

Q. Okay. So, no, you did not?

A. That's correct.

Q. And Jason Wells would have been the one that was the team leader for that particular residence, right?

A. That was his assigned position, yes, ma'am.

Q. Did he provide you with any paperwork regarding the items that were collected and where they were found?

A. Yes, ma'am. He wrote a report and submitted it to the case file.

Q. Do you have it with you? Agent Wingo, will you look through that -- let me ask the question first. And if you need to refresh your memory, please do look through that.

A. Yes, ma'am. Thank you.

Q. Will you look in there and see if -- look at the listed items on there and see if it designates which documents were found in the BMW or the Audi?

A. Ma'am, it just says miscellaneous papers were collected. Again, I was interviewing Mr. Hunter.

Q. Okay. Regarding the miscellaneous papers found, these -- this is the paperwork that was found in the Victoria's Secret bag. I'm talking about anything out of

the car.

A. During the investigation, Hunter provided --

Q. I am not asking you to read it. I'm just asking --

A. Some miscellaneous papers were collected from the vehicle.

Q. Does it say which one?

A. Search silver BMW, so miscellaneous papers were collected from the vehicle.

Q. Did it say anything about the Audi?

A. No, ma'am, does not.

Q. There's a lot of testimony about text messages.

A. Yes, ma'am.

Q. These were text messages that were made by Tommy; is that right?

A. To?

Q. To anyone during the controlled buys.

A. Yes, ma'am.

Q. Okay. Did you instruct him what to say in the text messages?

A. I didn't specifically instruct Tommy what to say, because I am not familiar with the language with buying heroin, but I monitored what Tommy said.

Q. And explain what you mean by monitored what he said in his text messages.

A. I write it down.

Q. You wrote it down?
A. It should be on -- I know I would document it on surveillance report, either what Tommy said, what Tommy text, or sometimes I put what he said.
Q. Did you ever document what he texted after he left residences?
A. Like when he was with me?
Q. Let me build this up.
A. Yes, ma'am.
Q. Tommy goes in to make a buy at the house or trailer.
A. While he's working for me?
Q. While he's working to you.
A. Yeah, ma'am.
Q. After he gets the drugs and goes back to the truck, do you know whether or not he texted anybody?
A. No, ma'am, I wasn't there.
Q. Okay. Because you can't hear a text over the wire, can you?
A. No, ma'am, I cannot.
Q. And you didn't review his telephone, did you?
A. He was under control of Detective Allen. I did not personally review his phone.
Q. All right. Did you have the ability to take photographs with your cell phone like you did with this

video of a gray BMW at the McDonald's? You had the ability to take pictures and video?

A. Yes, ma'am.

Q. Okay. And the only video that you took was at the McDonald's of the gray BMW leaving McDonald's?

A. Yes, ma'am, it was directly in front of me.

Q. And the most amount of heroin that was purchased during this organization was 21 grams; is that right, purchased from Keith LNU, last name unknown.

A. Was it 21 grams? I would have to refer to that lab report, ma'am.

Q. And the purchase from Keith was controlled or uncontrolled buy?

A. Ma'am, it was a controlled buy.

Q. And that was with State funds?

A. Yes, ma'am, it was.

Q. I'm probably wrong about the 21 grams, but I will get to that. Do you remember how much you gave Tommy to purchase heroin from Keith?

A. If you can show me my report, ma'am, I probably could tell you.

Q. That's okay. So it's your theory that Justin Hunter was the boss of this organization, or leader; is that your theory?

A. Yes, ma'am.

Q. Okay. And he didn't wear a shirt or anything that indicated that he was in charge, did he?

A. No, ma'am, he didn't.

Q. And in any of the videos that were recorded, is there a clear picture of who Justin Hunter is?

A. No, ma'am, there's not a perfect video of who Justin Hunter is.

Q. Clearly, you've had an opportunity to review all of these way before this week, correct?

A. Yes, ma'am.

Q. You do have the ability to make still photographs from video, don't you?

A. Yes, ma'am, I do.

Q. Did you even have one frame that you could freeze that would indicate who Justin Hunter is?

A. Not from those videos, no, ma'am.

Q. And when you put Justin Hunter into a truck and drove him into another area of the apartment complex, did you tell this jury that he started to cry?

A. I told this jury he became emotional, ma'am.

Q. And you said you got a statement from him?

A. Ma'am, I got a confession from him.

Q. I'm sorry. Let me rephrase that. You got a confession from him?

A. Yes, ma'am.

Q. Did you get a confession from Will Brown?
A. Will Brown told me he sold heroin too.
Q. Okay. Did you get a confession from -- well, anybody else you get a confession from?
A. Mr. Roberts refused to talk to law enforcement. Mr. Johnson refused to talk to law enforcement. Ms. Quezada refused to talk to law enforcement.
Q. Okay. So no other confessions, just Will Brown and --
A. Justin Hunter.
Q. -- and Justin Hunter, right?
A. Yes, ma'am.
Q. All right. Now, you say you read him his rights, correct?
A. Yes, ma'am, I did.
Q. And after you read him his rights, you said -- did you say he waived his rights?
A. Ma'am, he did. He agreed to talk to us. He noted that he understood those rights and that he agreed to talk to us.
Q. All right. And did you give him an opportunity to review his confession?
A. No, ma'am, I did not give him an opportunity to review his confession.
Q. Did you record what he might have said to you at

any time in the truck?

A. Ma'am, SLED policy, through my training and experience, we do not record interviews. Sometimes those interviews can -- that person being interviewed could become a confidential informant.

Q. Right.

A. And that may give their identity away.

Q. Okay. Now, I'm getting ready to wrap up, but I really want to know more about your relationship with your confidential informant Tommy.

A. In what regard, ma'am?

Q. I'm getting ready to ask. You said you weren't going down the chain of this anarchy of heroin. You were going to go up the chain; is that right?

A. Yes, ma'am, that's correct.

Q. And you were worried about Tommy Sekula's safety, correct?

A. Yes, ma'am. He was under my control at the time.

Q. Okay. And did you ever sit and talk with him at his home?

A. No, no, ma'am. I never picked Tommy up. Detective Lundberg would always pick Tommy up.

Q. When were you made aware that Tommy was a heroin addict?

A. Tommy admitted to me in his debrief that he was an

addict.

Q. All right. Did you offer Tommy some help for his addiction?

A. No, ma'am, I didn't.

Q. And he worked for you for about six months?

A. Sure, yes, ma'am.

Q. September, October, November, December, January, and February?

A. Yes, ma'am.

Q. Okay. During the six-month period, did you ever see Tommy throw up?

A. No, ma'am.

Q. Did you ever see him have chills?

A. Actually, yes, ma'am, I did. When I was debriefing Tommy, he was severely sick. I mean, he was sweating. He was shaking. He was hurting really bad.

Q. Okay. That's when you were debriefing him in October?

A. Yes, ma'am.

Q. Okay. And that was the only time you saw him sick, correct?

A. That I can recall, yes, ma'am.

Q. Okay. And how many total buys did Tommy make for you?

A. There were a number of them.

Q. Do you know how many total buys there were?
A. 1, 2, 3, 4, 5, 6, 7, 8, 11 --
Q. 11 buys over --
A. Yes.
Q. -- over a period of six months?
A. Yes, ma'am.
Q. That doesn't include what Detective Lundberg may have done, right?
A. Before I got involved, yes, ma'am.
Q. You think Tommy Sekula was a reliable confidential informant?
A. Yes, ma'am, I do.
Q. And do you think that he was using heroin when he wasn't under your control?
A. Ma'am, I was not there. I can't say what Tommy did or not when he wasn't under my control. I can only tell you what Tommy did when he was under my control.
Q. When he was under your control, you knew what he was doing because you saw him personally, right?
A. Yes, ma'am, he was doing a buy for me. He had recording equipment on. He was with the police.
Q. Right. And prior to him meeting you at what he calls a meet location, you don't know what he was doing, do you?
A. Because I wasn't with him.

Q. Right. And then after the buy was good, according to the undercover Agent Allen, the buys is good, or whatever the word is, he left?

A. No, ma'am. He was taken back. We took -- he gave the drugs to Detective Allen. He was taken back and stripped searched to make sure there were no other drugs on him. And then we took our equipment off of him, made sure he didn't have any of our money that was left over. And he provided me a statement. And Detective Lundberg took him home.

Q. You are right. I stand corrected. I forgot about that part. But after the strip search, Lundberg took him home.

A. That's correct.

Q. And did Lundberg pick him up?

A. Yes, ma'am. Before the buys, Detective Lundberg would pick him up.

Q. Oh. And after he got dropped off, after Lundberg dropped him off, you don't know what he did, do you?

A. No, ma'am.

Q. There's an exhibit in here which is a photograph of some money that was rolled up, I believe he got from Patriot Boulevard. Do you remember that photograph?

A. I think they talked about it with Special Agent Wells's testimony.

Q. Yeah, I think it was put on the screen. There was like $3,000 you said?

A. Yes, ma'am, I remember that.

Q. Okay. There was not one single marked bill in that $3,000 that came from the government, was there?

A. I don't think so, no, ma'am.

MS. JOHNS: Thank you. I don't have anything further.

THE COURT: Any redirect?

MR. UNDERWOOD: Briefly, Your Honor.

THE COURT: You may proceed.

REDIRECT EXAMINATION

BY MR. UNDERWOOD:

Q. Agent Wingo, in the recorded phone calls with the targets of controlled purchases, did the informant, Mr. Sekula, ever use the names of the people he was talking to?

A. He would use their nicknames.

Q. Did the people on the other end deny those nicknames when they were asked who it was?

A. No, sir.

Q. Briefly, please explain how an investigation into an organization functions in regards to how targets of that investigation are decided upon?

A. When you conduct a large-scale investigation as

such, you are essentially trying to work to the top of the chain. Cut the head off the snake is the term I believe Detective Lundberg used. Basically, you are trying to get to the point where you can cut off or pinch off the supplies that's coming in. So you are constantly trying to work your way towards the top guy. He's going to have the most drugs. He's going to be supplying. He's kind of the boss. He's the CEO. And you have your managers. And you come down and you have like your shift supervisors. And then you just have your employees. In this case, your employees would kind of be your users. So you would take someone usually at the -- I've done it where I started with an employee and worked up. I started where you can start with the kind of middleman, people who were buying and then reselling.

And then you start seeing who they have a relationship, who they can purchase from. And then you start picking targets and buying from them. Certain occasions you approach that target and you say -- you ask for their cooperation to see if you can climb to the next level. Sometimes they cooperate and you go to the next level. Sometimes your investigation ends right there.

Q. How does SLED measure success in those types of investigations?

A. The ultimate way that SLED measures success is at the end of the day, we are getting drugs off the street and

protecting the community. We are taking someone who is fueling, in this case an addiction, and getting them off the street. We -- you know, you have taken a piece of that organization and removed them. I don't think SLED measures success. I personally don't measure success in the amount of drugs, oh, I got -- you know, the amount of drugs you take off, just that I've taken someone that is pushing those drugs out of the community.

Q. In regards to the confidential informant, Tommy Sekula, are you familiar with what a person -- how a person behaves and appears while they are high on heroin?

A. Somewhat, yes, sir.

Q. Did Tommy Sekula ever appear to be high during any of your interactions with him?

A. No, sir.

MS. JOHNS: Objection, Your Honor.

MR. GRIFFITH: Objection, Your Honor.

THE COURT: Basis. Speculation, is it? What's the basis?

MR. GRIFFITH: Speculative, Your Honor.

THE COURT: And your basis, Ms. Johns?

MS. JOHNS: I think I need to hear the question again.

THE COURT: Can you repeat the question?

Q. Agent Wingo, did Thomas Sekula ever appear to be

high on heroin during any of your interactions of him?

THE COURT: What's the basis of the objection?

MS. JOHNS: I don't think he's qualified to answer that.

MR. GRIFFITH: Calls for speculation on his part, Your Honor.

THE COURT: Lack of foundation, speculation. Sustained. Rephrase. Put it within his ambit of his knowledge and rational perception.

BY MR. UNDERWOOD:

Q. Did you observe anything that made you think that Tommy Sekula was high during your interactions with him?

A. No, sir.

Q. During your interactions with Mr. Sekula, did he appear to understand what was happening?

A. Yes, sir.

Q. Was he coherent?

A. Yes, sir.

Q. What was his physical condition, as best you could tell?

A. He was coherent. He was alert. He was up walking around. He was engaging in conversation.

Q. Since the end of your part of the investigation, have you had any subsequent discussions with Tommy Sekula?

A. I'm sorry. Can you repeat that question,

Mr. Underwood?

Q. Since you stopped using Mr. Sekula as a confidential informant, have you had subsequent conversations with him?

A. Yes, sir.

Q. And during any of those conversations, have you discussed rehabilitation options with him?

A. Yes, sir.

Q. Are there any particular types of options that are being pursued?

A. I think that Tommy is trying to get Tommy help, yes, sir. He's talked about several, trying to check into several rehab facilities.

Q. In regards to the photographic lineups that were shown to William Brown, what is the purpose of showing someone a photo lineup of a person who is a suspect?

A. To corroborate that they do know them.

Q. Did William Brown ever identify to you that he knew the full name of Justin Hunter?

A. No, sir, he did not.

Q. Why would you show him at a photo lineup?

A. To show that we were talking about the same person.

Q. Did you ever -- during the course of this investigation, were there any documents found to connect Justin Hunter to the location on Arno?

A. I believe he had some documents in his car that were to that address.

MR. UNDERWOOD: Permission to publish State's Exhibit 138.

THE COURT: I think that's been admitted, hasn't it?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Yes, sir. Proceed.

BY MR. UNDERWOOD:

Q. Agent, what's the significance of this document?

A. It has the address of Arno -- it has the address of Arno Drive on it.

Q. Where was this document recovered from?

A. In Mr. Hunter's car.

Q. Agent Wingo, were you in the courtroom when the recording of the call that was sent to the controlled purchases on October 28th was played?

A. In this courtroom, yes, sir.

Q. Did you recognize the voices of the individuals in that?

A. Yes, sir, I did.

Q. Whose voices were they?

A. Mr. Hunter's and Mr. Sekula and I think Mr. Lundberg prefaced it.

Q. What are you basing your identification of Mo's

voice on?

A. The interactions that I've had with him. I've also listened to his jail phone calls.

MR. UNDERWOOD: Nothing further, Your Honor.

THE COURT: Sir, you may step down.

MR. GRIFFITH: Your Honor, I have a brief follow-up.

THE COURT: I'm only allowing this one time. You may proceed. Limited to redirect only.

RECROSS-EXAMINATION

BY MR. GRIFFITH:

Q. You just mentioned you were asked if you had subsequent contact and conversations with Tommy after you used him as a confidential informant and you answered, yes, you have. How many of those conferences did you have with Tommy?

A. When Mr. Underwood prepared him for this trial.

Q. How many opportunities did you have to speak with him prior to this trial and after he was used as a CI?

A. I mean, I had all the opportunities, but I did not contact Mr. Sekula again until this trial.

Q. How many times did you talk to him before the trial?

A. After he worked for me? Zero.

Q. By after he worked for you, I mean, do you mean

after you were done with him, or after the last time he bought for you, how many times did you talk to him?

A. After the last time he bought from me, I didn't talk to Tommy until I found out that we were going to trial.

Q. And then how many times did you talk to him after you found out you were going to trial?

A. When Mr. Underwood prepped him, and then when -- Thommy doesn't have a ride, doesn't have a driver's license, so somebody got to pick him up and take him back and forth each morning.

Q. So you picked him up?

A. Not always. I picked him up one morning.

Q. And you would talk during that time?

A. Sure.

Q. That's correct. And you testified that Tommy did not appear sick at all while you were using him as a CI. He appeared sick, you said, the first time you interviewed him. But after that, he did not appear sick; is that correct?

A. That's correct.

MR. GRIFFITH: That's all I have.

THE COURT: Any redirect as a result?

MR. UNDERWOOD: No, Your Honor.

THE COURT: Sir, you may step down. The State may proceed.

MR. UNDERWOOD: The State rests, Your Honor.

THE COURT: Madam Forelady, ladies and gentlemen, the State has rested their case. I have matters of law to take up with counsel that will take the remainder of the afternoon. So I'm going to excuse you for the remainder of the afternoon. I anticipate we will have closing argument and instruction in the morning. We may have a brief witness, but I am not certain. But if not, again, we will have closing argument and instruction.

I probably will arrange for your lunch to be ordered, because by the time we finish closing argument and instruction, if not lunchtime, it will be close to lunchtime. So be prepared for your planning purposes.

I hope you have a great evening. Leave your notepads in your seats and attach your tag to it. We will secure those during the recess. Do not talk about the case with anyone. Do not do any independent research on the Internet. And do not read, watch or listen to media accounts about this case. And don't have any contact with anyone in or about the courthouse when you return in the morning at 9:30. Have a good evening.

(Whereupon, the jury leaves open court at 4:09 p.m.)

THE COURT: All right. The State has rested their case. Are there any motions, Mr. Griffith?

MR. GRIFFITH: None, Your Honor.

THE COURT: Are there any motions, Ms. Johns?

MS. JOHNS: Yes, Your Honor. Your Honor, at this time, I would ask for a directed verdict on count six of the indictment, distribution of methamphetamine. I think that the State has failed to show the elements of this particular count in regards to Justin Hunter. I believe the testimony was about Rosemarie Quezada providing that dope to Tommy Sekula or Tommy Sekula and the -- Mr. Hunter was nowhere near that transaction. He could not have been in constructive or actual possession of those drugs. And I would move to have a directed verdict issued on that count.

MR. UNDERWOOD: May it please the Court, Your Honor. There was testimony --

THE COURT: I'm sorry. I should have said you may respond instead of just looking at you like you have telepathy or something. I apologize. You may proceed.

MR. UNDERWOOD: Thank you, Your Honor. There was testimony provided in order to set up that transaction, a contact was made with Justin Hunter's phone. And that is how the deal was set up. Your Honor, the offense of distribution of methamphetamine also includes, as part of the elements, that one could commit that offense by aiding, abetting, attempting or conspiring to distribute, dispense or deliver methamphetamine. Evidence has been presented

that the jury could consider that Justin Hunter, through the use of that phone and arranging the deal, did aid, abet, attempt or conspire to deliver that methamphetamine.

So there is sufficient evidence for this case to go to the jury. There's evidence that a transaction did take place. There was a recording of an interaction with Ms. Quezada. The drug evidence was tested and found to be methamphetamine. Therefore, there is sufficient evidence for this count to go before the jury. Again, the standard is the existence of evidence, not the weight of the evidence. And in the light most favorable to the State --

THE COURT: The distribution statute does not have aid or abet. Only the trafficking statute has that language. The distribution statute says that you have to prove beyond a reasonable doubt that they distributed the drug. And distribute means to deliver or to actually, constructively or attempt to transfer a drug other than by administering or dispensing.

Deliver means to actually, constructively or attempt to transfer a drug. A transfer can involve an exchange for money, a barter or a gift. There does not have to be anything given in exchange for the drugs for the transfer to constitute distribution.

However, the difficulty that you have, Ms. Johns, is one of "hand of one is hand of all" theory when you are

dealing with both are aiding and abetting one another in a criminal enterprise. I don't think you can separate a phone call from actual consummation of the deal, where there's been testimony that he was the one in charge of everything.

MS. JOHNS: There has been testimony about, Your Honor, this is a specific conduct count. They have a conspiracy count as count 1 --

THE COURT: How do I separate the phone call from the drug transaction? It's all in one transaction.

MS. JOHNS: Because Mr. Hunter didn't have -- he didn't have dominion and control over the drugs.

THE COURT: I don't think he has to. He does have dominion and control if he's in charge.

MS. JOHNS: Well, if you are going to accept the State's theory that he's in charge, but if a phone call is placed and somebody else meets to do the distribution, that doesn't make the person any more guilty because they accommodated somebody.

THE COURT: That's not accommodation.

MS. JOHNS: Okay.

THE COURT: I think we know what an accommodation sale is. And this doesn't fall into that heading. Most people that accommodate sales use it themselves.

MS. JOHNS: I didn't mean to intend to use the accomodation as a legal term. I withdraw that word. But I

think that because this requires a specific conduct, Your Honor, regardless of whether or not Mr. Hunter was contacted, they have not proven the identity of Mr. Hunter on that phone call. And for that reason, on this --

THE COURT: Mr. Sekula said that was your client's voice on the telephone and that's who he was talking to.

MS. JOHNS: Very well, Your Honor. Thank you.

And also --

MR. GRIFFITH: Your Honor --

THE COURT: I'm listening.

MS. JOHNS: Also, Your Honor, as to the rest of the counts, I would be asking for a directed verdict on general grounds.

THE COURT: I need you to be specific. I can't rule on general grounds.

MS. JOHNS: I would ask that the count one through five, I'm asking for a directed verdict based on the fact that the State has failed to prove each and every element of the crimes elicited in those counts one through five.

THE COURT: Is that your entire argument?

MS. JOHNS: Yes, Your Honor.

THE COURT: Okay. Would the State like to respond.

MR. UNDERWOOD: Very briefly, Your Honor. In the light most favorable to the State, we believe that

sufficient evidence has been put forward for each count, Your Honor. For each count, there has been testimony identifying the jurisdiction and venue of the transaction, that transactions did, in fact, take place. Drug evidence has been put into evidence and admitted. There's been testimony that that drug evidence was, in fact, controlled substances in question for each count.

As to the conspiracy, there has been ample testimony there was, in fact, an organization known as The Boys, that these individuals were working together with the common goal of selling drugs, and that Justin Hunter was the head of that organization. That very clearly falls into the lines of a conspiracy. And in the light most favorable to the State, there is sufficient evidence for these counts to go to the jury.

THE COURT: Anything further, Ms. Johns?

MS. JOHNS: No, Your Honor.

THE COURT: Yes, sir, Mr. Griffith.

MR. GRIFFITH: Your Honor, I would join Ms. Johns in asking for directed verdict as to all of the counts in that the State has failed to prove the elements of each count. But I would specifically ask for directed verdict as to count 15, possession of a firearm during the commission of or attempt to commit a violent crime. The State has never shown during any of these sales that Mr. Roberts

possessed a firearm during any one of these, the commission of any one of those crimes. So I would ask the Court for a directed verdict on that count, Your Honor.

THE COURT: Would the State like to respond?

MR. UNDERWOOD: Yes, Your Honor. As Your Honor recalls, during the execution of the search warrant at 116 Summer Creek, there was a firearm, a pistol that was located in proximity to a trafficking amount of heroin. That was within the constructive possession of Mr. Roberts. It was his residence. He was present at that residence. And it was a small residence. It was within a range where he could very easily get to it. I believe that there is sufficient information that a jury could infer that that was his weapon, that he had constructive possession of it, and that it was near those drugs and used to protect those drugs and further the drug business, Your Honor. Therefore, I believe the case should go to the jury.

THE COURT: Anything further, Mr. Griffith?

MR. GRIFFITH: Your Honor, if it please the Court, the State, their witness, testified that Mr. Roberts was not near that gun that was brought in to evidence, that Mr. Brown was sitting on that couch. And so Mr. Roberts did not -- and they failed to show that any of those guns were ever actually used during the commission of the crime by Mr. Roberts. And so I would just ask the Court for the

directed verdict, Your Honor.

THE COURT: Anything further? You get the last say.

MR. UNDERWOOD: Thank you, Your Honor. I just would point out that the statute for this offense does not require that the firearm be used, simply that it be possessed and that there be a nexus to that crime. The weapon does not have to be fired at someone, for example. The charge requires that the person have or display -- have possession of or display a firearm during the commission of that crime.

And possessing the amount of heroin concerned in count 14, which relates to count 15, that trafficking is a violent crime. Possessing that firearm while possessing those drugs, that heroin, that does consist of possession of a firearm during the commission of a violent crime. Sufficient evidence has been presented for the jury to consider that.

THE COURT: Considering the evidence in the light most favorable to the State, the Court is concerned with the existence or nonexistence of evidence and not its weight. I will deal in the order that the motions were argued.

As regards to Ms. Johns's, I don't think you can distinguish between a phone call that -- that's no different than when you have people colluding together to kill someone

and one person lures the person to the location and then leaves and is six miles away when they make the phone call to lure the person into a trap. If that were the case, we could never charge three people with murder. Doesn't stand up to logic, because people collude and aid and abet one another in a commission of a crime. That is why we have that type of liability for crimes. Especially when you have a continuum of a crime, where one person who, as the testimony has been presented, is in charge of an enterprise. And you come to a hub where things are established and set up. And then somebody else consummates the deal. I don't think you can separate those acts. And Mr. Hunter becomes just as culpable as Mr. Quezada in that continuum of events.

Of course, you can argue that to the jury. Becomes a factual issue and one of weight, but certainly not one that would be dispositive in terms of a directed verdict motion.

Again, the Court is concerned with the existence or nonexistence of evidence and not its weight. The Court is not required to find that the evidence infers guilt to the execution of any other reasonable hypothesis. There's certainly sufficient evidence in the record, both direct and substantial circumstantial evidence, to reasonably prove the guilt of the defendants.

Now, I'm a little concerned about the possession of

a weapon during the commission of a violent crime, but I don't want to fall into the category of being the finder of fact. Because, again, that's not my prerogative on directed verdict. It is for the State to prove that there is, in fact, a nexus between the gun and the actual criminal activity. And the law does require that he have possession of the weapon or that he reasonably or visibly display what appeared to be a weapon, in this case a firearm, to be found guilty of that offense. And the State has that burden beyond a reasonable doubt.

And, certainly, Mr. Griffith, you can argue that Mr. Brown had dominion and control over the weapon and not your client. It becomes a factual issue for the jury to resolve. And, therefore, that motion is denied as well.

I think that covers everything on directed verdict.

Sir, if you can stand for me, please, and raise your right hand to be sworn so I can advise you of your rights regarding testifying.

(Whereupon, the defendant is sworn.)

THE COURT: State your name for the record.

THE DEFENDANT: Emory Warren Roberts, Jr.

THE COURT: Mr. Roberts, I'm going to at this time explain to you certain of your rights. We have reached the stage of the trial where you may present your own defense. And I need you to listen to me carefully. If there's some

right you need for me to explain in more detail, if there's something you do not understand, please make me aware of it so I can go back over it or ensure that you do understand your rights as I am explaining them to you. Do you understand?

THE DEFENDANT: Yes.

THE COURT: We have now reached the stage of the trial where you may present your defense. Sir, you have the right to claim the protections given to you by the Fifth Amendment to the Constitution. And that amendment reads in part that no person shall be compelled in any criminal case to be a witness against himself. That means that you cannot be compelled to testify in this case. You have the right to remain silent and that right cannot be used against you.

This is a personal right. No one can make this decision except you. You have the right to testify on your own behalf, however, again, this is a personal right and no one can make you testify. You can waive that right. If you decide to testify, I need to advise you that you will be subject to the same rules that govern other witnesses. You can be examined and cross-examined on any issue in this case. In addition, if you have any convictions involving dishonesty or false statement for crimes punishable by imprisonment for more than one year, and this Court determines that the probative value of admitting this

evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record to attack your credibility.

If you decide to testify, this decision on your part must be made freely and voluntarily, knowingly and intelligently, with knowledge of your protections under the Fifth Amendment to both -- provided by both the United States Constitution as well as by the South Carolina State Constitution.

If you decide not to testify, I will instruct the jury that they cannot consider this fact in any manner whatsoever. I will instruct them that you have the constitutional right to remain silent. I will instruct them that you have the presumption of innocence, that no citizen in this state is required to prove himself or herself innocent, and that that assertion of your right cannot be used against you, that the burden remains on the State to prove your guilt to each and every element of every offense beyond a reasonable doubt, and that the fact that you remain silent is not to be discussed in any manner whatsoever during their deliberations, and that there's to be no inference from the fact that you did not testify. In other words, they cannot infer that you have something to hide by not testifying.

Sir, again, you can talk with your family members,

your friends or your attorneys, or your attorney, but the decision, the final decision as to whether you should or shouldn't testify is left entirely up to you. Do you understand your rights as I've explained them to you?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you have any questions for me about your rights as I've explained them to you?

THE DEFENDANT: No.

THE COURT: I want you to discuss thoroughly with Mr. Griffith this afternoon, and if need be, in the morning before you answer both my final questions. Okay?

THE DEFENDANT: Yes.

THE COURT: Okay. You may take your seat.

Mr. Griffith, do you have any questions for the Court or anything you feel needs to be discussed in any further detail or explained in any father detail to Mr. Roberts before fully discussing with him whether he should or should not testify?

MR. GRIFFITH: No, Your Honor. I believe we have addressed it previously.

THE COURT: Okay. Now, if Mr. Roberts testifies, will the State have any rebuttal testimony?

MR. UNDERWOOD: Your Honor, I think that might depend on the nature of his testimony.

THE COURT: Worst-case scenario.

MR. UNDERWOOD: Possibly, yes, Your Honor.

THE COURT: How many?

MR. UNDERWOOD: Maybe two, Your Honor.

THE COURT: Okay. Just so you can discuss that with him as well and what consequences that would have.

Now, as regards instructions, I will give the jury a general instruction regarding their responsibility and my responsibility, how they are to judge the credibility and believability of witnesses, how they are to judge expert witness testimony, how they are to consider the past record of a witness, that being bearing on their credibility only, and that they are competent to testify.

I will leave this in in the event -- and no harm, no foul if Mr. Roberts should decide to testify. I will instruct the jury regarding him not testifying and that cannot be held against him.

I will also instruct that regarding an absent defendant, that a defendant may be tried in his absence, but that the jury cannot consider his absence against him in any way or draw any inference from that.

I will instruct regarding direct and circumstantial evidence. I will give a general instruction regarding the charge, the arrest and the indictment not being evidence, as well as on the presumption of innocence. I will instruct *Victor v. Nebraska* regarding reasonable doubt.

I will then instruct the elements of trafficking, which is 44-53-370, subsection (E)(3)(a). And the only portion that is applicable to this case would be heroin, which would be -- let's see. Each of the indictments allege separate amounts, so each of those would be instructed for Mr. Hunter. Under count one, that would be 28 or more grams; count 2, 4 to 14 grams; count 3, 14 to 28 grams.

And as regards Mr. Roberts, count 1, 28 grams or more; count 14, 4 to 14 grams. So that includes every amount contemplated pursuant to the statute.

I will then instruct what actual possession means and what constructive possession means. I will also define for the jury what deliver and manufacture means. I will then instruct the elements of conspiracy, which I think we all know what those are.

I will then instruct distribution, which is 44-53-370(b)(1). There are no amounts applicable. Those would cover count 4 and count 5 regarding Mr. Hunter; and counts 11, 12, and 13 regarding Mr. Roberts.

I will then instruct distribution, which is 44-53-375, subsection (b), which is distribution of methamphetamine, which is count 6 regarding Mr. Hunter.

I will then instruct possession of a weapon during the commission or attempt to commit a violent crime, which is 16-23-490, which is count 15 for Mr. Roberts. And

trafficking heroin is a violent crime as defined 16-1-6.

I will then instruct possession with intent to distribute methamphetamine, also known as ice or crank, which is 44-53-375(b) in count 16 as it applies to Mr. Roberts.

I will then instruct accomplice liability, which is hand of one is the hand of all, which elaborates on aiding and abetting.

I will also give a general instruction regarding identification testimony, as well as a general instruction on mere presence.

I will also give a general instruction regarding multiple charges, which is that each indictment has a separate and distinct offense, that each on them must be considered separately according to the law applicable to it, uninfluenced by their addition on any other indictment and that the defendants may be convicted or acquitted on any or all of the offenses charged and that they will have to right a separate verdict.

I will also give a general instruction regarding punishment, because although the testimony that was articulated by some of the witnesses dealt with the range of penalty that would be applicable to the cooperating witnesses, that punishment is still applicable to the defendants. And I cannot run the risk of the jury without

instruction making a decision based on passion, prejudice, sympathy or some other emotion that is not connected to the evidence. And so I will instruct them that they are not to consider any potential penalty a person can serve for a crime, that their only function is in a fact-finding province, and their own function is to determine whether the State has met their burden of proof beyond a reasonable doubt. And that punishment should not be considered in any manner whatsoever in arriving at a fair and impartial verdict regarding the defendants.

And then I will instruct on the forms of the verdict.

Are there any exceptions to the charges as proposed, from the State?

MR. UNDERWOOD: Just one question, Your Honor. As to the elements of conspiracy, was the Court able to review the State's request?

THE COURT: I did review yours, but I'm going to use mine, which is a standard statement of the current law regarding conspiracy. It's the same as yours, just organized differently and I prefer mine. It's pretty much the same, because conspiracy is conspiracy. It's almost the same as hand of one in some ways. Uh-huh. Anything further from the State?

MR. UNDERWOOD: Your Honor, the State would ask

that Tommy Sekula be released from his subpoena.

THE COURT: Any exception? Do you all plan to call him?

MS. JOHNS: No, Your Honor, I don't.

MR. GRIFFITH: No.

THE COURT: So we can excuse him?

MS. JOHNS: Yes, Your Honor.

THE COURT: He's excused.

MR. UNDERWOOD: Thank you, Your Honor. All right.

THE COURT: And I had your request marked as a Court's exhibit.

MR. UNDERWOOD: Thank you, Your Honor.

THE COURT: You're welcome.

Any exceptions from Mr. Griffith on behalf of Mr. Roberts?

MR. GRIFFITH: No, Your Honor.

THE COURT: Any exception, Ms. Johns, on behalf of Mr. Hunter?

MS. JOHNS: No, Your Honor. However, I do have a request to charge, and I'm sorry I didn't put this in written form, but I'm traveling. I would just ask the Court to give a definition of accomplice, if is not within the accomplice liability charge --

THE COURT: I think hand of one and aiding and abetting and conspiracy says all that. I could -- I think

the instructions define that.

MS. JOHNS: Okay. Thank you, Your Honor.

THE COURT: It deals with mere presence. It deals with -- you have to be all in. I mean, that you are a part of the enterprise, you were part of the discussion, whether passively or actively, and that you were involved in it in some way. I am not being articulate as I would like, but I think we know what accomplice liability is and what conspiracy is. And I take my instruction straight from the case law and I like them pretty straightforward.

MS. JOHNS: Thank you, Your Honor.

THE COURT: So I think it's pretty well-defined. All right. Anything further that we need -- my clerk, I had to send her. I'm Chief Judge for civil court. And I've got a stack of stuff I need her to bring back to me. So I can do that while the jury is deliberating. So she had to leave a little early. And she did the verdict forms. And I neglected to have her print them before she left to go back to Charleston for me. So we will print those first thing in the morning and let y'all review them.

MR. UNDERWOOD: Thank you, Your Honor.

THE COURT: And what I will do, though, is I will have each separate count for each separate defendant. So it will say count 1 as to Mr. Roberts, guilty or not guilty. Count 1 as to Mr. Hunter, guilty or not guilty, and what

each count is for. It will enumerate each charge so that there's no confusion.

MR. GRIFFITH: Thank you, Your Honor.

THE COURT: Okay? Anything else we need to handle? Please make sure the court reporter has all the exhibits. She will be very grateful. People tend to leave stuff on tables and take it with them. So if you have anything you need the give back to her, she would greatly appreciate it. Because it's going to save us time. And you might want to spend time this afternoon before you leave accounting for everything. So when you get ready to make closing argument, you will have then available to you on that table so we don't have to spend an hour going through them before the jury can begin their deliberations. To the extent you can do that before you leave, I greatly appreciate it.

And, Mr. Griffith, I hope I've given you enough time to talk to Mr. Roberts about if he wants to testify. And I will ask the deputies to give you privacy and space so they can talk.

MR. GRIFFITH: They have a room for me in the morning, Your Honor.

THE COURT: So organized.

(Whereupon, the proceedings adjourned for the day.)

(Whereupon, the trial continues on July 28, 2017.)

THE COURT: The State ready to proceed?

MR. UNDERWOOD: One moment. I almost have the exhibits organized.

MR. UNDERWOOD: All exhibits are accounted for?

MR. GRIFFITH: Yes, sir.

We did talk.

MS. JOHNS: Yes, Your Honor.

THE COURT: Mr. Roberts, if you stand up for me, sir. I will remind you you are still under oath. Have you had a full opportunity to discuss with your lawyer whether you should or should not testify?

MR. ROBERTS: Yes, Your Honor.

THE COURT: Do you have any questions regarding your rights?

MR. ROBERTS: No.

THE COURT: Do you need to speak with your lawyer any further about whether you should or should not testify?

MR. ROBERTS: No.

THE COURT: And, sir, do you wish to testify?

MR. ROBERTS: No.

THE COURT: Okay. You can take your seat. All right.

So what we will do is, I will -- and I assume you have nothing -- I assume, Mr. Griffith, other than your client, you would have nothing to present?

MR. GRIFFITH: No, Your Honor.

THE COURT: And Ms. Johns, I assume you have nothing to present; is that likewise correct?

MS. JOHNS: It is correct.

THE COURT: Okay. If y'all would -- I'm going to glance at these verdict forms right quick and have my clerk print them so you can review them. And then we will allow both defendants to rest. I will reserve motions and we will proceed with closing arguments.

Are there any exception, from the State?

MR. UNDERWOOD: None, Your Honor.

THE COURT: From the defense?

MR. GRIFFITH: No, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: We need to some fix scrivener's errors, but is there any exceptions to proceeding? The verdict forms are cut and dry.

MR. UNDERWOOD: No, Your Honor.

MS. JOHNS: No, Your Honor.

THE COURT: Please bring in the jury.

(Whereupon, the jury returns to open court at 9:38 a.m.)

THE COURT: Good morning, ladies and gentlemen. I hope everyone had a pleasant evening. We are now going to resume with the trial.

Mr. Griffith, on behalf of Mr. Roberts, you may

proceed.

MR. GRIFFITH: Your Honor, the defense rests.

THE COURT: Thank you. And, Ms. Johns, on behalf of Mr. Hunter.

MS. JOHNS: Your Honor, the defense rests as well.

THE COURT: We'll reserve motions.

Ladies and gentlemen, both the State and the defense have rested their cases. We are now proceeding to the part of the trial where we will have closing arguments and instruction. I would ask that you give counsel your undivided attention in this process.

You may proceed, Mr. Underwood.

MR. UNDERWOOD: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir. You may proceed.

MR. UNDERWOOD: This trial was about more than one or two drug dealers. This trial was about the prosecution of the business of trafficking drugs, especially heroin. This case is not about one or two street pushers standing on the corner. This case is about an organization, an organization that went by the name of The Boys, a drug trafficking organization that sold heroin throughout Berkeley, Dorchester and touching into Charleston Counties, an organization that was funneling this terrible substance

from the state of New York to our state of South Carolina.

This case is not about, unfortunately, the people that are affected by this conduct. It's about the people who are committing this conduct. You've heard testimony from three individuals who had inside knowledge of this organization.

You've had information from Will Brown. Will Brown, the guy that just needed somewhere to lay his head at night, who ended up staying with a guy he met on the street who wanted to breed some pit bulls. He had him living with him. And after a period of time, got into his business, helped him out a little bit. But what was it that Will Brown told you? He didn't do anything on his own. He did what he was told. Doing what you are told shows the fact that, obviously, that means people are in charge. That means there's organization.

He told you about how people would come to Emory Roberts's house. And if Emory Roberts wasn't home, there were instructions left for Will Brown to serve those people. And by "serve them" that means he would sell them heroin for the deals that Emory Roberts set up. He would sell them the amounts and at the prices that he was told by Emory Roberts. And this happened over an expansive period of time.

You heard from Craig Valentine, a self-admitted and unfortunate heroin addict. He made it very clear that there

was some structure to this group. He told you how he got involved with heroin. He told you that he had never had heroin before, not until Bianca took him to, who? Justin Hunter. The very first time he had heroin was when he was taken to Justin Hunter, person he knew as Mo.

Now, ladies and gentlemen, he also told you how he continued to go back for more heroin from them, because he was an addict. He had to go every day. And after a period of time from going to one location at Arno, then he started going to another location over in Ladson, the house of Emory Roberts. Sometimes he would call and Mo would tell him to go to Emory Roberts's house. And he would split going back and forth between those different locations to get his heroin every day, just about every day, at least a gram up to an eight-ball, which is three and a half grams. And why did he have to keep going? Because he was an addict.

Why was it important to know to him who Mo was, who Q was, where they were? Because that's where he would have to get his supply, so that he wouldn't be sick from withdrawal. He was trapped in his addiction. And he was trapped because, on one unfortunate day, he was taken to Justin Gordon Hunter and got that first dose of heroin.

He also made it very clear that Justin Gordon Hunter was in charge, that it was obvious who was calling the shots. And, again, if someone is in charge, that means

there's organization. That means people are working towards a common goal. If people are working towards a common goal, they are coming into an agreement to carry on conduct that is illegal. Ladies and gentlemen, that is a conspiracy.

The judge is going to give you a more full explanation later, the full definition of a conspiracy. But, remember, essentially, that's an agreement between two or more people to combine together or have some mutual understanding and intent to commit an unlawful act. In this case, that conspiracy was to traffic heroin.

You also heard from Thomas Sekula, who when he moved back to the Summerville area from Bluffton, had one source for heroin. He told you who that source was. It was The Boys, through Mo. He would call direct and then he got another number, a dispatch number, the phone that got passed around to the other people in this organization, to the rest of The Boys. The way he described it was, he would call The Boys, and whoever answered the phone would tell him where to go. Why would they need to tell him where to go? Several reasons. They had different locations. That's a way to avoid detection from law enforcement. Again, another sign of organization. They went to different locations because there were different people involved. There were different places where the drugs were kept. And depending on who had drugs at the time, that's where he would go.

But the fact that he's calling up a dispatch number and being told where to go, shows that there are multiple people working together to make these drug sales happen. Again, that is further evidence of a conspiracy. That is what a conspiracy is.

And Mr. Sekula found himself in some trouble. In order to support his habit, he was selling some of that heroin that he was getting. And he got caught. He got caught by the Dorchester County Sheriff's Office. And he agreed to work for them because he wanted to do whatever he could to get out of trouble. That is what it is.

Remember, ladies and gentlemen, upstanding citizens can't just walk up to a drug house, walk in and buy some drugs. In order to do that, you have to be in that world. And that's why law enforcement has to use confidential informants, who, unfortunately, are often in very dire situations in their personal lives.

He became a confidential informant. And what do they do with Mr. Sekula? They did controlled buys. They would wire him up. They would take him to a location where he would buy drugs from The Boys, many times in particular, Emory Roberts and Justin Hunter, as well as a couple other individuals.

They did a buy on August 7th going into the 8th in Dorchester County on Margaret Street. On that day, they

bought what tested positive for one plus grams of heroin. 1 gram of heroin that was tested. And there was another half gram that wasn't tested because they met their threshold at the lab.

They did another buy August 11th of 2015, again, Dorchester County. They bought 3.41 grams.

Again, August 17th, they go back and they buy five grams.

August 27th, they buy another 1.45 grams of heroin.

September 9th, they go again, and they get 1.28 grams of heroin.

September 16th, they go one more time. They buy more heroin that tested positive at the lab. The part that was tested was .92 grams. They met their threshold, so they stopped testing, but what was left was another .526 grams.

Remember the testimony at that point, Dorchester County realized, there's a whole other side to this. We are only able to deal with what's going on in Dorchester County. Dorchester County has a very limited budget. They can't go into Berkeley County and buy larger amounts of drugs. So what do they do? They ask for help. They needed help from SLED, State Law Enforcement Division.

So Special Agent Wingo becomes involved. He comes down and then he starts working with them as well. They start to make more buys.

On September 23rd, Special Agent Wingo is now involved. They conducted a buy. And what did they buy? 7.1 grams of heroin. We've now moved up to a quarter of an ounce.

September 25th, another individual who's in The Boys, somebody that was known as G, later identified as Lassain Johnson, they go to him and they purchase 6.92 grams of heroin. Again, showing that this is a conspiracy. There are more than one person involved. We will talk more about Mr. Johnson in a little while.

September 30th, 2015, they wire Mr. Sekula again. He goes to meet with Justin Hunter. And what happens? He buys 13.96 grams of heroin from Mr. Hunter. That's basically half an ounce.

October 28th, they use Mr. Sekula again. He goes to meet Mr. Hunter again. You heard the recorded phone call. He calls up that particular phone number (843) 469-5400, says: Is this Mo? Person on the line doesn't say, no, this isn't Mo, this somebody else. Is this Mo? And they continue to set up a deal. What happened at that deal? Tommy Sekula bought just over half an ounce, 14.03 grams.

December 14th, they take Mr. Sekula again to meet with Justin Hunter. This time I believe it was at the Walmart in Summerville. He gets in the car, does the deal,

comes out with what? 3.3 grams of heroin.

January 7th, 2016, now, they set up another controlled buy. This time the person that actually makes the delivery here, we are talking about Emory Roberts. He goes to the new location over at Summer Creek. Goes into that trailer, deals with Mr. Roberts, and comes out with 3.38 grams of heroin.

January 14th, 2016, another controlled buy with Justin Hunter. This time for 3.45 grams of heroin.

January 19th, 2016, they set up a deal with Q, Emory Roberts. Mr. Sekula is taken to the trailer at 116 Summer Creek. But when he gets there, Q isn't there. Will Brown is there. And Will Brown gives Mr. Sekula the drugs that were set up in the transaction. Why? Because that's what Will Brown was told to do. At that time he was keeping his dog there and he had to do what he had to do to stay in the good graces of Emory Roberts. And at that time, he did what he was told, and he sold a little over an eight-ball to Tommy Sekula. Substance that was tested was .95 grams. And there's a gross weight of another 2.61 grams that wasn't tested because of the threshold. Didn't really matter.

February 2nd, 2016, another buy with Emory Roberts. This time for 3.35 grams of heroin.

Now, remember I said this is the business of dealing drugs. What do successful businesses have to do to

be able to compete and thrive in society? They diversify. And this drug trafficking organization was no different. While they started out as primarily a heroin trafficking organization, they would sell other drugs too.

You recall from the testimony, on February 3rd, 2016, a methamphetamine controlled buy was arranged. How was it arranged? It was arranged by texting Justin Hunter's phone number. Justin Hunter set up the deal and sent one of his accomplices, one of his workers, Rosemarie Quezada, from her apartment from 531 -- 1001 Bear Island Road in Summerville. She walked over to the shop center, Azalea Shopping Center where Target and Kohls are, and delivered methamphetamine to Thomas Sekula. And then walked back to the apartment. All that under the guise, under the watchful eyes of law enforcement. And she delivered .87 grams of methamphetamine for Justin Hunter. Working together, he set it up, told her how to make the delivery, and she did what she was told.

Now, ladies and gentlemen, that wasn't the end of this investigation. After law enforcement had gone repeatedly to some of these locations, had seen what they had seen, they obtained search warrants, search warrants for Summer Creek, search warrants for the Bear Island Road apartment where Rosemarie Quezada came from when she delivered that methamphetamine, and from Justin Hunter's

residence at Patriot Boulevard.

Beginning with Summer Creek, they go to the trailer, 116 Summer Creek, as Mr. Brown testified, he was there. He was there in the living room, sitting down there, I guess playing video games. And just as he's playing video games, in comes the flash, and law enforcement comes in. Everyone is detained for safety. And then they are able to search the trailer. What do they find when they do that search? Digital scales. They also find some marijuana and they find some heroin. In this package here we have what was tested 4.90 grams of heroin. Remember, they found it, it was stuffed inside a bag of bags inside an air pump. And this container here had or was tested 4.90 grams. The remaining gross in this was 4.22 grams. So there's more weight of substance that wasn't all tested because they already met their threshold. But they did test 4.90 grams of heroin.

And in this package was another 3.09 grams of heroin. Not only was that heroin in there, they also found 1.65 grams of methamphetamine. Remember, for a business to survive, it must diversify. Heroin and methamphetamine. More than 7 grams of heroin, more than a gram of methamphetamine, in whose house? Emory Roberts, his trailer 116 Summer Creek in Berkeley County.

What else was found in that house? They found a

gun staged on the couch. Now, Mr. Brown was at that trailer too. Here's a closer picture of that gun. Mr. Brown was at the trailer too. But you heard testimony that The Boys dealt in guns, that they would take guns as payment for drugs, and that they had plenty of guns. And they would have guns around for protection from robbers. Remember whose trailer this is. It's not Will Brown's trailer. It's Emory Roberts's trailer. He's the one who has control of what goes on in this trailer. There's been no testimony at all, no evidence of Will Brown ever having a gun. Ladies and gentlemen, this gun is Emory Roberts's gun, put there in the trailer in very close proximity to where his drugs were found on the kitchen table. As Agent Vasquez described it, it's only a few feet away.

That wasn't the only -- I forgot, there was another another buy they did on another individual named Keith. There was a mention of someone named Keith throughout the testimony. You heard about another buy going on with him where they bought another 14.01 grams of heroin, another half ounce of heroin. That means that this is an organization that sells at least up to half an ounce at a time, if not more.

But, ladies and gentlemen, you have to remember something. All of these drugs right here, that's just the time they got caught. These are the times that law

enforcement went and found them with the drugs and did the controlled buys for the drugs. You heard testimony from Will Brown, Tommy Sekula, from Craig Valentine, about hundreds, hundreds of transactions. That is a lot of heroin. That is not somebody that's just dabbling with a hobby of selling a little bit of drugs. We are talking about an organized group with large goals of selling lots of drugs.

That wasn't the only search, at Summer Creek. Remember I said they also did a search at the apartment on Bear Island Road. What was found there? Another gram of heroin, a little bit of marijuana, some methamphetamine, methamphetamine being .65 grams, and when you combine those packages together, over 100 grams of cocaine. Remember, diversification. Have as many different drugs as you can to make as much money as you can. And this was a business interest. You can tell because what did the witnesses who knew these people say when they were asked, did Mo ever use drugs? No. Did Emory Roberts or Q, did he ever use drugs? No. These defendants aren't drug users. They are traffickers out for profit at the expense of the people who are addicted to using these drugs.

During the search of 1001 Bear Island Road, they found other things as well. They found documents. And surprisingly, or maybe not so surprisingly, they found

documents belonging to Justin Gordon Hunter. There's DMV receipts, registration for his Audi. There's another piece of mail from State Farm Insurance talking about his different vehicles that he was insuring, the Audi, a 2007 BMW that you've heard about in the testimony, and a 2008 Mercedes, some more State Farm Insurance paperwork. And notice, it's addressed to Justin Hunter at 1001 Bear Island Road, Apartment 531.

Now, he wasn't there when this search happened. During the search, Rosemarie Quezada was there. And while they were searching, Lassain Johnson, also known as G, he showed up and put his key in the door. So then he was taken into custody as well. Justin Hunter wasn't there, but, surely, he's got a connection to this apartment and a connection to those two people. These documents show that they are working together.

Now, you should take interest in this. This paperwork here addressed to both Justin Hunter and Lassain Johnson where they were insuring a car together. There's insurance cards to both Mr. Hunter and Lassain Johnson. Obviously, these individuals know each other and have dealings with each other if they are insuring vehicles together, living at different places.

Now, during the testimony, you heard about a location where drugs were being sold out of a trailer on

Arno Drive or Arno Road. Remember, law enforcement, while they were searching the apartment at 1001 Bear Island, they found this cable bill for Lassain Johnson at Arno, the same location where drugs were being sold by The Boys.

And more mail for Justin Hunter at the address of 1001 Bear Island Road, Apartment 531. Mr. Hunter has got more than one address. Why? Because that's how drug operations work. You move your supply around. You have people go to different locations to avoid detection and to minimize losses. And here's one more piece of mail for Mr. Hunter at Bear Island Road.

But they found more than mail. As to Mr. Hunter, they found his United States passport. That is pretty important paperwork to just leave lying around at some random address. And, remember, several individuals who dealt personally with Mr. Hunter identified this photograph as Mo. Will Brown, who didn't know Justin Hunter's full name, did a photographic lineup. And he was asked, do you recognize in this lineup, and he says, yeah, that's Mo.

They also found Green Dot Gold cards, which you heard testimony about how they are used to move money without having cash so you can pay for suppliers and move your money around. They found MoneyGram receipt stubs. Again, another way to move money around without banks and without exposing your cash.

But they didn't just find property of Lassain Johnson and Rosemarie Quezada and Justin Hunter in that apartment. They also found a TB Bank debit card for Emory W. Roberts, Jr. They found a Social Security card for Emory Roberts. They found Mr. Roberts's New York identification cards. So that shows that Mr. Roberts has a connection to this apartment as well. And that's pretty important paperwork to be lying around in just a random person's house.

What else was in that apartment? Digital scales, blenders, grinders, sifters, cutting agents, stuff that you would expect drug traffickers to have, items used in the drug trafficking trade.

That wasn't the only search. Remember, we had Summer Creek, we had Bear Island Road, and simultaneously, they were also searching Mr. Hunter's apartment at 9698 Patriot Boulevard, Apartment 618. What did they find there? Well, they found several items of interest. You will remember that they found digital scale at the master bathroom sink next to a box of baggies, commonly used to package heroin. They found this container which they sent to the lab to be tested. And guess what they found on it? Heroin residue. That shows that heroin had been stored in that apartment, that this apartment was also related to the drug activity that was going on.

And they also found -- it's little bit hard to see in this bag -- among several other items, there was some marijuana and some pills, but they found a digital scale. And guess what was on that digital scale? More heroin residue. It's been to the lab, heroin residue on a plastic container and a digital scale found in Justin Hunter's apartment. It's not a coincidence, ladies and gentlemen, that Mr. Hunter has his paperwork associated at these other people's houses, that he has drug paraphernalia, the trace amounts of drugs at his own apartment, let alone these other locations.

There may not be a good video image of Mr. Hunter's face. It's his voice, which has been identified by several people that would recognize his voice. We don't have a picture, but we have a lot of testimony. We have his documents all over the place associated with these people that we do have pictures of. We have his voice. We have drug residue in his apartment.

Now, you may recall that Special Agent Lundberg testified that they did a trash pull at Mr. Hunter's address. And one of the things they found was a piece of junk mail from, where? 1001 Bear Island Road, Apartment 531. So it's not like Rosemarie Quezada and Lassain Johnson went and stole a bunch of Justin Hunter's stuff and took it back to their apartment. He's got mail from there.

But back to the search warrant. Something else that was found. A lot of cash, about $3,000, as I recall. What goes along with large amounts of cash? Well, something that every household has, a rather heavy automatic money counter, used for counting large amounts of currency, large amounts of cash. Who deals in cash? Drug traffickers. You don't write a check when you are going to your heroin dealer. You don't use your debit card when you are going to your heroin dealer. You deal with cash. So the people who are at the top, who are collecting all of this cash, they are going to need a money counter for all that money. The guys at the bottom don't need it. It's where the money filters up to the top, funnels to the top, that is where you are going to need to have a money counter. And that was found in Justin Hunter's apartment.

You may recall that during that search, while that was going on, Special Agent Wingo and Dan Lundberg approached Mr. Hunter. They Mirandized him. He agreed to talk. And one of the things that he said in his confession is that, yes, he would go to New York to purchase drugs from a guy, I believe his name was Fresh. He would go to New York and he would buy those drugs.

Now, also during that time, before I get to that, some items were taken from his person upon his eventual arrest, an iPhone and a little flip phone. Do you remember

you heard testimony about burner phones or drop phones. Got a rather expensive, nice smartphone and a very inexpensive flip phone, both on his person at the same time. You heard testimony about these individuals having multiple numbers. Well, Mr. Hunter had multiple phones.

He also had in his wallet another Green Dot Gold card, one that looks just like the Green Dot Gold cards found at Bear Island Road along with methamphetamine, heroin and over 100 grams of cocaine. He also had a South Carolina driver's license, which you compare that to the photo lineup that Mr. Brown did when he was trying to identify the person he knew as Mo or Just. Compare those pictures and judge for yourself, who is being identified.

Now, I mentioned earlier that Mr. Hunter said that he went to New York, that he would meet with someone named Fresh, get his heroin, get another person, a female, to bring that heroin back down to South Carolina for him so that he wouldn't be caught with it. And in that confession, you heard the testimony of Agent Wingo, he even said where he would stay when he went to New York, that he would go to the Gateway Inn. And what was found in his wallet? A receipt for the Gateway Inn. And that receipt is dated January 25th, of 2016. Now, you may recall that the last time law enforcement did a controlled purchase of Justin Hunter, that was for 3.45 grams of heroin, that was on

January 14th. So after they've done their last buy with him using their documented government funds, what does he do? He goes to New York, less than about 10 days later. And he said why he would go to New York; it was to get more heroin from Fresh.

Some other documents that were found during that search, this time coming out of Mr. Hunter's BMW, another credit statement addressed to Justin Hunter at 1001 Bear Island Road, Apartment 531. Again, this was found in his vehicle, the same BMW that you heard testimony about, same BMW that you saw on video. Another piece of mail addressed to Mr. Hunter at 1001 Bear Island Road, 531. So that connects Mr. Hunter to that location.

Also in there they found a court document. Granted, it has someone else's name on it, but why would Mr. Hunter have court documents for a trailer at 721 Arno Drive if he didn't have some connection to that location?

You may recall that Lassain Johnson had a cable bill to that address on Arno Drive. These individuals are connected to that location. They are connected to what's going on there, because they are The Boys. And they worked together to traffic their drugs.

Mr. Hunter was connected to all of these locations. You may recall there was testimony from Agent Wingo, for a brief period of time they had a GPS tracker on his car. And

when reviewing that information, he went to Summer Creek and he went to Bear Island Road. Now, at that point, you may recall, you can put your little timeline together, that this was in January of 2016, after Emory Roberts had moved his dealing operation from Margaret Street over in Dorchester County, he had then moved over to Summer Creek in Berkeley County. And the GPS tracker has Mr. Hunter going there multiple times.

Now, a very important piece of information came out in Mr. Hunter's confession. He gave his identifying contact information to Special Agent Wingo. And he said his phone number was (843) 469-5400. You may recall on October 28th, 2015, law enforcement purchased 14.03 grams. The phone number that they called to set that up to the person that was addressed at Mo, was 843-469-5400. So that phone number is directly connected to this heroin. It's directly connected to Mr. Hunter by his own admission.

And let's go back to that trash pull. Now, it's a little bit hard to see on this projection. But on this Western Union receipt, Justin Hunter and the phone number (843) 469-5400. And the same on this receipt. That one is a little bit easier to see. That's Mr. Hunter's phone number. He's the one on those calls. He's the one on those recordings selling heroin. It traces back to his apartment at Patriot Boulevard.

Now, in the videos, one in particular on that same date of October 28th, you can see a BMW. In prior transactions, there was also another BMW. Agent Wingo testified about that. During these different drug transactions, as there were multiple, they were able to get license plates from those BMWs. According to the DMV, Mr. Hunter had an Audi A4, a BMW 5 Series and a BMW 7 Series with the same license plates that Agent Wingo testified were on the BMWs seen during these drug transactions. It was his car, his phone, his voice, his drugs.

They say that a picture is worth a thousand words. If there's a picture of Justin Hunter, that would be worth more than a thousand dollars about him. But we don't have that picture. But we have 999 more things showing that Justin Hunter is the person who was selling this heroin, who was in charge of this drug trafficking organization called The Boys.

Now, ladies and gentlemen, soon you are going to be beginning your deliberations. When you do that, you have a number of different counts that you will need to consider. There are multiple controlled purchases for which Mr. Hunter and Mr. Roberts are charged. I've laid the drug evidence out right here by date.

THE COURT: Mr. Underwood, let me interrupt you one second. We need to take a courtesy break for one of the

parties. Ladies and gentlemen, we apologize for the interruption. If you would leave your notebooks in your seats and please do not discuss the case. You should be out less than two minutes.

(Whereupon, the jury leaves open court at 10:27 a.m.)

THE COURT: We apologize, Mr. Underwood. Mr. Roberts needed to go to the restroom urgently.

MR. ROBERTS: It's been 20 minutes.

THE COURT: That's okay. As soon as he's done, we will resume argument.

(Whereupon, recess transpired.)

THE COURT: Are we ready to resume?

MR. UNDERWOOD: Yes, Your Honor.

THE COURT: Please bring in the jury.

(Whereupon, the jury returns to open court at 10:34 a.m.)

THE COURT: Ladies and gentlemen, we appreciate your indulgence.

Mr. Underwood, you may resume your argument.

MR. UNDERWOOD: Thank you, Your Honor.

THE COURT: You're welcome.

MR. UNDERWOOD: Ladies and gentlemen, as you are soon about to go into your deliberations, there are numerous different counts that you need to consider. I want to help

break that down for you just a little bit.

Under count two, Justin Hunter, also known as Mo, is charged with trafficking heroin 4 to 14 grams. He's accused of doing that in Berkeley County on September 30th, 2015. In this bag right here, is 13.96 grams of heroin. That's between 4 and 14.

Count 3, Justin Hunter, also known as Mo, is charged with trafficking 14 to 28 grams on October 28th, 2015. In this bag is 14.03 grams of heroin that Justin Hunter sold to the confidential informant on that date. That's more than 14.

Count 4, Justin Hunter is charged with distribution of heroin on December 14th, 2015. In this bag is 3.30 grams of heroin that Justin Hunter sold to the confidential informant on that date.

Count 5, distribution of heroin, Justin Hunter is accused on January 14th of selling heroin. In this bag right here, 3.45 grams of heroin sold by Justin Hunter to a confidential informant.

Count 6, distribution of methamphetamine, that Justin Hunter, along with his accomplice Rosemarie Quezada, did sell methamphetamine on February 3rd, 2016. This bag right here is that methamphetamine sold to the confidential informant by Rosemarie Quezada under the direction of Justin Hunter.

Count 11, distribution of heroin, on January 7th, 2016, Emory Roberts, also known as Q, did distribute heroin. In this bag right here, 3.38 grams of heroin, sold by Emory Roberts to a confidential informant.

Count 12, that Emory Roberts, along with Will Brown, distributed heroin on January 19th, 2016. This bag right here is the heroin that Will Brown gave to the confidential informant at the direction of Emory Roberts. And, again, that was tested positive for heroin.

February 2nd, 2016, Emory Roberts is charged with another count of distribution of heroin. This bag right here has 3.35 grams of heroin that Emory Roberts sold to the confidential informant.

Count 14, on February 8th, Emory Warren Roberts trafficked heroin 4 to 14 grams and was in possession of a firearm during the commission of or attempt to commit a violent crime. Ladies and gentlemen, down here we have more than 14 grams of heroin into these bags that were found in Emory Roberts's trailer while he was there at 116 Summer Creek. During the search warrant on February 8th, 2016, found in close proximity to that, was this gun. It's Emory Roberts's trailer. It's his drugs. It's his gun.

Count 16, possession with intent to distribute methamphetamine. On February 8th 2016, Emory Roberts did possess with intent to distribute methamphetamine. That is

also in these bags down here from that same search at 116 Summer Creek. They found heroin and methamphetamine all in close proximity to Mr. Roberts's gun.

Now, there's one more charge that you will need to consider, and that's count 1. That's trafficking more than 28 grams of heroin by way of a conspiracy. Now, I've told you a little bit about how conspiracy works and what it is. But this charge encompasses the agreement that these individuals entered into to traffic heroin, that they agreed to combine together to sell more than 28 grams of heroin.

Their connections are quite clear from all of the documents that you have seen, the testimony and the recordings of shared phone numbers, people having connections to these addresses that were being used to stash, or sell houses. When it comes to the weight, this is the weight of the entire conspiracy. And the threshold is 28 grams or more, meaning that you would need to find that they agreed to sell 28 grams or more of heroin as a joint venture.

Ladies and gentlemen, there is somewhere in the neighborhood of at least 100 grams right in front of you. And that's just what they were caught with. That's not what they agreed to do when law enforcement wasn't looking. That wasn't the hundreds of drug transactions that you heard testimony about from the addicts that relied upon The Boys

to supply them with their heroin.

Ladies and gentlemen, this was a drug trafficking organization. These were individuals that worked together. All of them are guilty of being in this conspiracy. And each one of the individuals who had something to do with these transactions are guilty of those transactions.

Now, we, the State, have that burden of proof that we need to present you with sufficient evidence for you to find beyond a reasonable doubt, a doubt that will leave you firmly convinced that the defendants are guilty. Ladies and gentlemen, we did not oversell our position. And we more than delivered. You have the evidence before you. And I ask that when you go in to complete your deliberations, that you find the defendants Justin Hunter, also known as Mo, and Emory Warren Roberts, also known as Q, guilty on all counts.

Thank you.

THE COURT: Mr. Griffith.

MR. GRIFFITH: If it please the Court.

THE COURT: Yes, sir. You may proceed.

MR. GRIFFITH: Thank you, Your Honor.

THE COURT: Yes, sir.

MR. GRIFFITH: Ladies and gentlemen of the jury, first of all, thank you for sitting through this. I know it's been a long week. And when I go home at night and I'm tired, I'm sure you are too. First of all, thank you so

much for your service.

The State has put together a lot of information for you to absorb, but I think I want you to consider that this is about finding someone guilty beyond a reasonable doubt. And if you can find that there is some doubt as to one, more, or all of these charges, then you would need to find that my client, Mr. Roberts -- this is Mr. Roberts, by the way. That is not Mr. Hunter, that is Mr. Roberts -- is not guilty if you can find that you do not have sufficient cause to believe he's guilty beyond any reasonable doubt.

I want to talk about the people that testified before you today. And I believe I spoke earlier and said I had every respect for law enforcement. And their job is tough. I don't want that job. And I certainly would not want to be in positions that they are in many times. But at the same time, they are human, as we are. And we never saw any evidence that any of the agents from SLED walked into any house, said that they bought something, and then walked out. Instead, all the evidence that they presented was that they were handling people who they had been caught with drugs, who had a real incentive to keep out of trouble. They were giving those people an opportunity to work off the charges that may be brought against them and to do something to keep those people, keep themselves, out of jail, or to reduce the amount of time they might spend in jail.

Starting with the witness, Mr. Tommy Sekula. He admitted and testified that he was brought in to this because he was buying and selling drugs for himself and for others. He had a lot of incentive to keep out of jail. And he's doing pretty good at it. But during his testimony, the State would put up a video. They would give him a date and he would pare it back what seemed like a well-rehearsed list of what happened that day. I can't tell you what happened day before yesterday. But he could tell us exactly what happened every single time.

He never, in any of those videos, refers to Emory Roberts, Mr. Roberts. Sometimes you hear Q. Sometimes you hear Will. But you never hear the name Emory Roberts. On the record of the phone calls, on the recordings, you don't hear the name of who answered the phone. And you definitely never hear, "this is Emory Roberts". You don't hear it. We don't hear the person identified as so.

Detective Allen, who was testifying that he was there each time Tommy, Mr. Sekula, went to buy, he couldn't remember what dates it was. He's a trained observer. He's an investigator. He couldn't remember him. But Tommy, after two years, wants us to believe that without any coaching, he remembered every detail exactly.

Tommy also testified that it was not the same phone that he called, the phone number he called every time.

There was not a phone that was passed around. There was no conspiracy. There may have been different people from whom he was buying drugs.

In none of the videos, not one, well, at least I did not see any drugs change hands. I saw pictures of the wall. I saw pictures of Mr. Sekula's nostrils one time when he was in the car. I did not see any drugs pass between hands, not one time. The State told us that they exchanged drugs, but they never showed us any exchange of drugs.

The State hasn't shown that there were -- there was a real organization, just individuals. Agent Wingo mentioned that SLED agents had to transport Tommy everywhere he went because he doesn't drive. And they talked, coached him, and so when he got up, he knew exactly what to say. Tommy admits he was an addict and he admits he is an addict. And that he was taking drugs, he admitted on the stand, between the controlled buys. And that when asked when was the last time you took drugs, he did a little hesitation, I don't know, a week ago. But, yet, when the detective told us, yeah, yeah, he's seeing people who were coming down off of drugs, they are very sick, people coming off of heroin, throwing up, they are grabbing their stomach. Tommy never appeared sick during any time, according to what the detective told us. They said, no, they never seen him sick. But Tommy, the detectives knew he was an addict. So they

knew because of their training. They are the ones that told us what it's like when they come down.

He was high the whole time he was doing it. He admitted he was taking drugs between. The whole time he was buying for them, he was on drugs. Addicts, every family has some in their family. I do. Perhaps some of you do. I hope not. But here's the truth. Addicts will lie, steal, cheat, do whatever it takes to get to their next high and to stay high and to stay out of jail. So Tommy was very practiced at what he needed to say when he came to this courtroom.

Mr. Brown, when questioned by the State, at one point, Mr. Brown, you heard him, he said, well, I don't know how you want me to say it. The State told you during their closing that Mr. Brown did what he was told when he was on the stand. He was still doing what he was told. He also said that he never sold more than a ball, which is 3.5 grams. There's no 28 grams coming out of Mr. Brown, who they want to connect to my client, Mr. Roberts. He had lots of opportunities, Mr. Brown, to meet with law enforcement and go over his testimony or story. And it was a story. He met with them on more than one occasion.

Detective Allen got on the stand. Laid-back individual, it seemed to me, but a detective. But he could not remember the dates or the places. And when he first

looked over at my client, Mr. Roberts, who he allegedly saw more than once doing things as a focus of his investigation, called him Mr. Hunter. And you heard it.

Mr. Valentine, Mr. Valentine is incarcerated right now. He changed the dates from the time the State started questioning him and even while they were questioning him. And when I questioned him, he changed them again. Was it 2014? Was it 2015? Or when exactly was it. I was trying to get those years or dates out of him, and he wouldn't commit. Then when he was questioned again by Ms. Johns, he change them again. He's currently in jail and will do whatever he can to get out or to get a better deal.

The same is true of Mr. Tommy Sekula and Mr. Will Brown. They want to spare themselves from being kept in prison. Their testimony is unreliable and unbelievable, because they are addicts. If you know any addicts, you know you can tell when they are lying, because their lips are moving.

The State did not fulfill either its burden to prove a conspiracy. All of the evidence presented was circumstantial. In some cases, some of the items you can find in any kitchen. The State never proved that Mr. Roberts possessed a burn phone, nor did they prove he ever used one. They did not connect Mr. Roberts to that telephone number he just called out. They did not connect

Mr. Roberts to a burn phone. We want to know when 28 grams was sold. None of those bags contained 28 grams.

When he talked about Mr. Roberts and sales that may have occurred out of his house, none of them came to any amount like that. There was no reliable detective testimony that they saw him handle any drugs at all. There was not a detective that ever saw Mr. Roberts with drugs in his hand.

So how much heroin was being bought or sold? How much really heroin was there? Special Agent Wingo read all of these lab reports to us. And every time at the end he said, well, the weight was so much and the confidence in the weight was 97.7 percent. And when I asked him, well, does that mean that's how much heroin? What is the amount of heroin? He said, well, there was heroin found in the sample, but it doesn't say how much heroin. It says the weight of this whole sample was so much. Could have been sand with four sprinkles of heroin in it. We don't know. They are confident in the weight of the sample, but they did not say the sample contained half heroin, one-quarter heroin, one-eighth heroin, even 10 percent heroin. We don't know.

So coming up with a number of 28 grams of heroin, I don't know, you have to think about that. Because how much of it was heroin? They didn't tell us. So they never established how much actual heroin it was.

The State also never connected an unknown person, Keith, to any of the others or to my client, Mr. Roberts, other than he may have merely known them. These people may have known each other. There are people in this group that have been talked about that knew each other. That does not mean that there's conspiracy between them. If I go down Main Street and there are stores on both sides of the street, there may be a shoe store on this side of the street, may be a shoe store on down, couple other stores here and there. All those guys know each other. They are all selling stuff. But they don't have a conspiracy to sell stuff. They just know each other and they are all selling stuff. A conspiracy is a good bit more. When they came up with the name The Boys, okay, where did they get that?

In a statement made by one of the defendants, Mr. Hunter, he listed people he dealt with. The State told us a list. Mr. Roberts, my client, was not on that list.

As to the charge of possession of a weapon during the commission of a violent crime, in none of the videos did we ever see Mr. Roberts with a weapon. Nope, not one. In no testimony where these guys were saying we bought this from these guys, did they say, well, of course, he pointed a weapon. And the State says when they entered -- questioned the detective, when they entered the trailer of Mr. Roberts, they found a gun on the couch. Mr. Willie Brown testified

he was present when the officers came in. He also said that he was sitting on the couch playing a video game. He also said that Mr. Roberts was in a different room, not the room where the gun was laying on the couch.

There's no evidence that Mr. Roberts committed a crime while armed with a weapon. Emory Roberts was not the only person found in the trailer when he was arrested. The State did not show, besides the weapon, who brought the drugs into the trailer or who owned those drugs or who -- they did not give any receipt saying that anybody owned that gun.

Ladies and gentlemen, much of the evidence, as it has to be sometimes, they just put together what they can, but some of it is circumstantial. It's not beyond a reasonable doubt. And we got to be careful. We can accuse people of things. You could accuse me of something. I can accuse you or your neighbors could accuse you of something, but it has to be proven element by element every part beyond a reasonable doubt. They may prove one thing, but if they can't prove it all, you can't put somebody in jail just because somebody says something. There has to be sufficient proof beyond a reasonable doubt.

And I will close by saying, of course, it's your decision, and I would want you to look at all of it and consider whether you ever actually saw any drugs changing

hands, whether you knew who owned certain drugs or gun. And when you make your decision, that you may find that there is enough reasonable doubt to find Mr. Roberts not guilty of the counts that are lined up against him. Thank you.

THE COURT: Ms. Johns.

MS. JOHNS: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, ma'am. You may proceed.

MS. JOHNS: This operation the government has presented to you today lasted three to six months long. The name of this operation should be called Operation Free Ride. Come along with me, take a free ride, because the government is in charge of this entire operation. It's in charge of the decisions that they made. It's in charge of Tommy Sekula. It's in charge of Will Brown. It's in charge of Craig Valentine. The government is making the decisions that they want you to decide upon. Anybody that was accused in this case did not independently make a decision as to how much dope they were going to buy. That decision was made by the Government.

This case is based on what you could do for me, and then I will tell you what I can do for you. That's just the way it is in this drug trafficking world. You scratch my back, I will scratch yours. What do you want me to say? I will say whatever you want me to say so that I don't have to

go to jail, so that I can clear myself, so I can clear my name, so I can get my next fix, so that I don't have to go to jail, maybe I can get probation. I'm praying that my charges are going to be dropped. I'm at your beck and call. That's the organization.

This case that they present to you that they worked on for six months is very, very simple to have proven. They had everything at their disposal. They have the entire Dorchester County Sheriff's Department helping them, granted that they might not be as big as SLED. They have multi-jurisdictional or multi-county jurisdiction. They could have had the entire Berkeley County narcotics division help them. They had the entire SLED division at their disposal to help them with this case. They have all the badges. They have all the orders. They have all the motions. They have all the search warrants. They control every single thing that they present to you in this case. And there should be never any leaf left unturned, any stone not looked under, any excuse for not providing you with the organization necessary to convict any person of a crime. There's no excuse.

Now, I believe that there was some commentary, and I wanted to talk to you about some of these things that the State is presenting to you that they want you to rest your laurels on. The best thing that the government has going

for them is they've got a dedicated law enforcement team. That's the best thing they've got going for them. And nobody is perfect. No one is 100 percent perfect. I don't expect anybody to ever be that way. If anybody is that way, they are just not human beings, because human beings make mistakes. My standard of my fellow man is not perfection. My standard of my fellow man is, if you make a mistake, just admit it and we can move on. We can deal with mistakes.

But you know what we can't deal with? We can't deal with exaggeration. We can't deal with fabrication. We can't deal with dishonesty. We can't deal with motives, motive that will make you do something you would not normally do. We should not deal with that kind of evidence. And that is what they have.

Other than law enforcement, you have to look at each and every one of these witnesses and you have to determine, are they biased in this situation. Do they have a motive? Do they have intent? Is their motive to walk scot-free? Is their motive to ask for probation? If they do a good enough job and get a conviction, they may never get charged for being a drug dealer.

Who in this courtroom selected the name drug dealer? Who decided who was a drug dealer and who was not a drug dealer? The government did that. And what they told you is that they want to bite the head off of the snake.

Well, you know, what, a snake's body can't live without its head, but a snake's head can live without its body. So however they want to dress it up for you, as long as there is a demand, is there going to be a supply. You can't say we are going to cut out the supply and the demand is going to diminish. You just can't say that.

You've seen all these mom and pop stores around town, eventually closing down to the big super power Walmart. There's a demand for groceries. There's a demand for goods, services. There's a demand for that. How are you going to distinguish whether or not if you cut out Walmart, then the other stores will flourish. Cut out the other stores, Walmart is going to flourish. The supply and demand argument leaves you with nothing to base your decision on in this case.

Now, let's talk about this conspiracy, because this conspiracy ups everything that was done in this case, with the exception of Tommy Sekula buying drugs on the side, getting high somewhere else with this friends, who he didn't turn in, by the way. You know, here's a young white male who had every opportunity in the world, just like everybody else in this courtroom, went to college, was a manager at Walmart, and comes in here with pathetic story that he had his wisdom teeth pulled and he had to take pain medication for that, and because of that, he got addicted to pills.

That is weak. That is the weakest excuse for making a bad choice I've heard in a long time.

And when he started buying pain pills on the street, do you think he still had pain from his wisdom teeth being pulled? So when he was buying pills from the street, these opiates, whose fault is that? Well, I guess whoever is putting them in the market. Really? Because I don't see you going off of the big pharmas, the people who are producing the pain pills. I don't see you complaining about that. They are the ones that's providing it to you. You are the ones choosing to do it. What about them? Well, it's their fault. Their fault because it's out there. I had to get my wisdom teeth pulled and I got addicted, so I'm going to blame them for that.

Oh, wait a minute, not only that, but I'm also going to blame my friend or my cousin or my whoever that provided these pills to me.

And then Matt Simpson, his dear friend, introduced him to heroin. And at that moment, you have to make a decision, just like the rest of us, as to whether or not you are going to put a needle in your arm or not. And when you do that and then you realize that you can't live without that, what do you do? Well, didn't have a ride. Didn't have any friends. I didn't have any family. Nobody cares about me. I get sick. I'm a weak person. I can't make

decisions on my own. I have to be told what to do all the time. And if that means that I have to lie, if I have to steal, if I have to go take something that doesn't belong to me and resell it, if I have to take in goods that were stolen and get my girlfriend to pawn it, because pawn shops and me don't work, that's what I'm going to do.

Government's told you, you know, we don't get to pick who our criminals are. Yes, they do. We don't get to pick who we have to put out there in the field to catch the bad guys. Yes, they do. Tommy Sekula, his brother is in prison. And a number of other people that he associated with are bad guys. They are equally as bad guy as anybody else they've accused. They are all drug dealers. Right?

Every one of these pieces of evidence up here of drugs, every single one of them, I want you to ask yourself this, did they bring you proof beyond a reasonable doubt that they got those drugs from Justin Hunter? I am not saying, do you think they got them from Justin Hunter. I'm saying, do you know that beyond a reasonable doubt? Because you are not allowed to speculate about that. You have to be firmly convinced that they did.

And if a picture does tell a thousand words and they give you 999 other words and they are missing one, then it's not a picture of a thousand words. They've got 99 problems and a picture is one of them. But bringing a

reasonable doubt is not one of them. Right? Because let me tell you, there are some so-called eyewitnesses in this case. And out of those eyewitnesses, who can you trust? They did the best they could by hanging a video recorded wire on a drugged out, strung-out heroin addict, to go in and make multiple buys from a person named Justin Hunter.

That's -- the people on the street want to call Mo. What's in a name? Mo is a nickname. Tommy is a nickname. Curly is a nickname. Larry, I mean, whatever. The nickname is not necessarily the person. In fact, they even gave the confidential informant a nickname. Is it against the law for them to use a nickname? They have to prove that whatever nickname belonged to whatever person. They nicknamed their confidential informant Charlie. Charlie is on the move. Charlie is doing this. Charlie is doing that.

But you know what Charlie didn't do for them? And it's not his fault, right, because he doesn't know anything about wires. They didn't capture the necessary picture in order to convict Justin Hunter of anything. What are you going to do? Oh, well, you know, sometimes that happens. Not sometimes. Every single time that happened. Don't you think that once they review the wire and the video, that they would have at least tried to make an adjustment. Don't you think they would have said, wow, you know, this is really capturing that pickup truck across the street on this

Margaret Drive, maybe we should make some other arrangements, to get something a little bit more reliable, because we are not just going to rely on a heroin addict. That's the whole reason for the wire. It's the entire reason for it, is to identify the person selling drugs. Is that hard to accomplish? The reason for the wire is because Tommy Sekula is a drug addict and he can't be held accountable because he's not trustworthy.

And you know what, with regard to whether or not they knew you as a drug addict, he got sick one time throwing up at the meet location, the meeting. They know what heroin is. It's common knowledge that if you are a heroin addict and you are not using, you are sick. You heard it from two or three -- at least two witnesses, flu-like symptoms, vomiting, chills, stomach cramps. And you can't live very well like that.

So let's talk about who our eyewitnesses are with regard to Justin Hunter, because that's who I represent. I don't represent Q. I don't represent Lassain Johnson or Rosemarie Quezada or whoever else. I represent Justin Hunter. Let's start out with the eyewitnesses. The most obvious alleged eyewitness is Tommy Sekula.

Now, to give Tommy Sekula credibility or to set up some sort of basis for his testimony, he had to tell you guys that he had infiltrated this group of The Boys. All

right. Tommy, well, who were The Boys? Well, there are a bunch of them. Why don't you name them for me? Okay. He sat up there. And I wrote them down: Munch, Black, Keith, Jacob, Omar, Q, Chris, Cici, Oz, Mo, John, Shorty, BK, and G, times two. That's who he said, those are The Boys. How many is that? Well, I didn't count them. Out of those, we had a Mo. We have a Q. He didn't even say G. G is Lassain Johnson. What about Rosemarie, is she one of the boys? She's Chica, Cici. So those make up The Boys.

And you know what he said. He said they are using a phone as a hub. A phone, one phone as a hub, one phone or one phone number? Because I'm going to show you something. We got one, two, three, four, five, six, seven, eight, nine, ten phones in this case, ten phones. And that's probably not all of them, right? Because they didn't give you G's phone. They didn't give you Rosemarie Quezada's phone. They didn't even give you -- I don't know who else. They didn't bring their phones in.

Do you know what they did bring in regarding phones? Whose phone belonged to whom? And where are the phone numbers? Where is the subscriber information? When you go out and you ask AT&T or you ask Sprint or you ask anybody else, hey, this is my phone, bill me for it, or this is my phone, here, Sprint, I'm going to pre-pay you for the services of this phone. They didn't even go out there and

go to those places and get the information for any of these telephones to tell you who these phones belonged to, not one. Not even a burner phone. Not even a smartphone. They didn't bring to you the ownership of these phones. And we all know how easy that is to do. If you've ever went and paid a cell phone bill at the site, you know they can pull off your subscriber information. You can pay your bill. And they will give you a detail list of everybody you called and everybody that called you if you ask for it.

So this hub phone that they had the number to, who did it belong to? Did it belong to Keith? Did it belong to Keith last name unknown? Did it belong to somebody whose responsibility was Detective Lundberg, because that's Detective Lundberg's case. That's not my case. My case didn't start until September of 2015. So whatever he did and whatever mistakes he made, it's not my fault. But when you bring on a case, you become involved in the case, you turn over that leaf. You find that rock. And you look under it. Because the standard in this courtroom is not maybe he did it, or if we put over 100 exhibits into evidence, the amount of what we bring to the courtroom will convince them that Justin Hunter is guilty.

Is the government just using people to make cases? Are they interested in getting this off the street? And I will submit to you, did they ever offer poor old Tommy

Sekula any help? They did. Let me tell you how. Listen, you are going to become a confidential informant, and if you don't, we are going to send you to jail. Because we know you made four buys, at a Publix, at a convenience store with a soda can, with a pack of gun. We do know that. So if you don't, we are going to take away your liberty and we are going to put you in jail. Because we got you, and you are going to get somebody else. Do you think they cared about Tommy Sekula? They don't care about Tommy Sekula. Don't fall for it. If they cared about him and they cared about what heroin was doing to this community, they would have taken Tommy Sekula and they would have gotten him some help at the time that this case was over. And if he was using, they would have helped him out then too, perhaps some other method, legal method, methadone, some sort of counseling, however long it takes to detox. So they didn't do that, because they don't care about that.

They let somebody that was high on heroin go in and make these buys. And some of the buys only lasted two or three minutes. And they want you to believe that they drove right up to the house, dropped Tommy off, Tommy went in, got the drugs and then jumped back in the truck. That's not how it happened. You saw the video. They dropped him off way down the street. And he was hustling getting in there. It was hot. Gets in there, gets it, walks all the way back to

the truck. And you know the only other help they got him? They went to pick him up from his home, they used him, and then they dump him back out. Tommy Sekula, from his own mouth, I'm between a rock and a hard place; a rock and a hard place.

Craig Valentine, poor guy, his defense should be affluency. You know, raised very well, went to school, graduated, had some college, had a decent job. Guess what? He had to have his wisdom teeth pulled too. I think everybody that gets their wisdom teeth pulled are likely to turn into a heroin addict. That's not true. He made a choice. Do you know what his choice was last year or the year before that? What can I do to get out of jail? And they wanted him to be a confidential informant then. You know what, he schmoozed his way out of it. He finagled his way. He slipped. He's got a smart mouth on him. He has no respect for anybody, not even himself.

And he came in here and he gave you bunch of speculation, a bunch of conjecture, a bunch of -- well, you know, I'm the one who is still in chains. But you know what, he's not here out of the goodness of his heart. He didn't come in here. He wasn't truthful to you. And you can't trust him. Because you know why? You might one day be a neighbor to his mother, and he will break into your house and steal what doesn't belong to him so that he can

pay for his ever loving habit of using heroin. And he admitted to that.

And he did get a break, because he got probation this first time around. Maybe it was because he was smart enough to pick the phone and reach out to law enforcement and say, hey, I can help you out here. Did he take advantage of the break he got? No. At one time, two days after he got out of jail, he was back out there looking out for himself. And he's looking out for himself on the witness stand. So no matter what he says, it cannot be believed because he has a motive and his motive is to break those chains.

Do you think that if he comes back after being on this witness stand, that his lawyer isn't going to stand in front of another judge and say, guess what, Judge, he assisted the government in the conviction of a large-scale heroin trafficking organization. What do you think that does? That mitigates his offenses. It excuses his stealing, his lying, his cheating. And he's going to get another break. And then you know what he's going to? He's going to go out and buy more heroin. Do you know why you know that? Because he's done it before and he's going to do it again.

So Craig Valentine is not a witness to anything Justin Hunter did. He's not an eyewitness to it. He can

tell you that, you know, he got his drugs from John F. Kennedy, Jr. just as much as he can say he got his drugs from Justin Hunter, because he's not a believable person to be on the witness stand.

Now, Detective Allen with the Dorchester County Police Department -- I'm sorry, Dorchester County Sheriff's Office, came in here, said he was assisting SLED with all of these buys. He was an eyewitness. He had as much potential of seeing Justin Hunter in a gray BMW as who? As Agent Wingo? He's there with the CI at the gas pump when Charlie gets into a gray BMW and gets out. What did he do when he came in here? Pointed to Justin Hunter, right there, next to his lawyer. That's your eyewitness. Do you see the defendant in the courtroom? Do you see Justin Hunter in the courtroom? Yes, right there next to his lawyer. Oh, gee, sorry, I was wrong. That's your eyewitness.

Do you know why he couldn't identify him? Because he didn't see him. He did not see Justin Hunter in a BMW. Yes, they came in here, they've proven the BMW was registered to Justin Hunter. But did they prove to you that Justin Hunter was driving this BMW?

They were going to talk about Tommy a/k/a Charlie again, who is high, clearly buying heroin on the side. Did Tommy get in here and tell you that besides the fact of buying drugs from these people under a controlled purchase,

did he tell you who he was buying drugs from when they weren't looking? Did he tell you that? If he's to be trusted, he should have told you that. He didn't tell you that because he didn't have tell you that because they didn't tell him to tell you that. They only told him to tell you that Justin Hunter was involved. And Tommy is going to do what he's told. He did what he was told when he got caught dealing heroin. He did what he was told when he got wired. He did what he was told when he was strip searched. He did what he was told when he met with the the agents and the Attorney General's office to prepare for this case. He did what he was told when he got on the witness stand.

Is he going to get immunity? He's already got it. Do you know what that does for your community? It puts Tommy Sekula back on the street looking for heroin. Congratulations.

Tommy Sekula -- and Craig Valentine is an eyewitness. Detective Allen, obviously, wasn't paying attention if he's going to point out Mr. Roberts as Mr. Hunter. So we can't rely on his testimony. And we've got Agent Wingo, who was in charge of the organization. And he was getting gas one time and he used his cell phone one time to capture, what, the movement of the gray BMW. He was able to get a tag. One a temporary tag, two -- maybe didn't

even get the temporary tag number. Got a tag number. That was it.

But you know what, there's another eyewitness in this case, a very, very reliable eyewitness in this case that the government didn't bring to you. And I'm sitting there wondering why. Because I promise you, the better the case the government has, the easier my job is. Do you know why it's easy? Because, bam, there it is, the eyewitness that you need, and there's no way out of this, no way out of this for Justin Hunter at all. Do you know who that eyewitness is? The eye in the sky. Where is the eye in the sky in this case? The video surveillance from Sunoco gas station, where is it? The video surveillance from McDonald's who had video surveillance on the outside so that they can help prosecute people who commit crimes on their property. Robberies, assaults, whatever happens, the eye in the sky at McDonald's, they have the ability to go in and ask for the videos and the videos are so good. We see them all the time.

Walmart Corporation, where Tommy worked, not only do they have video surveillance, they have video cameras in the parking lot. If you want to prove who is driving a car, if you want to be on a video inside your car, you just drive through Walmart parking lot or drive to the garden center, because you will be captured. And you will be identified,

because the technology is that good. They didn't bring that.

You know what else they didn't bring? They didn't bring you any proof that Justin Hunter lived at any of those places, not even Patriot Boulevard. He could have gone to get a lease. Yeah, could have, but we didn't do it. Who leased those houses for those people? G, Emory Roberts, had paperwork in his own house. Is there any evidence Justin Hunter lived there? No. You got some of Justin Hunter's documents. Great. Is it illegal to have somebody else's documents, even somebody else's passport? No. Do any of you have important documents belong to your family members? It's not against the law to be related to somebody or be a friend with somebody.

And when they go to Justin Hunter's house, guess what they get? They get this illegal machine that counts money and they found a stack of $3,000, $1,000 each. This you can buy anywhere, Office Depot, Staples, Amazon.com. How much is it? Because you said it was expensive. Oh, I really don't know how much it is. They are $188 up to whatever. And what money did it count? Did it count drug money? They don't have proof of that. They found $3,000. Do they know what Viviana Serrano does for a living? Did they even investigate that so they can eliminate the fact that could have been her money? Did they eliminate the fact

that she could have been using that for her nail salon, or whatever it was? No. Not important to them. They want you to take it, though. They want you to take it all and say, this proves that Justin Hunter is a drug dealer.

These little Tupperware things that they got from Justin Hunter's house in the bathroom, these things right here, what do they say? Trace level of heroin. Did they find any substantial amount of heroin at Patriot Boulevard where Viviana Serrano lived? No. Do you know what they did find? They found some paperwork. They found some paperwork that's got the name of some of these people on here. Maybe it's up here. Anyway, it's blue. You will have it in there with you. I think it's got the name of Ramel-somebody on it. Oh, here it is. Huh, Ramel Brown at Arno Drive. Guess who lived in that same neighborhood? Will Brown. Guess who was staying there? Will Brown. Hmmm, could it be -- could there be a relationship as to why this was found somewhere around Justin Hunter, if Will Brown is a friend of his?

Will Brown, the young man that got up there and said, is that what you want me to say? Am I saying what you want me to say? Is my brother a drug dealer, because I don't want that to happen. I'm looking for immunity. I'm praying I get probation. Yeah, they came and charged me because I was over at this trailer when the flashing lights came, and I'm looking for immunity, I want to clear my name.

Could it be Ramel Brown wrote this note? Could it be?

Now, let's talk about theorizing. When Agent Wingo went and had Patriot Boulevard under surveillance and he sees a Justin Hunter pull up and get out of a car with Vivianna Serrana and a young child, they approach him. And he squares up, whatever that means. Does that mean he gets frightened when law enforcement officers are coming towards him? I would. I get frightened when I see blue lights in my rearview mirror, and I am not even doing anything wrong. I just start shaking. I pull over. Hopefully they go around. Usually they do, because I'm driving too slow. So is that normal behavior? Sure it is.

When they take Justin Hunter's personal belongings away from him, which, by the way, was two cell phones, was he carrying Vivianna's cell phone, because they didn't introduce any of her cell phones. Were any of those cell phones connected to anything in this case? Do they even have a phone number for any of those cell phones? No. When they take his personal items and they go through his wallet, lo and behold, they find a receipt for a room that was purchased 10 days beforehand in New York. Well, guess what, ladies and gentlemen, birth place, Justin Hunter, New York, USA. Do you think he has a mother or a father or children his age that might live in New York, or he might have been exercising some sort of visitation? They want you to

believe by exaggeration that the only purpose of going to New York was to buy heroin. That is a leap of faith.

And you know what, just so happens that when Justin Hunter gave a statement, he confessed to being in New York and staying in this hotel. Had nothing to do with him finding a receipt in his wallet. And he got emotional. This is supposed to be the toughest guy in this DTO, drug trafficking organization, and he cried. He got emotional. This tough guy, the one in charge. How do you know he's in charge? You can just tell he's in charge, just like I can tell the judge is in charge in here.

Well, you know what? Judge is wearing a robe. And you know who is in charge when you are in the police station? The people wearing the badges. This tough guy gets emotional and starts, I don't know, spilling his heart out.

Just so happens that his phone number is a phone number that they connect to these Western Union receipts. And they connect the phone number to a buy back in October, October the 28th of 2015. How do we know that somebody didn't use Justin Hunter's phone number the same way that somebody used Tommy Sekula's phone? When Tommy Sekula was out looking for heroin and his friend who moved away took his phone and called somebody, and that's how he got the number to The Boys, how do we know that when this phone,

whether it was attached to Justin Hunter's hand or not, could have been used by somebody else? We don't have any proof that that phone was in the hands of Justin Hunter when that call was made on October the 28th. You guys figure that out beyond a reasonable doubt.

Speculation, supposition, exaggeration, all in an effort to keep your streets clean. I don't envy you in this case. I don't -- I wish it was clearcut. I wish it was cut and dry. I wish the eye in the sky had come into this courtroom to help you, because there's certain things in this case that trouble me. And when it troubles me, I can submit to you that to me, it makes me hesitate to act. I am not firmly convinced that they've proven their case. Are you?

Thank you for everything.

THE COURT: Madam Forelady, ladies and gentlemen, I'm going to give you a brief restroom break. Y'all have been sitting a considerable amount of time. And my jury charges is probably about 35 minutes. During this break, please do not discuss the case and please leave your notepads in your seats. You will be out about ten minutes.

(Whereupon, the jury leaves open court at 11:52 a.m.)

THE COURT: If counsel could approach for me and look at the verdict forms. And then I will give you an

opportunity to go to the restroom as well.

Any exception to the form of the verdicts regarding Mr. Hunter, from Mr. Underwood?

MR. UNDERWOOD: None from the State, Your Honor.

THE COURT: Ms. Johns?

MS. JOHNS: No, Your Honor.

THE COURT: You need to go over those with him.

MR. UNDERWOOD: No exception from the State.

THE COURT: Any exceptions, Mr. Griffith?

MR. GRIFFITH: No, Your Honor.

THE COURT: Thank you all.

(Whereupon, a recess transpired.)

THE COURT: The State ready to proceed?

MR. UNDERWOOD: Your Honor, one matter concerning the charge, I wanted to inquire for the Court. Does your charge include language that any mixture of a substance that contains a substance, that the entire mixture counts towards the weight pursuant to *State v. Johnson*?

THE COURT: I don't make any charge that would constitute a charge on the facts. And the case that you state deals with a motion for directed verdict, not a jury charge. It deals with the sufficiency of the evidence, which is a matter of law for the court, no a jury.

My charge reflects exactly what the statute says, which is the State must also prove beyond a reasonable doubt

that the amount of heroin or any mixture containing heroin was -- and it states the amounts.

Anything further from the State before we proceeding?

MR. UNDERWOOD: Nothing, Your Honor.

THE COURT: From the defense, Mr. Griffith?

MR. GRIFFITH: No, Your Honor.

THE COURT: From the defense, Ms. Johns?

MS. JOHNS: No, Your Honor.

THE COURT: Let's proceed. If you can get the jury for me.

(Whereupon, the jury returns to open court at 12:05 p.m.)

THE COURT: During this trial, ladies and gentlemen, you and I have certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case. I also have the duty to rule upon or pass upon the admissibility of evidence, which has been offered during this trial. You are to consider only the competent evidence that is before you. And you are to disregard and disabuse from your mind any testimony this court has ordered stricken from the record in this case during the progress of this trial, if there has been any.

You are to consider only the competent evidence which has been presented from the witness stand, together

with any exhibits which have been made a part of the record in this case and any stipulations of counsel made into the record, if there have been any.

I also have the additional duty to charge or instruct you to the law applicable to this case. As the presiding judge, I'm the sole judge of the law of this case. And it is your duty as jurors to accept and apply the law as I now state it to you. If you have a preconceived idea as to what the law is or what the law ought to be in a case or in this case and it should not now agree with what I tell you the law is, you are obligated under your oath to abandon this preconception on your part. Because you are sworn to accept the law and apply the law precisely as I now state it to you.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judges of the facts. You the jury are the judges of the fact in this case. The Court is the judge of the law. The Constitution of our state has declared that a trial judge shall not intimate, state, comment upon or make any statement to a trial jury about the facts in a case. Since you the jury are the sole judges of the facts in this case, you are not to infer anything from what I've said during the progress of this trial and ruling upon the admissibility of evidence or otherwise or anything that I say now to you during the

course of this instruction, that I have any opinion about the facts. The law does not not allow me to have an opinion about the facts. This is a matter solely for you the jury to determine.

As jurors then, it is your duty, as I've instructed, to determine the effect, the value, the weight and the truth of the evidence presented during this trial. Necessarily, you must assess the credibility of witnesses who have testified in this case. Credibility is simply a legalistic term meaning the believability of each witness who has testified.

It becomes your duty as jurors to analyze and to evaluate the evidence and determine that evidence which convinces you. Some of the things you may consider as you decide whether or not to believe the testimony of a particular witness include, what was the manner and appearance of the witness who testified? Was he or she straightforward or hesitant in answering? Was the testimony of a witness consistent or inconsistent? How did the witness come to know the facts that he or she testified to, or what was his or her ability to know these facts? Is there some reason a witness would want to give testimony which would help or hurt one side or the other? In other words, was the witness biased or prejudiced? And was the testimony of a witness strengthened or weakened by other

testimony or evidence?

I further instruct you that in determining the question of the credibility or believability of witnesses who have testified, you may believe one witness as against several witnesses, or several witnesses as against one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. If you have a good and sound reason, you may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. Again, I instruct you that you can believe as much or as little of each witness's testimony as you think proper. You may consider the demeanor of a witness, that is the manner and appearance of the witness from the witness stand.

A person who has a past criminal record is competent to testify during a trial. A past record does not affect the ability of the witness to testify. The past record may only be considered by you, if at all, in determining the witness's believability. Remember, ladies and gentlemen, you are the sole judges of facts in this case and of the believability and credibility of any and all of the witnesses who have testified.

I further instruct you that our rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists with

witnesses we call expert witnesses. A witness who by their education, training and experience has become an expert in some art, science, profession or calling may state an opinion as to relevant and material matters in which the witness claims to be an expert, and may also state the reasons for the opinion. You should consider any expert opinion received in evidence in this case like any other evidence. Give it the weight you think it deserves.

If you decide that the opinion of an expert witness is not based on sufficient education, training and experience, or if you conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion even though it is not contradicted.

I further instruct you, ladies and gentlemen, and emphasize that the fact that the defendant did not testify is not a factor to be considered by you in any way whatsoever in your deliberation and in your consideration of the fact of whether the State has met their burden of proof in this case. It must not be considered by you in any manner whatsoever. A defendant has the constitutional right

to remain silent. And the assertion of this right must not be considered by you in your deliberations. I repeat, under your oath, you are to draw absolutely no conclusion whatsoever from the fact that the defendant in this case did not testify. The fact that he did not testify is not to be discussed in any manner whatsoever in the jury room. The burden of proof, as I've stated to you, is on the State. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

I further instruct you that under our laws of this state, a defendant may be tried even if the defendant does not attend the trial. But the fact that the defendant is not present may not be considered against the defendant in any manner whatsoever.

Ladies and gentlemen, there are two types of evidence which are generally presented during a trial, direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who asserts or claims to have knowledge of a fact, such as an eyewitness.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, nor is a greater degree of certainty required of

circumstantial evidence than of direct evidence.

And as I've instructed, crimes may be proven by circumstantial evidence. And, again, the law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. However, to the extent that the State relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two.

Ladies and gentlemen, you should weigh all of the evidence in this case. After weighing all of the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

Conversely, if you are convinced of the guilt of the defendant beyond a reasonable doubt, then you must find him guilty.

I instruct you that the fact that the defendants

were arrested, charged and indicted in this case is not evidence in this case and cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. This documentation, ladies and gentlemen, are simply the formal written instruments or instrument which contain the charge or charges made against a defendant. It simply serves as the formal documentation by which the case is processed or brought in to this court.

The defendants have pled not guilty to the indictments. And that plea casts the burden on the State to prove the defendants guilty, because a person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I instruct you, Madam Forelady, ladies and gentlemen, that it is a cardinal and important rule of the evidence that a defendant in a criminal trial, no matter what the seriousness of the charge or charges made against him may be, will always be presumed to be innocent of the crimes for which he is indicted unless his guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence does not cease when you retire to deliberate, but it accompanies the defendants from the time of their appearance throughout the trial until you reach a verdict in this case. Our Supreme Court has

said that the presumption of innocence is like a robe of righteousness placed about the shoulders of the defendants. And it remains with them and assigns them to that class of the innocent until that presumptive robe of righteousness has been stripped from their person by evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is not mere legal theory. It is not just a legal phrase. It a substantial right to which every defendant is entitled unless you the jury are satisfied from the evidence of guilt beyond a reasonable doubt.

The State has the burden of proving the defendants guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or the preponderance of the evidence.

In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty. And in criminal cases, the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced

that the defendants are guilty of the crimes charged, you must find the defendants guilty.

If, on the other hand, you think there's a real possibility that the defendants are not guilty, you must give them the benefit of the doubt and find them not guilty.

The defendant Hunter, in counts one, two and three, and Roberts in counts one and fourteen are charged with trafficking. The defendants are charged with trafficking in heroin. The State must prove beyond a reasonable doubt that the defendants knowingly sold, manufactured, cultivated, delivered, purchased, brought in to this state, provided financial assistance, or otherwise aided, abetted, attempted or conspired to sell, manufacture, cultivate, deliver, purchase, or bring into this state, was knowingly in actual or constructive possession, knowingly attempted to become in actual or constructive possession of heroin.

The State must also prove beyond a reasonable doubt that the amount of heroin or any mixture containing heroin was 4 grams or more but less than 14 grams; 14 grams or more but less than 28 grams; and 28 grams or more.

"Actual possession" means that the heroin was in the actual physical custody of the defendants.

"Constructive possession" means that the defendant had dominion and control or the right to exercise dominion or control over either the heroin itself or the property of

which the heroin was found.

Mere presence at the scene where the drugs were found is not enough to prove actual or constructive possession. Actual knowledge of the presence of the heroin is strong evidence of the defendant's intent to control its disposition or use.

The defendant's knowledge and possession may be inferred when a substance is found on the property under the defendant's control. However, this inference is simply an evidentiary fact to be taken into consideration by you, along with the other evidence in this case, and to be given the weight, value and effect you decide it should receive.

Two or more persons may have joint possession of a drug. "To deliver" means to actually, constructively or attempt to transfer the drug.

"Manufacture" means to produce, prepare, convert, process, plant, cultivate, grow or harvest a drug naturally or chemically.

"Manufacturing" includes any packagings or repackaging of the drug or labeling or relabeling of the drug's container.

In order to prove a conspiracy, the State must prove beyond a reasonable doubt that the defendant combined with one or more persons for the purpose of committing an unlawful act or of committing a lawful act by unlawful

means. There must be a mutual understanding, agreement or common intention and plan. Mere passive knowledge or consent to the criminal conduct of another is not enough to make a person a conspirator. There must be guilty knowledge and participation.

Similarly, the mere fact that the defendant may have associated with another person or met with another person and discussed common names in interest, does not necessarily establish proof of existence of a conspiracy or that the defendant was involved in a conspiracy.

On the other hand, it is not necessary that the agreement be a formal one, that it be in writing, that the persons hold a meeting and expressly state the terms of the common plan, or that the agreement be stated in words between them. The agreement of a conspiracy may come into being through an implied mutual understanding. The willful, intentional and knowing adoption by two or more persons of a common plan is sufficient.

Overt acts need not be shown to establish a conspiracy. A conspiracy may be shown by circumstantial evidence and the conduct of the parties. In order to convict the defendants of conspiracy, the State must prove beyond a reasonable doubt not only that the defendant or defendants knew of the unlawful conduct, but that the defendant or defendants agreed to combine with the other

person or persons for the purpose of accomplishing the unlawful conduct.

The defendant Hunter in count 4 and count 5, and Roberts in counts 11, 12 and 13, are charged with distribution of heroin. The State must prove beyond a reasonable doubt that the defendants distributed heroin.

"Distribute" means to deliver or to actually, constructively or attempt to transfer a drug other than by administering or dispensing.

"Deliver" means to actually, constructively or attempt to transfer a drug. A transfer can involve an exchange for money or barter or a gift. There does not have to be anything given in exchange for the drugs for a transfer to constitute distribution.

And in that count 6, the defendant Hunter is charged with distribution of methamphetamine. The State must prove beyond a reasonable doubt that the defendant distributed methamphetamine.

"Distribute" means to deliver or to actually, constructively or attempt to transfer a drug other than by administering or dispensing.

"Deliver" means to actively, constructively or attempt to transfer a drug. A transfer can involve an exchange for money, a barter or a gift. There does not have to be anything given in exchange for the drugs for a

transfer to constitute distribution.

The defendant Roberts in count 15 is charged with possession of a weapon during the commission of or attempt to commit a violent crime. The State must prove beyond a reasonable doubt that the defendant was in possession of a firearm or visibly displayed what appeared to be a firearm during the commission of a violent crime.

A firearm means any machine gun, automatic rifle, revolver, pistol, or any weapon which will, is designed to, or may be readily converted to expel a projectile.

In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime. I instruct you that trafficking heroin is a violent crime as defined by South Carolina Code Annotated 16-1-60.

The State must also prove beyond a reasonable doubt that the weapon furthered, advanced, or helped in the commission of the crime.

In count 16, the defendant Roberts is charged with possession with intent to distribute methamphetamine. The State must prove beyond a reasonable doubt that the defendant possessed methamphetamine with the intent to distribute it.

To prove possession, the State must prove beyond a

reasonable doubt that the defendant had both the power and the intent to control the disposition or use of the methamphetamine.

Possession may be either actual or constructive. Actual possession means that the methamphetamine was in the actual physical custody of the defendant. Constructive possession means that the defendant had dominion and control or the right to exercise dominion or control over either the methamphetamine itself or the property on which the methamphetamine was found.

Mere presence at the scene where drugs were found is not enough to prove possession. Actual knowledge of the presence of the methamphetamine is strong enough -- is strong evidence of the defendant's intent to control its disposition or use.

The defendant's knowledge of possession may be inferred when a substance is found on the property under the defendant's control. However, this inference is simply an evidentiary fact to be taken into consideration by you, along with the other evidence in the case, and to be given the weight, value and effect you decide it should receive.

Two or more persons may have joint possession of a drug. The State must also prove beyond a reasonable doubt that the defendant intended to distribute the methamphetamine.

"Distribute" means to deliver, other than by administering or dispensing a drug. Intent may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

In determining whether or not the defendant had the intent to distribute the methamphetamine, you may consider the circumstances surrounding the defendant's alleged possession. You may consider the amount of the substance alleged to have been possessed, the manner in which it was allegedly possessed, the place where it was allegedly possessed, and other factors which you consider to be important. You must find that the defendant did not intend to have the methamphetamine solely for his own use.

Possession of more than one gram -- possession of one or more grams of methamphetamine, also known as ice or crank, creates an inference that the defendant possessed the methamphetamine with the intent to distribute it. This inference does not relieve the State from proving beyond a reasonable doubt that the defendant had the intent to distribute. It is simply an evidentiary fact to be taken into consideration by you, along with the other evidence in the case, and to be given the weight, value and effect that you decide it should receive.

Ladies and gentlemen, I instruct you that if a crime is committed by two or more people who are acting

together and committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequences of the acts done in carrying out the common plan and purpose.

For example, two people can be guilty of killing another person when only one of the two had a gun, there was only one bullet, and only one of the two fired the shot that caused the death. If two or more people are together, acting together, assisting each other in committing the offense, the act of one is the act of all, or as it is sometimes said, the "hand of one is the hand of all".

Prior knowledge that a crime is going to be committed without more is not sufficient to make a person guilty of that crime. Mere knowledge that another person is going to commit a crime, even if the defendant is present when the crime is committed, is not sufficient to convict the defendant as a principal. Guilt as a principal is shown by active or constructive presence at the scene as a result of prior arrangement. Therefore, finding of prior arranged plan or common scheme is necessary for a finding of guilt as a principal. The State must prove beyond a reasonable doubt by competent evidence the theory of the "hand of one is the hand of all".

A principal at a crime is one who either actually commits the crime or who is present aiding, abetting or assisting in committing the crime. When a person does an act in the presence of and with the assistance of another, the act is done by both. Where two or more acting with a common plan or intent are present at the commission of a crime, it does not matter who actually commits the crime, all are guilty. The "hand of one is the hand of all".

Present at the commission of a crime means to be sufficiently near to aid and abet and assist in the commission of the crime. However, mere presence at the scene of a crime is not sufficient to convict one as a principal on the theory of aiding and abetting.

Intent is also a necessary element, but there must have been a common design or intent to commit the crime. And the crime must have been committed pursuant there to with the person aiding and abetting by some overt act.

"Intent" means intending the result which actually occurs, not accidentally or involuntarily. Intent may be shown by acts and conduct of the defendant or defendants and other circumstances from which you may naturally and reasonably infer intent. The State must prove these elements beyond a reasonable doubt.

An additional issue in this case, ladies and gentlemen, is the identification of the defendant or

defendants as the people or persons who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the defendant or defendants before you may convict either.

Identification testimony is an expression or belief of impression by a witness. You must determine the accuracy of the identification of the defendants. You must consider the believability of each identification witness in the same way as any other witness. You may consider whether the witness had an adequate opportunity to observe the offender at the time of the offense. This will be affected by things that like how long or short a time was available, how far or close the witness was, the lighting conditions, and whether the witness had the chance to see or know the person in the past. Once again, I instruct you, the burden of proof on the State extends to every element of the crime charged. And this specifically includes the burden of proving beyond a reasonable doubt the identity of the defendants as the people or persons who committed the crime.

If after examining the testimony, you have a reasonable doubt as to the accuracy of the identification, you must find the defendants not guilty.

I further instruct you that mere presence at the scene is not sufficient to prove someone guilty of a crime.

A defendant's presence where a crime is being committed or mere association with a person who commits the crime does not make a defendant an accomplice or an aider and abettor of person committing the crime. The burden is on the State to prove every element of the crimes charged.

If you find, after reviewing all of the evidence, that the State has proven that the defendant was only present at the scene of a crime and they have not proven beyond a reasonable doubt any other participation in the crime, then you must find the defendants not guilty. The law is that proof of at the scene of the crime is not sufficient to find someone guilty.

Ladies and gentlemen, there are multiple counts in one indictment and multiple counts against each defendant. And I am not going to read all of those, because I know you heard them on multiple occasions. And I will go over the charges when I go over the verdict form with you. But I instruct you that each count of the indictment charges a separate and distinct offense. You must decide each count separately on the evidence and the law applicable to it, uninfluenced by your decision as to any on the count. The defendants may be convicted or acquitted on any or all of the offenses charged. And you write a separate verdict of guilty or not guilty for each count of the indictment.

Ladies and gentlemen, you have also heard reference

or testimony concerning the potential penalty a person can serve for the crimes alleged in the indictment. In determining whether the State has met their burden of proof or not, you cannot consider any possible penalty for any particular crime. The potential punishment for a crime is an as a matter of law for the Court to determine and should never been considered by you in any manner whatsoever in arriving at a fair and impartial verdict in this case.

There are two possible verdicts for each count of each indictment for each defendant. And I will go over those with you in a moment. You don't have to try to write that down because the verdict forms go into the jury room with you. And there's no significance whatsoever to the order in which I will state these potential verdicts.

Ladies and gentlemen, your verdict must be unanimous, which means that all twelve of you must agree in order to reach a verdict in this case. I think in the interest of time and brevity, I will do this.

As to the defendant Emory Warren Roberts, each count of the indictment, that being count 1, count 11, count 1, which is trafficking in illegal drugs, heroin, 28 grams or more, conspiracy; count 11, distribution of heroin; count 12, distribution of heroin; count 13, distribution of heroin; count 14, trafficking in illegal drugs, heroin, 4 to 14 grams; count 15, possession of a weapon during the

commission of or attempt to commit a violent crime; and count 16, possession with intent to distribute methamphetamine, your options are as follows, we, the jury, unanimously find the defendant, either guilty of the substance of offense, or not guilty.

And as it regards the defendant Justin Gordon Hunter, as to count 1, trafficking in illegal drugs, heroin, 28 grams or more, conspiracy; count 2, trafficking in illegal drugs, heroin, 4 to 14 grams; count 3, trafficking in heroin, 14 to 28 grams; count 4, distribution of heroin; count 5, distribution of heroin; and count 6, distribution of methamphetamine. Your options are as follows, we, the jury unanimously find the defendant either guilty of the substantive offense or not guilty.

Madam Forelady, once the jury can has reached a unanimous verdict, you will fill out each verdict form and sign and date each form. Once the jury has reached a unanimous verdict on all of the counts, it is your responsibility to knock on the door and advise the bailiffs that the jury has reached a unanimous verdict. Also, if the jury has any questions during deliberations, it is your responsibility to write out those questions, sign and date the note and knock on the door and follow the same process with the bailiffs.

Ladies and gentlemen, if you have any questions