

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JANET MARGARET WATKINS,

RECEIVED
APPELLANT

APPELLATE CASE NO. 2013-002441

MAR 10 2014

RECORD ON APPEAL

SC Court of Appeals

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**THE FOLLOWING EXHIBIT IS ON FILE WITH
THIS COURT
(STATE'S EXHIBIT # 2 (PHOTOGRAPH))**

E X H I B I T S

		ID	EV
S-1	Photo of black bottle With meth	4	67
S-2	Photo of meth bag	4	70
S-3	Bag of meth	4	95
S-4	Drug report	94	95

I-N-D-E-X

WITNESSES:	Direct	Cross	Re-Direct	Re-Cross
Kasie Parker				
By Ms. Hamilton	61			
By Ms. Anderson		69		
Tony Cotton				
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Janet Watkins				
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1 (WHEREUPON, DOCUMENTS MARKED FOR IDENTIFICATION
2 AS STATE'S EXHIBITS 1 THROUGH 3.)

3 THE COURT - You ladies ready to get started?

4 MS. HAMILTON - Yes, Your Honor.

5 THE COURT - Okay.

6 MS. ANDERSON - Yes, Your Honor.

7 THE COURT - Okay. Now, the jury's not coming in
8 until 10:30 I think. Okay, have we got some pre-trial
9 matters we need to take up?

10 MS. HAMILTON - Yes, we do.

11 THE COURT - Okay. All right, I'll be glad to
12 hear from y'all.

13 MS. ANDERSON - Yes, Your Honor. I pass up copies
14 of the defense's Motion in Limine to Your Honor, as well as
15 the State and I would just proceed through those. The
16 first would be the Motion to determine if the State has
17 complied with Rule 5 and Brady and determine if all
18 discovery has been turned over to the defense.

19 THE COURT - Okay. Solicitor?

20 MS. HAMILTON - Your Honor, the State has complied
21 with Rule 5 and Brady and provided them with all discovery
22 in this case.

23 THE COURT - Okay.

1 MS. ANDERSON - Your Honor, the next motion would
2 be a Motion to determine the prior record of the defendant
3 the State would seek to introduce should she choose to
4 testify.

5 MS. HAMILTON - Your Honor, we have no prior
6 convictions that we intend to introduce.

7 THE COURT - Okay.

8 MS. ANDERSON - Your Honor, the next is a Motion
9 for a list of witnesses as well as criminal histories of
10 any of the State's non-law enforcement witnesses not
11 already disclosed, and the State has provided me with both
12 of those items.

13 THE COURT - All right, very good.

14 MS. ANDERSON - Your Honor, the next would be a
15 Motion for Sequestration during trial of the witnesses for
16 the State and the defense. I've already instructed by
17 defenses witnesses other than Ms. Watkins to remain outside
18 so the defense has already put witnesses under
19 sequestration.

20 MS. HAMILTON - Your Honor, we have agreed and
21 placed our witnesses who are not who are not law
22 enforcement. This is our case agent, Sergeant Cotton ---

23 THE COURT - Sure. Okay.

24 MS. HAMILTON - --- from the York Police
25 Department and everyone else is sequestered.

1 THE COURT - Very good.

2 MS. ANDERSON - Your Honor, the next is a Motion
3 to determine the existence and admissibility of any prior
4 bad act evidence or any other bad act evidence the State
5 might seek to introduce under Rule 404(B) of the South
6 Carolina Rules of Evidence.

7 MS. HAMILTON - Your Honor, we do not seek to
8 introduce any prior bad acts, but we do intend -- I might
9 be jumping ahead of myself because she has to limit
10 testimony from the arrest for shoplifting. It's number 6
11 on the Motion list.

12 THE COURT - Okay.

13 MS. HAMILTON - That is something we would like to
14 go into, Your Honor.

15 THE COURT - All right, number 6 or number 8?

16 MS. HAMILTON - Number -- oh, sorry, number 8,
17 Your Honor.

18 THE COURT - Okay, well, let's ahead and deal with
19 that.

20 MS. ANDERSON - Yes, Your Honor.

21 THE COURT - I understand that is one issue we
22 need to deal with. Tell me what we have on that?

23 MS. ANDERSON - And, Your Honor, if I could, I
24 guess, go ahead and start, my position would be that it
25 should not be admitted, that it's in fact irrelevant to the

1 charge that Ms. Watkins is on trial here today. A basis of
2 what I understand of the facts is essentially when Sergeant
3 Cotton is called to the Walmart, Ms. Watkins was in custody
4 by Walmart Loss Prevention for shoplifting, that a search
5 of her pocket subsequent to that reveals what the State is
6 charging her with, which is possession of a controlled
7 substance believed -- or subsequently methamphetamine a
8 testing. Your Honor, I understand the State may have to
9 establish some background from the officer as to why he
10 responded there, something to the effect of Ms. Watkins was
11 in custody, was under arrest, but I think any details
12 regarding shoplifting allegations are not relevant actually
13 unto a question of whether or not Ms. Watkins was knowingly
14 and intentionally in possession of an amount of
15 methamphetamine found in her pockets. There's no
16 allegations from what I've been provided -- I'm assuming
17 the State's allegations or theory would be that Ms. Watkins
18 arrived in the store with this item in her pocket, no sort
19 of I think allegations regarding the shoplifting of which
20 the only information I even have in the case summary that
21 the officer filed was that she was in custody at the time
22 he arrived and what Walmart Loss Prevention indicated, no
23 video or any other evidence as to the shoplifting, because
24 the shoplifting was not a General Sessions charge, was
25 presented. And looking just as to, you know, the

1 admissibility of evidence under Rule 404(B) or State v.
2 Lyle, that Rule is generally a Rule -- I think is not
3 admissible unless it goes toward motive, identity, common
4 scheme or plan, absence of mistake or accident or intent.
5 I don't think any of those fall under this here that the
6 shoplifting would in any way satisfy or go toward the State
7 proving one of those items as part of their case as to this
8 specific charge. So I would move for any sort of details,
9 any sort of Walmarts -- I know one of the Walmart witnesses
10 is on the witness list, and I don't think her testimony
11 would essentially be relevant here today.

12 THE COURT - So I assume the shoplifting charge is
13 still pending?

14 MS. ANDERSON - It is closed, Your Honor. She was
15 convicted of that in Magistrate's Court.

16 THE COURT - Okay. Isn't shoplifting a crime of
17 dishonesty ---

18 MS. HAMILTON - It is, Your Honor.

19 THE COURT - --- that could be brought -- if she
20 were to testify, it could be brought out under that
21 scenario. Correct? What's the State's position on this?

22 MS. HAMILTON - Exactly, Your Honor. That is our
23 position, that it could be brought out for purposes if she
24 does take the stand ---

25 THE COURT - Right.

1 MS. HAMILTON - --- as to the dishonesty.
2 Additionally, Your Honor, we take two positions on this.
3 In a case State v. Gamble -- Your Honor, may I approach
4 with this case?

5 THE COURT - Sure.

6 (Document handed up to the Court)

7 MS. HAMILTON - In that case it went up on appeal,
8 and in the case at hand, the record in the instant case was
9 devoid of any evidence that the police had probable cause
10 to seize the drug evidence presented at trial. In this
11 case it was reversed stating that the State failed to
12 demonstrate that the drugs were seized as part of a legally
13 permissible search and seizure. In this case she was
14 seized and detained after shoplifting in the search
15 subsequent, and based on the probable cause of that
16 shoplifting, which we feel we have to establish in order to
17 establish the legality of that search, and seizure, but
18 additionally, Your Honor, Res Gestae in the fact that the
19 jury -- we believe it's necessary for the jury to know
20 about this shoplifting and how this detention came about of
21 the defendant, it is necessary for a full presentation of
22 the case the crime which the defendant is now charged. We
23 believe as in stated, State v. Gilmore and State v. Dennis
24 that the jury's entitled to know the setting of the case,
25 that it cannot make a decision void of knowledge, time,

1 place and circumstances of the acts from which form the
2 basis of this charge. We believe that the shoplifting did
3 form the basis of that search and the finding of that
4 possession of methamphetamine.

5 THE COURT - Is the defense going to make an issue
6 of the search of the defendant?

7 MS. ANDERSON - No, Your Honor.

8 THE COURT - Okay. All right.

9 MS. ANDERSON - And, Your Honor, just to sort of -
10 - for the clarify of record, these are the first I've seen
11 these cases, but just in scanning, I think the State's
12 argued two different things. I think the Gamble case is
13 going as to a search issue, which wouldn't be under the
14 purview of 404(B) or Lyle, so I think that's a different
15 circumstance, that if the search were an issue then that
16 might be more of a situation, so I don't think that case is
17 really dispositive or persuasive in regard to this. In
18 regard to the sort of fullness of the setting, you know, I
19 think the State has probably and, you know, in all candor
20 to the Court, the latitude to say he responded to Walmart,
21 she was in custody, she was searched pursuant to that, but
22 I think there's a difference -- there's a dividing line
23 between going into a Walmart, loss prevention officer
24 testifying in detail as to what their allegations were
25 about shoplifting as factually versus the officer stating

1 as to why -- I think that can be done without going into
2 the specifics of that charge, particularly as it -- a
3 difference between the law enforcement officer testifying
4 as to a Walmart Loss Prevention officer testifying as to a
5 charge she's not on trial for today.

6 THE COURT - Okay.

7 MS. HAMILTON - Your Honor, the State's position
8 on this is that this isn't even Lyle. We don't believe
9 that this -- what we're arguing is Res Gestae. That's
10 going to be our basis for wanting to get this in. We're
11 not trying to get it in through Lyle or these bad acts that
12 she's speaking of. We're trying to get it in as -- we feel
13 that presenting a case the jury's going to be standing
14 there saying why was this woman randomly taken and detained
15 in a Walmart and subsequently searched when we can't even
16 go into why she was detained. They're going to be set
17 wondering what circumstances under which she was detained
18 in this room, told to empty her pockets and for what
19 reason. And it puts the State in a bad light to not give
20 the jury full knowledge of the circumstances in which this
21 search came about. We believe that it is Res Gestae in
22 this case.

23 MS. ANDERSON - Your Honor, I don't believe it's
24 any element of possession of methamphetamine as to what
25 charge she was under suspicion under the time she was

1 searched. I don't -- I don't think you can argue Res.
2 Gestae because it's not an element that's required to be
3 proven by the State as to a possession of methamphetamine
4 charge. What I do think is it falls under, you know,
5 irrelevant evidence, highly prejudicial evidence and I
6 think it's clearly other bad act evidence as to bring in,
7 you know, a shoplifting allegation that has nothing to do
8 with proving whether or not she was in possession of
9 methamphetamine.

10 THE COURT - In light of the fact that the issue
11 of probable cause to search the defendant at Walmart is not
12 at issue, then -- and it's going to be pretty much agreed
13 upon using that term that she was in custody, then I'm
14 going to limit the State in bringing out why she was in
15 custody, but it can be brought out that she was in custody
16 and there subsequently searched and the methamphetamine
17 being found at that time, so there be some limitation,
18 however, if the defendant chooses to testify in this case,
19 then, of course, shoplifting being a crime of dishonesty,
20 would be, certainly be permissible to be brought out, if
21 she does decide to testify.

22 MS. ANDERSON - Yes, Your Honor.

23 THE COURT - Okay, what -- what else do we have as
24 far as Motions in Limine?

1 MS. ANDERSON - Your Honor, moving through the --
2 the next would be the Motion to determine the existence of
3 admissibility of any and all statements allegedly made by
4 the defendant which the State intends to use for the trial.
5 From the incident report it does appear there was some
6 manner of an alleged statement made while Ms. Watkins was
7 in custody, so I believe we may need to proffer testimony
8 and to have a Denno hearing as to that.

9 THE COURT - Well, Solicitor, do we have any
10 statements that may be an issue?

11 MS. HAMILTON - We do have a statement, Your
12 Honor, that we would have to have a Jackson v. Denno
13 hearing.

14 THE COURT - Okay.

15 MS. HAMILTON - And I could put the officer up.

16 THE COURT - All right. Before we do that, is
17 there anything else that -- you've got a number 7 here?

18 MS. ANDERSON - Yes, Your Honor. Basically, the
19 next one, just to be moving ahead, to restrict testimony by
20 any witness would could not conduct a chemical analysis
21 that a substance is conclusively a controlled substance.
22 Your Honor, it's my position that a witness who did not
23 even in this case do a field test and who didn't do any
24 chemical analysis cannot conclusively testify as to
25 something being methamphetamine. He can say he suspected;

TONY COTTON - DIRECT BY MS. HAMILTON

14

1 he could describe the appearance of it, but I think it
2 would give a -- to me an improper perception that it is
3 conclusively something but he did not -- that basically the
4 law enforcement witness didn't ---

5 THE COURT - Well, I think certainly a law
6 enforcement officer having had experience dealing with
7 methamphetamine cases, if the officer does have experience,
8 can say in my opinion it appeared to be meth, but certainly
9 -- I mean it goes to the weight I think of the testimony,
10 not necessarily to the admissibility. Okay. You want to
11 go ahead and get into the Jackson v. Denno hearing now?

12 MS. HAMILTON - Yes, Your Honor.

13 THE COURT - Okay. All right. Call your witness,
14 please, Solicitor.

15 MS. HAMILTON - Thank you, Your Honor. The State
16 would call Sergeant Cotton from the York Police Department.

17 TONY COTTON, AFTER BEING FIRST DULY SWORN,
18 TESTIFIES AS FOLLOWS

19 THE COURT - Your witness, Solicitor.

20 MS. HAMILTON - Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. HAMILTON -

23 Q Officer or Sergeant Cotton, did you speak with the
24 defendant the night of April 26th, 2013 and get a statement
25 from her?

TONY COTTON - DIRECT BY MS. HAMILTON

15

1 A Yes, ma'am.

2 Q And was anyone else from law enforcement with you at
3 that time?

4 A Yes, ma'am, Corporal Stiles.

5 Q Okay. Where were y'all located?

6 A Inside the security office at Walmart.

7 Q Okay. Again, could you state the time of the
8 interview, what date?

9 A It was April 26th, 2013 at approximately, say 9:10.

10 Q And I'm going to ask for you to tell us a little bit
11 about the environment. How many people were present in
12 that security room?

13 A It was five people.

14 Q Was there anyone pointing a weapon at the defendant?

15 A No, ma'am.

16 Q Was there anyone threatening her?

17 A No, ma'am.

18 Q Were people being nice to her?

19 A In my opinion, yes.

20 Q Was she hand-cuffed?

21 A No.

22 Q Did she appear to be clear-headed and sober?

23 A A little intoxicated.

24 THE COURT - Excuse me. I didn't hear.

25 A A little intoxicated.

1 Q Did she appear to be hurt or injured?

2 A No, ma'am.

3 Q Did she appear to be reasonably intelligent?

4 A Yes.

5 Q And was she able to understand what was going on and
6 what was being said to her?

7 A Yes, ma'am.

8 Q And she could coherently respond to this ---

9 A Yes.

10 Q Did anyone make any promises to get her to talk to
11 you?

12 A No, ma'am.

13 Q Now, did you read her -- did you read her rights
14 according to Miranda?

15 A No, ma'am.

16 Q Did you actually interview and talk with her about
17 this incident?

18 A About the incident? No.

19 Q Okay. What did you talk to her about?

20 A I talked to her, asked her what was in her pockets,
21 and I asked her what was the substance inside of a
22 container.

23 Q Okay. And let me ask you, did you make -- again, did
24 you or anyone else make any threats or promises to her in

TONY COTTON - CROSS BY MS. ANDERSON

17

1 any way to get her to talk with you or make any statement
2 to you?

3 A No, ma'am.

4 Q Can you please tell us what she said in response to
5 what you asked?

6 A I was -- there was a black, like film container in her
7 pocket, what she got out of her pocket and put on the
8 table, and I asked her what was in that container; she
9 stated crystal meth.

10 Q Sergeant Cotton, how long did this detention last?
11 How long was she in there?

12 A Probably 15 minutes maybe. When I got there? About
13 15 minutes.

14 Q Okay. And from the time that you spoke with her, from
15 the time she was removed from that room, how long was she
16 in there would you estimate?

17 A Probably 17, 18 minutes.

18 Q Okay.

19 MS. HAMILTON - Please answer any questions the
20 defense may have.

21 CROSS EXAMINATION

22 BY MS. ANDERSON -

23 Q Sergeant Cotton, Ms. Watkins was in custody at the
24 time you were at Walmart. Correct?

25 A She'd been detained by the security officers.

1 Q Security officers.

2 A Yes, ma'am.

3 Q And the Walmart loss prevention rooms are usually in
4 areas set-off from the main store. Correct?

5 A Yes, ma'am, in the back.

6 Q And so she was in the back. She was in that room with
7 several Walmart personnel. Correct?

8 A True.

9 Q And you were called there for suspicion of
10 shoplifting. Correct?

11 A Yes, ma'am.

12 Q And so as you said, she had already been detained by
13 the Walmart Loss Prevention when you arrived.

14 A Yes.

15 Q And then once you arrived she was also detained and in
16 custody in your custody at that point.

17 A I -- when I spoke to her and I found the suspected
18 drugs, at that time I placed her under arrest.

19 Q Okay. Was that for shoplifting or suspicion of drugs?

20 A Shoplifting.

21 Q Okay. And but when you got there, you said there were
22 five people total in the room.

23 A When I got there?

24 Q Or once you arrived and you were in the room with her.

25 Is that correct?

1 A Right.

2 Q Was that in addition to Ms. Watkins or including Ms.
3 Watkins?

4 A Including Ms. Watkins.

5 Q Okay. And she was not able to -- she was not allowed
6 to leave at that point. Correct?

7 A Leave the office?

8 Q Yes.

9 A No.

10 Q And you indicated on direct you did not read Miranda
11 warnings?

12 A No, I did not.

13 Q And you did ask her several questions about what was
14 in her pockets. Correct?

15 A Yes.

16 Q And that her answers or statement was in response to
17 your questions about that.

18 A Yes.

19 Q And there were not any subsequent statements given
20 after that. Correct?

21 A Correct, no.

22 Q And she was placed under arrest after those statements
23 were made.

24 A Yes.

1 MS. ANDERSON - Your Honor, I think that's all the
2 questions I have in the Denno motion.

3 THE COURT - Solicitor, anything in re-direct?

4 MS. HAMILTON - No, Your Honor.

5 THE COURT - Okay. Solicitor, how -- if she's in
6 custody and no Miranda is given, how do we get around that?

7 MS. HAMILTON - Your Honor, we would state and
8 concede that this statement was given prior to Miranda in
9 violation of Miranda, but our position is that this is
10 admissible for impeachment purposes seeing as though this
11 was a voluntary statement, and under Supreme Court case --
12 Supreme Court of the United States case, Oregon v. Elstad
13 is stated in that case that the Miranda presumption who
14 (sic) in rebuttal (sic) for purposes of prosecution of this
15 case in chief does not require that the statements be
16 discarded as is inherently tainted, despite the fact that
17 patently voluntary statements taken in violation of Miranda
18 must be excluded from the prosecutions case, the
19 presumption of coercion does not bar their use for
20 impeachment purposes on cross examination.

21 THE COURT - Ms. Anderson, what is your position?

22 MS. ANDERSON - Well, Your Honor, I haven't had
23 the time to read that case, but obviously my position would
24 be that these statements were clearly taken in violation of
25 Miranda and all of the case law that's come subsequent to

1 that; she was in custody; she was not given Miranda. She
2 did not waive those rights therefore, and the officers
3 testimony is all of these statements were made in response
4 to his questioning. I can't speak as to what the State --
5 she's arguing, because I haven't had a chance to even read
6 that case, but ---

7 THE COURT - Let's do this. I'm not trying to
8 interrupt you. If your client elects not to testify, then
9 we don't have an issue.

10 MS. HAMILTON - But, Your Honor, I guess I need to
11 read it in regard to, you know, how that -- far that goes.
12 You know, my client doesn't agree with the statement, you
13 know, that at what point does the State -- let me focus
14 that. You know, I think I want to be clear before we get
15 into it, is it admissible at all in cross-examination, is
16 it admissible if the door is open or what the circumstances
17 are ---

18 THE COURT - Right. The point I think I was
19 trying to make is that I think the Solicitor concedes the
20 point that it would not be admissible in the State's case
21 in chief. With that being said, and if I'm correctly
22 stating the Solicitor's position then, if your client
23 elects to testify, then we can get into this issue of
24 whether or not they can use it for impeachment purposes.
25 If she elects not to testify, then we have a moot issue.

1 MS. ANDERSON - Okay.

2 THE COURT - Fair enough?

3 MS. ANDERSON - That's fine, Your Honor, I just
4 didn't want to ---

5 THE COURT - Sure.

6 MS. ANDERSON - --- speak as to that second issue,
7 you know, prematurely ---

8 THE COURT - Sure.

9 MS. ANDERSON - --- and not to address that ---

10 THE COURT - So we'll just kind of -- we'll hold
11 that in our back pocket and see if we need to deal with it.
12 Okay, anything further in pre-trial?

13 MS. ANDERSON - Your Honor, just to put on the
14 record, there was an addition -- originally an additional
15 charge of possession of a controlled substance. The State
16 did not give me notice they were going forward and did
17 indicate that they did not plan to go forward on that
18 today. They did actually -- and the drug report had both
19 those drugs listed -- they have presented that they have
20 done a redacted version of that that the chemist will
21 present that they would seek to introduce, so just wanted
22 to put that on the record, they have redacted that, and I'm
23 assuming as well there wouldn't be any mention of that
24 charge. I didn't bring those witnesses to Court today in
25 regard to that, because the State indicated they would just

1 be going forward on the methamphetamine charge, but I
2 wanted to put on the record they did show me a redacted
3 version of the drug report at my request that there would
4 be no mention of that.

5 THE COURT - Okay, Solicitor, we good with that?

6 MS. HAMILTON - We are, but, Your Honor, the State
7 would like to -- and going through the Res Gestae again,
8 the fact that she did have two containers on here -- we're
9 not stating that she illegally had them, but she did have
10 pills in the exact same container that the methamphetamine
11 was found, therefore, we would like to give the whole
12 picture, that when she pulled out the objects from her
13 pocket, she had the one that had the pills in it and she
14 had the one that had the methamphetamine in it, and we
15 would like to be able to go into that, not that she
16 illegally possessed them at that point. We're not going
17 to say that. We're just going to state that they were
18 pills in a container in her possession, as was one that was
19 methamphetamine in the same exact container.

20 MS. ANDERSON - I mean I guess I -- I'm confused,
21 Your Honor, because she was charged with it. I mean not to
22 get into things outside of the testimony here, but there
23 was evidence the defense had that they were legal
24 prescription bills and the owner of the pills -- obviously
25 have to bring those individuals here when we weren't going

1 forward, so I'm a little confused as to what the State
2 wants to bring in -- I guess I'm concerned that there's
3 going to be some sort of implication that those were also
4 illegal when she's not on trial for that today. I don't --
5 I didn't intend to make an issue of it, because I don't
6 necessarily think it goes as to this charge and I think it
7 would've been unnecessary to bring in those witnesses with
8 regard to that, so I guess I'm just -- I'm not necessarily
9 sure what the purpose would be then to bring in that
10 testimony. They need to then clarify that that's not at
11 issue here today. I don't know. That's forward (sic)
12 where I'm trying to figure out what the purpose of that
13 would be to introduce into this.

14 THE COURT - I mean I understand, Solicitor,
15 you're arguing the whole circumstances are using the legal
16 phrase, the Res Gestae of this crime, but I still have to
17 look to the relevance and the probative value that it has
18 to your case of proving possession of methamphetamine
19 versus the prejudice and do you not -- it seems like to me
20 that it really does not help you. I mean she either had
21 meth on her or she didn't. You've got a chemist that's
22 going to come in and testify that it is meth. The fact
23 that she had some pills, how does that -- how much value
24 does that give your case? That's what I'm trying to
25 struggle with a little bit here.

1 MS. HAMILTON - Your Honor, it -- it goes to our
2 case because if she comes to say, up on the stand or
3 someone else that she brings in as a witness, says, oh,
4 well, she had no idea what was in those containers, well,
5 this shows lack of mistake of having that and, one, there's
6 another thing of pill -- this is where she stores these
7 objects. This is relevant in the State's case to show that
8 this is not a -- this is not a mistake, that this just
9 happened to be in this bottle. She had another bottle on
10 her that had another thing storing pills.

11 THE COURT - Right. And I can see where if she
12 testifies and she says that, you know, I didn't know what
13 was in there, then you might have a good shot at getting
14 some evidence in concerning the existence of pills, but I
15 think this is another situation, well, let's wait and see
16 whether or not she testifies. You know, they can't bring
17 in a witness to say that the defendant didn't know what was
18 in there. I mean I don't think they can do that. So why
19 don't we just put that in our back pocket too and wait and
20 see if she testifies, then we can get into that. Okay?

21 (No response)

22 THE COURT - All right, anything else in pre-trial
23 before we get a jury picked?

24 MS. HAMILTON - The State would just ask if the
25 defense has complied with reciprocal Rule 5 discovery.

1 THE COURT - Okay.

2 MS. ANDERSON - Yes, Your Honor. I'm not aware of
3 any defense that would require me to provide them with
4 reciprocal discoveries. Your Honor, just to put on the
5 record, I just want to make the Court aware, my client does
6 have COPD. She did advise her time on her oxygen -- she
7 may look like she's sleeping or drowsing off. Just want to
8 make the Court aware of it. She did not want the Court to
9 think she was being disrespectful or falling asleep.
10 That's just a medical issue she has. I just wanted to make
11 the Court aware of this.

12 THE COURT - Okay. All right, well, I appreciate
13 you telling me that, and you may want to mention that to
14 the jury too, so they don't have that same impression.
15 Okay, let me look at -- let's just be in recess for just a
16 couple minutes and let me take a look at the requested voir
17 dire.

18 MS. HAMILTON - Your Honor, could Sergeant Cotton
19 step down?

20 THE COURT - Excuse me?

21 MS. HAMILTON - Would you allow Sergeant Cotton to
22 step down?

23 THE COURT - Oh, yes, yes, certainly.

24 MS. HAMILTON - Thank you, Your Honor.

1 THE COURT - We're not going to make you sit there
2 the whole time.

3 (Brief pause)

4 MS. ANDERSON - Your Honor, while you're doing
5 that, could we have a restroom break?

6 THE COURT - Sure.

7 MS. ANDERSON - Thank you, Your Honor.

8 THE COURT - Sure.

9 (Recess taken)

10 (Jury panel enters the courtroom)

11 THE COURT - This is the State of South Carolina
12 vs. Janet Margaret Watkins. Ms. Watkins, would you mind
13 standing? Just face the jury panel, please. Thank you
14 very much, ma'am. She has been charged in an indictment
15 with possession of methamphetamine. Now, let me tell you
16 at the outset and I'll remind me about this again as we go
17 through this trial, an indictment is merely just the
18 charging paper that gets a case into Court. It's not
19 evidence of Ms. Watkins' guilt. It's only the document
20 that we use to have this case get to the point where we're
21 at for a trial. So I'm going to go through a series of
22 questions, and if you need to respond, do so by standing
23 giving us your jury number and name. If you'll remember
24 yesterday I gave you an opportunity if you wanted to
25 discuss privately any response to any of the questions and

1 did not want to do it in open courtroom, then I'll give you
2 that same opportunity at the conclusion of these questions.
3 Is anyone on the jury panel related by blood or marriage to
4 the Defendant, Janet Margaret Watkins.

5 (No response)

6 THE COURT - Does anyone on the jury panel have a
7 close personal or social relationship with the Defendant,
8 Janet Margaret Watkins?

9 (No response)

10 THE COURT - Now, the following I'm going to give
11 you is a list of possible witnesses in this case, and I'll
12 read those names out to you. Sergeant Tony Cotton, Kasie
13 Parker, Annette Melton and Cynthia Mitchum, Bonnie Carson,
14 Victor Watkins. Is anyone related by blood or marriage to
15 any of the people I've just listed as potential witnesses
16 or does anyone have a close personal or social relationship
17 with any of those persons I've just named? If so, please
18 stand.

19 (No response)

20 THE COURT - I've already introduced you to the
21 attorneys involved in this case. Has any member of the
22 jury panel ever been represented by any of the attorneys
23 involved in this case?

24 (No response)

1 THE COURT - Is anyone on the jury panel close
2 friends with or related to someone who works in the public
3 defender's office or the Solicitor's Office for the
4 Sixteenth Judicial Circuit? If so, please stand.

5 (No response)

6 THE COURT - Is anyone related by blood or
7 marriage or have a close personal relationship with any of
8 the three attorneys involved in this case? If so, please
9 stand.

10 (No response)

11 THE COURT - Now, ladies and gentlemen of the jury
12 panel, I mentioned to you a moment ago about the indictment
13 which charges the defendant with a particular crime, that
14 indictment again not being evidence in this case of any
15 guilt, but I'll read the indictment to you: On or about
16 April 26th, 2013, the Defendant, Janet Margaret Watkins, did
17 knowingly or intentionally possess methamphetamine which is
18 a Schedule II Controlled substance as defined in Section
19 44-53-110, said incident occurred in York County, South
20 Carolina, all in violation of Section 44-53-375 Code of
21 Laws of South Carolina. Has any member of the jury panel
22 formed or expressed any opinion about any issue or matter
23 involved in this case? If so, please stand.

24 JUROR - Yes, sir. Juror 172, Thomas Plyler.

25 THE COURT - Yes, sir.

1 JUROR - I believe that all drugs should be legal
2 and passed.

3 THE COURT - Okay. Let's -- you can come down at
4 the end of the questioning and talk with me privately, sir.

5 JUROR - Yes, sir.

6 THE COURT - Is any member of the jury panel aware
7 of any bias or prejudice towards either the State or the
8 defendant in this case?

9 (No response)

10 THE COURT - The next question, while I do not
11 believe it would apply to anyone, I need to ask it anyways,
12 is there any member of the jury panel that was a member of
13 the grand jury which issued this indictment in this
14 particular case? If so, please stand.

15 (No response)

16 THE COURT - Is there any member of the jury panel
17 who is a member of or a contributor to any group which has
18 as its primary concern the promotion of law enforcement or
19 victim's rights and these groups would include, but not
20 limited to, MADD, SADD or CAVE or is there any member of
21 the jury panel who has made financial donations to any
22 organization in support of law enforcement such as the
23 Fraternal Order of Police, South Carolina Law Enforcement
24 Officer's Association or the Trooper's Association? If any
25 of that applies to you, please stand.

1 (No response)

2 THE COURT - Is there any member of the jury panel
3 who has at any time been employed by or has volunteered for
4 any law enforcement agency or victim assistance program?
5 If so, please stand.

6 (Juror stands)

7 THE COURT - Yes, ma'am, your number and name,
8 please.

9 JUROR - 79, Cristina Godfrey, former FBI employee
10 in Washington, DC.

11 THE COURT - Okay. All right, the fact that you
12 are a former FBI employee, would that prevent you from
13 being fair and impartial to both the State and the defense?

14 JUROR - I worked criminal matters, so it could.

15 THE COURT - Okay, you feel like it may prevent
16 you from being fair and impartial.

17 JUROR - Possibly, yes.

18 THE COURT - Okay. All right. You will be
19 excused from this case. Just remain with us, ma'am. Thank
20 you.

21 JUROR - Remain?

22 THE COURT - Yes, just remain for right now.
23 Thank you. Is there any member of the jury panel who is in
24 any way related to or is friends with any employee of any

1 law enforcement agency or victim assistance program? If
2 so, please stand.

3 (JUROR STANDS)

4 THE COURT - Yes, ma'am, your number and your
5 name, please.

6 JUROR - Juror 206, Kathryn Small, parent of a
7 officer for the City of Columbia.

8 THE COURT - Okay. You're a parent of -- what
9 now?

10 JUROR - My daughter is an officer for the City of
11 Columbia Police Department.

12 THE COURT - Okay. All right, the fact that your
13 daughter is an officer with the City of Columbia, would
14 that prevent you from being fair and impartial to both the
15 State and the defense?

16 JUROR - No, sir.

17 THE COURT - Thank you, ma'am. Is there any
18 member of the jury panel who has at any time been employed
19 by or has volunteered for any prosecutor's office? If so,
20 please stand.

21 (No response)

22 THE COURT - Is there any member of the jury panel
23 who has any experience with drug use or drug abuse, whether
24 personally or through family members or close personal
25 friends? If so, please stand.

1 (Jurors stand)

2 THE COURT - Okay. I'll take the lady on my left.

3 Ma'am, your number and name?

4 JUROR - Brandy Grant, number 83.

5 THE COURT - Okay.

6 JUROR - My husband.

7 THE COURT - Your husband ---

8 JUROR - He's an alcoholic and a drug addict.

9 THE COURT - Okay. All right. The fact that your
10 husband is an alcoholic and drug addict, would that prevent
11 you from being fair and impartial to both the State and the
12 defense?

13 JUROR - No.

14 THE COURT - Okay. All right, you can sit down.

15 Thank you, ma'am. Yes, ma'am, your number and name?

16 JUROR - 48, Melanie Costner-Thompson. My son's
17 father -- he's not in his life at all -- he's a drug
18 addict.

19 THE COURT - Okay, the fact that your son's father
20 is a drug addict, would that prevent you from being fair
21 and impartial to both the State and the defense?

22 JUROR - No.

23 THE COURT - Thank you, ma'am. Have a seat.

24 JUROR - Yes, sir. Thomas Plyler, number 172. My
25 Hell's Angels brothers was set up and trapped ---

1 THE COURT - Okay. We can talk about that
2 privately, sir.

3 JUROR - Yes, sir.

4 THE COURT - All right, is there any member of the
5 jury panel who has previously been charged with a drug
6 offense or who has a family member or close personal friend
7 who has been charged with a drug offense? If that applies
8 to you, please stand.

9 (JUROR STANDS)

10 THE COURT - Oh, I'm sorry. Yes, ma'am, your
11 number and name?

12 JUROR - Number 160, Katherine Neal. My son was
13 charged with a drug offense.

14 THE COURT - Okay. Would that prevent you from
15 being fair and impartial to both the State and the defense
16 in this case?

17 JUROR - No, sir.

18 THE COURT - Thank you, ma'am. Have a seat. Is
19 there any member of the jury panel who has such a strong
20 opinion about the prosecution of drug charges that this
21 opinion would affect your ability to be fair and impartial?
22 If that applies to you, please stand.

23 (No response)

24 THE COURT - All right, does any member of jury
25 panel know of any other reason whatsoever why you should

1 not serve as a jury in this case with particular emphasis
2 being placed on your ability to be fair and your ability to
3 be impartial to both the State and the defense? If so,
4 please stand.

5 (JUROR STANDS)

6 JUROR - Yes, sir.

7 THE COURT - Yes, sir, you can have a seat, sir.

8 JUROR - Thank you.

9 THE COURT - Any additional voir dire from the
10 State?

11 MS. HAMILTON - Nothing from the State, Your
12 Honor.

13 THE COURT - Thank you. From the defense?

14 MS. ANDERSON - Not from the defense, Your Honor.

15 THE COURT - Now, is there anyone -- other than
16 the one gentlemen that I suggested come down to the front,
17 is there anyone else that would like to come down and
18 discuss with me privately concerning any of the questions
19 I've just asked to the jury panel? If so, please stand,
20 other than the one gentlemen.

21 (JUROR STANDS)

22 THE COURT - All right, sir, if you'll come down.

23 (JUROR APPROACHES THE COURT)

24 THE COURT - Give me your number and name again.

25 JUROR - Number 172, Thomas M. Plyler.

1 THE COURT - Okay. I'm going to excuse you from
2 being with us.

3 THE COURT - Okay, before we start the jury
4 selection, any objections or exceptions from the State as
5 to the Court's voir dire?

6 MS. HAMILTON - None from the State, Your Honor.

7 THE COURT - From the defense?

8 MS. ANDERSON - None from the defense, Your Honor.

9 THE COURT - Thank you very much. All right,
10 ladies and gentlemen of the jury panel, we will now start
11 the jury selection process. When your name is called, what
12 you will need to do is come down to the front and turn and
13 face both the State and the defense and they will go
14 through a process of selecting the jury. If, in fact,
15 either side says something like, excuse the juror or
16 something to that effect where you're not selected, don't
17 take offense to it. Don't take it personally. They have a
18 certain way of selecting the juries in trials that they are
19 a part of, and so just don't take it personally. Okay? So
20 is the State ready to start the selection process?

21 MS. HAMILTON - State is ready, Your Honor.

22 THE COURT - Okay, defense?

23 MS. ANDERSON - Yes, sir.

24 THE COURT - Okay, madam clerk.

25 DEPUTY CLERK - Number 251, Caitlin Dickey.

1 THE COURT - Solicitor, defense, five and five.

2 DEPUTY CLERK - What say you for the State?

3 MS. HAMILTON - Please present the juror.

4 DEPUTY CLERK - Defense?

5 MS. ANDERSON - Please seat this juror.

6 DEPUTY CLERK - Please have a seat in the jury

7 box.

8 (Juror seated)

9 DEPUTY CLERK - Number 254, Megan Gillespie. What
10 say you for the State?

11 MS. HAMILTON - Please present the juror.

12 DEPUTY CLERK - Defense?

13 MS. ANDERSON - Please seat this juror.

14 DEPUTY CLERK - Please have a seat in the jury

15 box.

16 (Juror seated)

17 DEPUTY CLERK - Number 91, Kathleen Hawkins. What
18 say you for the State?

19 MS. HAMILTON - Please present the juror.

20 DEPUTY CLERK - Defense?

21 MS. ANDERSON - Please seat this juror.

22 DEPUTY CLERK - Please have a seat in the jury

23 box.

24 (Juror seated)

1 DEPUTY CLERK - Number 48, Melanie Costner-

2 Thompson. What say you for the State?

3 MS. HAMILTON - Please present the juror.

4 DEPUTY CLERK - Defense?

5 MS. ANDERSON - Please excuse this juror.

6 DEPUTY CLERK - You've been excused from this
7 case. Number 70, John Enger. What say you for the State?

8 MS. HAMILTON - Please present the juror.

9 DEPUTY CLERK - Defense?

10 MS. ANDERSON - Please seat this juror.

11 DEPUTY CLERK - Please have a seat in the jury
12 box.

13 (Juror seated)

14 DEPUTY CLERK - Number 239, Teresa Whitlock. What
15 say you for the State?

16 MS. HAMILTON - Please present the juror.

17 DEPUTY CLERK - Defense?

18 MS. ANDERSON - Please seat this juror.

19 DEPUTY CLERK - Please have a seat in the jury
20 box.

21 (Juror seated)

22 DEPUTY CLERK - Number 230, Liliana Walker. What
23 say you for the State?

24 MS. HAMILTON - Please excuse the juror.

1 DEPUTY CLERK - You've been excused from this
2 case. Number 9, Latesha Banks. What say you for the
3 State?

4 MS. HAMILTON - Please excuse the juror.

5 DEPUTY CLERK - You've been excused from this
6 case. Number 234, Laura Westmoreland. What say you for
7 the State?

8 MS. HAMILTON - Please present the juror.

9 DEPUTY CLERK - Defense?

10 MS. ANDERSON - Please seat this juror.

11 DEPUTY CLERK - Please have a seat in the jury
12 box.

13 (Juror seated)

14 DEPUTY CLERK - Number 81, Kelly Gordon. What say
15 you for the State?

16 MS. HAMILTON - Please present the juror.

17 DEPUTY CLERK - Defense?

18 MS. ANDERSON - Please seat this juror.

19 DEPUTY CLERK - Please have a seat in the jury
20 box.

21 (Juror seated)

22 DEPUTY CLERK - Number 102, Daniel Howe. What say
23 you for the State?

24 MS. HAMILTON - Please present the juror.

25 DEPUTY CLERK - Defense?

1 MS. ANDERSON - Please seat this juror.

2 DEPUTY CLERK - Please have a seat in the jury
3 box.

4 (Juror seated)

5 DEPUTY CLERK - Number 160, Katherine Neal. What
6 say you for the State?

7 MS. HAMILTON - Please excuse the juror.

8 DEPUTY CLERK - You've been excused from this
9 case. Number 176, Brandon Pressley. What say you for the
10 State?

11 MS. HAMILTON - Please present the juror.

12 DEPUTY CLERK - Defense?

13 MS. ANDERSON - Please excuse this juror.

14 DEPUTY CLERK - You've been excused from this
15 case. Number, 22, Jeremiah Bradley. What say you for the
16 State?

17 MS. HAMILTON - Please present the juror.

18 DEPUTY CLERK - Defense?

19 MS. ANDERSON - Please seat this juror.

20 DEPUTY CLERK - Please have a seat in the jury
21 box.

22 (Juror seated)

23 DEPUTY CLERK - Number 39, Willie Chisolm. What
24 say you for the State?

25 MS. HAMILTON - Please excuse the juror.

1 DEPUTY CLERK - You've been excused from this
2 case. Number 240, Gavin Wilkinson. What say you for the
3 State?

4 MS. HAMILTON - Please present the juror.

5 DEPUTY CLERK - Defense?

6 MS. ANDERSON - Please seat this juror.

7 DEPUTY CLERK - Please have a seat in the jury
8 box.

9 (Juror seated)

10 DEPUTY CLERK - Number 253, Michael Norris. What
11 say you for the State?

12 MS. HAMILTON - Please present the juror.

13 DEPUTY CLERK - Defense?

14 MS. ANDERSON - Please seat this juror.

15 DEPUTY CLERK - Please have a seat in the jury
16 box.

17 (Juror seated)

18 DEPUTY CLERK - Number 19, Heather Bochinski.

19 What say you for the State?

20 MS. HAMILTON - Please present the juror.

21 DEPUTY CLERK - Defense?

22 MS. ANDERSON - Please excuse this juror.

23 DEPUTY CLERK - You've been excused from this
24 case. Number 211, Joanne Stogner. What say you for the
25 State?

1 MS. HAMILTON - Please present the juror.

2 DEPUTY CLERK - Defense?

3 MS. ANDERSON - Please have a seat in the jury
4 box.

5 (Juror seated)

6 THE COURT - Select one alternate.

7 DEPUTY CLERK - Number 150, Diana Meadows. What
8 say you for the State?

9 MS. HAMILTON - Please present the juror.

10 DEPUTY CLERK - Defense?

11 MS. ANDERSON - Please seat this juror.

12 DEPUTY CLERK - Please have a seat in the jury
13 box.

14 (Juror seated)

15 THE COURT - Thank you very much, Madam Clerk.

16 Ladies and gentlemen, I'm going to ask that the bailiffs
17 escort you to your jury room for just a few moments. I'll
18 have several matters that I'll need to deal with with the
19 attorneys and you can get kind of accustomed to where
20 you'll be for a while in the room you'll be in, so, Mr.
21 Krueger, if you'll escort the members of the jury to the
22 jury room, please.

23 (Jury exits the courtroom)

24 THE COURT - All right, any objections or
25 exceptions to the jury selection from the State?

1 MS. HAMILTON - No, Your Honor.

2 THE COURT - From the defense?

3 MS. ANDERSON - None from defense, Your Honor.

4 THE COURT - Okay. Thank you very much. All
5 right, ladies and gentlemen of the remaining jury panel, I
6 know maybe some of you were disappointed that you were not
7 selected to serve on this jury and possibly some of you are
8 excited that you were not selected on the jury, but in any
9 event, what you will need to do is call that 1-800 number
10 after 7:00 o'clock this evening and it will give you
11 directions and instructions about coming back. It's very
12 possible we will have the need for another jury for another
13 jury trial, but that number will tell you what to do. So
14 with that being said, all of you are excused and I hope to
15 see you back. Have a good day.

16 (Remaining jury panel exits the courtroom)

17 THE COURT - All right, we can go ahead and get
18 the jury sworn and get started. What kind of -- any
19 witness issues -- once we do the opening charge and you do
20 your opening arguments, are you ready to get started with
21 your case, Solicitor?

22 MS. HAMILTON - If we could, we'd like to push
23 getting ready -- beginning with the witnesses after lunch,
24 if that's possible. Do openings and then hold off on the
25 witnesses.

1 THE COURT - All right, we could probably do that.
2 Is that okay with the defense?

3 MS. ANDERSON - That's fine, Your Honor.

4 THE COURT - Okay, so what the plan is, we'll
5 bring the jury out, get them sworn, pick a fore-person,
6 give them the opening Court charge, let y'all do the
7 openings and then we'll go ahead and break for lunch then.

8 MS. HAMILTON - Could I use the restroom prior to
9 ---

10 THE COURT - Sure. Let's take a five minute
11 break.

12 MS. HAMILTON - Thank you, Your Honor.

13 (Recess taken)

14 THE COURT - Okay, you ready to get started?

15 MS. ANDERSON - Yes, Your Honor.

16 THE COURT - Solicitor?

17 MS. HAMILTON - Yes, Your Honor.

18 THE COURT - Okay. All right, bring them out,
19 please, sir.

20 (Jury returns to the courtroom)

21 THE COURT - All right, let the record reflect the
22 jury's back in. Madam Clerk, if you will swear the trial
23 jury in, please.

24 (WHEREUPON, THE JURY IS DULY SWORN BY THE DEPUTY
25 CLERK)

1 THE COURT - Thank you very much. I'm going to
2 appoint a foreperson of the jury. Now, let me explain to
3 you that a foreman or a forelady of the jury, their vote
4 carries no greater weight than everybody else's vote, but
5 there has to be some go-between between the jury and the
6 Court. If there's a concern or something comes up -- this
7 is not going to -- at least I don't anticipate this being a
8 very long trial -- a very important trial, but nonetheless
9 not a very long trial. But we need to have a go-to person
10 to serve as a liaison between the jury and the Court and
11 someone to handle the deliberations once the jury gets the
12 case, to conduct and oversee the deliberations and to make
13 sure that everyone on the trial jury follows the
14 instructions from the Court. And so Ms. Dickey, you're
15 actually sitting in the foreperson's chair, and I'm going
16 to appoint you as the forelady of this jury. Now, oddly
17 enough, Ms. Meadows, you are sitting in the alternate
18 chair, so that just kind of worked out, didn't it. So the
19 two of y'all will always sit in the chair that you're in.
20 Everybody else, you can sit wherever you want to in the
21 other chairs. Sometimes juries always kind of -- they
22 always sit in the same chair, but you don't have to. It's
23 just whatever you want to -- whatever you want to do.

24 At this time I am going to give you what we call
25 a preliminary Court charge, just kind of tell you a little

1 bit about what we're going to do during this trial and give
2 you some of your responsibilities. After the Court does
3 that, then the attorneys will give their opening remarks,
4 and I'll touch on that a little bit more in just a moment,
5 but before we begin this trial I want to tell you that this
6 trial probably will be different from what you might
7 expect. Many people do not have the chance to attend
8 actual Court sessions as you are doing now and may think
9 from watching television or movies or reading books that
10 trials are always full of high drama, intense action and
11 riveting circumstances. While all these things may be true
12 at times, this trial is not for entertainment. It is a
13 fundamental part of our democracy, a search for the truth
14 in an effort to make sure that justice is done between the
15 parties before the Court. Searching for the truth, making
16 sure that justice is done is often slow, deliberate and
17 repetitive, the opposite of what you may have seen on
18 television or in movies or read in books. This courtroom
19 is a place of honor dedicated to the protection and
20 preservation of citizen's rights through what many have
21 called the greatest justice system ever created. The
22 attorneys appearing before you are advocates for the
23 parties they represent. The solicitor's office represents
24 the State of South Carolina and the defense represents the
25 defendant in this case. But first and foremost they are

1 officers of the Court sworn to uphold the integrity and
2 fairness of our judicial system and to help you in the
3 search for the truth. You should expect them to be
4 professional, competent and ethical in the representation
5 of their client's interests and I'm sure that they will be.
6 You are also expected as members of this jury to be
7 professional, reasonable and ethical as well. I want to
8 thank you for accepting your responsibility of jury service
9 and for your contribution today to our justice system.
10 It's often been said many times that service on the -- on a
11 jury is the second highest civic responsibility that we all
12 have, second only to serving in the military. Now, what I
13 will now say is intended to serve as an introduction to the
14 trial in this case. These remarks are not a charge on the
15 law in this case. I will instruct you on the law
16 applicable to this case at the end of the trial before you
17 retire to consider your verdict. This is merely an
18 explanation of the procedure that we will follow in the
19 trial of this case so that you may better understand what
20 may be happening. Now, first of all I need to tell you
21 that you cannot take any notes during this trial. Now, the
22 defendant, as I told you before you were selected, has been
23 charged by an indictment with the offense of possession of
24 methamphetamine. The elements of that charge will be
25 explained to you later in this case. As I also told you,

1 the indictment is simply the charge by which the case is
2 brought into Court, and it is not in any sense evidence of
3 any of the allegations that it contains. The defendant has
4 pled not guilty to this indictment. The State, therefore,
5 has the burden of proving each and every element of this
6 indictment beyond a reasonable doubt, and it will be your
7 duty, madam forelady and ladies and gentlemen of the jury,
8 to decide whether the State has met that burden of proof.
9 Your purpose as jurors is to find and determine the facts.
10 You are the sole Judge of the facts. If at any time I make
11 any comment regarding the facts, you must disregard it.
12 You are to determine the facts from the testimony you hear
13 and the other evidence introduced in Court. It is up to
14 you to determine the inferences which you feel may properly
15 be drawn from the evidence. It is especially important
16 that you perform your duty of determining the facts
17 diligently and conscientiously, because ordinarily there is
18 no way to correct an erroneous determination of the facts
19 by a jury. Now, on the other hand and with equal emphasis,
20 the same law that makes you the Judges of the facts makes
21 me the Judge of the law. Law as given by the Court is the
22 only law you may consider. You must accept and follow it
23 even though you may disagree with it. I cannot tell you
24 what the facts are, and you cannot disagree with me about
25 what the law is or should be. Your job is to take the law

1 as I give it to you and apply it to the facts as you find
2 them from the testimony of the witnesses and any other
3 evidence that is introduced. After doing that, you will
4 render your verdict, a verdict under the solemn oath that
5 you just took as jurors a moment ago. Now, throughout this
6 trial I will remind you several times that you cannot start
7 your deliberations. You cannot discuss the facts of this
8 case or anything about this case amongst yourselves or when
9 we take a break, say a lunch-break or a break at the end of
10 the day with anybody else, family or friends. You cannot
11 discuss it at all until I tell you it is time to do that.
12 Again, you must decide this case based solely on the
13 evidence presented here in this courtroom, and this means
14 that during the trial, you must not conduct any independent
15 research about this case, the facts of the case, the
16 evidence presented or any of the individuals involved in
17 this case. Please do not try to find out any information
18 from any source outside of this courtroom. And even though
19 I don't anticipate that there's going to be any media
20 coverage concerning this case, but if there were, if
21 there's something in the newspaper, on the television or on
22 the radio, you are also not to consider anything that you
23 may read or hear concerning that. And, madam forelady, and
24 ladies and gentlemen of the jury, I would ask you that if
25 you become aware of any juror violating these instructions,

1 then you must inform the Court immediately. It's very
2 important to keep an open mind and not decide any issue in
3 this case until all of the evidence has been presented, the
4 parties have made their closing arguments and I have
5 instructed you on the law in this case. It is your solemn
6 responsibility to determine the guilt or innocence of the
7 defendant, and your verdict must be based solely on the
8 evidence as it is presented to you in this trial and on the
9 law as I instruct you during and at the close of this
10 trial. And there may be times, madam forelady and ladies
11 and gentlemen of the jury, that we'll have to excuse you
12 from the courtroom. We've already done that once, because
13 sometimes there are matters of law that I need to take up
14 with the attorneys in this case. I may have to discuss
15 some of the facts in this case to make a ruling on the law,
16 and consequently, I don't want you hearing me make any
17 comments concerning the facts, and so that's why there may
18 be times where we'll need to excuse you so I can handle
19 those matters with the attorneys. Now, lastly, and I don't
20 know if any of you have ever served on a jury before, but
21 you may be a little anxious. You might even be a little
22 overwhelmed. I don't know. But I want to ask that you do
23 what I typically do everyday when I'm coming into the
24 courtroom, I just ask God to give me a little wisdom, give
25 me a little discernment and help me to do the very best job

1 that I can and I would ask that you may want to consider
2 doing that as well. Now, at this time I'm going to give
3 both sides the opportunity to make opening arguments to
4 you, and these arguments are not evidence. They're just a
5 statement of what each side believes the case is about and
6 a statement of their respective positions in this case. So
7 therefore, I'm going to ask that you pay very close
8 attention to these opening arguments and listen very
9 carefully and intently to what they have to say.
10 Solicitor, I'll turn it over to you, ma'am.

11 MS. HAMILTON - May it please the Court. Good
12 morning, ladies and gentlemen. We are here today, because
13 the Defendant, Janet Watkins, is charged with possessing
14 less than one gram of methamphetamine. On the night of
15 April 26th, 2013, officers were dispatched to Walmart. That
16 Walmart is on East Liberty Street in York. You will hear
17 today from Sergeant Cotton who was the responding officer
18 that once he got on the scene he located the defendant in a
19 security office with two loss prevention officers from
20 Walmart. Once in that office, Sergeant Cotton asked the
21 Defendant, Janet Watkins, to empty her pockets. She does
22 so, and when she empties her pocket, she pulls out a few
23 papers, and you will hear Sergeant Cotton explain that, and
24 she also pulls out a black film container. Now, in that
25 black film container was a plastic baggy that you will hear

1 today from Sergeant Cotton that contained a white crystal-
2 like substance. Now, at that time Sergeant Cotton
3 recovered the bag, took it back to York Police Department.
4 He submitted it for testing that same night. Lastly today
5 you will hear from Cynthia Mitchum. She is a -- she's the
6 chemist at York County Sheriff's Office. She will take the
7 stand today and tell you that she did test that bag, that
8 baggy that was recovered from the defendant that night on
9 April 26th, 2013. She will tell you that that white
10 crystal-like substance in that bag tested positive for
11 methamphetamine, .04 grams of methamphetamine. Ladies and
12 gentlemen, this is a simple case, simple facts. Now, what
13 I'm going to do right now is explain to you the law in this
14 case. Now, as the Judge did tell you, he will instruct you
15 at the conclusion of the case as to what law to apply, and
16 I'm just going to explain to you the elements of this
17 crime. Again, she is charged with -- Janet Watkins is
18 charged with possession of less than one gram of
19 methamphetamine. Now, there are two elements to this
20 crime, that the defendant was knowingly in actual or
21 constructive possession of less than one gram of
22 methamphetamine. Now, as to the possession, the first
23 element -- there's two types of possessions. As I said
24 actual or constructive. Now, actual is the type that we
25 are dealing with in this case. That's when there is

1 physical contact and control of an object. That is actual
2 possession. The other type of possession is constructive
3 possession. Constructive possession is where there's
4 actually no physical contact, but that person can exercise
5 dominion and control over that object. I want to give you
6 an example of that. Say you have a cell phone and you're
7 at dinner, and it's your cell phone, and you lay the cell
8 phone down on the table, and you're sitting there. You
9 don't have physical contact with that phone, but that's
10 your phone, and if it rings, you can exercise dominion and
11 control and pick that phone up. That's constructive
12 possession. Now, it is my burden as the State to prove
13 this case and the elements, these two elements, beyond a
14 reasonable doubt. Now, reasonable doubt is not beyond any
15 and all doubt. It is not one hundred percent certainty.
16 Proof beyond a reasonable doubt is proof that leaves you
17 firmly convinced of the defendant's guilt. Now, ladies and
18 gentlemen of the jury, I ask that you listen to all the
19 facts today and weigh all the evidence that will be
20 presented to you, and at the close of this case, I ask that
21 you come back with a verdict that speaks the truth in this
22 case and find the defendant guilty of possession of less
23 than one gram of methamphetamine. Thank you.

24 THE COURT - Thank you, Solicitor. Ms. Anderson?

1 MS. ANDERSON - Thank you. May it please the
2 Court. Good morning, ladies and gentlemen. I guess we're
3 close to the last bit of the day we can say good morning.
4 Before I start off and talk to you anything about the case,
5 I do want to give you a little bit of information my
6 client, Janet Watkins. And in case you happen to look over
7 and observe anything about her, I'll go ahead and I'll let
8 you know that Janet does have COPD and emphazema.
9 Sometimes she has difficulty with her oxygen, and so if you
10 see her looking like she's falling asleep or something like
11 that, I don't want you to think that she's not taking this
12 seriously and that she's sleeping through this trial. This
13 is very important to her here today. She is on trial in
14 front of you with you ultimately making the decision, and
15 she's been charged by the State with possession of
16 methamphetamine. Now, you heard a little bit of how the
17 burden of proof is on the State beyond a reasonable doubt,
18 and that burden of proof is always on the State. Whether
19 or not the defense presents any evidence in a case, the
20 burden of proof remains on the State from this very moment
21 throughout the entire trial. And in connection with that
22 is the fact that Janet Watkins is presumed innocent of this
23 charge, and that presumption of innocence stays with her
24 throughout the course of this trial, throughout all the
25 testimony, all the witnesses who come into Court, and it

1 remains throughout the time even when you enter into your
2 deliberations. And as the Judge said, he'll instruct you
3 about the law, but those are two very important concepts I
4 think that gives you a good lens to think about as you go
5 through and listen to all the evidence and testimony in
6 this trial. You've probably heard the terms presumption of
7 innocence or beyond a reasonable doubt, because the Judge
8 referenced some. You may not have a fully accurate
9 perception of how trials work from television or movies,
10 but you've probably heard those concepts and you've
11 probably come into the jury box here today knowing that
12 that is sort of what operates in our system. And that's,
13 in fact, sort of the lens that you should look at this case
14 and every case through, because there's huge concepts of
15 our legal system and they're important concepts, and
16 they're very important concepts, because, ladies and
17 gentlemen, it's my position that ultimately in this case,
18 you're going to find that the State can't meet their
19 burden, and they cannot prove this case beyond a reasonable
20 doubt. And reasonable doubt is such that if the State
21 comes even the smallest bit short of proving a case, each
22 and every element of the case beyond a reasonable doubt,
23 your duty as jurors is to return a verdict of not guilty,
24 because Janet Watkins is never required to prove her
25 innocence. The State is required to prove her guilt beyond

1 a reasonable doubt, to prove each and every element beyond
2 a reasonable doubt. And one other thing I want to talk to
3 you maybe is about a theme of this case, is a little
4 illustration I was thinking about or something I remember
5 from elementary school. And I can't say that I remember a
6 lot of the assignments that we did in elementary school,
7 but for some reason this always stuck out in my mind, and I
8 think I was somewhere around the third or fourth grade, and
9 we were given some sort of worksheet, and we were told to
10 read the worksheet through and complete it, and when you
11 read the worksheet, I think there might've been an
12 instruction of like read everything, read all the
13 instructions first. And we're sitting in there and there
14 are about 20 or 25 people in my class, and I'm reading
15 through the instructions, and there's this list of maybe 15
16 or 20 things to do, and some of them are rather normal,
17 write your name, draw a circle, and then some of them got
18 sort of bizarre as to what the purpose was. Some of them
19 might've said -- and I can't remember the specifics -- I
20 wish I could -- but something like, stand up and pat your
21 head, or walk around the classroom or say the ABCs out
22 loud. Well, the trick was, if you read all the way -- you
23 read all the instructions first and got to the end of the
24 worksheet, it said, write your name here, put your pencil
25 down and don't do anything else. And the trick and the

1 reason that my teacher gave us that assignment was you were
2 supposed to read to the end. You were supposed to read the
3 entire thing and see the entire picture, hear all the
4 instructions before you started doing the activity. And so
5 to really complete it correctly, you didn't do any of the
6 activities they said. You didn't write anything down other
7 than your name; you didn't get up walk around the room; you
8 didn't do anything. And I remember this, because I was the
9 only one in the room who followed the instructions. I
10 guess I'm rather proud of that. Everyone else of my
11 classmates was up doing all sorts of strange things, saying
12 things out loud, and here I was in the middle of the whole
13 classroom of people and ultimately they didn't read to the
14 end, and they didn't see the whole picture and they
15 completely the worksheet wrong. And the reason I bring
16 that up is that, ladies and gentlemen, to understand this
17 case, you need to see the whole picture. Just as the Judge
18 says that you're not to begin the deliberations til the
19 end, until you've been instructed on the law, I'll tell you
20 that you can't get the full picture of this case until
21 you've heard everything. And I'll submit to you that the
22 State's picture of the case and the officer in the case,
23 they don't have the full picture either, but you as the
24 jurors are a unique perspective of sitting here and hearing
25 the full picture of the case, seeing all the way to the

1 end. And I think at the end of that, you'll see clearly
2 that the State hasn't met their burden of proof in this
3 case, and that the proper verdict in this case, the verdict
4 that speaks the truth, that is just in this case, is a
5 verdict of not guilty. Thank you, ladies and gentlemen.

6 THE COURT - Thank you, Ms. Anderson. Madam
7 forelady and ladies and gentlemen of the jury, we're going
8 to go ahead and take just a little earlier lunch-break than
9 what we normally do. My watch says about six until; that
10 looks about pretty close to that. So we're going to go
11 ahead and break for lunch, ask that you be promptly back
12 here at 1:00 o'clock, so hopefully that'll give you enough
13 to get you a bite to eat and handle whatever other business
14 that you need to handle. Again, I remind you, don't start
15 talking about this case, anything about this case among
16 yourselves or with anybody that you may come in contact
17 with over the lunch-break. So have a good lunch and see
18 you back at 1:00 o'clock.

19 (Jury exits the courtroom)

20 THE COURT - Okay, anything we need to take up on
21 the record before we break for lunch, from the State?

22 MS. HAMILTON - Just briefly, Your Honor. I had
23 some concerns after hearing the opening from the defense as
24 to how this might be portrayed, the State is withholding
25 evidence and the whole story and picture in this case when

1 we have been excluded from showing the full picture and
2 story in this case as to how this came about and why she's
3 detained. I just want to make sure that this isn't saying
4 that we're holding things back when we were actually
5 forbidden from holding things back.

6 THE COURT - Okay. Ms. Anderson?

7 MS. ANDERSON - Your Honor, I don't think you can
8 construe it that way. I think -- you know, I don't have to
9 show all my hand as to what my defense is, but I think it
10 will make a lot more sense in terms of the defense
11 presenting evidence that the full picture intends to show
12 that the -- the full circumstances of the day, so I don't
13 think that would be -- I certainly had no intention of
14 making that implication and I don't think that would be a
15 concern.

16 THE COURT - Well, you know, I think any sort of
17 curative instruction may -- may put more emphasis on that
18 than what we want. I certainly understand what your point
19 is, and hopefully they remembered my instruction to them
20 that, you know, none of this is evidence, is just a
21 statement of position. I do understand your point. I'm
22 just afraid that if I gave any sort of curative instruction
23 it may do more harm than good, but that's certainly noted
24 for the record. Anything else from the defense?

1 MS. ANDERSON - Your Honor, just to let -- make
2 the Court aware of scheduling, one of my witnesses, Bonnie
3 Carson, does have an appointment at 3:30 this afternoon, so
4 it looks like she may need somewhere around 15 minutes, but
5 just to make the Court aware. I don't know time-wise how
6 we'll get -- if we will get to her before then. I will
7 certainly shift the calling of my witnesses to try to
8 accommodate, but if that was the only remaining I probably
9 would have to work around that. She would be available in
10 the morning, but we'll just have to see time-wise how that
11 ---

12 THE COURT - Yes, just remind me if that becomes
13 an issue. Okay? All right, we'll be in recess until 1:00
14 o'clock. Have a good lunch.

15 MS. HAMILTON - Thank you, Your Honor.

16 (Lunch recess taken)

17 THE COURT - All right, are we ready for the jury
18 to come out?

19 MS. HAMILTON - Yes, sir.

20 THE COURT - All right.

21 (Jury returns to the courtroom)

22 THE COURT - All right, let the record reflect the
23 jury's back in. The State ready to proceed?

24 MS. HAMILTON - Yes, Your Honor.

25 THE COURT - Okay. Call your first witness.

KASIE PARKER - DIRECT BY MS. HAMILTON

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1 MS. HAMILTON - The State calls Kasie Parker.

2 MS. ANDERSON - Your Honor, may we approach

3 regarding this witness?

4 THE COURT - Certainly.

5 (Bench conference was held in the presence of the

6 jury but out of the hearing of the jury which was not

7 reported.)

8 THE COURT - Come up and be sworn, please, ma'am,

9 right there.

10 KASIE PARKER, AFTER BEING FIRST DULY SWORN,

11 TESTIFIES AS FOLLOWS:

12 THE COURT - Your witness, Solicitor.

13 MS. HAMILTON - Thank you.

14 DIRECT EXAMINATION

15 BY MS. HAMILTON -

16 Q Thank you for being here. Could you please state your
17 name for the record?

18 A Kasie Parker.

19 Q And, Ms. Parker, where do you work?

20 A Walmart.

21 Q What location?

22 A The one in York on East Liberty Street.

23 Q And how long have you worked there?

24 A Twelve years.

1 Q And what's your position there?

2 A I am the Asset Protection Associate.

3 Q Now, I'm going to draw your attention to the night of
4 April 26th, 2013. Were you working that night?

5 A Yes, ma'am.

6 Q And did you subsequently make contact with the
7 Defendant, Janet Watkins, ---

8 A Yes.

9 Q --- that night around 9:00?

10 A Yes.

11 Q And could you please tell me what happened when you
12 made contact with her?

13 A Myself and Cathy Johnson, who's another APA, escorted
14 Ms. Watkins back to the loss prevention office. On the way
15 back there she was stumbling and slurring so we contacted
16 York Police Department at that point.

17 Q Okay. And did you proceed to the security room?

18 A Yes.

19 Q Okay. So once you get to that security office in
20 Walmart, how many people were in there with you once you
21 get there?

22 A It was myself, Ms. Watkins and Cathy.

23 Q Okay. And how did you identify Ms. Watkins?

24 A She had an ID card, a South Carolina ID card.

1 Q And you stated that earlier that you called officers -

2 --

3 A Yes.

4 Q --- from York Police Department. What happened once
5 officers arrived?

6 A Officer Cotton came in and he talked to Ms. Watkins,
7 asked her to empty her pockets. At that time she pulled
8 out a handful of papers which she placed on the desk
9 closest to Officer Cotton, then she pulled out a small
10 black like film bottle that she placed on the counter.

11 Q And um -- so you said she placed them on the counter.

12 A Yes.

13 Q What happened once she put them on the counter, the
14 table?

15 A Officer Cotton began looking through the papers to see
16 what was there, and then as he was looking through the
17 other stuff, she grabbed the pill -- or the container and
18 put it back in her pocket, and Officer Cotton asked her to
19 please put everything back on the table.

20 Q Is that the black film container?

21 A Yes.

22 Q Um, I am going to hand you a picture. I'm handing you
23 what's been marked as State's Exhibit Number 1. Could you
24 take a look at that.

25 A (No response)

1 Q Now, once she placed that bottle, the film container,
2 on the table, did Officer Cotton ever open that? Did
3 anyone open that?

4 A He did open it and it had the baggy of -- it was like
5 a white powder in the baggy.

6 Q So you observed that with your own eyes.

7 A Yes.

8 Q And you observed her trying to put it back in the
9 pocket with your own eyes.

10 A Yes.

11 Q Now, that picture in your hand, how do you recognize
12 that photo?

13 A That's the container that she pulled out of her pocket
14 and placed on the desk.

15 Q Okay, so that fairly and accurately depicts that
16 container ---

17 A Yes.

18 Q --- and the baggy that was in that container.

19 A Yes, ma'am.

20 Q Okay. And that was removed from her pockets the night
21 of April 26th, 2013.

22 A Yes.

23 Q And has -- do you notice any alterations or deletions
24 to that photograph?

25 A No, ma'am.

KASIE PARKER - DIRECT BY MS. HAMILTON

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1 MS. HAMILTON - Your Honor, the State offers
2 Exhibit Number 2 for admission into evidence.

3 THE COURT - Is it Number 2 or Number 1?

4 MS. HAMILTON - Oh, sorry, Number 1. I am sorry,
5 Your Honor..

6 THE COURT - Well, that's okay. Any objection
7 from the defense?

8 MS. ANDERSON - I do have an objection, Your
9 Honor.

10 THE COURT - Excuse me?

11 MS. ANDERSON - I do have an objection, Your
12 Honor.

13 THE COURT - Okay. All right, well, just approach
14 and let's see ---

15 (Bench conference was held in the presence of the
16 jury but out of the hearing or the jury which was not
17 reported.)

18 THE COURT - Madam forelady and ladies and
19 gentlemen of the jury, this is one of these points in the
20 trial where there's a legal matter that I need to take up
21 with the lawyers. It should not take long, but I'm going
22 to ask that you go back to your jury room for a few
23 minutes. Again, don't begin discussing this case amongst
24 yourselves. I'll try to get you out here shortly.

25 (Jury exits the courtroom)

1 THE COURT - Okay, Ms. Anderson, do you want to
2 re-state your objection on the record that you made at the
3 sidebar?

4 MS. ANDERSON - Yes, Your Honor. I'd object to
5 the admission of this evidence. This witness did not
6 testify she took the photograph. We have no information of
7 where the photograph came from. I understand the State
8 asked if it fairly and accurately represented, but this
9 witness is ultimately not a law enforcement witness. She's
10 not involved ultimately in investigation of this case and
11 what she's testifying is just to what she observed watching
12 what someone else did who is on the State's witness list,
13 Sergeant Cotton, and is available, so with that as her
14 background, I don't think it establishes how this witness
15 knows where this photo came about; it's not been said as to
16 where it was taken, if it was taken in the loss prevention
17 office when she was there or at a subsequent time. I don't
18 think the foundation is met for admission through this
19 witness.

20 THE COURT - Okay. Thank you. Solicitor?

21 MS. HAMILTON - Your Honor, she has stated that
22 this is exactly what she saw that date. She does not have
23 to physically take that photo. She's stating to -- on the
24 record for the jury that she actually knows what this item
25 is. This was the item that was seized that night, this is

KASIE PARKER - DIRECT BY MS. HAMILTON

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1 the item that she witnessed the defendant take out of her
2 pocket. This is an admissibility question. We believe
3 that she said that this fairly and accurately represents
4 the item.

5 THE COURT - I believe it would go to the weight
6 that the jury could give this -- this photograph as opposed
7 to the admissibility. Certainly you can cross-examine this
8 witness over where, you know, -- if she knows or doesn't
9 know concerning who took the picture, where it was taken,
10 that sort of thing, and I think in light of the fact that
11 the officer is here, he can certainly corroborate, if you
12 will, that piece of evidence. So I will overrule the
13 objection. All right, bring the jury back out, please.

14 (Jury returns to the courtroom)

15 THE COURT - All right, let the record reflect the
16 jury's back in. The photograph will be admitted into
17 evidence as State's 1.

18 (Document marked into evidence as State's Exhibit
19 Number 1.)

20 MS. HAMILTON - Thank you, Your Honor. Your
21 Honor, may it ---

22 THE COURT - Has it already been pre-marked?

23 MS. HAMILTON - Yes, Your Honor, it has.

24 THE COURT - Okay.

KASIE PARKER - DIRECT BY MS. HAMILTON

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1 MS. HAMILTON - Your Honor, could I get permission
2 to publish for the jury?

3 THE COURT - Publish ---

4 MS. HAMILTON - The photo for ---

5 THE COURT - Oh, sure. Yes.

6 MS. HAMILTON - Thank you, Your Honor.

7 THE COURT - Certainly.

8 Q Now, can you please describe this photo to us?

9 A It's a black film container with the bag of white
10 substance that was inside of it when Officer Cotton
11 retrieved it from the desk.

12 Q And do you see the person in the courtroom today that
13 had that black bottle containing the white crystal
14 substance in her pocket that night ---

15 A Yes.

16 Q --- on April 26th, 2013?

17 A Yes, ma'am, she's right there.

18 Q Okay. And could you please state the name of that
19 person ---

20 A Yes. Janet Watkins.

21 MS. HAMILTON - Please let the record reflect the
22 witness identified the defendant.

23 THE COURT - Okay. So noted for the record.

KASIE PARKER - CROSS BY MS. ANDERSON

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1 MS. HAMILTON - Beg the Court's indulgence.

2 (Pause) Thank you. Please answer any questions the

3 defense may have.

4 THE COURT - Cross examination, Ms. Anderson?

5 MS. ANDERSON - Yes, Your Honor.

6 CROSS EXAMINATION

7 BY MS. ANDERSON -

8 Q Ms. Parker, you work with Walmart. Right?

9 A Yes.

10 Q And you're not a law enforcement officer. Correct?

11 A No.

12 Q You're not employed with York Police Department.

13 A No.

14 Q So ultimately you didn't have anything involved with

15 the investigation subsequent to this case. Right?

16 A I don't understand what you're -

17 COURT REPORTER - She needs to speak up a little

18 bit.

19 Q In other words ---

20 THE COURT - You need to speak up, ma'am.

21 A Okay.

22 Q What you did was essentially call York Police

23 Department that night.

24 A Right.

1 Q And you were present in the room when Officer Cotton
2 was doing the investigation. Correct?

3 A Yes, ma'am.

4 Q But you didn't have any subsequent involvement with
5 this case.

6 A No, ma'am.

7 Q Okay. And did you take that photo?

8 A No.

9 Q Do you know where that photo was taken?

10 A No, ma'am.

11 Q Okay. And what you're testifying to, this happened
12 back in April. Correct?

13 A Yes.

14 Q And you're just testifying to your memory as being in
15 that room.

16 A Right.

17 Q But again, you didn't take that photo.

18 A No, ma'am.

19 Q And you didn't have any involvement with this canister
20 or container in that photo. You didn't do anything like
21 that. Correct?

22 A No.

23 MS. ANDERSON - Nothing further, Your Honor.

24 THE COURT - Re-direct?

25 MS. HAMILTON - Nothing else.

TONY COTTON - DIRECT BY MS. HAMILTON

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1 THE COURT - You can step down, ma'am. Thank you
2 for your testimony. Any objections to this witness being
3 excused?

4 MS. HAMILTON - No objection.

5 MS. ANDERSON - No, Your Honor.

6 THE COURT - Okay. All right. You're welcome to
7 remain with us, ma'am, or you can leave, either one.

8 MS. HAMILTON - State calls Sergeant Tony Cotton.

9 THE COURT - Okay. Come around, Officer Cotton.
10 Be sworn in, please.

11 TONY COTTON, AFTER BEING FIRST DULY SWORN,

12 TESTIFIES AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MS. HAMILTON -

15 Q Good afternoon. Could you please state your name for
16 the record.

17 A Tony Cotton.

18 Q And what is your position?

19 A I'm patrol sergeant.

20 Q And where do you work?

21 A City of York, York, South Carolina.

22 Q Police Department?

23 A Yes, ma'am.

24 Q And what type of work do you do in your position?

25 A Patrol, investigate accidents, investigate complaints.

1 Q And how long have you been employed with the York
2 Police Department?

3 A Nine years.

4 Q And were you employed in your present capacity on
5 April 26th, 2013?

6 A Yes, ma'am.

7 Q Now, I want to draw your attention to that evening.
8 What were you doing around that time of 9:00 o'clock April
9 26th?

10 A Routine patrol City of York.

11 Q Okay. And did you receive a dispatch call?

12 A Yes, ma'am.

13 Q What did you do? Where did you respond?

14 A I responded to 970 East Liberty Street to York -- in
15 York, South Carolina, which is Walmart.

16 Q Okay. And could you please describe to me what you
17 saw upon arriving at Walmart that night?

18 A I arrived at Walmart, proceeded to the store and went
19 to the back office which is the security office and I
20 observed Ms. Watkins there in the security office with two
21 other employees from Walmart.

22 Q Okay. Did you know who those employees were?

23 A Yes, ma'am.

24 Q Okay. Was Kasie Parker one of those employees?

25 A Yes, ma'am.

TONY COTTON - DIRECT BY MS. HAMILTON

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1 Q Now, once you got back to the office, did you make
2 contact with the defendant?

3 A Yes, I did.

4 Q And were you able to identify who she was?

5 A Yes, through ID card.

6 Q Okay, through her ID card. And what was her name?

7 A Ms. Janet Margaret Watkins.

8 Q And at that time what was the defendant's demeanor?

9 A Appeared to be intoxicated.

10 Q What did you proceed to do once you made contact with
11 her, identified who she was? What'd you do next?

12 A I asked her to empty her pockets.

13 Q Okay. Did she do so?

14 A Yes, ma'am.

15 Q And what was in her pockets?

16 A There was numerous papers and a black small film
17 container.

18 Q And what was her demeanor when she pulled those items
19 out?

20 A She became nervous.

21 Q And what did she do with those containers?

22 A She placed the papers on a desk and also a container.
23 I went through the paperwork and also the container.

24 Q Now, she had that container, that film container you
25 just stated, she had that on her person?

1 A Yes, her pocket.

2 Q Pocket. Did you open those containers -- that
3 container to find out what was inside?

4 A Yes, ma'am.

5 Q Okay. And what did you find to be in that container?

6 A I found a clear plastic bag containing a white
7 powdery-type substance, looked like crystal powdery
8 material.

9 Q Okay. Now, I'm going to hand you what has been marked
10 as State's Exhibit Number 2.

11 A Okay.

12 Q Please take a look at this photo and -- that photo
13 next to you I believe. Is that the photo?

14 A It's right there I think.

15 Q Oh, here we go. Please take a look at both of these
16 photos for me.

17 A (Witness complies)

18 Q One's been marked State's Exhibit -- or admitted as
19 State's Exhibit Number 1. One is marked for identification
20 purposes as State's Exhibit Number 2.

21 A Okay.

22 Q Do you recognize these photos?

23 A Yes, ma'am, this one I took at the police department
24 before I bagged the canister and the powder as evidence.

TONY COTTON - DIRECT BY MS. HAMILTON

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1 THE COURT - Which exhibit did you just refer to,
2 Officer?

3 A It's says 1, sir.

4 Q Okay. And what's the other photo, exhibit that's been
5 marked.

6 A Number 2. Number 2.

7 Q Okay.

8 A It's the powdery substance, white powdery crystal-like
9 substance.

10 Q And do these photographs fairly and accurately depict
11 the container and the contents that you found in that
12 container on the defendant April 26th, 2013?

13 A Yes, ma'am.

14 Q Have these photographs been altered or any deletions
15 made?

16 A No, ma'am.

17 MS. HAMILTON - Your Honor, the State would offer
18 State's Exhibit Number 2 for admissions into evidence.

19 THE COURT - Okay. Defense?

20 MS. ANDERSON - I do have an objection, Your
21 Honor.

22 THE COURT - Okay. Approach.

23 (Bench conference was held in the presence of the
24 jury but out of the hearing of the jury which was not
25 reported.)

TONY COTTON - DIRECT BY MS. HAMILTON

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1 MS. HAMILTON - Your Honor, the State request
2 permission to publish this to the jury.

3 THE COURT - Okay, and Number 2 is in evidence for
4 the State.

5 (Document marked into evidence as State's Exhibit
6 Number 2.)

7 Q Okay, so this is admitted as State's Exhibit Number 1.
8 This is the container and the baggy that you took from the
9 defendant that night that she removed from her body.

10 Correct?

11 A Yes, ma'am.

12 Q Okay, and do you have experience in investigating drug
13 crimes?

14 A Yes, ma'am.

15 Q How many years experience?

16 A About seven or eight.

17 Q Okay, and this black contained, based on your
18 experience, what is this commonly used to store?

19 A Store narcotics, marijuana, crack, meth.

20 MS. HAMILTON - Your Honor, the State request to
21 publish Exhibit Number 2 for the jury.

22 THE COURT - Okay. Go ahead.

23 Q Would you please describe to me what this is a picture
24 of?

TONY COTTON - DIRECT BY MS. HAMILTON

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1 A This is a picture of the bag -- or the bag that was
2 inside of a bag that I -- evidence and that is the white
3 powdery substance that's located inside the bag.

4 Q And those initials on the bag, those were not there
5 before. Right?

6 A No, ma'am.

7 Q Okay. But that is the bag.

8 A Yes.

9 Q Okay. And you recognize the substance within that
10 bag.

11 A Yes.

12 Q Now, you stated to me that you had experience in
13 investigating drug crimes.

14 A Yes, ma'am.

15 Q Based on your experience in the field and knowledge of
16 what certain drugs looked like what did you believe to be
17 this white crystal substance in this bag?

18 A At the time, crystal methamphetamine.

19 Q Okay. So the defendant had control over this bag,
20 taking it out of her pocket. What did you do with the
21 baggy once you recovered it from her?

22 A Once I recovered the baggy, I placed the baggy and the
23 canister in my possession. I took control over it.

24 Q Now, you took it into your possession. Where did you
25 go?

1 A To the police department.

2 Q Okay. Back at the police department, what did you do
3 with that baggy?

4 A I placed the baggy into an evidence bag, sealed it,
5 marked it with my initials, time and date and then dropped
6 it into an evidence locker.

7 Q And was the clear baggy containing that white crystal
8 substance continuously in your custody and control while
9 you had it?

10 A Yes, ma'am.

11 Q Now, I'm going to show you what's been marked State's
12 Exhibit Number 3. Please take a look at that.

13 A (Witness complies)

14 Q Now, what you have in your hand has been marked for
15 identification purposes as State's Exhibit Number 4. Have
16 you had contact with this -- 3, sorry. Have you had
17 contact with this before?

18 A Yes, ma'am.

19 Q Okay. And how do you recognize it?

20 A This is the bag I placed the evidence in and sealed it
21 with my initials, date and time.

22 Q Okay. Is that your handwriting?

23 A Yes, ma'am.

24 Q And what is that date and time?

25 A 04/26/2013 at 2350 hours.

TONY COTTON - DIRECT BY MS. HAMILTON

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1 Q And is this the envelope that you secured the drugs in
2 that night on April 26th, 2013?

3 A Yes, ma'am.

4 Q Now, if you'd flip that Exhibit over. Do you
5 recognize the contents of that bag in the bag?

6 A Yes, ma'am.

7 Q And what is that?

8 A That's the white crystal-like substance.

9 Q And what was the condition of the envelope when it
10 left your possession?

11 A It was -- well, it was like this but the top was more
12 -- it was -- appears to be cut from the top, but it was the
13 same exact envelope.

14 Q Okay. And when you secured this, what did you do with
15 the envelope?

16 A I took the envelope and I put it in the bag, took the
17 bag back to the evidence locker and dropped it.

18 Q Okay. What evidence locker?

19 A It's the PD, police department.

20 Q Okay, York Police Department?

21 A Yes.

22 Q And that evidence locker, is that secured and locked?

23 A Yes, ma'am.

24 Q Now, do you see the person in the courtroom today that
25 you seized that baggy of what you believed to be

1 methamphetamine from and arrested the night of April 26th,
2 2013?

3 A Yes, ma'am.

4 Q And who is that?

5 A Ms. Watkins.

6 MS. HAMILTON - May the record reflect that the
7 witness identified the defendant.

8 THE COURT - So noted.

9 MS. HAMILTON - Beg the Court's indulgence.

10 (Pause) Thank you. Please answer any questions the
11 defense may have.

12 THE COURT - Is this exhibit going into evidence?

13 MS. HAMILTON - It will. It's just ---

14 THE COURT - Okay. Not yet. Still marked for
15 identification.

16 MS. HAMILTON - Yes, Your Honor.

17 THE COURT - Cross examination?

18 MS. ANDERSON - Yes, Your Honor.

19 CROSS EXAMINATION

20 BY MS. ANDERSON -

21 Q Sergeant Cotton, since it's pulled up right now, this
22 item that the State has admitted as State's Number 2, the
23 question about the initials, so and that is the chemist's
24 initials. Is that correct?

25 A I believe so, ma'am.

TONY COTTON - CROSS BY MS. ANDERSON

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1 Q Okay. So those initials were not on the bag at the
2 time on April 26th when you took it into evidence.

3 A No.

4 Q Okay. And I believe this -- is this the bag or is
5 there another bag on the outside of what you originally
6 seized?

7 A That picture I didn't take -- I think it's the same
8 bag. I'm not sure.

9 Q Okay. So in other words, this isn't what the bag you
10 took into evidence on April 26th actually, technically
11 looked like. Correct?

12 A No.

13 Q So that's not completely accurate as to what it looked
14 like on that date, on April 26th.

15 A Minus the initial and the three, no.

16 Q Okay. And when you -- you testified -- let me scratch
17 that -- did you talk to Janet Watkins about any sort of
18 medical issue she might have that night?

19 A No.

20 Q Didn't ask her any questions about any medical
21 conditions?

22 A Well, in the jail I did, but not at the Walmart site.

23 Q Okay. And you testified that you believed this to be
24 crystal methamphetamine. Correct?

25 A Correct.

1 Q Okay. And you didn't conduct any sort of field test
2 or any sort of on-site testing. Correct?

3 A Correct.

4 Q Okay. That's just sort of based on -- what you're
5 testifying is based on experience, not on any sort of
6 chemical result. Correct?

7 A Correct.

8 Q And you also didn't conduct any sort of drug test on
9 Ms. Watkins herself. Correct?

10 A Correct.

11 Q So there's no sort of drug test that -- on her.

12 A No.

13 Q And when you arrived on scene and you asked her to
14 empty her pockets, she did that at your request. Correct?

15 A Correct.

16 Q Okay. She didn't fight you about that. You didn't
17 physically have to reach into her pockets. Correct?

18 A No.

19 Q So fairly cooperative with you on that.

20 A Yes.

21 Q And you also subsequently to that asked her to search
22 her vehicle. Correct?

23 A Correct.

24 Q Okay. And, in fact, she gave you both written and
25 verbal consent to do that.

TONY COTTON - CROSS BY MS. ANDERSON

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1 A Correct.

2 Q And when you searched her vehicle, you didn't find
3 anything in her vehicle you suspected to be
4 methamphetamine. Correct?

5 A Correct.

6 Q And didn't find any sort of illegal narcotics at all,
7 anything you would suspect to be illegal narcotics in her
8 vehicle.

9 A No.

10 Q And no sort of drug paraphernalia either. Correct?

11 A Correct.

12 Q And when we talk about drug paraphernalia, essentially
13 what we're talking about, some sort of tool or implement
14 that could be used in a consumption of narcotics. Correct?

15 A Correct.

16 Q And with having some law enforcement experience in
17 dealing with drug cases, you're fairly familiar with what
18 paraphernalia would look like.

19 A Correct.

20 Q And the item you testified to regarding this black
21 container, that was the film canister. Correct?

22 A Correct.

23 Q Okay. And that isn't -- every film canister certainly
24 isn't used for narcotics. Correct?

25 A Correct.

TONY COTTON - RE-DIRECT BY MS. HAMILTON

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1 Q There's legitimate reasons for having a film canister.

2 I guess some people do still carry film.

3 A Correct.

4 Q Okay. And you didn't find on Ms. Watkins herself any

5 sort of drug paraphernalia either. Correct?

6 A Correct.

7 MS. ANDERSON - Beg the Court's indulgence.

8 (Pause)

9 Q Your investigation was pretty much dealt with what you
10 found on the scene. Correct?

11 A Correct.

12 Q Okay. Didn't talk to any other witnesses subsequent
13 to April 26th. Correct?

14 A Correct.

15 MS. ANDERSON - Thank you. No further questions,
16 Your Honor.

17 THE COURT - Any re-direct?

18 MS. HAMILTON - Just briefly, Your Honor.

19 RE-DIRECT EXAMINATION

20 BY MS. HAMILTON -

21 Q Now, this photo that's up here -- and I just want to
22 clarify. You said minus the initials and a three. This

23 was the bag. You recognize that minus the three and the

24 CJM ---

25 A Correct.

TONY COTTON - RE-DIRECT BY MS. HAMILTON

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1 Q -- that is the bag. So you recognized that looking
2 just like the bag you seized that night.

3 A Correct.

4 Q Minus the CJM.

5 A (Indicating yes)

6 COURT REPORTER - He needs to answer verbally.

7 A Yes.

8 Q And I know the defense stated that you did not field
9 test this. But did you subsequently submit this baggy for
10 testing?

11 A Yes, ma'am.

12 Q And additionally, that film container that was found
13 on her, was there film in that container?

14 A No, ma'am.

15 Q What was in that container?

16 A Suspected methamphetamine through a plastic bag.

17 MS. HAMILTON - Nothing further from this witness.

18 THE COURT - Any re-cross?

19 MS. ANDERSON - No, Your Honor.

20 THE COURT - Thank you for your testimony,
21 Officer. You can step down.

22 MS. HAMILTON - State calls Annette Melton.

23 THE COURT - Okay. Come up here, please, ma'am,
24 to the Bible and be sworn in.

1 ANNETTE MELTON, AFTER BEING FIRST DULY SWORN,

2 TESTIFIES AS FOLLOWS -

3 THE COURT - Your witness.

4 MS. HAMILTON - Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. HAMILTON -

7 Q Would you please state your name for the record?

8 A My name's Annette Melton.

9 Q Ms. Melton, what is your occupation?

10 A I work for the City of York Police Department as
11 Evidence Custodian.

12 Q And what are your duties as Evidence Custodian?

13 A When I go in I take -- their evidence is put into
14 evidence lockers inside the evidence room; I go in, take
15 the evidence out, log it into the computer and put it into
16 storage, also transport any evidence to the chemist here if
17 it needs ---

18 Q And how long have you worked there in the evidence
19 department?

20 A I worked for York PD for 24 years. I've been in
21 evidence for just about three years.

22 Q Now, Ms. Melton, I'm going to show you what's been
23 marked for identification purposes for State's Exhibit
24 Number 3. It's that bag right here. If you'd take a look
25 at that.

ANNETTE MELTON - DIRECT BY MS. HAMILTON

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1 A (Witness complies)

2 Q Have you had contact with this bag before?

3 A Yes.

4 Q And how did this bag or Exhibit Number 3 come into
5 your possession?

6 A It was placed into an evidence locker by Officer
7 Cotton and I came in and retrieved it from the evidence
8 locker and logged it into evidence.

9 Q And is your signature on that packing?

10 A It is.

11 Q And what is the date that you retrieved it from that
12 locker?

13 A April 29th, 2013.

14 Q Okay, and when you first received that bag, did it
15 appear to have tampered with in anyway?

16 A No.

17 Q And was the box that you took it from secured?

18 A Yes.

19 Q Was that bag completely sealed ---

20 A Yes.

21 Q --- when you received it?

22 A Yes.

23 Q And while the evidence was with you, did any other
24 people have access to it?

25 A No.

1 Q What did you do once -- once you received the
2 evidence?

3 A I logged it into the computer and placed it into
4 evidence storage.

5 Q And you stated that in your duties you usually take
6 the bag to be tested.

7 A Yes, I bring it to the lab to be tested.

8 Q And you took this bag to be tested.

9 A Yes.

10 Q And where did you take it?

11 A I brought it here to the Moss Justice Center to the
12 lab.

13 Q Do you remember what date that was?

14 A That was May the 8th.

15 Q And when you dropped the evidence off at the evidence
16 department here to be tested, was the bag still sealed?

17 A Yes.

18 Q Not tampered with in anyway.

19 A No.

20 MS. HAMILTON - Beg the Court's indulgence.

21 Please answer any questions the defense may have.

22 THE COURT - Cross examination?

23 MS. ANDERSON - No questions from this witness,

24 Your Honor.

CYNTHIA MITCHUM - DIRECT BY MS. HAMILTON

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1 THE COURT - Okay. Thank you for your testimony,
2 ma'am. You can step down.

3 MS. HAMILTON - State calls Cynthia Mitchum.

4 THE COURT - Okay. Come up, please, ma'am, to the
5 Bible and be sworn in.

6 CYNTHIA MITCHUM, AFTER BEING FIRST DULY SWORN,
7 TESTIFIES AS FOLLOWS -

8 DIRECT EXAMINATION

9 BY MS. HAMILTON -

10 Q Good afternoon.

11 A Good afternoon.

12 Q State your name for the record.

13 A Cynthia Mitchum.

14 Q Ms. Mitchum, what is your occupation?

15 A I work with the York County Sheriff's office in the
16 drug analysis department.

17 Q What are your duties in the drug analysis department?

18 A I receive in evidence from officers and I'll analyze
19 evidence for controlled and non-controlled substances and
20 then report them back what my findings are.

21 Q How long have you worked for the York County Sheriff's
22 office?

23 A I've been here 13 years.

1 Q And what education and training do you have that
2 qualifies you to identify these illegal drugs and
3 controlled substances?

4 A I have a Bachelor of Science in chemistry which I
5 received from Winthrop University in 1990 and then prior to
6 the sheriff's office I worked with the South Carolina Law
7 Enforcement Division, also known as SLED in Columbia, and I
8 worked there for seven and a half years.

9 Q And have you ever been qualified in Court as an expert
10 in drug identification analysis?

11 A Yes.

12 Q How many times do you estimate?

13 A In excess of two hundred times.

14 MS. HAMILTON - Your Honor, the State would like
15 to offer Ms. Cynthia Mitchum as an expert in analysis
16 identification of illegal drugs and controlled substances.

17 THE COURT - All right, Ms. Anderson, any cross
18 examination of this witness concerning qualifications?

19 MS. ANDERSON - No, Your Honor, no objection to
20 her qualification.

21 THE COURT - All right. So found to be an expert.

22 MS. HAMILTON - Thank you, Your Honor.

23 Q Now, Ms. Mitchum, that -- could you pick up Exhibit --
24 that has been marked as State's Exhibit Number 3 for

1 identification purposes. Ms. Mitchum, have you had contact
2 with this bag before?

3 A Yes.

4 Q Okay. And when did this Exhibit come into your
5 possession?

6 A I received this on May the 8th of 2013.

7 Q Okay, and um who submitted that to you?

8 A It would've been Annette Melton, and she dropped it
9 into the drop box at the sheriff's office.

10 Q And when you first received this bag, did it appear to
11 have been tampered with in any way?

12 A No, and I know this because I received what's this
13 inner bag here, and I marked, okay, the date and my
14 initials. That means I checked it to make sure it hadn't
15 been opened in any way.

16 Q Okay, so you signed it as evidence that it was
17 completely sealed ---

18 A Yes.

19 Q --- and not tampered with.

20 A Yes.

21 Q Okay. And while the evidence was with you at the drug
22 lab, did anyone else have contact with that bag?

23 A No.

24 Q What was contained in that bag when you received it?

1 A When I received it, it's a -- this inner bag that has
2 a zip-loc bag with a little crystal substance in it.

3 Q So the evidence bag itself had that little bag
4 containing substance within it.

5 A That's correct.

6 Q And did you analyze the substance in that baggy?

7 A Yes.

8 Q And what did you find it to be?

9 A I found the substance -- this is State's Exhibit
10 Number 3, which is item number 3 in this particular case,
11 was found to be methamphetamine in the amount of 0.04 grams
12 or 0.61 grains controlled II substance.

13 Q And could you explain to the Court what test you ran
14 to determine that this was methamphetamine?

15 A Um, the first test I ran is what is known as spot test
16 and I take chemicals and drop them on them and look for a
17 color change, and then after that I run it on an instrument
18 and then the instrument will give me an idea of what the
19 compound is too and then I'll identify that through known
20 substances and compare them to be able to make my final
21 result.

22 Q And how well regarded and respected is this type of
23 test in the scientific community in terms of publications,
24 peer reviews?

25 A It's used worldwide.

1 Q And in approximation how many times have you performed
2 this test?

3 A The color test I use pretty much on every case that I
4 have that I do, and then the instrumental test is done
5 pretty much on everything except for marijuana, so I use it
6 regularly, weekly, you know, hundreds of times.

7 Q And how reliable have you found this test to be in
8 your experience?

9 A Very reliable.

10 Q And are there any quality measures associated with
11 this test to help insure there is no contamination from
12 prior substances or samples or evidence that is tested
13 prior?

14 A Yes.

15 Q And is this method consistent with what you know about
16 scientific principles and procedures?

17 A Yes.

18 Q And did you make a written report of your findings?

19 A Yes.

20 Q And I know you determined the amount to be 0.04 grams?

21 A Correct.

22 Q Okay. Do you have a copy of that report?

23 A I have the original.

24 Q Okay. Could I hold that for a second, have it marked?

25 Thank you.

1 (Whereupon, document is marked for identification
2 as State's Exhibit Number 4.)

3 MS. HAMILTON - Now, that has been marked as --
4 for identification purposes as State's Exhibit Number 4.

5 Q After you ran the test, what did you do with the
6 evidence?

7 A I stored the evidence until it was time for either it
8 to come to Court or be returned back to in this case the
9 York PD.

10 Q Okay. And was the bag completely sealed up when you
11 returned it?

12 A Yes, and I know this because I seal it in this outer
13 bag which is a laboratory bag I have, and that seal is
14 still intact today with my initials and the date I sealed
15 it.

16 MS. HAMILTON - Your Honor, the State would move
17 to admit into evidence the bag and the drug report.

18 THE COURT - Okay, 3 and 4?

19 MS. HAMILTON - 3 and 4, Your Honor.

20 THE COURT - Okay. Ms. Anderson?

21 MS. ANDERSON - No objection as to these, Your
22 Honor.

23 THE COURT - Okay, without objection Number 3 will
24 be the evidence bag and Number 4 will be the chemist
25 report.

CYNTHIA MITCHUM - CROSS BY MS. ANDERSON

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1 MS. HAMILTON - Thank you, Your Honor. Beg the
2 Court's indulgence.

3 (Whereupon, documents marked into evidence as
4 State's Exhibits 3 and 4.)

5 MS. HAMILTON - Please answer any questions the
6 defense may have.

7 THE COURT - Cross examination?

8 MS. ANDERSON - Yes, Your Honor.

9 CROSS EXAMINATION

10 BY MS. ANDERSON -

11 Q Ms. Mitchum, you're involved and essentially you
12 received just an item to test. Correct?

13 A That is correct.

14 Q You're not involved in any course of the investigation
15 of the actual charge itself.

16 A That's correct.

17 Q And there are some drugs that by sight you can have a
18 pretty good idea of what they drug may -- or that substance
19 may be. Correct?

20 A Yes.

21 Q Marijuana's pretty distinctive ---

22 A Yes.

23 Q --- distinguished to other substances. But ultimately
24 what you do is do a chemical analysis on a substance to
25 conclusively establish what it is.

1 A Correct, and I do an instrumental in combination with
2 that to make sure of the substance.

3 Q Okay. And you did that in connection with this case.

4 A Yes.

5 Q And it's through those two tests that ultimately leads
6 you to give your opinion that this is methamphetamine.

7 Correct?

8 A Correct.

9 Q And the -- the substance we're dealing with that
10 State's Exhibit Number 3, that is a -- you'd consider very
11 small amount of a substance. Is that correct?

12 A I do get smaller amounts, so it's not a huge amount,
13 it's a usable amount.

14 Q Okay. But your instruments basically have ability to
15 test a pretty small amount of a substance. Correct?

16 A Yes.

17 Q Okay. So by no means would you consider this a large
18 amount of a substance.

19 A No.

20 MS. ANDERSON - Nothing further, Your Honor.

21 THE COURT - Re-direct?

22 MS. HAMILTON - Nothing further at this time.

23 THE COURT - Thank you for your testimony. You
24 can step down, ma'am. Any objections to the witness being
25 excused?

1 MS. ANDERSON - No, Your Honor.

2 THE COURT - Okay. You're free to remain with us
3 or you're free to go. Thank you, ma'am.

4 MS. HAMILTON - Your Honor, the State rest.

5 THE COURT - Okay. All right, madam forelady and
6 ladies and gentlemen of the jury, this will be a good time
7 to take an afternoon break. We'll take one for about 10
8 minutes, maybe 15 at the most but at least 10 minutes and
9 so I'll ask that you retire to your jury room. Don't talk
10 about the case, anything about the case amongst yourselves,
11 and we'll see you back in a few minutes.

12 (Jury exits the courtroom)

13 THE COURT - Okay, anything from the defense?

14 MS. ANDERSON - Yes, Your Honor, a few things for
15 the record. One, as we discussed up at the bench, Your
16 Honor had indicated that you would admit State's Number 2
17 over defense objection ---

18 THE COURT - Right.

19 MS. ANDERSON - --- but to put that on the record,
20 the defense's objection, the objection would be as to the -
21 - I guess the foundation of that photograph. There was no
22 testimony that Officer Cotton was the one who took that
23 photograph. While he initially testified at the time the
24 State sought to admit the item into evidence that it fairly
25 and accurately depicted the item, it does appear that and

1 it was sort of clarified on later cross examination of re-
2 direct that it does not fairly and accurately depict the
3 item at the time it was taken into evidence on April 26th as
4 the photograph reflects the chemist initialed in notation,
5 which would've indicated something. Now that we have the
6 chemist testifying that it's made in May, so again I would
7 object to the witness's foundation for admitting that item
8 into evidence as I do not believe it does, in fact, fairly
9 and accurately depict the item at the time as was testified
10 by the officer. Just wanted to preserve that for the
11 record.

12 THE COURT - Okay. All right, thank you very
13 much. Anything else?

14 MS. ANDERSON - Your Honor, additionally, now at
15 the close of the State's case, the defense would on behalf
16 of Ms. Watkins just make a motion for a directed verdict
17 asking Your Honor to make a finding as to whether the State
18 has met the requisite burden for a directed verdict stage.

19 THE COURT - All right, viewing the evidence in
20 the light most favorable to the State, the motion is
21 respectfully denied. Okay, do you intend to put up a case?

22 MS. ANDERSON - Yes, Your Honor.

23 THE COURT - Okay. Let me go ahead at this time
24 give the standard charge to the defendant concerning
25 testifying or not testifying. Let me find my little script

1 here. (Pause) All right, Ms. Watkins, would you please
2 stand, and madam clerk, would you place the defendant under
3 oath?

4 (WHEREUPON, JANET WATKINS IS DULY SWORN BY THE
5 DEPUTY CLERK)

6 THE COURT - Put your hand down and remain
7 standing, please, ma'am. At this time I'm going to explain
8 to you certain of your rights. If you do not understand
9 anything I say, please let me know. If you want me to
10 explain anything in more detail I'll be glad to do that.
11 Please let me know that as well. Do you understand, ma'am?

12 MS. WATKINS - Yes, sir.

13 THE COURT - All right, we have now reached the
14 stage of the trial where you may present your defense. You
15 have the right to claim the protections given to you by the
16 Fifth Amendment to the Constitution of the United States.
17 This Amendment states in part, no person shall be compelled
18 in any criminal case to be a witness against himself or
19 herself as in this case. This means that you cannot be
20 required to testify in this case. You have the right to
21 testify in your own behalf, however, no one can make you
22 testify. This is a personal right, and no one can waive
23 this right except you. If you decide to testify, you'll be
24 subject to the same rules that govern other witnesses and
25 you may be examined and cross examined on any relevant

1 issue in this case. In addition, if you have any
2 convictions involving dishonesty or false statement or for
3 crimes punishable by imprisonment for more than one year
4 and this Court determines that the probative value of
5 admitting this evidence outweighs its prejudicial effect to
6 you, the Solicitor would be able to introduce your record
7 to attack your credibility. If you decide to testify, this
8 decision on your part must be freely, voluntarily and
9 intelligently made with knowledge of the protections given
10 to you by the Fifth Amendment and the consequences of your
11 decision to testify. If you decide not to testify, I will
12 instruct the jurors that they cannot give the fact that you
13 did not testify any consideration whatsoever and that there
14 is to be absolutely no prejudice to you because you did not
15 testify. It is left entirely up to you whether or not you
16 testify. Now, I'm sure you've talked with your attorney
17 and you have -- I'll give you the right to talk with her
18 more to make that decision whether or not you want to
19 testify or not. The final decision will be left entirely
20 up to you. Do you understand what I've explained to you
21 thus far?

22 MS. WATKINS - Yes, sir.

23 THE COURT - Do you have any questions about what
24 I've explained to you thus far?

25 MS. WATKINS - No, sir.

1 THE COURT - Do you need any more time to discuss
2 with your lawyer whether or not you will testify or not
3 testify?

4 MS.. WATKINS - No, sir.

5 THE COURT - Okay. And what is your decision
6 concerning testifying?

7 MS. WATKINS - That I will testify.

8 THE COURT - You will testify. Okay. Thank you
9 very much, ma'am. Sit down. Let the record reflect that
10 the Court finds that the defendant has voluntarily,
11 intelligently and freely decided to offer her testimony
12 after she has received advice from her attorney. Anything
13 else we need to take up on the record before we take a
14 little short break?

15 MS. HAMILTON - Your Honor, the State would like
16 to take up the impeachment issue as to the statement that
17 she gave officers and the voluntariness of that statement
18 now that she has decided to take the stand.

19 THE COURT - All right. Get back to my notes
20 here. All right, if I remember Officer Cotton when he
21 testified at the Jackson v. Denno hearing, that -- 'y'all
22 correct me if I'm wrong -- that she was detained; he did
23 not give Miranda and I'm trying to think exactly what her
24 statement was. Can you help me out with that?

1 MS. HAMILTON - He asked her what was in the film
2 bottle at which time she stated that it was crystal
3 methamphetamine.

4 THE COURT - All right. Ms. Anderson, I'll be
5 glad to hear from you.

6 MS. ANDERSON - Yes, Your Honor, having had the
7 opportunity sort of to read over the Orgegan v. Elstad case
8 that the State handed up in support of its argument, which
9 just for the record is 470 US 298 and cited in 1985, Your
10 Honor in reading that the factual scenario that appears to
11 me that happened in the Elstad case is that there was an
12 initial statement of some sort taken without the initial
13 Miranda warning, that subsequent to that time Elstad was --
14 was given Miranda and I believe at that point gave a
15 confession, and it seems to me, Your Honor, factually one
16 that's distinguished because of the fact that there was a
17 subsequent properly mirandized confession and statement
18 given in that case. And in reading through the Court's
19 analysis, Mr. Elstad's -- they keep sort of talking about
20 the subsequent confession being tainted by the earlier
21 failure to provide Miranda, and I'm looking as well as
22 language in the case at 309 in the case that talks about,
23 it is a unwarranted extension of Miranda hold a simple
24 failure to administer the warnings unaccompanied by
25 coercion or circumstances calculated to undermine the

1 suspects ability -- free will -- taints (sic) the
2 investigatory process that a subsequent voluntary informed
3 waiver is ineffective for some indeterminate hearing. So
4 to me it does seem that the factually distinguished, the
5 Elstad case deals with admissibility of that subsequent
6 statement that was given pursuant to Miranda proceedings,
7 so would argue that's a different situation for what we
8 have here because there's no subsequent written consent,
9 written waiver or even verbal waiver of rights
10 administered, and so now proceeding through and looking
11 through around toward the end of the case and holding
12 around at 318 in the Opinion, the relevant inquiry as to
13 whether that the statement -- second statement was
14 voluntarily made -- um, so I think that the Elstad opinion
15 in my reading of it hinges more on whether that subsequent
16 confession is tainted by an earlier Miranda violation and
17 then the admission of that into evidence, um that to me
18 seems more of the holding of that case, and I don't think
19 that would be applicable here, because we don't have any
20 subsequent statement made under, you know, voluntarily,
21 freely under Miranda's requirements. So I would again
22 argue that the fact that it was clearly testified in the
23 Denno hearing, the officer clearly sort of testified, she
24 was in custody, he did not administer Miranda and that the
25 statement that was made was in response to his questioning,

1 I would still argue that that should still be inapplicable
2 and should still be inadmissible as a violation of Miranda.

3 THE COURT - Okay. Thank you very much.

4 Solicitor, do you want to add anything to your position?

5 MS. HAMILTON - I do, Your Honor. Additionally --
6 in this we argue that in Oregon v. Elstad, yes, there was
7 that decision that also the one made after Miranda is
8 administered can be admitted, but it also stated that the
9 one prior to Miranda in violation of Miranda, that
10 statement that was in violation of Miranda can be used, and
11 it stated that it rejected the extravagant extension of the
12 constitution in theory that a defendant who had confessed
13 under circumstances that made that confession inadmissible
14 and essentially the State's case in chief could thereby --
15 the freedom to deny every fact disclosed or discovered as
16 fruit of his confession free from a confrontation with his
17 prior statement and that the voluntariness of his
18 confession would be totally irrelevant. This goes towards
19 unwarrant statements and the voluntariness of them. They
20 can be admitted for purposes for impeachment. I know what
21 she's saying is the second statement, but the first
22 statement can also be admitted under this decision.
23 Additionally I handed up Harris v. New York in which this
24 is dealing with just one statement and it's not dealing
25 with two different statements. This is a statement made

1 prior to Miranda being issued and it's saying in this case
2 that the statement inadmissionable (sic) against the
3 defendant and the prosecution's case in chief because of
4 lack of procedural safeguard required in Miranda v. Arizona
5 may in trustworthiness sacrifice legal standards be used
6 for impeachment purposes to attack the credibility of the
7 defendant's trial testimony.

8 THE COURT - Let me ask you this, Solicitor. What
9 -- and I don't know what this defendant's going to testify
10 to, but what do you anticipate she's going to testify to to
11 where you would need to rely on some impeachment evidence?
12 That may kind of help me, and I'm not going to ask Ms.
13 Anderson to show her hand at this time, but what do you
14 believe she will testify to?

15 MS. HAMILTON - She's going to state in my opinion
16 -- this is when I would impeach her -- stating that, oh, I
17 had no idea what was in that container; I had no idea that
18 there was crystal methamphetamine in that container, and
19 it's the State's argument that she cannot openly deny these
20 facts in a statement that she had made because of Miranda
21 violations and that be banned from all trial. It is stated
22 in both of these Supreme Court decisions that it is
23 admissible for impeachment purposes and that they cannot
24 have the benefit of denying that on the stand once they
25 take it.

1 THE COURT - Okay. All right, Ms. Anderson, do
2 you want to add anything to that?

3 MS. ANDERSON - Your Honor, I think that would
4 then hinge upon -- I think it would hinge upon the matter
5 of whether the defense opened the door to something that
6 would be impeachment as to that. I mean -- I think some of
7 that depends obviously on what Ms. Watkins said, but I
8 think it's -- if she denied -- well, think clear -- saying
9 this -- I think by the State's -- the State's token, then
10 they're saying they can seek to impeach it if the defense
11 somehow made an issue of it denying it was her statement or
12 that happened. I think that puts it in a different
13 circumstance and if the State is just going to generally
14 seek to go into it on cross examination, if the defense
15 doesn't go into it all, and so I guess that's the sort of a
16 sense of a clarification of what we're dealing with from
17 there. I'm scanning through the -- (Pause) -- and I'm just
18 trying to find the factual background in Harris v. New York
19 just to make sure I'm relaying everything accurately. I'm
20 just seeing what the circumstances were. (Pause) And, Your
21 Honor, I look at this and sort of ---

22 THE COURT - Let me ask this. There's no
23 disagreement is there that she was in custody at the time?

24 MS. HAMILTON - No disagreement, Your Honor.

25 THE COURT - Okay. I didn't think so.

1 MS. ANDERSON - And, Your Honor, I guess -- I
2 guess perhaps maybe thinking through this, I think maybe my
3 position would be some of it comes down to the fact of
4 another trials -- or there's certain evidence that would,
5 you know, Court may rule as inadmissible, but if defense
6 opens the Court to that, then that may sort of change the
7 situation and, you know, in thinking through this, you
8 know, I don't -- perhaps this is one of those I haven't
9 dealt with sort of frankly with one of this circumstance,
10 so I'm thinking through some of this ---

11 THE COURT - Well, let's do this, give you enough
12 time to kind of get your thoughts together. I want to read
13 these two cases. We're going to take a little bit longer
14 break than I had planned, and I just want to see if there's
15 any South Carolina cases dealing with this particular
16 issue. If I allow it in -- if I do -- and I don't know if
17 I am or not, but if I allow it in, certainly the Court
18 would instruct the jury the purpose for allowing it in that
19 it's limited to impeachment purposes and then explain to
20 them what that is all about. All right, here's -- okay.
21 All right. But anyways let's -- let's take a little longer
22 break and study on this just a little bit.

23 MS. HAMILTON - Your Honor, did I hand up Harris
24 v. New York to you?

1 THE COURT - You did. We got -- we got both
2 cases.

3 MS. HAMILTON - All right.

4 (Recess taken)

5 THE COURT - All right, let's go back on the
6 record. Ms. Anderson, you had a -- came across a case you
7 wanted the Court to consider?

8 MS. ANDERSON - Yes, Your Honor, and I have given
9 a copy to the State as well, wanted to put that on the
10 record, but this is the State vs. Roy Edward Cook. I'm
11 passing a copy to the Court right now. For the record, 348
12 SC 401 559, Southeastern 2nd 857; -- or 856, excuse me -- a
13 2001 Opinion by the Court of Appeals of South Carolina that
14 ultimately -- the ultimate holding being that the Court
15 held an involuntary incriminating statement may not be used
16 for any purpose including impeachment, to me seems that the
17 South Carolina which cites actually the Harris v. New York
18 case which having reviewed that does appear that -- that
19 the factual circumstances there was essentially sort of an
20 opening the door situation of the Court holding that
21 basically the defendant did not testify in something that
22 either amounted to perjury or was inconsistent could be
23 impeached with that, and that seemed to be the trigger -- I
24 mean the Harris v. New York it's impeachment purposes to
25 attack the credibility of trial testimony appears to be

1 like an opening the door scenario. The South Carolina case
2 in reviewing, it appears to be in this case a statement
3 saying that an involuntary statement, which I would submit
4 we have in this case, in a situation of a statement made in
5 response to questioning in custody clearly without any
6 Miranda warnings, I would submit to the Court that would be
7 -- arguing that would be an involuntary statement in the
8 South Carolina Courts. To me it seems to have been a bit
9 more restrictive in terms of the use of that even for
10 impeachment purposes aside of the -- the sort of general
11 rule that the Court references in Harris v. New York case,
12 so again I would argue ultimately that it would be
13 inadmissible and if Your Honor were to find it admissible
14 in any way would it only be in the guise of -- for
15 impeachment should the defense open the door to some sort
16 of contradiction of that statement in the course of the
17 defendant's testimony.

18 THE COURT - In this Cook case, what caused the
19 Court to find that the statement was not voluntary? Just -
20 - I'm looking, but I thought maybe you could kind of ---

21 MS. ANDERSON - I'm looking as well, Your Honor.
22 I apologize ---

23 THE COURT - That's okay.

24 MS. ANDERSON - --- but I'm reading sort of
25 quickly.

1 MS. HAMILTON - Your Honor, I believe it is due to
2 an accident that occurred. He had severe injuries, was on
3 painkillers, receiving medical attention when he was
4 advised of his rights. Statements were taken prior to
5 advisement of rights. He had -- he was spitting up blood,
6 chest pains, had ruptured spleen that was later surgically
7 removed, so he was essentially severely injured in a car
8 accident when statements were taken in that -- that is what
9 I believe is the involuntariness of it.

10 THE COURT - Okay.

11 MS. HAMILTON - And I believe also in the regards
12 to the probation aspect of it, probation privilege, I think
13 they possibly threatened to revoke him if he did not give a
14 statement -- revoke him probation.

15 MS. ANDERSON - And, Your Honor, I'm sort of
16 looking through as well at the page 412 on 861 on page 5 --
17 talking about Cook was in jail at the time of the probation
18 interviews. The statements made by local probation agents
19 in the jail setting, indisputably Cook was in custody; Cook
20 was not advised of his Miranda warnings by the probation
21 agent. In distinguishing that from another case when
22 they're talking about an individual not under arrest in a
23 different questioning would be presented interviewed
24 probation officer in custodial setting, so I think I'd be
25 arguing that the similar factual scenario would go to

1 involuntariness of a statement here of Ms. Watkins being in
2 custody at the time. I believe there's testimony there
3 were five or six people total in there, two law
4 enforcements officers I think and two loss prevention
5 officers, and she was not free to leave at the time, was
6 being questioned by law enforcement and so I would still
7 argue that that is, in fact, an involuntary statement in
8 that circumstance when the officer clearly opportunity and
9 could've given Miranda warnings. Certainly this is an
10 officer who I believe testified had nine years of
11 experience, so certainly he's experienced with given
12 Miranda warnings. I think they just clearly were not given
13 in this case, but she was, in fact, questioned, so I don't
14 think the voluntariness has to -- to rise sort of to a
15 level of some sort of medical emergency in order to make a
16 statement voluntary. I would argue that evidence of the
17 circumstances that are actually here created for an
18 involuntary statement that would not admissible even for
19 impeachment purposes.

20 MS. HAMILTON - Your Honor, could I briefly
21 respond to that?

22 THE COURT - Sure. And I'm listening as y'all are
23 talking even though I'm not looking at you. Okay?

24 MS. HAMILTON - The issue as to voluntariness is
25 their will overcome, and additionally was this coerced, and

1 in this environment it was testified by officer or Sergeant
2 Cotton there was no coercion; everyone was nice to her; she
3 wasn't handcuffed; she's speaking to them; she answered one
4 question that he asked. This was not some eight-hour
5 interrogation in which she was detained and all officers
6 surrounding her. It was not one of those situations. He
7 said it was 18 minutes in an office he estimated. Officers
8 were speaking to her nicely, and she was cooperating
9 nicely. So we would say that this was completely
10 voluntary. There's no coercion and her will was not
11 overcome in this situation. And we would also argue that
12 in the Cook case that that is exactly what happened. There
13 was a medical emergency and the person was threatened in
14 this case to the point that this did become an involuntary
15 statement.

16 THE COURT - All right, what I'm going to do, I'm
17 going to allow the -- depending upon what the defendant
18 testifies to -- but if the need arises, I am going to allow
19 the statement to be admitted for impeachment purposes only.
20 If that is done, then the jury will receive immediate
21 instruction, or at least at the close of the testimony,
22 that the statements be considered as to the defendant's
23 credibility and not as any evidence of guilt of the crime
24 that she has been indicted for. There's another case,
25 State v. Brown, deals with impeachment of silence when no

1 Miranda was given. I think you can probably make some
2 comparison with what we've got here too. So I'm going to
3 allow it in for impeachment only. Anything further?

4 MS. HAMILTON - Yes, just briefly, Your Honor. We
5 have a certified disposition of the shoplifting charge. We
6 do want to address how that would be -- if she does take
7 the stand as she said she wishes. This is a fax since we
8 just became aware of this, but it is certified by the
9 clerk.

10 THE COURT - Ms. Anderson seen ---

11 MS. HAMILTON - I'm handing ---

12 THE COURT - Yes, well, let her take a look at it.

13 MS. HAMILTON - Okay. Um, we just wanted to go
14 into how we would address this conviction since we had
15 discussed prior about the shoplifting ---

16 THE COURT - Right. And we agree that there has
17 been a conviction. I think initially it might've been just
18 an arrest, but we do agree that there was conviction.

19 MS. ANDERSON - Yes, Your Honor.

20 THE COURT - Okay. All right. All right, Ms.
21 Anderson, do you want to offer anything to ---

22 MS. ANDERSON - Your Honor, frankly, in candor to
23 the Court I intend to deal with it myself on direct. I
24 think extrinsic evidence would only be needed if she denied
25 ---

1 THE COURT - Okay. All right.

2 MS. ANDERSON - Don't have any question that there
3 was a conviction.

4 THE COURT - Okay.

5 MS. HAMILTON - Your Honor, I would like to -- she
6 said she's going to address that on direct, then she's
7 possibly opening the door to what she forbade earlier ---

8 MS. ANDERSON - Your Honor, I think if it's ---

9 MS. HAMILTON - --- which is the shoplifting.

10 MS. ANDERSON - -- it's impeachment, I think I can
11 ask if someone's convicted and if she says yes, I don't
12 think anything else is admissible to prove that. I think
13 if only she'd deny it somehow.

14 THE COURT - All right, so, let me make sure we're
15 -- make sure that I understand where you're coming from.
16 Solicitor, you say that if defense brings out the fact that
17 she was convicted of shoplifting on whatever day, then you
18 believe that opens the door to bring out the circumstances
19 surrounding the actual -- the initial detention by Walmart.

20 MS. HAMILTON - This case definitely because prior
21 she argued that this was prejudicial to her client, but if
22 she's going to sit there and question her client as to it,
23 then how is that prejudicial to her when she's bringing it
24 up in direct of her own witness?

1 MS. ANDERSON - I think if I -- Your Honor, I
2 think my question is -- it will be, were you convicted of
3 shoplifting in 2013. I think if she admits to that, which
4 we all admit is an impeachable offense, that's out there.
5 I don't -- you know, it's generally been my practice that
6 if something is admissible, I deal with it on direct versus
7 cross. It's just a strategy issue. I don't think that
8 opens the door. I don't think it's limited that only the
9 State can illicit that information. She can certainly ask
10 the same question on cross examination if she wishes, but I
11 don't think by my asking the question versus the State that
12 opens any sort of door if I don't go any further than that.
13 That's never been my experience anytime I've done it
14 before, so I don't think that opens the door to some -- the
15 factual allegations.

16 THE COURT - All right, when you impeach as to a
17 prior conviction, you bring out the charge, when the
18 conviction took place. Are you permitted to bring out
19 anything else related to the crime, other than the
20 existence of the conviction, the crime and when the
21 conviction was? Is there anything else? I'm kind of
22 thinking out loud here.

23 MS. ANDERSON - Your Honor, it's been my
24 experience that unless Ms. Watkins was to deny the
25 conviction or to -- I've had situations where clients

1 attempted to explain the circumstances -- I think that
2 opens the door into the details of it, because the State's
3 been allowed to counter that what's said.

4 THE COURT - Right.

5 MS. ANDERSON - It's always been my experience
6 that if someone admits to the conviction which is ruled to
7 be admissible for impeachment, you know, that there's
8 nothing further beyond that, because it is only admissible
9 for the impeachment of the fact she's had the crime before.
10 I don't think that opens the door, and I don't think it
11 makes any difference as to whether it's asked on direct
12 examination by the defense versus the State. I don't
13 there's any legal inception from that.

14 MS. HAMILTON - I think the distinction in this
15 case, Your Honor, is the fact that this is directly related
16 to this case. This is a shoplifting that is -- that comes
17 about from this case, from -- this search came about from
18 this shoplifting that we were banned from bringing out
19 because she stated it was prejudicial to her client, and
20 yes, in normal circumstances we don't go into the details
21 of them because they're not directly related to the case at
22 hand and explain the entire circumstances of the case at
23 hand, but in this case this is directly related to it; the
24 jury will see that it's directly related to it, and I at
25 the time that she brings this up, want the opportunity to

1 be able to say this is why you were detained. This
2 shoplifting was the incident that happened this date,
3 because she's going to bring that out anyway, so she's
4 bringing out all these facts that she claimed was at the
5 beginning of the trial prejudicial to her, but now she's
6 bringing it all out for the jury to see. I think there
7 should be something that if she does so that we should be
8 able to bring up in closing and additionally bring up all
9 the defendants on the stand.

10 MS. ANDERSON - No, Your Honor, I'm not bringing
11 it out. What the State I think doesn't like is the fact
12 I'm going to ask the question on direct, that they don't
13 get to ask if for the first time on cross. I think that's
14 the distinction here. Certainly I've not made any issue
15 about the search. Certainly the State has gotten it
16 implied in there, because the Walmart loss prevention
17 officer testified. She testified she was there with the
18 other asset prevention person. They encountered Ms.
19 Watkins. She was in the loss prevention office. So I
20 think the State has gotten a lot out that certainly the
21 jury can make a connection as to the fact that what
22 happened was Ms. Watkins was arrested for shoplifting, and
23 frankly I think they've got a lot more leeway than maybe
24 necessarily they should have, but I didn't make an issue of
25 it, but I don't think asking -- my asking the impeachable

1 conviction opens up into some sort of factual allegations
2 of shoplifting that has nothing to do with whether or not
3 she's guilty of this charge.

4 THE COURT - I think in looking at the final
5 analysis between prejudicial effect and probative value the
6 purpose for bringing out the conviction of the crime of
7 dishonesty -- the sole purpose is to cast some light on the
8 person's credibility. I mean that's the reason for doing
9 that. I'm going to limit it to that. I'm going to
10 restrict the State from getting into any details about the
11 shoplifting. I think the jury's going to make a connection
12 anyways. I'm not going to add to that and so if the
13 defense brings out the fact that she was convicted of
14 shoplifting on a particular day, I'm going to limit it to
15 that and not get into any more of the details, especially
16 and I'm going to give the instruction that it's for
17 credibility purposes only and not evidence of the crime.
18 Anything else?

19 MS. ANDERSON - Nothing from defense.

20 THE COURT - How long do you anticipate your case?
21 You've got two -- you've got a 3:00 o'clock witness
22 problem?

23 MS. ANDERSON - Yes, Your Honor. What I'm going
24 to try to do, the witness who has to leave first and then

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1 Victor Watkins who is going to be her ride, so I'm going to
2 try to get them in and out first.

3 THE COURT - Okay. Short witnesses? Short ones.

4 MS. ANDERSON - Yes, they should be short witness
5 I anticipate.

6 THE COURT - Okay. All right. Anything further?

7 (No response)

8 THE COURT - Bring the jury out, please.

9 (Jury returns to the courtroom)

10 THE COURT - All right, let the record reflect the
11 jury's back in. We took a little bit longer break that I
12 had anticipated, but when you have good lawyers, they will
13 tend to work the Judge pretty hard, so we had some legal
14 matters to discuss, but we're back on track and now we're
15 in the defense case. Ms. Anderson?

16 MS. ANDERSON - Your Honor, the defense calls
17 Bonnie Carson.

18 THE COURT - Come around, please, ma'am, and be
19 sworn in.

20 BONNIE CARSON, AFTER BEING FIRST DULY SWORN,

21 TESTIFIES AS FOLLOWS -

22 DIRECT EXAMINATION

23 BY MS. ANDERSON -

24 Q I'll just have you state your name for the record and
25 kind of lean into the microphone so we can hear you.

- 1 A Delores Carson.
- 2 Q Okay. Do you go by Bonnie?
- 3 A Yes.
- 4 Q Okay. And how old are you?
- 5 A 62.
- 6 Q Okay. Where do you live?
- 7 A York.
- 8 Q Okay. And do you know Janet Watkins?
- 9 A Yes, I do.
- 10 Q How do you know Janet Watkins?
- 11 A Through a friend. Through another friend.
- 12 Q Okay. And did you know Janet back in April of this
- 13 year?
- 14 A Yes.
- 15 Q Okay. Did you ever spend any time with her?
- 16 A Yes.
- 17 Q Okay. And do you remember if you spent any time with
- 18 her on April 26th of this year?
- 19 A Probably, yes.
- 20 Q Okay. All right. Do you remember where this took
- 21 place?
- 22 A No. We just back and forth. We just ride around and
- 23 back and forth between my house and her house.
- 24 Q Okay. Did you ever know Janet's son?
- 25 A Yes.

1 Q Okay. And do you know what his name is?

2 A Victor.

3 Q Okay. And did you ever know Victor's friend, Andrew?

4 A No, I don't know him personally, no, I don't.

5 Q Okay. Were you ever around him?

6 A Yes.

7 Q Okay. Do you remember when you were around him?

8 A It was one night at her house; Victor had him over.

9 Q Okay.

10 A It was one evening, late evening.

11 Q Okay. And you said you were at Janet's house. Is

12 that correct?

13 A (Indicating yes)

14 Q Okay. And who all was there?

15 A Oh, myself -- I was sitting at the counter and Andrew,
16 Victor there, uh, Vess (phonetic) was there and uh Jenny
17 and Brian was there.

18 Q Okay. And did anything unusual happen on that night?

19 A Yes, it did.

20 Q Okay, what is that? Could you tell us?

21 A Well, she was talking to some of Victor's friends and
22 I heard a commotion and I looked over and she had taken
23 something away from Victor's friend, ---

24 Q Okay.

1 A --- and when -- when she did that, she come to me and
2 showed me what she had.

3 Q Okay. And what was it?

4 A It was a baggy. It was a little small baggy and it
5 had like white -- white stuff inside of it.

6 Q Okay. And you said you saw that come from Victor's
7 friend?

8 A Yes, Andrew.

9 Q Okay. And do you remember -- did Janet say anything
10 about it?

11 A Yes, she was -- she's pretty high on (sic) about it.
12 She was mad about it, and she just brought it -- she
13 grabbed it from him and she showed me what she had taken
14 from him.

15 Q Okay. And you're certain that that baggy came from --
16 --

17 A Yes.

18 Q --- Victor's friend, Andrew.

19 A Yes.

20 MS. ANDERSON - That's all I have, Your Honor. If
21 you will answer any questions from the prosecutor.

22 MS. CARSON - Okay.

23 THE COURT - Solicitor, any cross?

24 MS. HAMILTON - Yes, just briefly, Your Honor.

25 CROSS EXAMINATION

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1 BY MS. HAMILTON -

2 Q Ms. Carson, when was this argument? Do you know the
3 exact date?

4 A I don't know the exact date. It was just in an
5 evening.

6 Q Okay. An evening? What month?

7 A It was probably April.

8 Q Okay. Early April? Late April? Do you ---

9 A I don't remember.

10 Q Okay. And now when she took that baggy, was that
11 baggy in a black container?

12 A No.

13 Q It wasn't?

14 A No.

15 Q It was just the baggy.

16 A It was just a baggy.

17 Q And just briefly. Were you at Walmart on April 26th, -

18 --

19 A No, ma'am.

20 MS. HAMILTON - Nothing further from the State?

21 THE COURT - Got anything in Re-direct?

22 MS. ANDERSON - No, Your Honor. We'd ask that Ms.
23 Carson be excused.

24 THE COURT - Okay, you can be excused, ma'am.

25 Thank you for your testimony.

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1 MS. CARSON - Okay. All right.

2 MS. ANDERSON - The defense calls Victor Watkins.

3 VICTOR WATKINS, AFTER BEING FIRST DULY SWORN,

4 TESTIFIES AS FOLLOWS -

5 DIRECT EXAMINATION

6 BY MS. ANDERSON -

7 Q And I'm just going to have you lean into the
8 microphone and state your name for the record.

9 A Victor George Watkins.

10 Q And how are you?

11 A 25.

12 Q And where do you live?

13 A 2865 Heart Road.

14 Q Do you know Janet Watkins?

15 A Yes, ma'am.

16 Q How do you know Janet?

17 A She is my mother.

18 Q Okay. And did you - well, this is an obvious
19 questions -- but did you know Janet back in April of this
20 year?

21 A Yes, ma'am.

22 Q Okay. And do you recall the evening of April 26th of
23 this year?

24 A Yes, ma'am.

25 Q Okay. Do you remember where you were?

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1 A My house.

2 Q Okay. And is that -- what address is that, or is that
3 Janet's house as well?

4 A Yes, ma'am.

5 Q Okay. Do you remember who was there?

6 A Me, my mother ---

7 Q I'm going to have you speak up maybe just a little
8 bit.

9 A Me, my mother, my friend, Andrew and Ms. Bonnie.

10 Q Okay. And what is Andrew's full name?

11 A Andrew Bennett.

12 Q Okay, and do you -- you knew Andrew back in April? Is
13 that correct?

14 A Yes, ma'am.

15 Q Okay. Are you still friends with him now?

16 A Yes, ma'am, to a point I would -

17 Q Hum?

18 A Yes, ma'am.

19 Q Okay. And where does he live?

20 A Florida, ma'am.

21 Q Okay. Do you know when he moved to Florida?

22 A No, ma'am, I'm not completely sure on a date.

23 Q Okay. Was it before or after April of this year?

24 A After.

1 Q Okay. And did anything happen on April 26th with
2 Andrew?

3 A Specifically?

4 Q Or did you see anything unusual that night?

5 A If we're going on this whole situation, I remember me
6 asking Andrew for a lighter and he pulled my lighter out a
7 pocket and a few other things, and my mom saw something and
8 I at the time grabbed my lighter and walked away.

9 Q Okay. So you saw him pull things out of his pocket
10 but you didn't see what happened.

11 A Yes, ma'am.

12 Q Okay.

13 MS. ANDERSON - Beg the Court's indulgence.

14 (Pause) Nothing further, Your Honor. If you'll answer any
15 questions the prosecutor may have.

16 THE COURT - Cross examination, Solicitor?

17 MS. HAMILTON - Nothing from the State, Your
18 Honor.

19 THE COURT - Okay. Thank you for your testimony.
20 You can step down.

21 MS. ANDERSON - And we'd ask that Mr. Watkins be
22 excused.

23 THE COURT - Okay. Mr. Watkins, you're excused.

24 MS. ANDERSON - Your Honor, defense calls Janet
25 Watkins.

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1 THE COURT - Okay, come around.

2 JANET WATKINS, AFTER BEING FIRST DULY SWORN,

3 TESTIFIES AS FOLLOWS -

4 DIRECT EXAMINATION

5 BY MS. ANDERSON -

6 Q Okay, and, Janet, I'll have you kind of lean into the
7 microphone as best as you can. Just state again for the
8 record your full name.

9 A Janet Margaret Watkins.

10 Q Okay, and where do you live?

11 A 2865 Heart Road.

12 Q Okay. How old are you?

13 A 48.

14 Q And you talked a little bit -- you have some -- do you
15 have some medical issues?

16 A Yes, ma'am.

17 Q Okay, just explain what those are.

18 A COPD, I have a lot of trouble breathing and my oxygen
19 level goes down and I just fall asleep, and it's the only
20 way to describe it actually.

21 Q Okay, now, what about any issues -- do you -- have you
22 ever had any issues with your eyes?

1 A Yes.

2 MS. HAMILTON - Your Honor, objection as to
3 relevance.

4 THE COURT - Okay, issues of what? An eye?

5 MS. ANDERSON - Her eyes, Your Honor.

6 THE COURT - I'll allow it.. Overruled.

7 A Yes, ma'am.

8 Q All right, and what is that?

9 A I have a paralytic pupil.

10 Q Okay, and what does that sort of mean, or what does
11 result in?

12 A My one pupil's fixated. It doesn't go up or down, so
13 it kind of looks like I'm on drugs, stoned, whatever.

14 Q Do you remember -- do you know long you've had this
15 problem?

16 A About 15 years.

17 Q And now I want to go back and talk to you about April
18 26th, 2013. Okay? And before we start that, let me just
19 ask you, have you ever been convicted of shoplifting?

20 A Yes, ma'am.

21 Q And was that in 2013?

22 A Yes, ma'am.

23 Q All right, now on April 26th did you go to Walmart at
24 some point that night?

25 A Yes, ma'am.

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1 Q Okay. Now, I want to take you back. Do you remember
2 where you were before you went into Walmart?

3 A I was at my house.

4 Q Okay, and where is that?

5 A 2865 Heart Road.

6 Q Okay. Do you remember if anyone else was there?

7 A Yes, ma'am.

8 Q Okay, who was that?

9 A Bonnie Carson, my son, Vester (sic) was in his room,
10 Brian and Jenny were in with my fiancé, Bo, and myself.

11 Q Okay. And what was going on at your house?

12 A Well, Victor and me and Bonnie and Andrew were in the
13 kitchen. I was ---

14 Q Okay. And who is Andrew?

15 A Andrew is a -- he used to live with us many years ago,
16 but he was down -- I guess he was just visiting Victor,
17 that's all.

18 Q Okay. And do you have any contact with Andrew now?

19 A Via phone.

20 Q Okay. And do you know where he lives?

21 A He's in Florida somewhere.

22 Q Okay. And you said he was a friend of your son,
23 Victor's? Is that correct?

24 A Yes, ma'am.

1 Q Okay. And now that night did you have any sort of --
2 anything unusual happen when you were at your house?

3 A Yes.

4 Q Okay. And talk to us about what that was.

5 A Well, it was like my son said, he did ask for
6 something; I didn't hear it that it was a lighter, but when
7 Andrew pulled so-called lighter out of his pocket, the
8 baggy was in his hand and I -- and Ted (sic) said what was
9 that. He told me what it was and I threatened to call his
10 mother and then I put that in my pocket.

11 Q Okay. And when you talk about baggy, what did this
12 baggy look like?

13 A Like a little one by one baggy.

14 Q Okay. Could you see if there was anything in it?

15 A Yes, there was white powder in it.

16 Q Okay. And you said you confronted Andrew about that?

17 A Yes, ma'am.

18 Q And what did you say to him?

19 A I asked him what it was and he told me what it was.

20 Q Okay. What did he say?

21 A He said it was crystal meth.

22 Q And why did you take it from him?

23 A Uh, I don't know, because I didn't want it in my
24 house, because he was a friend of Victor's, because I was

JANET WATKINS - DIRECT BY MS. ANDERSON

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1 going to threaten his -- you know, call his mother. I mean
2 there was a lot of reasons to take it off of him.

3 Q Okay. And what did you do with it after you took it
4 from him?

5 A I put it in a canister and I put it in my pocket.

6 Q And did you have a chance to talk to his mother?

7 A No, I did not.

8 Q And when you went to Walmart, did you still have that
9 in your pocket?

10 A Yes, ma'am, I did.

11 Q And you've heard the officer testify. Was that the
12 baggy he testified about finding in your pocket?

13 A Yes, ma'am.

14 Q And now were you under the influence of anything when
15 you went to Walmart that day?

16 A I had had one drink that even -- not even a full drink
17 as a matter of fact.

18 Q Okay. Had you used any illegal drugs?

19 A No, ma'am.

20 Q Okay. Did you intend to keep what was in that baggy?

21 A No, ma'am.

22 Q And did you intend to use it yourself?

23 A No, ma'am.

24 Q Did you intend to hold on to it indefinitely?

25 A No, ma'am. I had actually forgot it was in my pocket.

1 Q But you are clear that was the baggy they found in
2 your pocket.

3 A Yes, ma'am.

4 Q And that came from Andrew you said.

5 A Yes, ma'am.

6 MS. ANDERSON - Thank you. That's all the
7 questions I have. Please answer any questions the
8 prosecutor may have.

9 THE COURT - Cross examination?

10 MS. HAMILTON - Just briefly, Your Honor.

11 CROSS EXAMINATION

12 BY MS. HAMILTON -

13 Q Good afternoon, Ms. Watkins.

14 A Good afternoon.

15 Q So the shoplifting that your attorney told you about,
16 that was a trial date on May 13th this year ---

17 MS. ANDERSON - Your Honor, ---

18 A --- hear. Correct?

19 THE COURT - Y'all want to come up here?

20 (Bench conference was held in the presence of the
21 jury but out of the hearing of the jury which was not
22 reported.)

23 Q Okay, Ms. Watkins, and that conviction date was May
24 13th of this year. Correct?

JANET WATKINS - CROSS BY MS. HAMILTON

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1 A I think so, yes.

2 Q Okay. And talking about the incident on April 26th and
3 um you saw Andrew pull out the lighter, and um you took the
4 baggy from him. Correct?

5 A Yes, ma'am.

6 Q And uh you didn't flush it.

7 A No, ma'am.

8 Q Didn't call the police.

9 A No, ma'am.

10 Q Didn't immediately ask him to leave with the baggy.

11 A No.

12 Q Okay. You took it into your possession.

13 A Yes, ma'am.

14 Q And you put it in your pocket.

15 A I put it in a canister and put it in my pocket.

16 Q Okay. And you knew it was crystal meth.

17 A Yes, ma'am, that's what he said.

18 Q And you had that crystal methamphetamine in your
19 pocket at Walmart.

20 A Yes, ma'am.

21 Q Okay. On April 26th, 2013.

22 A I guess that was the date.

23 MS. HAMILTON - No further questions from the
24 State.

25 THE COURT - Re-direct?

1 MS. ANDERSON - None, Your Honor.

2 THE COURT - Thank you, ma'am, for your testimony.

3 You can step down. Anything further from the defense?

4 MS. ANDERSON - Defense rests, Your Honor.

5 THE COURT - Okay. Any rebuttal case from the
6 State?

7 MS. HAMILTON - Nothing from the State, Your
8 Honor.

9 THE COURT - Okay. All right, madam forelady and
10 ladies and gentlemen of the jury, the evidentiary record is
11 now closed, which means all of the evidence for you to
12 consider is now in. We will proceed -- we're going to take
13 another break. We're going to proceed to closing arguments
14 by the attorneys and also the Court's final charge, but we
15 need to get everything in order, so we're going to take
16 another break. I told you last time a short break and this
17 time hopefully it will be a short break, but I need to
18 cover a few things with the lawyers. So again, don't start
19 your deliberations yet and we'll get you back out shortly.
20 Okay? Thank you.

21 (Jury exits the courtroom)

22 THE COURT - What I customarily do is provide a
23 copy of the written charge. This is going to be pretty
24 standard stuff, but nonetheless, let's get it printed out

1 and give y'all an opportunity to look at it. So we'll be
2 off the record, at ease for just a little bit.

3 MS. ANDERSON - Your Honor, before we go off the
4 record, just to preserve the record if I could just renew
5 all my prior motions and objections from the ---

6 THE COURT - Sure. Sure. You're protected.

7 MS. ANDERSON - Thank you, Your Honor.

8 (Discussion is held between the Court and counsel
9 regarding charges which was not reported.)

10 THE COURT - All right, let's go back on the
11 record and -- all right, it's been agreed that we will not
12 charge constructive possession. All right, do you see a
13 need for me to charge voluntariness of the -- you know,
14 typically when you have, you know, an admission by the
15 defendant or statement by the defendant, you charge the
16 jury that they make the ultimate decision as to, you know,
17 if it's voluntary or not, even though I have ruled as a
18 matter of law that it is, because it comes in, you really
19 want to get into that? I mean it's just one statement
20 about she, you know, said that it was crystal meth, and of
21 course her position is she'd said it because that's what
22 she was told. Do we need to get into charging the
23 voluntariness of that statement?

24 MS. HAMILTON - What is the charge exactly on the
25 ---

1 THE COURT - Well, basically when a statement --
2 the statement made by a defendant is admitted into evidence
3 -- of course, the Court has to, you know, make the
4 determination that it's made voluntary and that sort of
5 thing -- but basically you also -- you charge the jury that
6 they make the ultimate decision as to voluntariness, and
7 the statement we're dealing with is her statement to the
8 police officer that it was meth. And her position is, as I
9 understand it, that she said -- she said it was meth
10 because that's what Andrew told her. Do we want to even
11 get into them making the decision whether or not that
12 statement was made voluntary or not?

13 MS. HAMILTON - I don't think it's necessary
14 because ---

15 THE COURT - Because this is not a typical
16 admission situation.

17 MS. ANDERSON - No, Your Honor, and I think
18 ultimately because we did not go into the interrogation and
19 the statement ---

20 THE COURT - Right.

21 MS. ANDERSON - --- in that context, I think I
22 agree, Your Honor, that ordinarily that would be the
23 factors the jury would consider regarding whether its ---

24 THE COURT - All right. Okay.

1 MS. ANDERSON - - - - freely and voluntary. I don't
2 I don't think that the way that this has shaved out in
3 terms of that not coming through the officer that that
4 would ---

5 THE COURT - All right, I'm going to take that
6 out. Okay, we're going to make copies. We'll be at ease
7 for just a moment. Make copies -- everybody take a look at
8 it and -- all right, so we'll be at ease for just a moment.
9 If y'all will come up and take a look at the verdict form.
10 It's about as basic as basic can be, but y'all look at it.

11 (Recess taken)

12 THE COURT - All right. Let's bring the jury out.

13 (Jury returns to the courtroom)

14 THE COURT - All right, let the record reflect the
15 jury's back in. Madam forelady and ladies and gentlemen of
16 the jury, we're now at a point to where the lawyers will
17 make their closing arguments to you. Their closing
18 arguments again are not evidence, but it's just a statement
19 of their position in the case and what they believe that
20 the evidence has showed and has proven related to the
21 charge against this defendant. The defendant will go first
22 in her closing argument and then the solicitor will go
23 last, so I ask that you give these two excellent attorneys
24 all of the attention that they deserve. Ms. Anderson?

1 MS. ANDERSON -- May it please the Court. Ladies
2 and gentlemen, I made a reference in opening about my
3 worksheet in elementary school and not knowing the full
4 story, and what I meant by that was that Ms. Parker and
5 Officer Cotton didn't know about Andrew. Back on April
6 26th, 2013 when they had contact with Janet Watkins, they
7 didn't know about Andrew; didn't know about Andrew then,
8 but you now, the jury, having heard all of the testimony,
9 you've read all the way down to the bottom of the
10 worksheet; you've heard all of the evidence; you have the
11 full story about Andrew's role in this case, and how
12 ultimately, it's Andrew -- Andrew's role that means that
13 you should return a verdict finding Janet Watkins not
14 guilty of the charge of possession of methamphetamine. The
15 Judge is going to charge you as to the law to the burden of
16 proof and beyond a reasonable doubt, the State's burden of
17 proof and also as to the elements of this charge. And
18 roughly, ladies and gentlemen, those elements require that
19 the State prove that Janet Watkins was in actual possession
20 of this substance, in knowing possession, that she intended
21 to control its use, ultimately that the substance was
22 methamphetamine, but there's another thing that the State
23 is required to show in really in almost any criminal case
24 and that's sort of more of a general concept I think that
25 fits in with the idea of the State's burden of proof, and

1 that's what I'm going to mostly talk to you about, because
2 ladies and gentlemen, I submit to you that's what's
3 critical in this case and that is the idea of criminal
4 intent, and that ladies and gentlemen, is where Andrew
5 comes into play. You heard the testimony of Bonnie Carson
6 and Victor Watkins, as well as Janet Watkins herself about
7 what happened at Janet's house on the evening of April 26th
8 before she went to Walmart, before she ever had any contact
9 with Kasie Parker, before she ever had any contact with
10 Sergeant Cotton and before Sergeant Cotton found that
11 canister with this baggy with a small amount of white
12 powder in it in her pocket. And all three of them, ladies
13 and gentlemen, were consistent in what they said happened,
14 that this baggy came from Andrew Bennett, Victor Watkins'
15 friend who now lives in Florida. And no one was unclear on
16 the fact that the baggy came from Andrew, and Janet herself
17 testified to you that, yes, the baggy came out of Andrew's
18 pocket; she saw it; she took it from him; she asked him
19 what it was; he said it was crystal meth and she took it
20 from him, and she told you why, that she was angry, that
21 she was intending to call his mother. And she testified to
22 you no question that that was the baggy that was still in
23 her pocket that she forgot about that's still in her pocket
24 when she came in contact with Sergeant Cotton at Walmart
25 and was in custody, and that's the baggy that she stands in

1 front of you charged with today and that the State is going
2 to argue to you that she is guilty beyond a reasonable
3 doubt of possessing this baggy. And the State did very
4 well stand up and just say, well, it's in her pocket, case
5 ended, nothing further, but I submit to you, ladies and
6 gentlemen, there is something further, because the State is
7 required to show that she had criminal intent as to
8 possession of methamphetamine and that she intended to
9 control its use, and I would submit to you that isn't
10 present here. She told you -- Janet told you why she had
11 it, that she didn't intend to use it for herself; she
12 didn't intend to keep; she admits she had it, but if you
13 look back at some of the things that were testified to in
14 the State's case, I think you see where that's a reasonable
15 explanation, and I would submit to you is the likely
16 explanation. When Sergeant Cotton testified, he testified
17 she was cooperative with him, that she took the -- took the
18 things out of the pockets when he asked. He testified on
19 cross examination she let him search her car, and she gave
20 verbal and written consent to search her car. He didn't
21 find anything he suspected to be drugs in her car, didn't
22 find any paraphernalia, anything someone would use to use
23 illegal narcotics in her car and didn't find any of it on
24 her, and all of that, ladies and gentlemen, is evidence
25 that would go toward saying what was in her pocket wasn't

1 for her own use, wasn't to be retained. It wasn't -- it
2 was physically there, but it wasn't something she
3 considered possession. She only had it because earlier
4 that night she'd taken it from Andrew after it fell out of
5 his pocket. Now, ladies and gentlemen, that's ultimately
6 what this case comes down to. And I could stand up here
7 and talk to you for 20, 30 minutes, but really this is what
8 it comes down, is that criminal intent and the fact that
9 the State can't meet their burden of proof to prove
10 criminal intent and to prove that she intended to control
11 the use of that methamphetamine. Beyond a reasonable doubt
12 before has been defined as the kind of doubt that would
13 cause a reasonable person to hesitate to act. It's been
14 defined or illustrated as the kind of doubt that would
15 cause a person to hesitate to take a step forward. It's
16 the kind of doubt that if the State is even one millimeter,
17 one inch, one hair short of proving each and every element
18 completely beyond a reasonable doubt. Our system demands a
19 verdict of not guilty. It's what our system is founded on,
20 this idea that you must be proven beyond a reasonable
21 doubt. The burden of proof is on the State, and a criminal
22 defendant is never required to prove her innocence because
23 she's already presumed innocent. And so your verdict and
24 your duty as jurors is when the State comes up short, no
25 matter how close they might get, whether it's very far off

1 or very close to the line. When they can't cross the line
2 of beyond a reasonable of doubt, then your questions in
3 your mind as to whether they've proven an element, then
4 it's your duty to resolve in favor of the defendant, that
5 the justice demands a verdict of not guilty. And that's
6 what this case comes down to, ladies and gentlemen. The
7 State cannot prove Janet Watkins criminal intent beyond a
8 reasonable doubt. No question that the substance that
9 ultimately turned out to be methamphetamine was in her
10 pocket, but I'm asking you to look at the full story, to
11 look at what's just, what's fair, what's right in
12 consideration of the law, to look at when the State hasn't
13 proven an element beyond a reasonable doubt, then they
14 haven't met their full burden, that the verdict should be
15 not guilty. Our system relies on you as jurors to listen
16 to all the evidence, to listen to all the law, to use your
17 common sense and your life experiences and ultimately to
18 return a verdict that speaks the truth. And I would submit
19 also to return a verdict that is ultimately just. And in
20 this case, ladies and gentlemen, argue and ask you to
21 return a verdict that finds Janet Watkins not guilty of
22 possession of methamphetamine, not guilty for possessing
23 the methamphetamine that came from Andrew Bennett's pocket
24 on April 26th, 2013. Thank you.

25 THE COURT - Thank you, Ms. Anderson. Solicitor?

1 MS. HAMILTON - May it please the Court, Your
2 Honor. Well, ladies and gentlemen, we've heard a lot about
3 intent, intent, intent, from the defense, but what she
4 failed to say is intent to control disposition or use. She
5 mentioned use a lot, but failed to tell you is the intent
6 to control its disposition or use. She intended to have
7 that methamphetamine on her person. She could've disposed
8 of it in many ways. You heard on the stand I asked her did
9 you go to the police; she said nope. Did you flush it,
10 dispose of it? If you're so worried about this
11 methamphetamine that you knew to be methamphetamine, did
12 you flush it? No. Did you give it back to him and say,
13 leave my house right now; that stuff should not be in my
14 house; no. What she did is she took it from him -- if you
15 believe that story -- and put it in a film container to
16 conceal it, to conceal what it actually is. That would be
17 the only purpose. And then walks into Walmart. And you've
18 heard from some of our witnesses they came from a call when
19 this happened. One of the witnesses came from a call that
20 was the date of the incident. Some of them actually missed
21 how many people were in the home. Not trustworthy. Now,
22 again, she is charged with possession of less than one gram
23 of methamphetamine. You have -- I have to prove as the
24 State beyond a reasonable doubt that she had actual or
25 knowingly possessed that methamphetamine. Now, at the

1 beginning I told you about constructive possession, but as
2 I said in the beginning, I don't think that's really
3 relevant in this case. We're dealing with actual
4 possession in this case. She actually had it in her
5 pocket, therefore, I'm just going to explain that's having
6 physical contact or control of that object, and again, she
7 stated about the criminal intent. She intended to control
8 its disposition, and as I said when I came up here, there's
9 many ways that we can infer that she intended to control
10 its disposition. She put it in another package, put it in
11 her pocket and walked around with it. Let's go through the
12 elements. Knowing and actual constructive possession. She
13 had possession of .04 grains of methamphetamine in her
14 pocket in a film container, actual possession. You've
15 heard from Cynthia Mitchum as to the second element, that
16 it was methamphetamine. She stated on the record as an
17 expert that this was after she tested it with many tests
18 that she uses, or the tests that she has used many times
19 that is very reliable that this is methamphetamine. I mean
20 the defendant even stated it was. She knew it was. I ask
21 you to do not be distracted by what she is trying -- the
22 defense is trying to put forth. I don't want you to be
23 distracted. I want you to look at the facts of this case.
24 It's a very simple case. She had in her possession the
25 methamphetamine. Now, it is our responsibility to prove

1 beyond a reasonable doubt, not beyond any and all doubt,
2 not with one hundred percent certainty, but if you go in
3 that jury room and are firmly convinced that she knowingly
4 possessed methamphetamine, I ask that you find her guilty
5 of that offense. And again, don't be fooled by the
6 distractions and please make a ruling as to the facts and
7 apply the law to those facts, and do not look to the
8 sympathies or the distractions the defense also forward.
9 Thank you, ladies and gentlemen.

10 THE COURT - Thank you, Solicitor. Madam forelady
11 and ladies and gentlemen of the jury, I remind you that
12 during the trial you and I have had certain duties to
13 perform as I explained to you earlier. As the Trial Judge
14 it's been my responsibility to preside over this trial in
15 this case and I also have the duty to rule on the
16 admissibility of the evidence offered during this trial.
17 You are to consider only the competent evidence that is
18 before you. I don't believe this was the case, but if
19 there was any testimony ordered stricken from the record in
20 this case during this trial, you must disregard that
21 testimony. You are to consider only the testimony which
22 has been presented from the witness stand and any exhibits
23 that have been made a part of the record in this case. I
24 have the additional duty to charge you the law applicable
25 to this case. As the presiding Judge, I'm the sole Judge

1 of the law of this case, and it's your duty as jurors to
2 accept and apply the law as I now state it to you. If you
3 already have any idea as to what the law is or what the law
4 ought to be and it does not agree with what I now tell you
5 the law is, you must abandon this idea, because you are
6 sworn to accept the law and apply the law exactly as I
7 state it to you. In every case tried in this Court before
8 a jury, the jury becomes the sole and exclusive Judges of
9 the facts in the case. A Trial Judge cannot intimate,
10 state, comment on or make any statement to a trial jury
11 about the facts in a case. Since you the jury are the sole
12 Judge of the facts in this case, you are not to infer from
13 what I have said during the progress of this trial in
14 ruling upon admissibility of evidence or otherwise or
15 anything that I say now during the course of this
16 instruction to you that I have any opinion about the facts
17 in this case. I do not. The law does not allow me to have
18 an opinion about the facts in this case. This is a matter
19 solely for you the jury to determine. As jurors it is your
20 duty to determine the effect, value, weight and truth of
21 the evidence presented during this trial. I now will
22 charge you on the law applicable to this case. You must
23 consider the charge as a whole and not focus on some
24 portions to the exclusions -- to the exclusion of other
25 portions. Now, as I told you at the beginning, the

1 indictment charges the defendant with possession of
2 methamphetamine. I remind you, the fact that the defendant
3 was arrested, charged and indicted in this case is not
4 evidence in this case and is not to be considered by you as
5 evidence of guilt in this case, nor does it create any
6 presumption or inference of guilt. This document is simply
7 the formal written instrument which contains the charge
8 made against the defendant. It is the formal document by
9 which this case is brought into Court. The defendant has
10 pled not guilty to this indictment. That plea puts the
11 burden on the State to prove the defendant guilty. A
12 person charged with committing a criminal offense in South
13 Carolina is never required to prove herself innocent. I
14 charge you that it is an important rule of law that the
15 defendant in a criminal trial no matter what the
16 seriousness of the charge may be will always be presumed
17 innocent of the crime for which the indictment was issued
18 unless guilt has been proven by evidence satisfying you of
19 that guilt beyond a reasonable doubt. This presumption of
20 innocence does not end when you begin your deliberations,
21 but it accompanies the defendant throughout the trial until
22 you reach a verdict of guilt based upon evidence satisfying
23 you of that guilt beyond a reasonable doubt. The
24 presumption of innocence is like a robe of righteousness
25 placed about the shoulders of the defendant which remains

1 with the defendant until it has been stripped from the
2 defendant by evidence satisfying you of the defendant's
3 guilt beyond a reasonable doubt. The presumption of
4 innocence is not a mere legal theory. It is not just a
5 legal phrase. It is a substantial right to which every
6 defendant is entitled unless you the jury are satisfied
7 from the evidence of the defendant's guilt beyond a
8 reasonable doubt. As stated, the State has the burden of
9 proving the defendant guilty beyond a reasonable doubt.
10 Some of you may have served as jurors on civil cases before
11 where you were told that it is only necessary to prove that
12 a fact is more likely true than not true such as by the
13 greater weight or preponderance of the evidence. However,
14 in criminal cases, the State's proof must be more powerful
15 than that. It must be beyond a reasonable doubt. Proof
16 beyond a reasonable doubt is proof that leaves you firmly
17 convinced of the defendant's guilt. There are very few
18 things in this world that we know with absolute certainty
19 and in criminal cases the law does not require proof that
20 overcomes every possible doubt. If based on your
21 consideration of the evidence, you are firmly convinced
22 that the defendant is guilty of the crime charged, you must
23 find the defendant guilty. If on the other hand, you think
24 there is a real possibility that the defendant is not
25 guilty, you must give the defendant the benefit of the

1 doubt and find the defendant not guilty. There are two
2 types of evidence which are generally presented at a trial,
3 direct evidence and circumstantial evidence. Direct
4 evidence is the testimony of a person who claims to have
5 actual knowledge of a fact, such as an eyewitness. It is
6 evidence which immediately establishes the main fact to be
7 proven. On the other hand, circumstantial evidence is
8 proof of a chain of facts and circumstances indicating the
9 existence of a fact. It is evidence which immediately
10 establishes collateral facts from which the main fact may
11 be inferred. Circumstantial evidence is based on inference
12 and not on personal knowledge or observation. The law
13 makes absolutely no distinction between the weight or value
14 to be given to either direct or circumstantial evidence,
15 nor is a greater degree of certainty required of
16 circumstantial evidence than of direct evidence. You
17 should weigh all of the evidence in this case. After
18 weighing all the evidence, if you're not convinced of the
19 guilt of the defendant beyond a reasonable doubt, you must
20 find the defendant not guilty. Necessarily, madam forelady
21 and ladies and gentlemen of the jury, you must determine
22 the credibility of witnesses who have testified in this
23 case. Credibility simply means believability. It becomes
24 your duty as jurors to analyze and to evaluate the evidence
25 and determine which evidence convinces you of its truth.

1 In determining the believability of witnesses who have
2 testified in this case, you may believe one witness over
3 several witnesses or several witnesses over one witness.
4 You may believe a part of the testimony of a witness and
5 reject the remaining part of the testimony of that same
6 witness. You may believe the testimony of a witness in its
7 entirety or reject the testimony of a witness in its
8 entirety. You may consider whether any witness has
9 exhibited to you any interest, bias, prejudice or other
10 motive in this case. You may also consider the appearance
11 and manner of a witness while on the witness stand. The
12 rules of evidence ordinarily do not permit witnesses to
13 testify to opinions or conclusions. An exception to this
14 rule exist for witnesses we call expert witnesses. A
15 witness who by education and experience has become an
16 expert in some art, science, profession or calling may
17 state an opinion as to relevant and material matter in
18 which the witness claims to be an expert and may also state
19 the reasons for the opinion. You should consider any
20 expert opinion received in evidence in this case and like
21 any other evidence, give it the weight you think it
22 deserves. If you decide that the opinion of an expert
23 witness is not based on sufficient education and experience
24 or if you conclude that the reasons given in support of the
25 opinion are not sound or that the opinion is outweighed by

1 other evidence, you may disregard the opinion entirely. An
2 expert witnesses' testimony is to be given no greater
3 weight than that of other witnesses simply because the
4 witness is an expert. Further, you are not required to
5 accept an expert's opinion even though it is not
6 contradicted. You have heard evidence that the defendant
7 was convicted of a crime other than the one for which the
8 defendant is now on trial. The evidence may be considered
9 by you if you conclude its true only in deciding whether
10 the defendant's testimony is believable and for no other
11 purpose. You must not consider the defendant's prior
12 record as any evidence of the defendant's guilt of the
13 charge we are trying today. To prove possession the State
14 must prove beyond a reasonable doubt that the defendant had
15 both the power and the intent to control the disposition or
16 use of the methamphetamine. Actual possession means that
17 the methamphetamine was in the actual, physical custody of
18 the defendant. The State must prove beyond a reasonable
19 doubt that the substance was, in fact, methamphetamine.
20 Now, madam forelady and ladies and gentlemen of the jury,
21 in order to establish criminal liability, criminal intent
22 is required. For example, the mental state required to be
23 proven by the State for a particular crime might be
24 purpose, intent, knowledge, recklessness or criminal
25 negligence. Criminal intent must be proven by the State

1 beyond a reasonable doubt. Criminal intent is always a
2 matter that must be determined by you the jury from the
3 circumstances surrounding the situation. Now, madam
4 forelady and ladies and gentlemen of the jury, we have a
5 verdict form, and there are two possible verdicts in this
6 case, guilty or not guilty. And on the verdict form is
7 listed, as to the charge of possession of methamphetamine,
8 we the jury find the defendant guilty or not guilty. You
9 check the appropriate line. Do not give any significance
10 to the fact that guilty is placed first and not guilty
11 second. It's just the manner in which they're put on the
12 form and no further reason for that. Your verdict must be
13 unanimous. It must be agreed upon by all 12 of you. Once
14 you have reached a verdict, madam forelady, you will sign
15 the verdict form where it has the foreperson and also sign
16 the back of the indictment which has verdict, and you'll
17 write the verdict that you've reached unanimously, all 12
18 of you, sign and date. Now, you are not to start your
19 deliberations yet. I'm going to ask that you retire to the
20 jury room. Once the bailiff brings to you the exhibits,
21 the verdict form and the indictment, at that time you can
22 start your deliberations but not until that is brought to
23 you. When the exhibits, the verdict form and the
24 indictment are brought to you, then the alternate would
25 need to leave the jury room and you're free to come out

1 here and remain with us or you would be free to go. And
2 I'll explain to the alternate you will need to call in
3 after 7:00 o'clock at the number for further instructions
4 about the remainder of the week and I guess I'll tell
5 everybody on the trial jury the same thing to call after
6 7:00 o'clock tonight. So I need to talk with the lawyers
7 for just a brief moment. If you'll go to your jury room;
8 don't start your deliberations yet.

9 (Jury exits the courtroom)

10 THE COURT - All right, any exceptions or
11 objections to the Court's charge from the State?

12 MS. HAMILTON - None from the State, Your Honor.

13 THE COURT - And defense?

14 MS. ANDERSON - None from the defense, Your Honor.

15 THE COURT - Okay. Thank you very much. All
16 right, Solicitor and Ms. Anderson, if you'd come up here
17 and make sure all the exhibits -- I think there's what four
18 exhibits?

19 COURT REPORTER - Yes, sir.

20 THE COURT - Yes, four. Just make sure they're
21 there.

22 (Counsel complies)

23 THE COURT - Indictment and verdict form. Just
24 make sure the alternate comes back in. Okay, ladies, good
25 job, and we'll all be at ease.

1 (Jury deliberates at 4:14 p.m.)

2 (Alternate enters the courtroom)

3 THE COURT - You're welcome to stay with us or if
4 you need to leave, that's fine to.

5 ALTERNATE JUROR - I'm going to head on out.

6 THE COURT - Okay, just leave your juror badge.
7 We're not giving that to you as a gift.

8 (Alternate juror exits the courtroom)

9 (Court in recess awaiting verdict)

10 THE COURT - The jury just wrote it and say, we
11 have a verdict, so that's what this is. I am not going to
12 make this a Court exhibit unless you want me to.

13 MS. ANDERSON - No, Your Honor.

14 THE COURT - All right, what we'll do, I'll tell
15 the foreperson to hand you the verdict form. If you will
16 hand it to me, I will not publish it; I just want to look
17 at it, and then I'll hand it to the clerk. Okay?

18 (Jury returns with verdict at 4:32 p.m.)

19 THE COURT - Let the record reflect the jury's
20 back in. Madam forelady, I understand from your note that
21 you have reached a verdict.

22 MADAM FORELADY - We have, Your Honor.

23 THE COURT - And was that verdict or is that
24 verdict unanimous among the 12 of you?

25 MADAM FORELADY - Yes, sir.

1 THE COURT - Madam Clerk, if you'd stand, please,
2 and publish the verdict, Madam Clerk.

3 DEPUTY CLERK - In the case of State of South
4 Carolina vs. Janet Margaret Watkins under Indictment Number
5 2013-GS-46-3324, as to the charge of possession of
6 methamphetamine, we the jury find the defendant guilty. I
7 certify this decision was a unanimous decision of the jury,
8 signed by the foreperson, dated today's date.

9 THE COURT - Thank you. Does either side want the
10 jury polled?

11 MS. ANDERSON - No, Your Honor.

12 THE COURT - Okay, all right. Ladies and
13 gentlemen of the jury, we again thank you. I thank you for
14 your jury service. I'm not thanking you for your verdict,
15 because that does not matter to me, but for your jury
16 service, your attention, time spent here today. Again,
17 without people like you, we would have a difficult time
18 operating our system of justice in this country. This is
19 just Tuesday. We have several more days to go, so if you
20 will call back or call that number that you've been given
21 after 7:00 o'clock and you will receive instructions on
22 when to be back so, again, I thank you and hope you have a
23 good evening. Madam forelady, did you sign the Indictment
24 as well?

25 MADAM FORELADY - Yes, sir.

1 THE COURT - Okay. Thank you very much. You're
2 free to leave.

3 (Jury exits the courtroom)

4 THE COURT - Okay, anything on the record from the
5 defense?

6 MS. ANDERSON - No, Your Honor.

7 THE COURT - Let's take just a short -- very short
8 break before we go into the sentencing phase of this case.
9 This is a first, isn't it?

10 MS. HAMILTON - It is.

11 (Recess taken)

12 THE COURT - Okay, Ms. Anderson, you ready?

13 MS. ANDERSON - Yes, Your Honor.

14 THE COURT - Okay. Solicitor, you ready?

15 MS. HAMILTON - Yes, Your Honor.

16 THE COURT - Okay, Ms. Anderson, I'll be glad to
17 hear from you first.

18 MS. ANDERSON - May it please the Court, Your
19 Honor. You've heard some basically about Ms. Watkins from
20 her testimony. You heard about her health issues. She
21 also said she's undergoing right now possible cancer.
22 She's being tested for the possibility of that, so in
23 addition there is COPD and emphysema. She is dealing with
24 that. She did bring even some paperwork. Her pupil
25 condition she carries around paperwork with her so that law

1 enforcement, because she's had this sort of situation
2 before with them thinking she's under the influence of
3 something when it is her eye condition. She is disabled as
4 well. So obviously she has some serious health issues
5 she's been dealing with. Obviously, Your Honor heard our
6 defense and that is what Ms. Watkins has consistently told
7 me throughout the course of representing her since April
8 really, and obviously we would put that forward and
9 obviously we understand the jury came back the way they
10 did, but I would submit that that's something Ms. Watkins
11 has consistently told me and it wasn't a situation of her
12 being called to trial and coming up with that at sort of
13 the last minute. Your Honor, she has no prior drug charges
14 whatsoever on her record. The bulk of her record is from a
15 number of years ago. It is predominantly I think sort of
16 misdemeanor and non-violent charges. She has been on
17 probation before, but it really doesn't look like she's
18 been in jail or anything like that, so I think the bulk of
19 her record does not reflect drug usage or drug charges or
20 serious sort of danger to the community by her. I would
21 point out as well, Your Honor, this is a very small amount
22 of methamphetamine, that the drug report itself and also
23 even in a visual looking at it is a very small amount and
24 I'd ask Your Honor to take that into consideration as well.
25 Obviously, I know Ms. Watkins is upset by the verdict and I

1 know in her eyes doesn't feel justice was done, but we
2 understand this is the position we're in and I would
3 certainly ask for leniency on her behalf taking all the
4 situation into consideration.

5 THE COURT - Thank you very much. Solicitor?

6 MS. HAMILTON - Yes, Your Honor. I just want to
7 give you a background on this case. The State originally
8 offered probation at the discretion of the Judge negotiated
9 with the defense and got down to an offer negotiated to one
10 year probation. She rejected that probationary offer. The
11 State would ask -- she does -- they claim that she has all
12 these medical issues, but the State's position is that she
13 went into Walmart at 9:00 o'clock at night, and those
14 medical issues did not prevent her from shoplifting.
15 Additionally, she had pills on her that we are agreeing to
16 dismiss on our end, the State is, but that is a case that
17 could've been tried. We just chose not to. She did have
18 them unlawfully. She does have a record, as you know, of
19 the 2013 shoplifting, 2002 escape, 2000 resisting arrest,
20 breach of peace, 1998 public disorderly container, open
21 container. In 1996 driving under suspension, 1989
22 disorderly conduct. The State in this case we'd just ask
23 for a longer probationary sentence than the one year that
24 was originally offered and possible short amount of weekend

1 time, very short amount, but we believe that that is due in
2 this case, Your Honor.

3 THE COURT - Okay. All right.

4 MS. ANDERSON - Your Honor, not to belabor, but
5 just to briefly address, I will put on the record that the
6 pill charge, the pills -- Mr. Clarence Calhoun, Ms.
7 Watkins' -- is it fiancé or boyfriend?

8 MS. WATKINS - Fiance.

9 MS. ANDERSON - Fiancé? Did come up and
10 provide prescription documentation. We did provide that to
11 the State, so I think Ms. Watkins would obviously disagree
12 with any characterization she had those illegally. Mr.
13 Calhoun, had we gone forward on that, would've testified as
14 well, and I just wanted to clarify that for the record,
15 that that -- that was presented to me and that was
16 presented to the State as well, just to put that on the
17 record.

18 THE COURT - Thank you very much. How much time
19 was she in jail before she got out on bond? Any amount of
20 time?

21 MS. ANDERSON - Two days.

22 MS. HAMILTON - I can tell you. One moment. One
23 day.

24 THE COURT - One day? (Pause) Well, in -- I'm
25 going to be just completely honest and up-front with you,

1 Ms. Watkins. I've got to accept the jury's verdict as
2 truth that, in fact, this was your methamphetamine and that
3 you actually possessed that methamphetamine. This meth
4 problem is such a terrible problem throughout this State.
5 The sentence that I'm going to impose is less than what I
6 was going to, but in light of what the Solicitor has -- not
7 recommended, but has indicated that the State would go
8 along with, I'm going to do that, but I want you to know
9 that I had every intent to impose a greater sentence.
10 Certainly your health issues are taken into consideration
11 to some extent, but the sentence of the Court is that you
12 be committed to the State Department of Corrections for two
13 years. That will be suspended upon service of 90 days
14 weekend service at the detention center, balance is
15 suspended and placed on probation for two years, substance
16 abuse counseling, random drug and alcohol tests. Weekend
17 service is from Friday at 6:00 p.m. to Sunday at 6:00 p.m.
18 to begin -- to begin November 15th. And this keeps you out
19 of the Department of Corrections. You'll stay at the
20 detention center to serve this weekend sentence. That's
21 the sentence of the Court. Any questions?

22 MS. WATKINS - How long is that, sir?

23 THE COURT - Ninety days weekend service. Ms.
24 Anderson, anything?

25 MS. ANDERSON - No, Your Honor.

1 THE COURT - Anything from the Solicitor?

2 MS. HAMILTON - Thank you.

3 THE COURT - All right, good luck to you, ma'am.

4 (END OF TRANSCRIPT)

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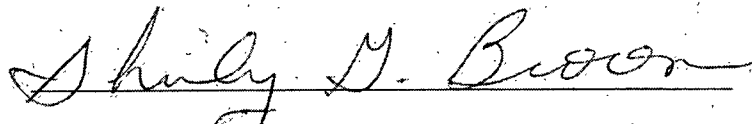
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C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 161 pages is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of State of South Carolina v. Janet Margaret Watkins, as taken by me in the Court of General Sessions for the Sixteenth Judicial Circuit on the 5th day of November, 2013, and provided by me this the 3rd day of January, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party herein.



Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina.

DOCKET NO. 2013-GS-46-03324

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

WITNESSES

D\Cotton

The State of South Carolina
County of York

Defendant

COURT OF GENERAL SESSIONS

September 19, Term 2013

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

13A4620500178

Defendant

THE STATE

vs.

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

JANET MARGARET WATKINS

TRUE BILL

Jimmy Eakins
representing of Grand Jury
date: 9-19-13

VERDICT

guilty

Indictment for

POSSESSION OF METHAMPHETAMINE

William Dickey
representing of Petit Jury
date: 11/5/13

SC Code: 44-53-375(A)
CDR Code: 3009

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK)

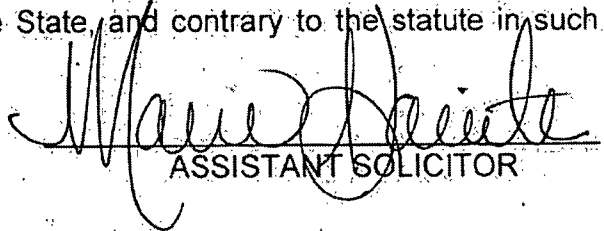
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At a Court of General Sessions, convened on September 19, 2013, the Grand Jurors of York County present upon their oath:

POSSESSION OF METHAMPHETAMINE

On or about April 26, 2013, the Defendant, Janet Margaret Watkins, did knowingly or intentionally possess methamphetamine, a Schedule II controlled substance as defined in Section 44-53-110. Said incident occurred in York County, South Carolina all in violation of Section 44-53-375 of the Code of Laws of South Carolina, (1976, as amended).

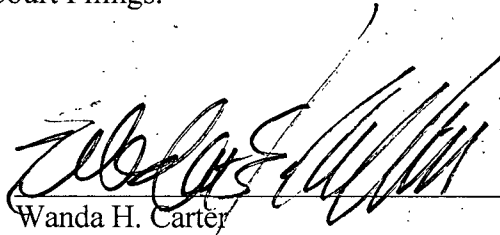
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

This 10th day of March, 2014.



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Donald B. Höcker, Circuit Court Judge

THE STATE,

RESPONDENT, MAR 10 2014

v.

SC Court of Appeals

JANET MARGARET WATKINS,

APPELLANT

APPELLATE CASE NO. 2013-002441

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 10th day of March, 2014.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 10th day of March, 2014.

[Signature]

(L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022