

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Clarendon County

William Jeffrey Young, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

LEON A. GOODMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-213366

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2) COURT OF GENERAL SESSIONS
3) 2009-GS-14-0190
4)

4 State of South Carolina) TRANSCRIPT OF RECORD
5)

5 vs)

6 Leon A. Goodman)
7)

8 Day 1 - December 6, 2010
9 Clarendon, South Carolina

9 B E F O R E:

10 THE HONORABLE FERRELL COTHRAN, Jr., Judge

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

12 ROBERT CORBETT, Esquire
13 Assistant Solicitor
14 Attorney for the State

14 SCOTT ROBINSON, Esquire
15 Attorney for the Defendant Goodman

15 WILLIAM DEVOE, Esquire
16 Attorney for the Defendant Stover

17 Caroline Hiskell
18 Circuit Court Reporter

19 (Please note this trial was transcribed but not taken by
20 the court reporter listed above to the best of her
21 abilities.)
22
23
24
25

I N D E X

WITNESSES:	DR	CR	RED	REC
Beulah Roberts	14	16		
Phil Ardis	48	53,59	64	67
Brad Wilkes	70	72,75		
Michael Hansen	77	84,92		

EXHIBITS

IDENTIFICATION

FR ID

IN EVD

State's Exhibit

1 Report

82

82

2 Packet

83

Court's Exhibits

1 Bond Card

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State versus Leon Goodman

P R O C E E D I N G S

THE CLERK: Ladies and gentlemen, you may remember me telling you earlier when we draw a jury, you'll have to come up to the center aisle, come up to the railing and stand in front of the mic and turn around and face the tables. That's what we're going to do now.

So if I call your name, come through the aisle and come up to the railing right here, turn around and face the table until I tell you what else to do.

Number 101, Tyrell L. Nelson.

Just come around to the table and stand there until I tell you what to do.

What says the state?

MR. CORBETT: Excuse the juror, please.

THE CLERK: You may have a seat back in the jury pool, sir, thank you.

Number 67, Fredrick C. Holmes, Jr.

What says the State?

MR. CORBETT: Present the juror, please.

THE CLERK: The defense?

MR. ROBINSON: Please swear Mr. Holmes.

THE CLERK: Mr. Holmes, go over to the bailiff and have a seat in the jury box. Thank you.

Number 53, Betty J. Getty.

What says the State?

State versus Leon Goodman

1 MR. CORBETT: Present the juror, please.

2 THE CLERK: The defense?

3 MR. ROBINSON: Please excuse the juror.

4 THE CLERK: You can have a seat back in the
5 jury pool, please, ma'am.

6 Number 141, Steven Span.

7 What says the State?

8 THE CORBETT: Present the juror, please.

9 THE CLERK: The defense?

10 MR. ROBINSON: Please present Mr. Span.

11 THE CLERK: Please have a seat in the jury
12 box, please. Go over to the bailiff. Thank you.

13 Number 66, Joseph Henry, Junior.

14 What says the State?

15 MR. CORBETT: Please present the juror,
16 please.

17 THE CLERK: The defense.

18 MR. ROBINSON: Please swear the juror.

19 THE CLERK: Please go over to the bailiff and
20 have a seat in the jury box.

21 Number 33, Lalieste Dingle.

22 What says the State?

23 MR. CORBETT: Present the juror, please.

24 THE CLERK: Defense?

25 MR. ROBINSON: Please excuse this juror.

State versus Leon Goodman

1 THE CLERK: You can have a seat back in the
2 jury pool, thank you.

3 Number 31, Gary G. Kolmo.

4 What says the State?

5 MR. CORBETT: Excuse the juror please.

6 THE CLERK: You can have a seat back in the
7 jury box, please.

8 Number 34, David W. Duke, Jr.

9 What says the State?

10 MR. CORBETT: Present the juror, please.

11 THE CLERK: Defense?

12 MR. ROBINSON: Please excuse the juror.

13 THE CLERK: Number 131, Robert W. White.

14 What says the State?

15 MR. CORBETT: Present the juror, please.

16 THE CLERK: Defense?

17 MR. ROBINSON: Please excuse this juror.

18 THE CLERK: Have a seat back in the jury
19 pool. Thank you.

20 Number 40, Kendrick Faulk.

21 What says the State?

22 MR. CORBETT: Present the juror, please.

23 THE CLERK: Please excuse Mr. Faulk.

24 MR. ROBINSON: Have a seat back in the jury
25 pool. Thank you.

State versus Leon Goodman

1 THE CLERK: Number 68, Elaine W. Hunter.

2 What says the State?

3 MR. CORBETT: Present the juror, please.

4 THE CLERK: The defense?

5 MR. ROBINSON: Please swear the juror,

6 please.

7 THE CLERK: Have a seat in the jury box.

8 Number 114, Marilyn D. Seals.

9 What says the State?

10 MR. CORBETT: Present the juror, please.

11 THE CLERK: The defense?

12 MR. ROBINSON: Please swear this juror.

13 THE CLERK: Go right over to the bailiff,

14 ma'am, and he'll tell you what to do.

15 Number 117, Curtis K. Smalls.

16 What says the State?

17 MR. CORBETT: Present the juror, please.

18 THE CLERK: The defense?

19 MR. ROBINSON: Please swear Mr. Smalls.

20 THE CLERK: Please go over the bailiff and

21 he'll direct you what to do.

22 Number 98, Jackie Morris.

23 What says the State?

24 MR. CORBETT: Excuse the juror, please.

25 THE CLERK: Please have a seat back in the

State versus Leon Goodman

1 jury pool. Thank you.

2 Number 43, Jennifer M. Floyd.

3 What says the State?

4 MR. CORBETT: Present the juror, please.

5 THE CLERK: Defense?

6 MR. ROBINSON: Please excuse this juror.

7 THE CLERK: You can have a seat back in the
8 jury box. Thank you.

9 Number 73, Ella R. Johnson.

10 What says the State?

11 MR. CORBETT: Present the juror, please.

12 THE CLERK: Defense?

13 MR. ROBINSON: Please swear the juror.

14 THE CLERK: Have a seat in the jury box.

15 Number 108, Ronald B. Porter.

16 What says the State?

17 MR. CORBETT: Present the juror, please.

18 THE CLERK: Defense?

19 MR. ROBINSON: Please swear Mr. Porter.

20 THE CLERK: Have a seat in the jury box,
21 please.

22 Number 10, Ronald R. Blakely.

23 What says the State?

24 MR. CORBETT: Present the juror, please.

25 THE CLERK: What says the defense?

State versus Leon Goodman

1 MR. ROBINSON: Please excuse Mr. Blakely.

2 THE CLERK: You can have a seat back in the
3 jury pool, sir.

4 Number 9, Raymond A. Blackman.

5 What says the State?

6 MR. CORBETT: Excuse the juror, please.

7 THE CLERK: You can have a seat back in the
8 jury box, sir.

9 Number 30, Nikia. Creekmore.

10 What says the State?

11 MR. CORBETT: Please excuse the juror,
12 please.

13 THE CLERK: Have a seat back in the jury box,
14 please.

15 Number 100, Evelyn Nelson.

16 What says the State?

17 MR. CORBETT: Present the juror, please.

18 THE CLERK: The defense.

19 MR. ROBINSON: Swear the juror.

20 THE CLERK: Go over to the bailiff and have a
21 seat in the jury box.

22 Number 105, Jane C. Hours.

23 What says the State?

24 MR. CORBETT: Present the juror, please.

25 THE CLERK: The defense?

State versus Leon Goodman

1 MR. ROBINSON: Please excuse the juror.
2 Number 77, Ricky W. Johnson.
3 What says the State?
4 MR. CORBETT: Present the juror, please.
5 THE CLERK: The defense?
6 MR. ROBINSON: Please excuse this juror.
7 Number 130, David Wack.
8 What says the State?
9 MR. CORBETT: Present the juror, please.
10 THE CLERK: The defense?
11 THE CLERK: Please swear Mr. Wack.
12 Go over to the bailiff, please.
13 Number 86, Ulyses Max.
14 What says the State?
15 MR. CORBETT: Present the juror, please.
16 THE CLERK: The defense?
17 MR. ROBINSON: Please swear Mr. Max.
18 Please have a seat right over there.
19 Number 39, Jeffery N. Epps.
20 What says the State?
21 MR. CORBETT: Present the juror, please.
22 THE CLERK: The defense.
23 MR. ROBINSON: Please excuse this juror.
24 THE CLERK: Number 75, Loraine Johnson.
25 What says the State?

State versus Leon Goodman

1 MR. CORBETT: Present the juror, please.

2 THE CLERK: Defense?

3 MR. ROBINSON: Please swear Ms. Johnson.

4 THE CLERK: You can have a seat in the jury
5 box.

6 Number 91, Cody J. McAlister.

7 What says the State?

8 MR. CORBETT: Excuse the juror, please.

9 THE CLERK: You can have a seat back in the
10 jury pool, sir.

11 Number 44, Thermum D. Floyd.

12 What says the State?

13 MR. CORBETT: Present the juror, please.

14 THE CLERK: The defense?

15 MR. ROBINSON: Please swear the juror.

16 THE CLERK: Have a seat over in the jury box.

17 THE COURT: Are there any objection as to the
18 selection of the jury on behalf of the State?

19 MR. CORBETT: None from the State, Your
20 Honor.

21 THE COURT: From the defense?

22 MR. ROBINSON: No, sir, Your Honor.

23 MR. DEVOE: No, sir, Your Honor.

24 THE COURT: Okay. Now, ladies and gentlemen,
25 if you were not selected on this jury panel, I'm going to

State versus Leon Goodman

1 excuse you and ask you to call back after 6:00 tonight.
2 You should have a number on your notice. If you don't,
3 don't leave without getting that number. Call back after
4 6:00 and continue to call until you get through. When you
5 call back, you will not get a real person, you will get an
6 answering machine so you can't argue with it. It will
7 tell you when I need you back. It will either tell you to
8 be back in the morning at 9:30 or to call back some
9 tomorrow. You have a nice day. Thank you.

10 (Jury panel dismissed.)

11 Now, I need y'all to go to the jury room for
12 just a moment. Y'all don't know anything about this case
13 right now and I will instruct you in a minute. Don't talk
14 about it and I will get you back out as quick as I can.

15 (Jury exits to the jury room.)

16 As far as the absence of the defendant now is
17 the time to deal with it because once I swear this jury,
18 we will press forward empty chairs or not. I don't know
19 anything about the facts of this case so it's your call.

20 MR. CORBETT: Judge, we will be prepared to
21 go forward at 2:30.

22 THE COURT: I will bring the jury back and
23 send them out to lunch and have them come back and swear
24 them at 2:30. Okay.

25 Bring the jury.

State versus Leon Goodman

1 (Jury re-enters the courtroom.)

2 Mr. Floyd, you are the alternate so you will
3 only serve if somebody gets sick during this trial but you
4 need to pay attention because you may be called at any
5 time. You need to stay right there. I hope everybody
6 stays healthy but you need to stay just in case. If we
7 didn't have you and somebody got sick, we would have to
8 start all over.

9 Ladies and gentlemen, I'm going to need to
10 confer with the lawyers so we probably won't start until
11 after lunch. Instead of having y'all sit back in the jury
12 room, I'm going to send you to lunch. I'll ask you to be
13 back in the jury room at 2:30 and I need you to be on
14 time. When you come in, come straight to the jury room.
15 During the lunch break, don't talk to anybody about the
16 facts of this case. Don't allow anyone to talk to you
17 about the facts of this case. You got to decide this case
18 solely on what you hear in this courtroom. It wouldn't be
19 proper for you to get any information anywhere else.

20 When you come back, I will instruct you and
21 give you statements as far as the law is concerned and
22 give you an idea of what your duties are and what this
23 case is about. Until then, I ask you not to discuss it
24 and not allow anyone to discuss it with you. I'll see you
25 back at 2:30.

State versus Leon Goodman

1 (Whereupon, there was a lunch break.)

2 THE COURT: Solicitor, call the case.

3 MR. CORBETT: This is the case of State of
4 South Carolina versus Leon Alonzo Goodman and Cornell
5 Stover, Jr. Mr. Goodman is represented by attorney Scott
6 Robinson, Mr. Stover is represented by attorney Harry
7 Devoe. Your Honor, Mr. Stover has answered and is present
8 in the courtroom with Mr. Devoe. Your Honor, as of this
9 time, Mr. Goodman has not yet answered in court. The
10 State is prepared to continue with the trial in
11 Mr. Goodman's absence and to that end the State would like
12 to opportunity to make a showing so the Court could find
13 that the defendant was aware of the charges against him,
14 that he was notified of his right to trial and was also
15 warned what would happen if he did not appear at trial.

16 Your Honor, to that end the State would call
17 Ms. Beulah Roberts, Clerk of Court.

18 THE CLERK: Place your left hand on the Bible
19 and raise your right.

20 BEULAH ROBERTS, having been duly sworn,
21 testified as follows:

DIRECT EXAMINATION

22
23 BY MR. CORBETT:

24 Q. Ms. Roberts, good afternoon.

25 A. Good afternoon.

State versus Leon Goodman

1 Q. Ms. Roberts, at my request, did you locate the
2 bond form for Leon Alonzo Goodman?

3 A. Yes, I did

4 Q. And is that bond form referenced Warrant No.
5 M082326?

6 A. It does.

7 Q. And what is the charge listed there?

8 A. It's listed as, "Drugs, manufacturing,
9 distribution cocaine based third or subsequent offense.

10 Q. Ms. Roberts, I'm going to ask you to look at the
11 section with the Roman Numeral IV above it. What does
12 that second notify the defendant of.

13 A. He is notified of the term of General Sessions
14 Court, March 9, 2009 at 8:30 a.m.

15 Q. And does it contain additional information about
16 his requirement to appear.

17 A. Yes. And he is to remain there throughout the
18 term of court and no disposition is made during that term,
19 the defendant shall appear and remain throughout each
20 seating term of court until final disposition made of his
21 case unless otherwise ordered by the Court.

22 Q. Thank you, ma'am. Now, I'm going to asked you to
23 direct your attention to the section entitled,
24 "Acknowledgment by Defendant." If you would, please, read
25 the information beneath that.

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1 A. "I understand that if I violate any condition of
2 this Order, a warrant for my arrest will be issued. I
3 understand and have been informed that I have a right and
4 obligation to be present at trial, and should I fail to
5 appear in court, the trial will proceed in my absence.
6 And it has been explained to me that if I fail to appear
7 in court as required, a warrant for my arrest will be
8 issued."

9 Q. And, Ms. Roberts, whose signature is on that
10 form.

11 A. Leon Alonzo Goodman.

12 Q. From where did you produce that form?

13 A. From the files that I keep in my office, the
14 records that the Clerk of Court maintains.

15 Q. And those are the office court records?

16 A. Yes, they are.

17 Q. And they have been kept in your office under your
18 control?

19 A. Yes, they are.

20 Q. Kept in the ordinary course of business?

21 A. Yes, sir.

22 MR. CORBETT: Your Honor, at this time, we
23 would offer the defendant's bond form. I believe the
24 appropriate manner would be to offer it as Court's Exhibit
25 No. 1.

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1 THE COURT: Any objection?

2 MR. ROBINSON: No objection.

3 THE COURT: Court's Exhibit No. 1.

4 (Whereupon, bond card was marked as Court's
5 Exhibit No. 1 for identification and admitted into
6 evidence.)

7 MR. CORBETT: I believe that's all the
8 questions I have of this witness.

9 THE COURT: Do you have any questions of this
10 witness.

11 CROSS-EXAMINATION

12 BY MR. ROBINSON:

13 Q. The signature that you referred to, you're
14 assuming that's Mr. Goodman's signature. You didn't
15 actually see him sign that, did you?

16 A. I did not.

17 MR. ROBINSON: I don't have any other
18 questions.

19 THE COURT: You may step down.

20 (Witness leaves the witness stand.)

21 I find that the defendant has been properly
22 notified and he understands that he had a right and an
23 obligation to do so and if he did not appear, he would be
24 tried in his absence and I will allow the State to proceed
25 in his absence.

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1 Anything else before I bring the jury in?

2 MR. DEVOE: I might have at least one motion,
3 Your Honor. I just need to talk to Mr. Stover for just
4 one second.

5 THE COURT: Okay.

6 (Whereupon, there was a conference held
7 between Attorney Devoe and Defendant Stover.)

8 Okay.

9 MR. ROBINSON: Your Honor, before we begin
10 with the jury I do have a couple of motions. The first
11 motion I would have would be a motion to continue this
12 trial until tomorrow morning. I have had two telephone
13 conversations with my client, both times he represented to
14 me he was making arrangements to find transportation here
15 to the courthouse. He was in Columbia. I talked to him
16 this afternoon and he indicated that he did want to plead
17 guilty to these charges and was on his way here.

18 It would take him approximately two hours, an
19 hour-and-a-half, two hours. He didn't give me the time
20 frame but I'm guessing from Columbia it would be an hour-
21 and-a-half, two hours. I would move to continue this case
22 until at least until in the morning.

23 THE COURT: You want to respond to that,
24 Mr. Solicitor.

25 MR. CORBETT: Judge, the State is in a

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1 position where I feel compelled to object to the defense
2 counsel's motion. This has been going on since the
3 December term of court. The defendant, I believe, was
4 given an opportunity to appear in court and he didn't.
5 Judge, quite frankly from the State's perspective we've
6 got a witness that we need to get on the stand today and
7 not tomorrow and if he were not to show in the morning,
8 then it would put us in somewhat of a dilemma.

9 THE COURT: Mr. Robinson, I respectfully deny
10 your motion. This case did come up before me in the
11 December term and at that point your client, who you sent
12 word that his child had swallowed a paper clip or some
13 kind of object and you thought he'd be here and he never
14 showed up for that term after you called him. I issued a
15 bench warrant at the end of that term and hasn't shown up
16 for this term as well.

17 If he shows up later today, it will take more
18 than today to try this case, if he decides to change his
19 plea to guilty, I can stop the trial and take his plea.
20 If he doesn't show up, we will proceed in his absence.

21 If the jury convicts him, I'll deal with it
22 appropriately and find him not guilty, he may change his
23 mind about pleading.

24 MR. ROBINSON: Your Honor, I also have a
25 Motion to Suppress three different items -- three

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1 different pieces of evidence. Your Honor, I apologize for
2 making this now. I had not talked to my client about some
3 of this information and since the trial is being called
4 now and in order to protect him, and the record, I don't
5 want to fail to make these motions.

6 THE COURT: Okay.

7 MR. ROBINSON: The first thing is suppression
8 of drugs and the cash that was recovered from the vehicle
9 for lack of probable cause to search the vehicle.

10 THE COURT: Okay.

11 MR. ROBINSON: Do you want me to do these one
12 at a time and give the State an opportunity to answer?

13 THE COURT: Give them all to me at once and
14 we'll deal with them one at a time.

15 MR. ROBINSON: Second, Motion to Suppress any
16 statement that my client -- there are written statements
17 in the case notes and there was reference to a statement
18 that my client made to Deputy Pat Coper. It said that
19 while Mr. Stover was being handcuffed, Corporal Coper
20 asked where the dope was and it was stated under the
21 passenger seat. There was no dope under the passenger's
22 seat, but according to this narrative which I'm assuming
23 somewhat in chronological order, the Miranda warnings came
24 in sometime later in one of the motel rooms that law
25 enforcement had rented.

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1 So how I read this narrative, he gave a
2 statement while he was handcuffed by the vehicle prior to
3 being taken to the room where he was later Mirandized. In
4 other words, he was being questioned while he was
5 physically detained without his Miranda warnings that I
6 think is a statement that is inadmissible. I just want to
7 make sure that the witness did not make reference to that
8 while testifying, Corporal Coper or anybody associated
9 with law enforcement.

10 Finally, there is an audio recording of a
11 telephone conversation supposedly between the confidential
12 informant and my client, Mr. Goodman. There was no search
13 warrant or any other type of warrants secured to obtain
14 any tapping of the phones that were owned by the motel.
15 These things were conducted from the motel room and across
16 the various truck stop and I believe that that violates
17 Federal Wiretap Statute based on what I know. Now, I
18 don't know much beyond that. I have been allowed to
19 listen to the audio conversation and you can somewhat hear
20 both sides of it and I believe there was some sort of
21 device used to intercept that phone call. I do not have
22 all the specifics of that and reserve the right to add to
23 that Motion once the information is made available or
24 explained in a little more detail.

25 Those would be the three motions that I would

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1 have.

2 THE COURT: All right. Let's go the
3 statement first. Does the State intend to use the
4 statement in trial?

5 MR. CORBETT: The State does not intend to
6 use that statement of Officer Coper. We do not intend to
7 offer that, Your Honor. We believe that Mr. Robinson's
8 recitation of the facts is basically accurate, that he was
9 in custody and had not been read his Miranda at that point
10 in time so we do not intend to offer that statement.

11 THE COURT: Okay. So that one is gone.
12 Now, on the suppression of the drugs and the
13 cash that was found?

14 MR. ROBINSON: Yes, sir, the drugs and the
15 cash that was found in the vehicle.

16 THE COURT: So you're alleging a bad search?

17 MR. ROBINSON: Yes, sir.

18 THE COURT: What's the State's position? Do
19 you want to deal with that during trial or as the trial
20 develops?

21 MR. CORBETT: Your Honor, if I may, the
22 testimony on that issue will be as follows: The Claredon
23 County Sheriff's Department and the Police Department
24 arrested the individual on a drug charge. That individual
25 then agreed to participate as a confidential informant.

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1 Once being set up as a confidential informant
2 while in the custody and under the direction of the
3 Sheriff's Department he was taken to a local motel. At
4 that point he called who he told officers was his contact
5 for obtaining narcotics. He placed that phone call to who
6 we believed to be Leon Goodman, told Mr. Goodman where his
7 location was, where he was located, an what he wanted.

8 At that point in time, officers were
9 listening in on that conversation to which the
10 confidential informant was a party.

11 They remained at the motel location for some
12 period of time. Later on in the process, the defendant,
13 Mr. Goodman, along with the defendant, Mr. Stover, pulled
14 into the motel parking lot in a vehicle recognized by the
15 confidential informant. The confidential informant told
16 police officers, that's the car right there.

17 Let me back up just a little bit. The
18 confidential informant did actual call Mr. Goodman back --
19 who he alleged to be Mr. Goodman and said, are you coming,
20 and he said, I'm almost there now. In a matter of just a
21 couple of minutes, the car arrived on the scene.

22 At point in time officers with the Claredon
23 County Sheriff's Department with assistance from the
24 Police Department closed in on the vehicle containing the
25 occupants and recovered the quality of the cocaine base in

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1 the area between the seat and console.

2 THE COURT: Mr. Robinson, do you want to
3 argue your motion on that set of facts?

4 MR. ROBINSON: Yes, Your Honor. First all,
5 there's the entire problem with that and one of them is
6 the phone call. That's how all of this was initiated so
7 it's our position that any information that may rise to
8 the level of articulable probable cause regarding the
9 informant, the recording, a product that was authorized.

10 In addition, Your Honor, recognizing
11 somebody's car that pulls up to a parking lot that they
12 believe to be Mr. Goodman, I've heard no testimony that
13 they knew that to be him or anything else. A white car
14 pulls up and they say, I believe that's the car, and they
15 then go search the car without any further probable cause
16 I don't think it takes us to the level that some crime is
17 being committed. There's not enough detail to go along
18 with that. There has to be some additional -- if they
19 walked up to the car and there was drugs in plain view of
20 something of that sort, that would be probable.

21 It's my understanding that from anything that
22 I have read, nothing was in plain view. The drugs were
23 found somewhere between the seat and the console. They
24 did not have permission to search the vehicle. They
25 removed both of the individuals from the vehicle. For

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1 whatever reason they patted them down, found no drugs on
2 them and they found some cash and that's it, that's what I
3 understand their probable cause to be based on and under
4 the Case Law I don't think that's enough. I really don't
5 know why they didn't wait for them to get out of the car
6 and walk to the motel room, but that's my call here.

7 The car pulled up in the parking lot and
8 before anything else happens, they were pulled out, the
9 car was searched without permission. They were
10 handcuffed, questioned and then taken upstairs and
11 Mirandized. So I think we have a lot of problems with the
12 way this whole scenario went down.

13 So based on that, I think the drugs and the
14 cash that were recovered from the car and their person is
15 not admissible in the trial of this case.

16 THE COURT: It's your contention is that the
17 probable cause, if it did exist, came from an illegal
18 wiretap; is that right?

19 MR. ROBINSON: That is my understanding that
20 the case was based on a phone conversation that they
21 recorded and were listening in on it.

22 THE COURT: Okay, Solicitor, what about the
23 illegal wiretap?

24 MR. CORBETT: Your Honor, the conversation is
25 not illegal. There is no prohibition to recording a

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1 conversation to which you are a party. If it were a
2 Wiretap Statute, and Judge, I am no expert in this field,
3 but it's my understanding that the Federal Wiretap Statute
4 is specifically about you recording the phone
5 conversations of other individuals, calls to which you are
6 not a party.

7 Judge, I'll give you just a quick example.
8 It may be a little bit silly but I think may illustrate my
9 point. Often times I'm called by telemarketers and in
10 that telemarketing spiel, they say this phone call may be
11 recorded for quality assurance. They're not violating any
12 type of Federal Wiretap Statute because they are a party
13 of this conversation.

14 In this particular instance, the phone call,
15 the confidential informant was a party to the
16 conversation. This was not an intercepted phone call.

17 MR. ROBINSON: Your Honor, my position on
18 that is law enforcement was not the one making the phone
19 call. The confidential informant made the phone call. He
20 didn't make the recording. And in the telemarketer's
21 example, they let him know. If they had let Mr. Goodman
22 know, hey, I'm recording the conversation be careful what
23 you say, I don't think I'd have a word to say. That's
24 exactly what the Federal Wiretap Statute was designed for
25 to prevent what is intended to be private telephone

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1 conversations from being intercepted and used in any
2 manner by a third-party.

3 And if they believed this to be the case,
4 they had enlisted earlier that morning, gone through the
5 trouble of renting a motel room, they could have secured a
6 warrant from a Magistrate or someone else. It's not this
7 was an instant heated spur of the moment kind of thing
8 that had to be done. They could have gone through that
9 process. They short-cutted it.

10 They probably could have done it, quite
11 frankly, without a recorded conversation but they didn't.
12 They recorded the telephone conversation and all of the
13 information that gave rise to probable cause which came
14 from that telephone conversation. It's our position that
15 that is, in fact, the Federal Wiretap Statute is designed
16 for,

17 MR. CORBETT: Judge, there's no violation of
18 any type of Statute or law here pertaining to the phone
19 call. This confidential informant was working under the
20 direction and supervision of law enforcement, the phone
21 call was his cell phone. So the phone call was being
22 placed from the informant's cell phone and the police
23 officers are present standing there. They're actual
24 present as this is taking place in real time. The fact
25 that the confidential informant -- or it's being recorded

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1 by law enforcement, that's no violation of any Statute.

2 THE COURT: I don't disagree with that and
3 that's the first time I've heard that. If the
4 confidential informant knows that law enforcement is
5 recording the call then that's a different story then law
6 enforcement recording the call of the confidential
7 informant and not specifically knows about it. Your
8 contention is the confidential informant knew the
9 specifics that it was being recorded at the time of the
10 recording.

11 MR. CORBETT: Yes, Your Honor.

12 THE COURT: And the phone he used was his
13 personal cell phone.

14 MR. CORBETT: Yes, sir.

15 THE COURT: Mr. Robinson.

16 MR. ROBINSON: Your Honor, again, as far as
17 the cell phone is concerned, that's the first I've heard
18 of that. I wasn't sure what phone was used and I don't
19 know that to be the case and I'm kind of taking their word
20 for it. The CI is downstairs and I would love to bring
21 him up and ask him just to be safe on the record not that
22 I don't trust -- my client is not here and I think it's
23 incumbent upon me to make the State prove its case even
24 though he's not here and specially more so.

25 THE COURT: I understand your issue. If, in

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1 fact, the State has presented the facts correctly to me,
2 my understanding of the Federal Wiretapping Law, that does
3 not violate it. If you have a provision of the law that I
4 am not familiar with, and it is a complicated Statute, but
5 my understanding that does not violate the Federal
6 Wiretapping law. But I'm not going to try this case so
7 I'm not going to bring him up and go through this. When,
8 in fact, he does testify, you certainly have a right to
9 cross-examine him and ask him. If the facts are not
10 correct and he did not know about the record, then we have
11 a whole different ball game and I may exclude that
12 evidence or we may even end up in a mistrial. But instead
13 of trying this thing twice and those are not the facts,
14 then I'll grant your motion at that time.

15 Now, so at least it appears from what the
16 State has told me the phone call is not illegal. Now, the
17 questions is whether they have probable cause to search
18 the vehicle for drugs. I don't know. I don't know what
19 they heard and why they did it the way they did so maybe
20 the State needs to tell me about that or we can deal with
21 that at the time.

22 MR. ROBINSON: Your Honor, I'm not particular
23 interested in trying it twice either and Your Honor can
24 certainly, obviously, take it the way it wants to but the
25 only problem I have is that certain comments are made in

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1 opening statements or even before to that point that could
2 prejudice my client and then are disallowed, I think that
3 even at that point curative instructions is kind of like
4 trying to unring bell especially that much time later. I
5 don't know it's very difficult for the Court to tell
6 during opening argument, but if we're not going to address
7 it now, I don't want to State to say that this happened
8 and that happened and then later on we address it, it
9 becomes that much harder to unring the bell ---

10 THE COURT: I understand that, but if you
11 ultimately win the motion to suppress the drugs at any
12 point, the case is over with. Based on the charges he's
13 facing, if the drugs get thrown out for illegal search,
14 you don't have to worry about it, the case is over.

15 Having said that on the suppression on the
16 probable cause, I guess, they're going to tell me --
17 solicitor, are you going to wait and try it at the time
18 the witness testifies or you're going to take the position
19 that they had probable cause and what that's made of.

20 MR. CORBETT: Judge, we do take the position
21 that there is probable cause and -- let me give you a
22 complete picture. The CI describes the vehicle which the
23 individual defendant would be riding in. That vehicle
24 pulls to the hotel room the defendant is in. The CI
25 indicates that that is the vehicle and all this is

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1 happening as the officers are present.

2 THE COURT: In the room?

3 MR. CORBETT: In the room. I'm sorry, let me
4 state that correctly, the officers were in the room and
5 stationed in the parking lot.

6 THE COURT: And the officer heard a
7 conversation between the defendant ---

8 MR. CORBETT: And the confidential informant.

9 THE COURT: Defendant Goodman.

10 MR. ROBINSON: Your Honor, they heard
11 somebody who they believe to be defendant Goodman. I have
12 not heard ---

13 THE COURT: I understand that. Did the
14 person on the other end of the conversation identify
15 himself as Goodman?

16 MR. CORBETT: He did not, Your Honor.

17 THE COURT: Tell me what probable cause the
18 police had to search this particular white car.

19 MR. CORBETT: The confidential informant
20 places the phone call and the defendant's come to the
21 hotel -- he calls him back and says are you on your way,
22 I'm almost there. Within about three or four minutes, an
23 older white Nissan Altima pulled into the parking lot at
24 the hotel room and the confidential informant indicates
25 that's him.

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1 THE COURT: So how is that probable cause?

2 MR. CORBETT: Because they had been on the
3 phone setting up a narcotics transaction.

4 THE COURT: You didn't say that part, you
5 just said they were invited to the motel. Tell me what
6 they were supposed to do when they got there.

7 MR. CORBETT: Your Honor, the confidential
8 informant calls the defendant and asked him for a half
9 ounce of crack cocaine and the defendant agrees to meet
10 him at the hotel.

11 THE COURT: So the CI calls an individual and
12 wants to purchase a half ounce.

13 MR. CORBETT: And to be candid with the
14 Court, it's more than street slang, it's I want a half --
15 so it's not a cut and dry conversation.

16 THE COURT: I understand. Was the amount of
17 money discussed?

18 MR. CORBETT: The defendant indicated that
19 the purchase price was \$250.

20 THE COURT: And then what kind of time line
21 the defendant drove up?

22 MR. CORBETT: Your Honor, the initial phone
23 call was placed at 11:32 a.m., and that was the
24 conversation he had about wanting to purchase a half ounce
25 and the price \$250. And then the confidential informant

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1 called again at 12:03 p.m., asking the defendant when are
2 you going to arrive, the defendant indicates he was almost
3 there and at 12:07, which is four minutes later, the white
4 Nissan Altima parks in front of rooms 239 and 231 and
5 beeps the car horn. And the CI pointed that vehicle out
6 to officers.

7 THE COURT: If the CI testifies, does he have
8 any prior knowledge of these people who he was talking to?

9 MR. CORBETT: Yes, Your Honor.

10 THE COURT: And he's going to testify that he
11 knew.

12 MR. CORBETT: That is our understanding that
13 he indicated to officers ahead of time the vehicle the
14 defendant would be in.

15 THE COURT: And he described the vehicle.

16 MR. CORBETT: That is correct. He actually
17 indicated that there were two possible vehicles. He
18 indicated the white Altima and also indicated another
19 vehicle he could possible be traveling in. So apparently
20 the CI had some familiarity with the defendant in that he
21 knew which vehicles that he drove.

22 THE COURT: Mr. Robinson.

23 MR. ROBINSON: My understanding, again, was
24 that after he made the phone call, the CI stated he was
25 driving an old white Nissan Altima or some kind of older

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1 green vehicle. The car parked outside in front of the
2 room and blew the horn. The CI looked out of the window
3 and stated that was them. I don't know if he was
4 identifying the vehicle or -- there was no information
5 exchanged over the phone that they were driving a white
6 Altima, I'll blow the horn, or I'll do anything else. I
7 mean it could have been somebody blowing the horn for
8 somebody in a different room. The fact that it happened
9 -- it's kind of backwards saying the ends justify the
10 means. He call and said they were on the way and a white
11 car pulls up and it just happens to be them.

12 There's nothing in the conversation between
13 the CI and the individual that indicates what's vehicle
14 he's driving or he's going to blow the horn when he drives
15 up. I'm assuming he was going to knock on the door but
16 there is nothing about that in the conversation.

17 So I don't think that behavior or those
18 circumstances add anything to the probable cause and I
19 don't know there's enough probable cause than just to pull
20 up in a white car and blow the horn and pull people out of
21 the car and start searching them and questioning them
22 without obtaining identification.

23 They were immediately pulled out, handcuffed,
24 the car was search. They were then questioned, taken into
25 the room and them Mirandized. I don't believe -- there

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1 was no crime that had taken place. And that's the problem
2 the procedurally order that things were done was not and
3 the probable cause that they had.

4 THE COURT: And understanding that I haven't
5 heard the testimony yet, but it appears on the surface
6 that at least probable cause -- assuming that the CI sets
7 up a drug deal, calls the defendant to purchase a half
8 ounce of cocaine and the defendant shows up in a vehicle
9 described by the CI and is identified by the CI, at least
10 that appears to be probable cause but I'm assuming that
11 what they're telling me is correct.

12 If in the testimony it doesn't work out that
13 way, then you can renew your motion and the search may not
14 go in, but at least it appears on the surface that there
15 was probable cause.

16 Your Motion In Limine, I'm going to deny at
17 this point understanding you certainly have a right to
18 renew it at trial based on whatever comes out and then we
19 can deal with it.

20 Anything else?

21 MR. CORBETT: Nothing from the State.

22 THE COURT: Anything before I bring the jury
23 in?

24 MR. DEVOE: Your Honor, just for the record
25 in all this conversation that was going on, my client's

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1 name never came into it and from the information I have
2 there were two occupants, Goodman and Stover.

3
4 THE COURT: Please swear the jury.

5 THE CLERK: Ladies and gentlemen, please
6 raise your right hand.

7 (Whereupon, jury was sworn in the case of the
8 State versus Leon A. Goodman and State versus Cornell
9 Stover.)

10 THE COURT: Ladies and gentlemen, I
11 apologize. We got a late start and I'm sorry you've been
12 sitting back there for an hour. I've had to deal with
13 some matters of law that I had to deal with outside of
14 your presence. Throughout this trial when I've got to
15 deal with matters of law, I may have to send you out and I
16 don't ever know how long it's going to take.

17 But we're fixing to begin the trial in this
18 case and Mr. Goodman and Mr. Stover have been indicted by
19 the State for possession with intent to distribute cocaine
20 base and to this indictment, they have entered a plea of
21 not guilty, therefore it shifts the burden to the State of
22 South Carolina to prove each and every element of this
23 indictment to you beyond a reasonable doubt. And as I
24 will explain to you at the end of the trial I will define
25 for you what possession with intent to distribute cocaine

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1 base is and explain the law to you in greater detail.

2 At this point, I'm simply going to make some
3 opening remarks to you to explain to you what your role is
4 and what you can expect from this trial. Your job is to
5 determine what the true facts are, my job is to determine
6 the admissibility of the evidence that you're going to
7 hear as well as to give you the law that you are to use in
8 this case.

9 I am not allowed to have an opinion about the
10 facts. I don't have an opinion about the facts. That is
11 your job to determine what the facts are. For you to make
12 that determination basically in three ways: Through the
13 evidence in this case and that evidence will come to you
14 through testimony from this witness stand as well as any
15 exhibits that may be introduced into evidence and any
16 stipulations by the attorneys.

17 The opening statements of the attorneys, the
18 closing arguments of the attorneys, even the questions of
19 the attorneys are not evidence. The only evidence is the
20 sworn testimony you'll see from this witness stand, so
21 your job is to take that up and find what the true facts
22 are. My job is to determine what evidence is admissible
23 and what is not admissible.

24 At some point during this trial attorneys
25 might object and I may have to rule on the admissibility

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1 of certain evidence and sometimes I might have to make
2 that ruling outside of your presence because sometimes I
3 might have to comment on the facts to make that decision,
4 so that's why I have to send you to the jury room and deal
5 with whatever ruling I have to make to determine under our
6 Rules what you are allowed to hear and what you are not
7 allowed to hear.

8 As I told you, if you make a mistake, it's
9 very hard to correct that mistake so it's important that
10 you pay close attention throughout this trial. If I make
11 a mistake on the law and some other time and some other
12 place that will be reviewed and possibly corrected. It's
13 very difficult to correct a mistake that a jury would
14 make, so it's very important that you pay close attention
15 and listen to the evidence in this case and render a
16 verdict that speaks the truth.

17 Now, having said that, I will try to take a
18 break every hour, hour-and-a-half. It depends on how the
19 testimony. Goes. A lot of times I try not to stop it in
20 the middle of witnesses testimony. But if at any time
21 during this trial you need a break, please raise your hand
22 because if you're uncomfortable and you can't pay
23 attention and we need all of you to pay attention to this
24 case. So you just catch my eye and raise your hand and
25 say I need a break and we'll take a break and then come

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1 back out and continue testimony in this case.

2 Also I will instruct you that every time you
3 go to the jury room, please do not discuss this case.

4 When you go home tonight, I'm going to ask you to not
5 discuss this case with your family or anyone else.

6 Because if your family is anything like mine and you tell
7 them what you've been doing all day, they're going to ask
8 questions and they're going to have an opinion as to what
9 you should do and they haven't been here. So it wouldn't
10 be right for you to get an opinion from someone who hadn't
11 heard the evidence in this case.

12 When you go back in the jury room and you've
13 heard from one witness or two witness and you say, well,
14 why can't we talk about it? The reason you can't is
15 because one of you may speak up and have an opinion about
16 which way this case is going based on only one witness's
17 testimony and then later at the end of the trial you will
18 try to defend the opinion you had the first day and that
19 wouldn't be proper. So don't start forming opinions about
20 this case until you've heard all the evidence in the case
21 as well as the law that I will instruct you and then and
22 only then would it be proper for you to start formulating
23 an opinion about the case. So that's one of the things
24 I'm going to tell you throughout this trial, please don't
25 discuss this case when you go back to the jury room and

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1 that's the reason why.

2 In a few minutes, the lawyers will get up and
3 make opening statements. As I told you, those statements
4 aren't evidence. It's simply the lawyers trying to tell
5 you where they think the evidence is going to take you in
6 this case, kind of road map of where this case is going
7 and something about this case and any points that you may
8 need to look out for.

9 The State will go first because they have the
10 burden of proof, the defenses will go next. The defense
11 doesn't have to make an opening statement, they don't have
12 to put up any evidence. Under our Rules, the State has
13 the burden of proving that a defendant charged with a
14 crime guilty beyond a reasonable doubt and I will explain
15 to you at the end of the case what beyond a reasonable
16 doubt it. In most cases, the defense will make opening
17 statements and at the end of all of the testimony in the
18 case, the State will come back and present their closing.
19 At the end of the case, the defense may or may not come
20 back and they have a right not to because they don't have
21 to prove anything, the State has the burden.

22 After all of the evidence in this case, then
23 the attorneys will get up and make closing arguments and
24 the lawyers will argue to you what they think the evidence
25 showed in this case. After the closing arguments in the

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1 case, I will instruct you in the law that you are to apply
2 in this case and then you will take that law and go back
3 to the jury room and then come back with a verdict that
4 speaks the truth.

5 So having said that, if you will pay
6 attention to the attorneys but I'll remind you that
7 anytime you need a break, please catch my eye. I will do
8 everything I can to get you out of here at 5:00 or 5:30
9 and it depends on if there may be some witness from out of
10 town that needs to leave the next day but I will try to
11 get you out of here at 5:00 or 5:30.

12 Okay, Solicitor.

13 MR. CORBETT: Thank you, Your Honor.

14 Ladies and gentlemen, good afternoon. My
15 name is Jason Corbett and I'm one of the prosecutors here
16 in Claredon County. You are here today for a trial.
17 There's one thing I want to ask you to consider in this
18 process, a few moments ago you took an oath to well and
19 truly try the facts of this case, not the state relation
20 of the case, not the conjecture of the case, not some high
21 in the sky made-up version of the case, but the facts of
22 the case. And where are you going to hear the facts of
23 the case? They're going to come from right here, the
24 witness stand.

25 You the jury will sit there and you will

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1 listen to testimony. You will hear the testimony. I say
2 this because I find it funny because I was talking to
3 someone one time and they said will all they had was a
4 witness and I thought that's evidence. Yes, that's what
5 we bring to court, witnesses, but for some reason in their
6 mind they didn't think that a witness was evidence.

7 Ladies and gentlemen, their testimony is
8 evidence and that's where you're going to hear the facts
9 of this case. What this case is about? This case is
10 about what chemists will call cocaine base, but I will
11 tell you it is what is commonly known on the street as
12 crack, crack cocaine. That's what this case is about
13 crack cocaine.

14 Now, in this particular case it happened much
15 like many cases happen. Law enforcement had an occasion
16 to arrest and individual. He was under arrest and he was
17 given an opportunity to cooperate and that's what he chose
18 to do. He chose to become a confidential informant. So
19 under the direction and supervision of the officers, he
20 then called an individual that he could obtain crack
21 cocaine from. That was discussed and that was set up
22 under the direction and supervision of law enforcement.

23 The set up at a local motel and waited and
24 sure enough the defendants arrived, Mr. Goodman and
25 Mr. Stover. They arrived in a manner that the

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1 confidential informant told the police they would arrive,
2 and as they arrived, law enforcement went to that vehicle
3 and there they found a substantial quantity of crack
4 cocaine.

5 Now, I will tell you I've had people say to
6 me before I don't know about this whole confidential
7 informant thing. Ladies and gentlemen, unfortunately in
8 the world that we live, it takes one to know one. Okay.
9 So often times there are some people who can't pick up
10 that phone and make that transaction happen, but there are
11 some people who can because it takes one to know. Police
12 some times have to deal with people with less than stellar
13 backgrounds. Yes, they do. The police sometimes have to
14 deal with people who are trying to help themselves. Yes,
15 they do. What they're doing is they're doing police work.
16 They're looking to get off of street a substantial
17 quantity of crack cocaine.

18 It's not necessary that I stand and talk to
19 you a lot about crack cocaine because in your common
20 experience you know what it does. It steals jobs, it
21 steals marriages, it steals families, it steals lives,
22 that's what it does. It is insidious. There are men and
23 women out there every day trying to take it off the
24 streets. They're doing the best they can putting their
25 lives on the line to save that job, save that marriage,

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1 save that family and save that life, and that's what the
2 officers did in that case.

3 When we put up the evidence, the evidence
4 will demonstrate to you that Mr. Goodman and Mr. Stover
5 showed up that day with the possession and the intent to
6 sell it.

7 Thank you..

8 MR. ROBINSON: Good afternoon, ladies and
9 gentlemen, my name is Scott Robinson and I represent
10 Mr. Leon Goodman. He is the individual that the State has
11 signed a warrant against, brought these charges against,
12 and having this trial against, possession with intent to
13 distribute crack cocaine.

14 Now, you have heard Mr. Corbett give his view
15 of the case and what your roll is and believe it or not
16 I'm going to agree with him on that you're to base this
17 case on the facts and not on any speculation or conjecture
18 or pie in the sky.

19 Now, what will the facts be? I don't know.
20 I'm not testifying. Y'all are going to have to wait and
21 see. I hate to tell you what the facts are going to be
22 and then be wrong because I really don't know. I've been
23 given an indication just as you had early this morning
24 before we picked a jury and you heard Mr. Corbett's
25 synopsis.

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1 My client has pled not guilty and under the
2 law and the judge will tell you this later on, and I don't
3 want to make this long and drawn out, he is presumed not
4 guilty. As the Judge said, the State has the burden of
5 proving him guilty beyond a reasonable doubt. Why is
6 that? Why does the State have that burden? With all of
7 these individuals out there doing all this bad stuff that
8 crack does that Mr. Corbett talked about, and the State
9 has a lot of money and a lot of equipment like videos and
10 cell phones and things I don't even know what they all, so
11 they have to prove it. They've been given the means and
12 the where for all, the training and all those special
13 devices to prove these things. So it's not enough to just
14 say somebody did this, they have to prove it because it's
15 not proper to rush to judgment or presume that somebody
16 did something just because you live in a certain area or
17 dress a certain way or drive a certain car or anything
18 else.

19 It has to be proven and that's what our
20 Constitution is all about and that's what our just system
21 is all about. So why are we asking y'all here today. As
22 you sit here and as you listen to this case, you have to
23 decide what they are saying is actually true and not
24 speculation, conjecture, or what they think has happened.
25 Because let's face it, all these grants and tax payer

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1 money pays for all that, we're not going to pay for that
2 if we don't get results. If you don't catch people doing
3 stuff and don't make arrests, we're not going to pay these
4 law enforcement officers.

5 Now, I'm not saying they're doing anything
6 illegal. They are fine people and really are, but as far
7 as I know Mr. Goodman is fine. As far as you know
8 Mr. Goodman is fine. We have no reason to judge one
9 person or the other, but as Mr. Corbett tells you, the
10 confidential informant, the CI, he got caught. He did
11 something wrong and he made a deal with the police to get
12 himself out of trouble. He said, what can I do; I'll do
13 anything. What do y'all need me to do? What y'all want
14 me to do. They all him a CI, but y'all know what they
15 call them on the street. A rat. That is a pretty
16 descriptive term. It's that way for a reason. Have you
17 ever seen a rat? He'll do anything or eat anything and do
18 anything to get himself out of trouble.

19 He'll set somebody up. He will, in fact,
20 induce somebody to do something that they might not
21 ordinarily do. I don't know. We'll have to wait to and
22 hear the testimony.

23 As I stand here before you today, I know one
24 thing for certain, Leon Goodman has pled not guilty. He
25 is innocent until and unless the State meets their burden.

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1 They're going to call a bunch of witnesses. They got a
2 bunch of people who worked on this case. The fact that
3 they testify doesn't mean that that's it, you have to take
4 that. There's something called credibility, and in most
5 cases, credibility is the issue.

6 Like Mr. Corbett said, they have a main
7 witness that's a CI who will do anything to get himself
8 out of trouble, so we have credibility issues you have to
9 deal with. You have testimony that you don't hear.
10 That's something I need to mention, a lack of testimony
11 can be evidence. Where is this? When did this happen?
12 Specific facts as to what you know could lead to whether
13 somebody's credible or not.

14 There will be some point I imagine, and
15 again, I'm not in charge of the State's case and I can't
16 really completely anticipate what they're testimony is
17 going to be but I can tell from what I have learned that
18 there are going to be some things that y'all need to think
19 about, some questions that will not be answered.

20 I think there will be some reasonable doubt
21 and as the judge will tell you at the end of the day or
22 end of the trial, if there is some reasonable doubt, that
23 has to be resolved in favor of my client.

24 He stands before you innocent, he remains
25 innocent, and the State has the burden of proving guilty

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1 and I don't think the State will be able to meet their
2 burden and I want y'all to be mindful of what you hear and
3 what you don't hear and mostly importantly what you don't
4 hear. Thank you.

5 MR. DEVOE: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. DEVOE: (Inaudible). My name is Harry
8 Devoe and as you can tell from my accent, I'm not from
9 around here originally. (Inaudible). This is a very
10 unique situation. Usually you don't have two defendants
11 in the same case. Mr. Robinson has one defendant and I
12 have my client, Mr. Stover, who is sitting at the table
13 and he is from South Carolina. He has pled innocent to
14 the charges that have been levied against him.

15 As the time goes on, you'll see that my
16 client has unique defenses. You'll see that my client
17 doesn't show up anywhere when this crime took place.
18 You'll see he has no real record. (Inaudible).

19 I believe the State has made a mistake in
20 charging these crimes.

21 (Whereupon, this portion of the opening can
22 not be transcribed due to inaudible recording.)

23 MR. CORBETT: Your Honor, at this time, the
24 State calls Investigator Ardis to the stand.

25 PHIL ARDIS, having been duly sworn, testified

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1 as follows:

2 DIRECT EXAMINATION

3 BY MR. CORBETT:

4 Q. Who do you work for?

5 A. Claredon County Sheriff's Office.

6 Q. How long have you worked for the Claredon County
7 Sheriff's Office?

8 A. About 10 years.

9 Q. And what section of the Claredon County Sheriff's
10 Office do you work?

11 A. Narcotics Division.

12 Q. Did you have any law enforcement experience prior
13 to your working at the Claredon County Sheriff's
14 Department?

15 A. Yes, sir.

16 Q. Would you please, sir, tell us a little bit about
17 that?

18 A. I started in 1977 with the Sumter Police
19 Department, worked there approximately two or three years,
20 went to the work for the South Carolina Commission. I
21 worked there from 1980 to 1988. In 1988 I worked with
22 SLED and Highway Patrol and we worked strictly narcotics
23 for the State of South Carolina. I worked there from 1993
24 to 2004 and I retired after 27 years. In 2005, I worked
25 Sumter County Sheriff's Office in Narcotic Division and

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1 then came here in 2009. So I got 32 years of law
2 enforcement.

3 Q. Now, Investigator Ardis, did you have occasion to
4 be involved in an incident that took place on February 11,
5 2009 at a motel located here near the interstate?

6 A. That's correct.

7 Q. If you would please, take a little bit of time to
8 explain your involvement and what you saw and observed in
9 that process.

10 A. Earlier that day we had arrested a confidential
11 informant that day for possession with intent to
12 distribute crack cocaine. From that we have him his
13 Miranda warnings and asked him if he would like to help
14 himself further going up the chain. He indicated to us
15 that he did. So at that time, we took him to Quality Inn
16 located behind the Waffle House and he indicated that he
17 could purchase crack cocaine ---

18 MR. DEVOE: Your Honor, I'm going to get to
19 what the confidential informant said. I believe that's
20 hearsay.

21 THE COURT: Okay. I'll sustain that
22 objection.

23 BY MR. CORBETT:

24 Q. Now, you indicated that this person had been
25 placed under arrest previously?

State versus Leon Goodman

1 A. Yes, sir, he was under arrest at the time.

2 Q. In circumstances in cases such as this, is it
3 normal to try to find other individuals as a result of
4 this arrest?

5 A. I wouldn't say 100 percent of the time, but I
6 would say 90 percent of the time any time an individual is
7 arrested for narcotics, normally you'd give them a chance
8 to help themselves out. If they want to help themselves
9 out, we give them a chance to do that.

10 Q. So this isn't anything uncommon or out of the
11 ordinary?

12 A. No, 90 percent of the time.

13 Q. Now, you indicated that the confidential
14 informant was transported to the hotel here in the area?

15 A. Yes, sir.

16 Q. Were you present for that?

17 A. Yes, sir.

18 Q. What did this confidential informant do while he
19 was there?

20 A. He made a telephone call. From his cell phone
21 number he called 803 651 6994.

22 Q. Were you present for that?

23 A. Yes, sir.

24 Q. What was the purpose of that telephone
25 conversation?

State versus Leon Goodman

1 A. To purchase drugs from this individual that he
2 was calling.

3 Q. What was the intended purchase?

4 A. This confidential informant indicated to the
5 person on the other end of the line that he wanted to
6 purchase a half ounce of crack or cocaine.

7 Q. And where was that transaction to take place.

8 A. The confidential informant indicated to the other
9 individual on the phone that he was at the Quality Inn and
10 he gave details and he was at Room 229 which was a room on
11 the end at the very back.

12 Q. And what happened from that moment forward?

13 A. Approximately 30 minutes had passed -- the first
14 phone call was at 11:32 and the confidential informant
15 called again approximately 12:03 and during that time the
16 individual on the other end stated he was close and that
17 he'd be there in a couple of minutes.

18 Q. What happened next?

19 A. Approximately 40 minutes later, the confidential
20 informant indicated to us ---

21 MR. DEVOE: Again, I'm going to object to
22 hearsay testimony as to what the confidential informant
23 told him.

24 THE COURT: You can't testify to hearsay
25 testimony about what the confidential informant said.

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1 BY MR. CORBETT:

2 Q. You indicated approximately 40 minutes later,
3 what happened?

4 A. Approximately 40 minutes later a white Nissan
5 Altima pulled in front of the room of 229. At that time,
6 there were no other vehicles at this location. Pretty
7 much the only vehicle that was there was ours. He pulled
8 up in front of the motel and beeped the horn. As a result
9 of that, law enforcement went outside and determined that
10 was the gentleman on the other end of the phone that we
11 were talking to earlier.

12 Q. At that time, what did law enforcement do?

13 A. At that time Mr. Stover was the driver and
14 Mr. Goodman was the passenger. Both subjects were taken
15 out the side of vehicle and handcuffed for our safety.
16 During that time, agents looked inside of the vehicle and
17 discovered a bag crack cocaine between the driver's seat
18 and the center console. There was an undetermined amount
19 of money also found ---

20 MR. DEVOE: Your Honor, I'm going to object
21 and move to strike that testimony based on the earlier
22 motion and the lack of proper foundation.

23 THE COURT: I'll overrule your objection.

24 BY MR. CORBETT:

25 Q. Were you present for that?

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1 A. Yes.

2 Q. Were other officers besides yourself present?

3 A. Yes, there were quite a few officers there.

4 Q. As a result of that search of the vehicle, were
5 the two individuals arrested?

6 A. Yes, they were.

7 MR. CORBETT: That's all the questions I
8 have. Please answer any questions these gentlemen may
9 have.

10 CROSS-EXAMINATION

11 BY MR. ROBERTSON:

12 Q. Let me ask you first of all you testified that
13 you had conducted a buy earlier which yielded the
14 confidential informant that you used in this case?

15 A. Yes, sir, we had him buy for us, yes, sir, that's
16 correct.

17 Q. Did you use a confidential informant to arrest
18 this confidential informant?

19 A. That's correct.

20 Q. Had you used this confidential informant before,
21 the one that is involved in this case?

22 A. Yes. We used this confidential informant back in
23 2006.

24 Q. Despite the fact that he's a confidential
25 informant, he obviously has continued to use drugs?

State versus Leon Goodman

1 A. Obviously.

2 Q. And you found that, what Mr. Corbett used in his
3 opening statement it takes one to know one, y'all continue
4 to use somebody that continues to break the law, get out
5 of trouble, break the law, cut a deal, get out of trouble?

6 A. He still has charged pending now. He was under
7 our direction and after this operation ended, he was taken
8 to the Claredon County Jail just like Mr. Goodman and
9 Mr. Stover.

10 Q. So he's not given any consideration for his
11 testimony?

12 A. Yes.

13 Q. He's helping himself?

14 A. Yes, sir.

15 Q. He obviously wasn't interested in helping the
16 community or law enforcement because he continued to sell
17 drugs; is that correct?

18 A. Most of them do.

19 Q. Did you know Mr. Stover or Mr. Goodman prior to
20 this yourself?

21 A. No, sir.

22 Q. So you weren't able to personally identify either
23 one of them?

24 A. No.

25 Q. You weren't able to identify the phone number

State versus Leon Goodman

1 that was called?

2 A. No.

3 Q. You don't have any idea of who he called?

4 A. I know he called this number.

5 Q. That number, but you had not done any

6 verification of whose phone that went to?

7 A. In my experience most people who have cell phones
8 it's not in their name anyway in that kind of business.

9 Q. So there is no way to verify whose cell phone
10 number that is and even if you did, it wouldn't matter?

11 A. Pretty much, yeah.

12 Q. And so did you observe the vehicle that y'all
13 searched and pulled Mr. Goodman and Mr. Stover out of when
14 it pulled up to the motel?

15 A. That's correct.

16 Q. Did they break any law when they pulled up to the
17 motel? Where they speeding, did they run over anybody,
18 have the radio up to loud?

19 A. No.

20 Q. And you pulled them out of the vehicle and you
21 said you handcuffed them for officer safety?

22 A. That's correct.

23 Q. Immediately handcuffed them?

24 A. That's correct.

25 Q. Did you search them?

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1 A. I didn't search them. The reason we do that is
2 for officer safety and a lot of people who are involved in
3 narcotics carry a weapon so they are searched.

4 Q. If I get pulled for speeding and you think I'm in
5 the narcotics business, am I going to get handcuffed?

6 A. Well, if there was a deal set up and you were
7 going to buy a half ounce of crack, then, yes, you would.

8 Q. But you didn't know these people?

9 A. No, sir.

10 Q. And who was driving the vehicle when it pulled
11 up?

12 A. Mr. Stover.

13 Q. Mr. Stover. When you searched their person, did
14 you find any weapons on either one of them?

15 A. No.

16 Q. At that point, did you then take them out of the
17 handcuffs because there was no threat?

18 A. No, after the search, we found the crack cocaine
19 in the car and at that time and then they were placed
20 under arrest.

21 Q. They were already in handcuffed?

22 A. Yes, sir.

23 Q. So as soon as y'all got to the car, y'all
24 snatched them out and put them in handcuffs?

25 A. Yes, sir.

State versus Leon Goodman

1 Q. And you never took the handcuffs off until y'all
2 got to the jailhouse, correct?

3 A. That's correct.

4 Q. The car was searched, they were searched, prior
5 to them being arrested for anything whatsoever; is that
6 right?

7 A. When the vehicle pulled up, the officers took
8 them out of the vehicle, handcuffed them for officer
9 safety, a search was conducted of the vehicle and the
10 crack cocaine was discovered, at that time, they were
11 placed under arrest and at no time did they come off
12 arrest and they stayed in our custody.

13 Q. Both of these defendants, Mr. Stover and
14 Mr. Goodman, and their car were searched before they were
15 ever placed under arrest; is that correct.

16 A. I can't say that. I'm saying after they were
17 under arrest, Mr. Stover and Mr. Goodman were searched.
18 Before that I'm sure they did a pat down for sure.

19 Q. They and I understand -- we need to identify this
20 for the jury a little bit because they are not familiar
21 with this. Typically, you don't just handcuff for officer
22 safety, you also perform a pat down to make sure they're
23 not carrying any weapons or dangerous explosives or
24 anything like that; is that correct?

25 A. That is correct.

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1 Q. So they were handcuffed, patted down, the vehicle
2 was searched and then they were arrested?

3 A. After the crack cocaine was found, then they were
4 placed under arrest.

5 Q. Right.

6 A. It was found between the driver's seat and the
7 center console.

8 Q. Between the driver's seat and the center console
9 where Mr. Stover was sitting?

10 A. That's correct.

11 Q. No drugs were found on either one of them
12 personally?

13 A. No, sir.

14 Q. No weapons were found on either one of them
15 personally?

16 A. No, sir.

17 Q. The only crime that you had proof that they
18 committed is there was crack cocaine in the vehicle that
19 they were in?

20 A. At that time, that's correct.

21 Q. They never sold any crack cocaine to the
22 confidential informant?

23 A. No, sir.

24 Q. They never offered to sell any crack cocaine to
25 the CI?

State versus Leon Goodman

1 A. Yes, sir, they did offer. Mr. Goodman offered.

2 Q. Are you sure it was Mr. Goodman or you believe it
3 was Mr. Goodman?

4 A. The gentleman that was on the other end of that
5 phone ---

6 Q. The gentleman who answered the number you have no
7 idea who that was, do you?

8 A. No, sir.

9 MR. ROBINSON: I don't have any further
10 questions. Thank you.

11 MR. DEVOE: May it please the Court.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. DEVOE:

15 Q. Mr. Ardis, until the co-defendants were arrested
16 or at least taken out of the car in handcuffs, were they
17 placed on the ground?

18 A. No.

19 Q. Not face down on the ground?

20 A. Not that I remember.

21 Q. Are you saying no or you just don't remember?

22 A. I don't think they were. I don't remember.

23 Q. Let me ask you this, once they were handcuffed
24 and patted down for weapons and before the drugs were
25 found, had they chosen to walk away, could they have done

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1 so?

2 A. No, sir.

3 Q. What does that mean? That means they were
4 arrested, doesn't it?

5 A. Sir?

6 Q. Once you have patted down for weapons and none
7 had been found, you're saying you couldn't walk away,
8 right?

9 A. They could walk away after we commandeered the
10 vehicle.

11 Q. Well, that's what I'm asking. You're saying they
12 were arrested after the search and the crack was found.

13 A. Yes, sir.

14 Q. And you're saying that before that ---

15 A. There was an ---

16 Q. Let me ---

17 A. There was an investigation going on because of
18 the circumstances going on involving the confidential
19 informant. Until we completed our investigation, they
20 were there until we completed our investigation.

21 Q. Once the handcuffs were put on they were
22 arrested?

23 A. They were being detained.

24 Q. But they couldn't leave?

25 A. No, there was an investigation and crack cocaine

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1 was found in their car.

2 Q. That's two definite distinctions.

3 MR. CORBETT: Objection, Your Honor, that's
4 not a question.

5 THE COURT: Sustained.

6 BY MR. DEVOE:

7 Q. Your definition is they were detained and
8 couldn't leave but not arrested?

9 A. They were detained until we completed the
10 investigation of the vehicle. If there had been no drugs
11 inside that vehicle, they would have been free to go.

12 Q. What's your definition of detained versus being
13 arrested?

14 A. They were not under arrest at the time. After we
15 completed a search of the vehicle, then they would have
16 been free to go.

17 Q. This whole situation you testified to about calls
18 back and forth, apparently you knew the name of Goodman;
19 is that correct?

20 A. No, sir.

21 Q. You didn't know any of the names.

22 A. No.

23 Q. The CI never told you the name?

24 A. He didn't know his name.

25 Q. He just buying from a nameless individual?

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1 A. He had a phone number.

2 Q. Did you check the phone number to see what came
3 up?

4 A. No.

5 Q. Why not?

6 A. Normally, most people don't have the phones in
7 their names.

8 Q. But some do, don't they?

9 A. Very few.

10 Q. So isn't it worth checking into? How long does
11 it take to check with the phone company to see who it's
12 registered to?

13 A. We didn't check.

14 Q. Do you ever check that?

15 A. Sure.

16 Q. Do you ever check for fingerprints?

17 A. Sure, sometimes.

18 Q. Sometimes. In this case, did you check for
19 fingerprints on the bag the crack was supposedly in?

20 A. The crack cocaine was sitting right there.

21 Q. And who did the crack cocaine belong to?

22 A. As far as I was concerned, it belonged to both of
23 them.

24 Q. The fingerprints would have shown who it belonged
25 to, wouldn't it?

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1 A. Not necessarily.

2 Q. Okay.

3 A. It might have shown who touched the bag but not
4 shown who it actually belonged to.

5 Q. Who did the car belong to?

6 A. Ernestine Stokie on Dennis Road, Inman, South
7 Carolina.

8 Q. Was she arrested?

9 A. No.

10 Q. Was it her car?

11 A. It was registered in her name.

12 Q. Was she involved in this whole situation?

13 A. No, sir.

14 Q. How do you know?

15 A. I don't know.

16 Q. Did you ever check into it?

17 A. No, we did not check into it.

18 Q. You rushed to judgement, two people in the car
19 and they're both guilty, is that what this is?

20 A. If nobody claims the crack cocaine, then both
21 gets charged with it.

22 Q. In the write-up you supplied us with the name
23 Goodman shows up all the time until all of a sudden my
24 client is in the car that came to the motel; is that
25 correct?

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1 A. No, sir. Goodman's name only shows up until he
2 was later identified to be Goodman. He was believed to be
3 Goodman.

4 Q. So then you tracked it back and on the write-up
5 as saying Goodman, Goodman, Goodman; is that correct?

6 A. That's correct.

7 Q. There were no drugs on my client; is that
8 correct?

9 A. No.

10 Q. There was no drug residue found in the linings of
11 his pockets or anything like that?

12 A. No.

13 Q. None on his hands or nothing like that?

14 A. No, people don't have drugs on their hands.

15 Q. That's not my question.

16 A. No.

17 Q. Was any found on his hands?

18 A. No.

19 Q. Was anything found incriminating?

20 A. No, sir.

21 MR. DEVOE: I have no further questions.

22 Thank you.

23 MR. CORBETT: Redirect, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. CORBETT:

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1 Q. Investigator Ardis, there's been some talk here
2 today about this detention and arrest situation.

3 A. That's correct.

4 Q. Could you tell us how much space and time took
5 place between when y'all first got to the car until when
6 the drugs were found? Do you know that information?

7 A. Probably a minute, minute-and-a-half.

8 Q. Now, this is a transaction that was initiated by
9 the confidential informant's phone call; is that correct?

10 A. That's correct.

11 Q. And what you observed was consistent with the
12 information provided?

13 A. Yes, sir.

14 Q. Now, you were asked about a cell phone number and
15 you were giving an explanation about that. If you would,
16 please tell us a little bit about your experience in that
17 area?

18 A. From my experience with narcotics, the cell
19 phones they have are never in their names, and the reason
20 for that is so it can't be traced back to that individual.
21 Most of the times nowadays they use what's called a
22 disposable phone and you just go in and you buy a phone,
23 use it, and then you throw it away and then go in and buy
24 another phone so cell numbers keep changing. They don't
25 want anything traced back to them.

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1 Q. Now, you were also questioned about the car and
2 who the car was registered to.

3 A. That's correct.

4 Q. Which person did you state?

5 A. It was an Ernestine Stokie on [REDACTED],
6 Inman, South Carolina.

7 Q. Was that individual in the car?

8 A. No.

9 Q. In your experience and I believe you said some 27
10 years in law enforcement.

11 A. Thirty-two years in working narcotics.

12 Q. In your experience, is it out of the ordinary for
13 somebody involved in illegal activity to be in a car
14 registered to someone other than themselves?

15 A. Happens all the time. That's typical and the
16 reason for that is as law enforcement stops a vehicle and
17 there are illegal narcotics in there, it's harder to seize
18 that vehicle because it's in somebody else's name. You
19 get your grandma to buy you a Camaro and it's in her name
20 instead of his name.

21 MR. CORBETT: Thank you. That's all the
22 question I have.

23 THE COURT: Anything else?

24 MR. ROBINSON: I just have two based on is
25 redirect, Your Honor.

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RECROSS-EXAMINATION

BY MR. ROBINSON:

Q. You testified that in your experience drug dealers don't have their own cell phones in their name, et cetera, et cetera, et cetera, and they don't have vehicles in their own names because of whatever.

A. Right.

Q. Did you ever check to see whose name this particular phone was in.

A. No, sir, I did not.

Q. So you just assumed, based on your experience, it would be the case?

A. Yes, sir.

Q. That's speculation and conjecture?

A. Yes.

Q. And the other things that you talked about is riding in a car that's not in your name. Everybody who does that is not a drug dealer; is that correct?

A. I never said that.

Q. So, again, that's kind of an over characterization of the situation?

A. I can say that most of the vehicles I have seen within this situation, most of the vehicles are not in the person's name.

Q. Let's say somebody drives a company car, mom's

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1 car and that happens all the time. Are you saying that
2 most of these people are drug dealers because the cars are
3 not registered in their names?

4 A. No, sir. If he's got seven grams of crack in his
5 car, he's more than like driving a car registered in
6 relative's name, a paramour or something like that.

7 Q. Are you familiar with the term mule?

8 A. Yes.

9 Q. What does mule mean in drug terminology?

10 A. A mule is somebody when you have a larger drug
11 dealer he has somebody deliver his drugs for him and he
12 gets paid a percentage of what he's delivering. It could
13 be going to Miami and pick up drugs and bring them back
14 here. A mule could also be somebody delivering drugs from
15 (inaudible) and gets paid a fee to deliver drugs.

16 Q. Have you ever been in a situation where drugs are
17 smuggled unknowingly by someone? In other words, they're
18 placed in a compartment or container or something that the
19 person is not made aware of and they're sent to do
20 something under the guise of delivering a pizza,
21 delivering a newspaper, delivering flowers and it could in
22 fact be drugs in that package?

23 A. Most of the hidden compartments that I found,
24 they knew it was a hidden compartment.

25 Q. I'm not talking about hidden compartments --

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1 isn't it true that on numerous occasions illegal firearms
2 are shipped through UPS?

3 A. Yes. Sure, all the time.

4 Q. So there are drug dealers who take advantage of
5 people who unknowingly end up delivering illegal
6 substances and drugs to other people?

7 A. That's correct, yes.

8 Q. And your testimony today is that prior to the
9 arrest of Mr. Goodman, neither you or the officers workers
10 with you and only the confidential informant knew his
11 name?

12 A. Correct.

13 Q. Knew a phone number and a vehicle?

14 A. That's correct.

15 Q. The phone you never checked on?

16 A. Correct.

17 Q. And the vehicle was not registered to
18 Mr. Goodman?

19 A. Correct.

20 Q. And it wasn't even driven by Mr. Goodman?

21 A. Driving by Mr. Stover.

22 MR. ROBINSON: Thank you.

23 THE COURT: You may step down.

24 (Witness leaves the witness stand.)

25 You may call your next witness.

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1 MR. CORBETT: We call Brad Wilkes.

2 THE CLERK: Place your left hand on the Bible
3 and raise your right hand.

4 BRAD WILKES, having been duly sworn,
5 testified as follows:

6 State your full name for the record.

7 THE WITNESS: Brad Wilkes.

8 DIRECT EXAMINATION

9 BY MR. CORBETT:

10 Q. Deputy Wilkes, good afternoon.

11 A. Good afternoon.

12 Q. Deputy Wilkes, I know this is an obvious question
13 but by whom are you employed?

14 A. Claredon County Sheriff's Office.

15 Q. And how long have you worked with the Claredon
16 County Sheriff's Office?

17 A. A little over four years.

18 Q. And is there a particular division or section
19 that you were assigned to?

20 A. Claredon Community Action Unit.

21 Q. And what are your typical duties with the
22 Sheriff's Department?

23 A. A little bit of everything. We work with the
24 narcotics agents, we work with investigators, we work the
25 street, so a little bit of it all.

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1 Q. I'm going to ask you, did you have occasion to be
2 involved in a case back on February 11, 2009 at the
3 Quality Inn out here near the interstate?

4 A. Yes, sir.

5 Q. Were you involved in any of the lead up or the
6 investigation prior to that incident?

7 A. No, sir, I was not.

8 Q. What was your involvement?

9 A. We were called to be a standby in the proximity
10 of the area and they would advise of a white car -- who we
11 were looking for and what we were looking for, the room
12 they were in and what they had going on. They just wanted
13 us to be close and get there quick if they needed us.

14 Q. And when you say, they, who is they?

15 A. The narcotics agents.

16 Q. And did you have occasion to go to that location?

17 A. Yes, sir, I did.

18 Q. Tell us what you did?

19 A. We drove up and saw the vehicle pull up in front
20 of the room they were in. We got out, got the subjects
21 out of the car, detained them and searched the vehicle
22 they were driving.

23 Q. Now, were you involved in the search of the
24 vehicle?

25 A. Yes, sir, I was.

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1 Q. If you would, tell us what you did?

2 A. I went in the back left rear door and Agent
3 Kennedy went in the right passenger door. When I entered
4 the vehicle, I noticed what I thought to be a plastic bag
5 stuffed right between the seat and the console and I told
6 Mac to check the bag and that's when he retrieved it.

7 Q. And when you say Mac, who do you mean?

8 A. Agent Mac Kennedy with the Sheriff's Office.

9 Q. You spotted this bag?

10 A. I spotted the bag, yes, sir.

11 Q. Did you personally retrieve it?

12 A. No, sir, I did not.

13 Q. Do you know who did?

14 A. Mac Kennedy.

15 Q. Did you have any involvement with the
16 investigation from the inside of the motel room?

17 A. No, sir, I did not.

18 Q. Did you stick around to do any follow up
19 investigation?

20 A. No, sir, I did not.

21 Q. Deputy Wilkes, thank you. Please answer any
22 questions these gentlemen may have.

23 CROSS-EXAMINATION

24 BY MR. ROBINSON:

25 Q. Deputy Wilkes, did you know either of the

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1 gentlemen you pulled out of the vehicle?

2 A. No, sir, I did not.

3 Q. When y'all pulled up, did you use your blue
4 lights?

5 A. Yes, sir, we did.

6 Q. Y'all pretty much pulled in high rate of speed,
7 blue lights on, jumped out of the car to make sure
8 everything was contained right then?

9 A. Yes, sir.

10 Q. Kind of like the blue lights you see on tv but
11 the real deal?

12 A. Oh, yes.

13 Q. Did you observe any crime being committed by this
14 white vehicle?

15 A. No, sir, I did not.

16 Q. Did you receive consent from either one of the
17 people in the vehicle to search the car?

18 A. No, sir, I did not.

19 Q. Did you even ask for consent?

20 A. No, sir, I did not.

21 Q. It was predetermined before you even got out that
22 you were searching the car?

23 A. Agent Kennedy asked me to help him search the
24 car.

25 Q. But he didn't have to ask. You knew even before

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1 and after that when you got there and you got out you were
2 searching the car?

3 A. No, sir.

4 Q. When did Agent Kennedy ask you to search the car?

5 A. After we got the subjects out on the ground and
6 they were detained, he asked me then to help him search
7 the car.

8 Q. Okay. Did he ask either one of them if he could
9 search the car?

10 A. That, I don't know.

11 Q. And you said you saw the bag but you didn't touch
12 it?

13 A. Yes. When I was getting in the car, I saw a
14 little plastic bag between the console and the seat and I
15 told Mac to check that. He pulled the baggie out. He got
16 it out.

17 Q. Did you see him get it out?

18 A. Yes, sir.

19 Q. Did he use gloves or tweezers or anything fancy
20 like that?

21 A. I didn't take notice of that.

22 Q. Did you have on gloves?

23 A. Yes, sir.

24 Q. Rubber gloves or leather gloves?

25 A. Standard issued gloves.

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1 MR. ROBINSON: No further questions.

2 CROSS-EXAMINATION

3 BY MR. DEVOE:

4 Q. Did you say that you had Mr. Goodman and
5 Mr. Stover on the ground?

6 A. Yes, sir, we did.

7 Q. Were they face down on the ground?

8 A. Yes, sir, they were.

9 Q. Who cuffed them?

10 A. That I couldn't tell you. There were a lot of
11 people there.

12 Q. How many people were there?

13 A. It was probably four of us GAT Team that drove up
14 and I don't know how many in the motel room.

15 Q. You would say about 10 or something like that?

16 A. Yes, sir.

17 Q. You would say it was a big deal, wasn't it?

18 A. Yes, sir, officer safety.

19 Q. Pretty big deal as far as the numbers I'm talking
20 about?

21 A. Yes, sir.

22 Q. You felt unsafe even after they were handcuffed
23 and on the ground?

24 A. No, sir, once they're detained I don't feel
25 unsafe.

State versus Leon Goodman

1 Q. Detained, not arrested, right?

2 A. That's first and foremost safety.

3 Q. Were you told that this was a situation that you
4 had to arrest them and you had to come up with blue lights
5 and block them off and all that?

6 A. We didn't know about the being arrested, but we
7 did know we were going to detain these individuals, yes,
8 sir.

9 Q. Were you told why they were going to be arrested?

10 A. Yes, we were told undercover drug operation.

11 Q. Had you seen this car anywhere before in Claredon
12 County?

13 A. No, sir, not to my knowledge. I could have
14 passed it on the road.

15 Q. You saw the plastic bag in the car, correct?

16 A. Yes, sir.

17 Q. From the rear?

18 A. Yes, sir.

19 Q. Did you see what was in the plastic bag?

20 A. Not then, but I noticed the bag but not was
21 inside it.

22 MR. DEVOE: No further questions. Thank you.

23 THE COURT: Anything further from the State?

24 MR. CORBETT: Nothing further.

25 THE COURT: Thank you. You may step down.

State versus Leon Goodman

1 (Witness leaves the witness stand.)

2 MR. CORBETT: Your Honor, the State calls
3 Mitch Hansen.

4 THE CLERK: Place your left hand on the Bible
5 and raise your right.

6 MITCHELL HANSEN, having been duly sworn,
7 testified as follows:

8 Please state your name for the record.

9 THE WITNESS: Mitchell Hansen.

10 DIRECT EXAMINATION

11 BY MR. CORBETT:

12 Q. Mr. Hansen, good afternoon. If you would please,
13 tell us by whom are you employed?

14 A. Sumter County Sheriff's Department.

15 Q. And what is your capacity with the Sumter County
16 Sheriff's Department?

17 A. I am the drug analysis.

18 Q. And, Mr. Hansen, if you would, please, tell us a
19 little about your education and training?

20 A. I have an Associates in Science, Associates in
21 Arts, Bachelor's in Chemistry. I've been trained for
22 forensic drug analysis from SLED and basic law enforcement
23 from South Carolina Justice Academy.

24 Q. Have you ever testified in court before regarding
25 the analysis of narcotics?

State versus Leon Goodman

1 A. Yes.

2 Q. In what field do you testify in?

3 A. I'm sorry?

4 Q. What is the title of your field in which you
5 testify.

6 A. Chemist.

7 MR. CORBETT: Your Honor, at this time, we
8 would offer Mr. Hansen as an expert in the fields of
9 chemistry.

10 VOIR DIRE

11 MR. ROBERTSON: Your Honor, I'd like to know
12 how many times he's testified in court.

13 THE COURT: Is that a question?

14 MR. ROBERTSON: Yes, it is.

15 THE WITNESS: Fourteen.

16 BY MR. ROBERTSON:

17 Q. A particular drug or all drugs put together?

18 A. All drugs put together.

19 Q. And when did you start testifying?

20 A. Two years ago.

21 THE COURT: Any objection to him being
22 qualified as an expert?

23 MR. ROBERTSON: No objection, Your Honor.

24 MR. DEVOE: No objection.

25 THE COURT: I so find he's an expert in the

State versus Leon Goodman

1 field of chemistry.

2 BY MR. CORBETT:

3 Q. Mr. Hansen, if you would, tell us what your
4 normal duties with the Sumter County Sheriff's Department
5 are?

6 A. I analyze drug evidence.

7 Q. And do you receive samples from various sources?

8 A. Yes.

9 Q. Did you ever have the occasion to analysis the
10 evidence submitted by the Claredon County Sheriff's
11 Department?

12 A. Yes.

13 Q. Now, I'm going to show you this and ask if you
14 could tell us what this is?

15 A. This is some drug evidence that was submitted by
16 the Sheriff's Department 2009.

17 Q. Let me talk to you about packaging if I may, if
18 you would tell us what you receive?

19 A. What I actually receive is what we call a BEST
20 Kit. In this best kit is a tamper evidence bag that you
21 could tell -- it's what the drugs are placed in with a
22 request form and you can actually tell if it's been
23 tampered with by the design of the bag if it's been opened
24 or torn. Also, we receive request forms and the chain of
25 custody DNC forms that are also in this bag.

State versus Leon Goodman

1 Q. I'm going to ask you what we're looking at here
2 is sealed in a larger clearer plastic bag, tell us what
3 that is?

4 A. That is what I package it in after I analyze the
5 drugs, I seal it, initial it and date it from the inside
6 so if it's been opened or tampered with, I would be able
7 to tell.

8 Q. So when you received this sample from the
9 Claredon County Sheriff's Department, this outer clear bag
10 sealed wasn't part of the package?

11 A. No, it was not.

12 Q. It's the inner bag with the writing on it.

13 A. Yes.

14 Q. That's what you received from Claredon County?

15 A. Yes.

16 Q. Now, you indicated that that bag is what I
17 believe you referred to as a BEST Kit?

18 A. Yes.

19 Q. Now, when you get ready to test the samples
20 contained therein, do you check the bag?

21 A. Yes, I do.

22 Q. Was that bag in tact?

23 A. Yes, the seals were in tact. I wrote on the bag
24 that the seals were in tact and dated it and signed it.

25 Q. Now, did you have occasion to test the sample

State versus Leon Goodman

1 contained therein?

2 A. Yes.

3 Q. Tell us a little bit about that procedure and
4 process, how you do that?

5 A. We do a chemical test and an instrument test.
6 The chemical test is a presumptive test, the instrument
7 test is a confirmatory test.

8 Q. Do you also measure the quantity?

9 A. We also weigh it to get the amount of it.

10 Q. And did you do those particular tests for this
11 particular sample?

12 A. Yes, I did.

13 Q. Now, these tests were the performed in accordance
14 with your training?

15 A. Yes, they were.

16 Q. And what did your test reveal?

17 A. My tests revealed cocaine based crack was found.

18 Q. And did your test also indicate the weight?

19 A. The weight was 7.54 grams.

20 Q. And is that information reduced to writing. Is a
21 written report generated as a result of that?

22 A. Yes.

23 Q. Do you have that with you?

24 A. I sure do.

25 Q. And is this report in some form or fashion coded

State versus Leon Goodman

1 to that sample?

2 A. Yes, it is.

3 Q. So that report goes with that sample?

4 A. Yes.

5 MR. CORBETT: Now, at this time we would
6 offer Mr. Hansen's report as State's Exhibit No. 1.

7 THE COURT: Any objection?

8 MR. ROBINSON: No objection.

9 MR. DEVOE: No objection.

10 THE COURT: Admitted without objection.

11 (Whereupon, report was marked as State's
12 Exhibit No. 1 for identification and admitted into
13 evidence.)

14 BY MR. CORBETT:

15 Q. Now, Mr. Hansen, this bag that you received, how
16 was it received at your office?

17 A. We receive it -- I actually have a drop box where
18 agencies can come in and drop their BEST Kit which I only
19 have a key to. It's dropped behind a door with an alarm
20 so nobody has access to it. I actually have to open it
21 up, allow them to go in and drop the stuff and lock it back
22 and at a later date, I will retrieve the evidence from.

23 Q. To the best of your knowledge, the BEST Kit that
24 you opened and tested, was it in the same condition when
25 it was tested as when it was received in your office?

State versus Leon Goodman

1 A. Yes, it was not tampered with.

2 Q. Now, you had indicated to us a little bit earlier
3 that the, I'm going to refer to it as to over bag, the
4 clear plastic bag here, there's some writing contained on
5 that. Can you tell us what that is?

6 A. The writing on the outside or the outer packing
7 is where I actually sealed it 3/20 of 2009. After I wrote
8 sealed, the date and initialed it on the inside and heat
9 sealed it across there.

10 Q. Is that seal still in tact?

11 A. Yes, it is.

12 Q. And based upon your examination here today, is
13 that package in substantially the same condition today as
14 when it was sealed at your office?

15 A. Yes.

16 MR. CORBETT: At this time we would offer the
17 larger clear sealed package with contained therein a BEST
18 Kit for identification as State's No. 2.

19 THE COURT: Okay.

20 (Whereupon, sealed package was marked as
21 State's Exhibit No. 2 for identification.)

22 BY MR. CORBETT:

23 Q. Now, Mr. Hansen, I'm going to direct your
24 attention to products contained therein. Show that to the
25 jury and tell us what that is?

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1 A. Inside the packaging?

2 Q. Yes.

3 A. Inside the packaging is where I actually open up
4 the BEST Kit bag. What is inside is the stuff that was
5 inside the evidence back and also the bag with which I
6 repackaged the drugs into and initialed and I signed it.

7 Q. In particular the substance here, the substance
8 that you actually tested, if you would show the jury and
9 tell them what that is?

10 A. That would be the crack cocaine that was found.

11 Q. Now, Mr. Hansen, let me ask you, you're not
12 involved in the actual investigation of the case, are you?

13 A. No, I am not.

14 Q. So you weren't present here in Claredon County
15 when that item may have been seized?

16 A. No, I was not.

17 Q. Thank you, Mr. Hansen. That's all the questions
18 I have.

19 CROSS-EXAMINATION

20 BY MR. ROBINSON:

21 Q. Mr. Hansen, let me clarify some things for the
22 jury. You said you received this in a BEST Kit?

23 A. Yes.

24 Q. Is BEST an acronym for something?

25 A. Yes.

State versus Leon Goodman

1 Q. What is it?

2 A. BEST stands for Best Evidence Sample Testing.
3 This is the outside folder that it would come in.

4 Q. Do you know how long the BEST Kit has been in
5 use?

6 A. I'm not sure a BEST has been in use. It was in
7 use before I started.

8 Q. How is that different from putting it in a bag,
9 envelope or a box or anything else?

10 A. It's different because it is a tamper evidence
11 bag in which stuff goes into. It shows that nothing has
12 been tampered with. Also these kits come with chains of
13 custody, DNC forms, request forms of what they would like
14 done with it. It's more than just an evidence bag or
15 envelope.

16 Q. When you say tamper evidence that means that you
17 can tell if somebody improperly messed with it or has done
18 something with it that is not documented?

19 A. Correct.

20 Q. And in your training as a chemical analysis
21 especially in the field of law enforcement, were you ever
22 taught why that was important?

23 A. It's important because if it's been tampered
24 with, you can't trust it.

25 Q. Do you have any idea of the history behind it

State versus Leon Goodman

1 like if it's been tampered with in the past?

2 A. I don't know the history behind it.

3 Q. Is it safe to say that those standards and
4 practices happened over a period of time? In other words,
5 you learn from your mistakes?

6 A. Yes, sir.

7 Q. Presumably at some point in the past there was a
8 problem with chemical analysis somewhere ---

9 MR. CORBETT: Objection, relevance and it
10 calls for speculation.

11 MR. ROBINSON: I'm asking about his training.

12 THE COURT: I'll allow the question.

13 BY MR. ROBINSON:

14 Q. Would it safe to presume that at some point in
15 the past it developed because of problems with tampering
16 of evidence and things of that nature that somehow made
17 the test less reliable or less accurate?

18 A. I would assume so. I would assume that this came
19 about to eliminate any problems of evidence tampering.

20 Q. And you get the bag and you receive the bag and
21 it's in a sealed container?

22 A. Yes, sir.

23 Q. And you take it upon faith that it's been handled
24 properly by the person you received it from?

25 A. I check and make sure that the bag is inside, all

State versus Leon Goodman

1 the paperwork is done properly before I do anything.

2 Q. Because what we're really taking about here is
3 credibility of the evidence?

4 A. Correct.

5 Q. So great pains are taken by law enforcement to
6 insure the credibility of the evidence, that's reliable
7 and accurate?

8 A. Correct.

9 Q. Not based on speculation or conjecture, and you
10 think this was associated with that case and you think
11 this is this particular case?

12 A. Right.

13 Q. So the information you get, basically, is what
14 you have to rely on? And so y'all have a standard in
15 place that gives you some assurances that things are done
16 in a certain way?

17 A. Correct.

18 Q. That they're trustworthy and reliable?

19 A. Correct.

20 Q. And that's what you have you operate based on?

21 A. Correct.

22 Q. Now, tell me how do you weigh the sample that you
23 get because you don't know what it is when you receive it;
24 is that correct?

25 A. Correct.

State versus Leon Goodman

1 Q. How do you weigh it? Well, obviously the first
2 thing you do is open the bag.

3 A. Yes, the first thing is open it up. I weigh it
4 (inaudible) balance?

5 Q. And who certifies those scales?

6 A. We check the balances monthly. We have certified
7 weigh and if the balance does not come within 100th of the
8 weight itself, the balance is taken out of commission and
9 serviced.

10 Q. Has that happened while you've been doing this?

11 A. No. My balance has never been out any since I've
12 been doing it.

13 Q. When you say balance, you're talking about scale
14 basically?

15 A. Yes.

16 Q. How old is your scale?

17 A. Roughly two years.

18 Q. You got a brand new one when you started and it's
19 messed up?

20 A. Correct.

21 Q. Are you familiar with any instances where they
22 have?

23 A. I have seen scales before that did not work
24 properly.

25 Q. And do you get a new scale when that happens or

State versus Leon Goodman

1 do you send it in and wait for it to be repaired?

2 A. Normally we send it for repair because the ones
3 that we use are very expensive.

4 Q. And your laboratory, are you set up in like a
5 broom closet or you got a nice big spacious lab?

6 A. It's a nice sized lab.

7 Q. Computers, microscopes, lots of technology?

8 A. Correct.

9 Q. And as you said it's pretty expensive, right?

10 A. Correct.

11 Q. Now, I understand you got an Associates Degree in
12 Art and Science.

13 A. Correct?

14 Q. You got your Bachelor's Degree from Francis Mary?

15 A. Correct.

16 Q. Do they have courses at Francis Mary, that taught
17 this particular profession that you're doing now, drug
18 analysis, or was it just chemistry major?

19 A. Well, actually, I was in the field of product
20 development for drug companies when I was at Francis Mary.

21 Q. Pharmaceutical companies that make medicine?

22 A. Yes.

23 Q. I guess you went through a course at SLED to
24 teach you to analyze narcotics?

25 A. Yes, I was at SLED for six months training on the

State versus Leon Goodman

1 laws and how to analysis the different types of drugs.

2 Q. How much of that six months was learning the laws
3 and different things versus actually learning, I guess,
4 the chemical make-up of the substance and how you analyze
5 and what you look for?

6 A. Approximately 50/50.

7 Q. So approximately half of that time was devoted to
8 this?

9 A. Yes.

10 Q. So you got about three months worth of training
11 just on analysis illegal drugs or whatever of what you're
12 doing now?

13 A. Yes.

14 Q. How many different testings that you did you
15 expose these drugs to?

16 A. How different methods I exposed it to?

17 Q. I noticed on your report that there were four or
18 five boxes checked and I'm not really familiar with that?

19 A. Actually on these drugs we did a chemical test, a
20 gas mastotrometer(ph), we also did a physical test.

21 Q. You didn't smoke it did you?

22 A. No.

23 Q. What is the physical test?

24 A. The physical test is crack cocaine or cocaine
25 base, it's soluble (inaudible), regular cocaine is not.

State versus Leon Goodman

1 That's one way we can determine what form does it take.

2 Q. When you say soluble, you mean you put it in and
3 it dissolves?

4 A. Yes.

5 Q. So you dissolved some of that?

6 A. Yes.

7 Q. What's the chemical test?

8 A. The chemical test is exactly what says. We put a
9 small sample in a dish, use different agents as a color
10 test. If it turns colors, then it could be cocaine.

11 Q. And the results of these tests, and I'm not
12 trying to be funny, but you haven't tried crack cocaine,
13 have you? I mean, they don't make you smoke it as part of
14 your training?

15 A. No.

16 Q. So what you're saying is these substances, the
17 reaction that you get to confirm is based on information
18 either on a test strip or information from instructors?

19 A. Correct.

20 Q. You wouldn't definitely say, I know that's crack
21 because I've been on crack, right?

22 A. Correct.

23 Q. Now, in dealing with chemical you don't have any
24 early idea what crack cocaine does to you?

25 A. No.

State versus Leon Goodman

1 Q. Can crack be dusted for fingerprints?

2 A. No, it can't.

3 Q. The only link to Claredon County is that someone
4 from Claredon County brought it to you?

5 A. Yes.

6 MR. ROBINSON: No further questions.

7 THE COURT: Mr. Devoe.

8 CROSS-EXAMINATION

9 BY MR. DEVOE:

10 Q. Can I see a copy of your test strip? The crack
11 that was sent to you by Claredon County, this is the bag
12 that it came in?

13 A. Actually, the bag that it would have come in is
14 this plastic bag here that was inside of this ziplock bag
15 here.

16 Q. Right. And this small bag here is what it came
17 in, correct.

18 A. That's what I put it into after I tested it.

19 Q. What did it come in when it came to you?

20 A. It came to me, it was in this plastic bag, which
21 was in this ziplock bag here.

22 Q. The small plastic bag inside that bag that's what
23 it came to you in? The drugs were in that bag?

24 A. Yes.

25 Q. My question then is, do you do fingerprints?

State versus Leon Goodman

1 A. No, I do not.

2 Q. You don't have training to do fingerprints?

3 A. No, I do not.

4 Q. So you didn't test that bag for fingerprints to
5 see who handled that bag?

6 A. No, I did not.

7 Q. You have no idea, then, who actually handled that
8 bag before you look at it.

9 MR. DEVOE: I have no further questions.

10 THE COURT: Anything further.

11 MR. CORBETT: No further questions.

12 THE COURT: Any reason we can't quit for the
13 day.

14 MR. CORBETT: Judge, this would probably be
15 an appropriate time to break.

16 MR. ROBINSON: No objection.

17 MR. DEVOE: No objection.

18 THE COURT: Ladies and gentlemen, we're going
19 to quit for the day. I remind you to please don't discuss
20 this case. I know when you get home someone is going to
21 ask you what you did today and you can't tell them that.
22 When you finish this case, then you can tell them anything
23 you want to. It's important that you decide this case
24 based on what you hear in the courtroom. Don't talk to
25 anyone about it. Don't allow anyone to talk to you. I

State versus Leon Goodman

1 doubt if it's going to be on television tonight but if it
2 is, you can't watch it. If it's in the newspaper, you
3 can't read it. You can't go on the computer and do any
4 research. You've got to decide this case based on
5 evidence you hear in this courtroom.

6 I ask that if you'll come back in the morning
7 at 9:30 and go straight to the jury room.

8 Thank you.

9 (Whereupon, the jury was dismissed for the
10 day.)

11 Mr. Robinson, have you heard anything from
12 your client?

13 MR. ROBINSON: I have not, Your Honor.

14 THE COURT: Have law enforcement check his
15 address.

16 MR. ROBINSON: I gave Agent Kennedy his
17 address.

18 THE COURT: We have a bench warrant and maybe
19 they'll be able to pick him up.

20 Anything else from the State?

21 MR. CORBETT: No, Your Honor.

22 THE COURT: From the defense.

23 MR. ROBINSON: No, Your Honor.

24 MR. DEVOE: No, Your Honor.

25 THE COURT: Mr. Stover, you are out on bond

State versus Leon Goodman

1 and technically your case has been called and if I allow
2 you to go home tonight and you don't show up tomorrow,
3 we're going to continue this case without you, do you
4 understand that?

5 DEFENDANT STOVER: Yes, sir.

6 MR. DEVOE: He has shown up every time this
7 has come about.

8 THE COURT: I understand that but I just want
9 to get it straight right now, if you are not here, we're
10 going to continue without you. If you're not here, I'm
11 going to find you in contempt so even if the jury turns
12 you loose, you may still be subject to contempt charges so
13 it would be in your best interest to be here at 9:30.

14 (Whereupon, the trial was ended for the
15 date of December 6, 2010 to resume on December 7, 2010.)
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25

State versus Leon Goodman

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Circuit Court of Clarendon County, South Carolina on
8 the 6th day of December, 2010.

9 I do further certified that I am neither of
10 kin, counsel, nor interest to any party hereto.

11
12
13 August 10, 2011

14 _____
15 Caroline Hiskell
16

17 (Please note this trial was transcribed but not taken by
18 the above named court reporter to the best of her ability)
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State versus Leon Goodman

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CLARENON) COURT OF GENERAL SESSIONS
3) 2009-GS-14-0190
4)
5 State of South Carolina) TRANSCRIPT OF RECORD
6 vs)
7 Leon a. Goodman)
8 -----)

Day 2 - December 7, 2010
Clarendon, South Carolina

B E F O R E:

THE HONORABLE FERRELL COTHRAN, Jr., Judge

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

ROBERT CORBETT, Esquire
Assistant Solicitor
Attorney for the State

SCOTT ROBINSON, Esquire
Attorney for the Defendant Goodman

WILLIAM DEVOE, Esquire
Attorney for the Defendant Stover

Caroline Hiskell
Circuit Court Reporter

(Please note this trial was transcribed but not taken by
the above named court reporter to the best of her
abilities.)

State versus Leon Goodman

1	I N D E X				
2	WITNESSES:	DR	CR	RED	REC
3	Harold Kennedy	100	109, 122		
	Barbara Crawford	127	133		
4	Burnell Blanding	134	147, 160	161	
	Donnie Drose	162	174, 178		
5	Beulah Roberts	180			
	Harold Kennedy	186	188		
6	Donnie Drose	189			
7	Defendant's Case				
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8					
9					
	EXHIBITS				
10	IDENTIFICATION	FOR ID		IN EVD	
11	State's Exhibits				
12	2 Drugs Package			132	
13	3 Photograph	165		165	
	4 Photograph	167		167	
14	5 Photograph	168		168	
	6 Photograph	169		169	
15	7 Photograph	169		169	
	8 Photograph	170		170	
16	9 Traffic Ticket	187		187	
	10 CD	190		190	
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State versus Leon Goodman

P R O C E E D I N G S

(At which time the trial of the State versus Leon Goodman, 2009-GS-14-190, resumes on December 7, 2010.)

THE COURT: Are we ready?

MR. CORBETT: The State is ready, Your Honor.

MR. ROBINSON: I'd like to put this on the record before we bring the jury in. I'd like to put on the record this is a trial in absence of Mr. Leon Alonzo Goodman. The case was called by Mr. Corbett and he notified us that yesterday he intended to call it. I contacted Mr. Goodman at several numbers. I talked with the mother one time yesterday, I talked with his sister four times yesterday and spoke to Mr. Goodman twice yesterday once between 9:30 and 10:00 and advised him that we were getting ready to pick a jury in this case. He notified that he was in Columbia and would be on the way.

We picked a jury and broke for lunch. I contacted Mr. Goodman again, there was no answer and I left him a message. I contacted his sister again and she said she had not heard from him. I gave her the same information that basically we were starting the trial at 2:30 and there was a plea offer that I needed to discuss.

Mr. Goodman called me back at approximately 2:35 yesterday afternoon and told me that he was in

State versus Leon Goodman

1 Columbia that he wanted to take the plea deal and that he
2 was on his way. I have not seen him since.

3 I tried to call him again this morning and
4 his phone is not in service. I talked with his sister
5 again this morning and she advised me that she had not
6 seen or heard from Mr. Goodman in several days. So I just
7 wanted to make it clear for the record that I have made
8 dutiful effort to contact him, have spoken to him, and do
9 not have any earthly idea where he is.

10 THE COURT: Okay.

11 (Whereupon, the jury enters the courtroom.)

12 Okay. Mr. Solicitor, you may call your next
13 witness.

14 MR. CORBETT: Your Honor, the State would
15 call Investigator Mac Kennedy.

16 THE CLERK: Raise your right, please your
17 left hand on the Bible.

18 HAROLD MACK KENNEDY, III, having been duly
19 sworn, testified as follows:

20 State your name for the record.

21 THE WITNESS: Harold Mack Kennedy, III.

DIRECT EXAMINATION

22
23 BY MR. CORBETT:

24 Q. Investigator Kennedy, good morning.

25 A. Good morning.

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1 Q. Investigator Kennedy, if you would please tell us
2 for whom do you work?

3 A. Claredon County Sheriff's Office.

4 Q. And how long have you been with the Claredon
5 County Sheriff's Office?

6 A. Eight years.

7 Q. And what is your current duties with the Claredon
8 County Sheriff's Office?

9 A. I work in narcotics.

10 Q. How long had you been in the Narcotics Unit?

11 A. For five years.

12 Q. Investigator Kennedy, I'm going to ask you to
13 turn your attention to February 11, 2009 a case involving
14 Leon Goodman and Cornell Stover. If you would, tell us
15 how you became involved in that?

16 A. On Wednesday, February 11th, we arrested another
17 subject who wanted to cooperate and he told us he could
18 make a phone call to some guy from Sumter and he could
19 deliver some crack cocaine. We got a hotel room at the
20 Quality Inn located here on Main and we got two rooms
21 there.

22 Q. Now, let me ask you, is that here in Claredon
23 County?

24 A. Yes.

25 Q. Please continue.

State versus Leon Goodman

1 A. We got two rooms at the Quality Inn, 229 and 231,
2 side by side. Our CI called a subject ---

3 Q. Let me stop you right there just for a second
4 because you used the word, "CI," tell us what that means?

5 A. Confidential information.

6 Q. Now, at this point who is the confidential
7 informant? Is it the person that was arrested earlier in
8 the day?

9 A. That's correct.

10 Q. So that person was arrested that same day?

11 A. Yes.

12 Q. And then y'all used him as a confidential
13 informant?

14 A. That's correct.

15 Q. Okay, please continue.

16 A. He told us he could make a phone call and have
17 someone deliver crack cocaine to him. He then called a
18 subject that he made purchases for crack in the past. He
19 told us the guy was a black male driving an older model
20 white Nissan Altima or sometimes maybe a green vehicle.
21 He made a phone call to purchase a half ounce of crack
22 cocaine and the subject who we identified as Leon Goodman
23 told the CI it would \$250 for the crack and he would be
24 there in a short while.

25 Goodman and Mr. Stover arrived in a white

State versus Leon Goodman

1 Nissan Altima ---

2 Q. Let me stop you here for just a moment. The
3 phone call that you're talking about, were you present for
4 that.

5 A. I was.

6 Q. And that was the CI placing that call?

7 A. Correct.

8 Q. Now, at this point in time, did you know who was
9 on the other end of that call?

10 A. No, I didn't.

11 Q. Now, at any point in time did the CI call that
12 number again?

13 A. I believe so. I believe he called to find out
14 where they were.

15 Q. And tell us what happened then?

16 A. The CI called and they said they were close and a
17 while Nissan Altima pulled in the parking lot with two
18 black males and blew the horn to let the CI know they were
19 there. At that time, we all came out of the hotel room
20 and the marked unit came out and they took the subjects
21 out of the car and detained them. They searched the car
22 and found crack cocaine in the car.

23 Q. Were you participating in that search?

24 A. Yes, sir, I was.

25 Q. Now, Investigator Kennedy, I'm going to show you

State versus Leon Goodman

1 what's been marked for identification State's Exhibit No.

2 2. I'm going to ask you to take a look at that and tell
3 us if you can identify that?

4 A. That was the crack cocaine found in the vehicle
5 that day.

6 Q. Now, who actually took possession of it from that
7 vehicle?

8 A. I did.

9 Q. Tell us, if you would, where you found it and
10 what you did with it?

11 A. I found it between the driver's seat and the
12 center console. We photographed it and I put it inside of
13 a small evidence bag and we put it in a BEST Kit. We seal
14 it up and we sent it off to the Claredon County lab to be
15 analyzed.

16 Q. Now, let me stop you there for just a moment.
17 Now, this package here has this large clear seal around
18 it, is that one of your bags?

19 A. No.

20 Q. You used the term BEST Kit. Tell us what in
21 there is part of the BEST Kit?

22 A. The envelope with the blue line down the side of
23 it. That's the BEST Kit.

24 Q. When you drop it in there, do you seal it?

25 A. Yes, I do, also with the paperwork, the Chain of

State versus Leon Goodman

1 Custody.

2 Q. Now after you seal it in the bag, what do you do
3 with it?

4 A. I drop it all in the envelope and turn it into
5 the evidence locker at the Sheriff's Office.

6 Q. Is that here in Claredon County?

7 A. Yes, sir.

8 Q. Now, Investigator Kennedy, let me ask you from
9 the time that you seize it until you put it in the plastic
10 bag there that's part of the BEST Kit, did you change the
11 substance in any way -- the sample?

12 A. No, sir.

13 Q. Was anything added or taken away from it?

14 A. No, sir.

15 Q. When you placed it in the BEST Kit clear plastic
16 envelope, was it in substantially the same condition as
17 when you found it in the vehicle?

18 A. Yes, sir.

19 Q. Now, you've indicated there were two individuals
20 in the car; is that correct?

21 A. Correct.

22 Q. Do you see either or both of those individuals
23 here today?

24 A. Mr. Stover is here.

25 Q. Where is Mr. Stover?

State versus Leon Goodman

1 A. Over there.

2 Q. In the blue sweater?

3 A. Yes, sir.

4 Q. Now, you indicated another individual was
5 arrested?

6 A. Yes, sir.

7 Q. Who was that?

8 A. Leon Goodman.

9 Q. And how do you know that was Leon Goodman that
10 you arrested?

11 A. He gave us that name at the time of arrest and we
12 compared it with DMV photos.

13 Q. Were you able to produce a photo of Mr. Goodman?

14 A. I was.

15 Q. Do you have that with you?

16 A. Yes, I do.

17 Q. Now, the photograph here, is that the individual
18 that was arrested that day?

19 A. Yes, sir.

20 MR. CORBETT: Your Honor, at this time we
21 would offer the photograph of Leon Alonzo Goodman at
22 State's Exhibit No. 3.

23 THE COURT: What says the defense?

24 MR. ROBINSON: Your Honor, I would object to
25 that coming in. I don't think the proper foundation has

State versus Leon Goodman

1 been laid for the admission of that photograph.

2 THE COURT: I will allow the exhibit in over
3 the objection.

4 (Photograph marked as State's Exhibit No. 3
5 for identification and admitted into evidence.)

6 BY MR. CORBETT:

7 Q. Mr. Kennedy, I'm going to ask you to refer back
8 to that photograph again, if I may. Now, it's got the
9 name Leon Goodman attached to that photograph; is that
10 correct?

11 A. Yes, sir.

12 Q. And that's what you placed on there, correct?

13 A. Right.

14 Q. Now, where were you able to obtain this
15 photograph from?

16 A. DMV website. We are able to pull up the driving
17 records and the driving photograph.

18 Q. So as part of law enforcement, you have access to
19 DMV records?

20 A. Yes, sir.

21 Q. And those records contain Mr. Goodman's
22 identifying information?

23 A. Yes, sir.

24 Q. Now, where were you when the car arrived?

25 A. Inside the room.

State versus Leon Goodman

1 Q. Now, you had testified a little bit earlier that
2 the confidential had placed, I believe you said, two phone
3 calls to the phone number.

4 A. Yes.

5 Q. But at that point in time you didn't know who was
6 in the other end of the phone?

7 A. Yes, sir.

8 Q. Did you have occasion to call that phone number?

9 A. I did after they were arrested I believe I called
10 it when I was up in the room.

11 MR. ROBINSON: Your Honor, I'm going to
12 object to that. This is information that has not been
13 provided to us in the file.

14 THE COURT: Y'all come up here.

15 (Whereupon, there was a bench conference.)

16 Solicitor, you may proceed.

17 BY MR. CORBETT:

18 Q. Investigator Kennedy, we were talking a few
19 moments ago about the arrest of Mr. Goodman and Mr. Stover
20 there that day and I had asked you about the phone number.
21 I asked you did you have occasion to call the number that
22 day. Did you?

23 A. Yes.

24 Q. Which number did you dial?

25 A. 803-651-6994.

State versus Leon Goodman

1 Q. And where did that number come from?

2 A. That's the number that the CI had given us he had
3 called.

4 Q. When you dialed that phone number, what happened?

5 A. The phone rang from Mr. Goodman.

6 Q. Now, Investigator Kennedy, you had previously
7 indicated in your testimony that you arrested an
8 individual that morning that began to act in the capacity
9 of a CI and called a different individual.

10 A. That's correct?

11 Q. Your testimony also is that you been in the drug
12 unit for about five years?

13 A. Yes.

14 Q. Is this normal practice?

15 A. It is normal practice dealing with narcotics.

16 MR. CORBETT: One moment, please, Your Honor.

17 Investigator Kennedy, please answer any
18 questions these gentleman have.

19 CROSS-EXAMINATION

20 BY MR. ROBINSON:

21 Q. Good morning, Investigator Kennedy, how are you
22 doing?

23 A. Fine.

24 Q. I'm going to ask you some questions about this
25 case. First of all, I believe you testified on direct

State versus Leon Goodman

1 examination that you had a confidential informant that
2 wanted to cooperate.

3 A. Yes, sir.

4 Q. The confidential informant didn't approach you
5 and say Agent Kennedy didn't approach you and say, Agent
6 Kennedy, I would like to assist you in apprehending some
7 drug dealers, did he?

8 A. No, sir.

9 Q. The wanting to cooperate came, basically, after
10 the fact that he had busted and was looking at jail time?

11 A. Correct.

12 Q. And he was charged with the same crime that you
13 had charged Mr. Goodman and Mr. Stover with; is that
14 correct?

15 A. Yes, sir.

16 Q. Now, you referred to him as a confidential
17 informant; is that correct? What is the street name for a
18 CI?

19 A. Snitch, I guess.

20 Q. Have you ever heard of the term rat?

21 A. Yes, sir, I have.

22 Q. And so you took this individual and you basically
23 said you've got two choices; either we can take you to
24 jail for what you've just done or you can help us bust
25 somebody else.

State versus Leon Goodman

1 A. Right.

2 Q. Now, when you say he was, and I use the term
3 cooperate loosely, after he answered your request to help
4 himself by helping y'all, who handled that procedure? In
5 other words, did y'all give him direction and say okay,
6 we're going to this motel room, we're going to make a
7 phone call, this is how we're going to do it? Did y'all
8 set the parameters for him?

9 A. Yes, sir.

10 Q. Everything that he did was under your direction
11 and under control?

12 A. The drug unit.

13 Q. Under law enforcement. He wasn't acting
14 independently, he was acting under the direction of law
15 enforcement?

16 A. Yes, sir.

17 Q. Did he give you the name of Leon Goodman?

18 A. No, sir.

19 Q. Did he give you the name of Mr. Stover?

20 A. No, sir.

21 Q. He just dialed a phone number?

22 A. He didn't know his name, he just knew the person
23 from in the past who he purchased some crack.

24 Q. So he dialed a phone number and nobody knows who
25 was on the other end of this phone by name?

State versus Leon Goodman

1 A. Right.

2 Q. Was there anything done to identify the ownership
3 of this phone?

4 A. No, sir.

5 Q. And this happened almost a year ago?

6 A. Yes, sir.

7 Q. How many officers were involved in this
8 operation?

9 A. Six or seven.

10 Q. And during this year's time, none of y'all have
11 contacted any of the phone companies or anybody else to
12 verify this phone number?

13 A. No, sir.

14 Q. Did you check the phone number that was perhaps
15 registered to the same person who owned this vehicle?

16 A. No, sir.

17 Q. Would that have raised your level of suspicion
18 any?

19 A. It was a prepaid cell phone so there's no name
20 associated with that number.

21 Q. Correct me if I'm wrong, that's an assumption on
22 your part? You don't know if the phone was through
23 Verizon or anybody else, you have no idea?

24 A. Yes.

25 Q. So when the vehicle pulled up -- the rooms that

State versus Leon Goodman

1 y'all were in I think it was 229 and 231?

2 A. Yes, sir.

3 Q. Those were second floor rooms; is that correct?

4 A. Yes.

5 Q. Approximately how high off the ground?

6 A. Second story is 10, 15 feet or so.

7 Q. And are the rooms, you don't open the door and
8 step off the balcony, do you?

9 A. No.

10 Q. There's a breezeway or a sidewalk or something
11 and it's covered?

12 A. Yes.

13 Q. How far is the door to that room from the end of
14 that breezeway or that balcony? I guess it's got a rail
15 on it?

16 A. A few feet.

17 Q. From me to the rail is right there or a little
18 bit closer?

19 A. Yes, sir.

20 Q. And that's concrete?

21 A. Yes.

22 Q. And then there is some sort of rail. Is it a
23 metal rail that you can see through?

24 A. Yes, sir.

25 Q. Are you kind of in the middle of the motel, one

State versus Leon Goodman

1 end or the other?

2 A. The far end.

3 Q. The far end away from 95 -- away from 261?

4 A. Yes, sir.

5 Q. So y'all were kind of in the back corner, second
6 floor of the motel?

7 A. Right.

8 Q. And how did the window of that particular room
9 face the parking lot? Does the parking lot come straight
10 on? It actually comes down the side, doesn't it? If you
11 look straight out, you can see a small portion of the
12 parking lot?

13 A. Right.

14 Q. So and I know this is the crazy of question but
15 sense y'all have the burden of proof, I'll ask it, do you
16 know approximately what angle or view there was from the
17 motel room down into the parking lot? I mean it's not a
18 clear line of sight like I'm looking at you now. You're
19 looking down and over into the parking lot?

20 A. The view if through the railing.

21 Q. Through the railing. Do you have an estimate of
22 how far the parking space would be from the room? I know
23 it's about 10 feet below and several feet out?

24 A. About 10 or 15 feet out.

25 Q. Do you know the weather conditions that day? Was

State versus Leon Goodman

1 it a cloudy day?

2 A. It was a clear sunny day.

3 Q. And what time of day was it?

4 A. Around noon, I believe.

5 Q. So the sun was basically straight overhead?

6 A. Yes.

7 Q. Were the windows on this white Altima, were they
8 tinted windows?

9 A. I don't recall.

10 Q. We got the sun bright clear sunny day straight
11 overhead, the car is pulling in, I guess there's some
12 glare from the windshield?

13 A. I'm sure there probably was.

14 Q. So when the CI said, that's them, did he say
15 that's Mr. Goodman and Mr. Stover? Was he identify the
16 car or do you know what he meant by that's them?

17 A. He identified the vehicle and inside the vehicle
18 is the guy he called.

19 Q. He believed that?

20 A. Yes, sir. They blew the horn when they pulled
21 in.

22 Q. You thought that was the vehicle because it was a
23 white car and the horn blew?

24 A. Yes, sir.

25 Q. No other questions were asked just boom?

State versus Leon Goodman

1 A. A white Nissan Altima and they blew the horn when
2 they got to the room and there weren't any other cars in
3 the parking lot -- at that end of the parking lot.

4 Q. So that's when the Malay ensued. Y'all snatched
5 them out of the car, handcuffed them, put them on the
6 ground?

7 A. I don't think we put them on the ground but I
8 don't recall.

9 Q. Is it possible that you put them on the ground?

10 A. Possible but I don't recall.

11 Q. You were kind of intent on searching the car?

12 A. Right.

13 Q. Because you searched the car?

14 A. Right.

15 Q. Do you know who searched them individual?

16 A. I do not recall that.

17 Q. And by them I mean Mr. Stover and Mr. Goodman?

18 A. Right, I don't recall.

19 Q. You didn't personally search them?

20 A. I may have. I don't recall.

21 Q. You didn't find any drugs because you would
22 remember that, wouldn't you?

23 A. Right.

24 Q. Now, I think Mr. Corbett asked you about the BEST
25 Kit. I asked this yesterday, but I'll ask it again, this

State versus Leon Goodman

1 is to maintain the chain of custody and make sure there
2 are no breaks or no questions about where it came from,
3 where it went who had access to it and that kind of stuff?

4 A. Right.

5 Q. These details are very important in these kind of
6 cases, right?

7 A. Yes.

8 Q. And y'all have kind of made note -- if y'all like
9 me, you talk to somebody in February of 2009 and in
10 January of 2010 you had to have made some kind of notes to
11 recall all the details; is that correct?

12 A. Yes.

13 Q. So y'all maintain pretty accurate notes?

14 A. Yes.

15 Q. Times, dates, places, names, things of that
16 nature.

17 A. Yes.

18 Q. And y'all actually prepared some notes on this
19 particular case, correct?

20 A. Yes.

21 Q. Now, in your notes you refer to the place, the
22 motel name, the room number, the phone number that was
23 called, the identify of the two suspects; is that correct?

24 A. Yes.

25 Q. The amount of cash that was taken off of them.

State versus Leon Goodman

1 A. Yes.

2 Q. And other details that are listed -- the officers
3 present.

4 A. Yes.

5 Q. And you prepared some evidence sheets. When you
6 turn something into evidence, you write down an evidence
7 sheet of what you turned in and sign the bottom of it and
8 that becomes part of the chain of custody.

9 A. Right.

10 Q. Now, isn't it true that in those narrative, in
11 your notes and those evidence sheets, no where other than
12 from your testimony this morning, there is no reference to
13 the cell phone after the CI called?

14 A. Right.

15 Q. You didn't make any reference to that in your
16 narrative?

17 A. That's right.

18 Q. You gave a chronological sequence of what
19 happened?

20 A. That's right.

21 Q. What you seen, what you found, the money, and
22 y'all actually took some pictures?

23 A. Right.

24 Q. No where in any of that information is
25 information about this cell phone?

State versus Leon Goodman

1 A. Yes.

2 Q. There's no written information or documentation
3 that you called the cell phone?

4 A. Right.

5 Q. Or that it rang?

6 A. Right.

7 Q. Or that it was taken into evidence?

8 A. It was taken into evidence.

9 Q. So the first time today after we questioned the
10 link of the cell phone, you mention that today?

11 A. Yes, sir.

12 Q. There's no photographs of this cell phone?

13 A. No.

14 Q. No link or no information that it was recovered
15 from either one of these suspects?

16 A. We didn't turn them in as recovered but it stayed
17 with them the whole time as personal property.

18 Q. You took the personal property from him, didn't
19 you?

20 A. (Inaudible).

21 Q. You searched and took their money but not their
22 phone.

23 A. We confiscated the drugs.

24 Q. But today, again, is the first time we had that
25 mentioned?

State versus Leon Goodman

1 A. Yes.

2 Q. And that's important to the State's case to link
3 that phone to Mr. Goodman?

4 A. Yes.

5 Q. Because beyond that we don't have a clue, we
6 don't have a clue who was on the other end of that phone?

7 A. We have a recorded phone call.

8 Q. Y'all have any fancy FBI voice identification or
9 stuff like that, do you?

10 A. No.

11 Q. And you've already told me that the CI didn't
12 know who they were talking to on the other line?

13 A. Right.

14 Q. And y'all didn't know who he was talking to?

15 A. Right.

16 Q. And Mr. Stover or Mr. Goodman wasn't the target
17 of any ongoing investigation, right?

18 A. Right.

19 Q. Law enforcement itself did not have any knowledge
20 of any prior drug dealings by Mr. Stover nor Mr. Goodman?

21 A. (Inaudible).

22 COURT REPORTER: I didn't understand.

23 THE WITNESS: Suffolk County.

24 BY MR. ROBINSON:

25 Q. This was a purchase of narcotics initiated by law

State versus Leon Goodman

1 enforcement via confidential informant.

2 A. Yes, sir.

3 Q. To someone that y'all had absolutely no record,
4 no history or no knowledge of ever being involved in drugs
5 before?

6 A. A lot of drugs in that county.

7 Q. You did not observe them commit any crime when
8 they pulled into the motel parking lot? They weren't
9 speeding, they didn't have guns hanging out the window
10 shooting, they weren't playing their music too loud? It
11 was based on what the CI said, that's them.

12 A. Yes.

13 Q. And the drugs weren't found on either one of
14 their person?

15 A. The car they were in.

16 Q. The car that was registered to somebody else.
17 Ernestine Stoker, does that sound right?

18 A. Yes, sir.

19 Q. And that's a fact; is that right?

20 A. Yes, sir.

21 MR. ROBINSON: Thank you. I don't have any
22 further questions.

23 THE COURT: Could you please keep your voice
24 up.

25 CROSS-EXAMINATION

State versus Leon Goodman

1 BY MR. DEVOE:

2 Q. The evidence provided by you to the solicitor and
3 then to us, you stated that you took -- I just want to
4 understand -- you say you took the money and the drugs
5 from the defendants?

6 A. Yes.

7 Q. And your discovery, you listed how much money and
8 the drugs?

9 A. Yes, sir.

10 Q. How much money was taken?

11 A. \$443 from Mr. Stover and \$185 was found in
12 Mr. Goodman's pants and \$200 was sitting in the center
13 console.

14 Q. I didn't see the \$443 from Mr. Stover.

15 A. It was returned.

16 Q. As far as you're concerned it had nothing to do
17 with any drug transactions at all, correct?

18 A. That's right.

19 Q. Now, on your narrative you list various people
20 and things, Mr. Goodman being this and being that, are you
21 saying that you CI did not know who he was talking to on
22 the telephone?

23 A. (Inaudible).

24 Q. Did he tell you had prior transactions with the
25 other defendant, Mr. Goodman.

State versus Leon Goodman

1 A. Yes. He didn't know his name he just had prior
2 transactions.

3 Q. Did he tell you of any prior transactions with
4 Mr. Stover?

5 A. No, sir.

6 Q. So Mr. Stover when he came to that Quality Inn,
7 were you surprised there were two people in the car?

8 A. It's not uncommon, it could be more.

9 Q. There could be 10 but that's not my question. You
10 expect Mr. Goodman, when you figured out that was the
11 name, and anyone else with him?

12 A. Yes, usually we would expect someone else to be
13 with him. It's very common.

14 Q. Usually when a CI makes a buy, he makes it with
15 one person, doesn't he? He doesn't buy from someone he
16 doesn't know?

17 A. He had done that before.

18 Q. He had done that before. And this CI that you
19 are talking about was arrested that day for selling?

20 A. Yes, sir.

21 Q. He was arrested before for selling?

22 A. Yes. He was arrested for possession.

23 Q. He was arrested before on drug charge. How many
24 times was he arrested for drug selling or buying or
25 whatever?

State versus Leon Goodman

1 A. I'm not sure off the top of my head.

2 Q. And he is considered a reliable CI, no problem?

3 A. Reliable as a confidential informant.

4 Q. Could have been relied on the past?

5 A. Yes, before, before he made buys, yes, he was
6 reliable up until that point.

7 Q. It was an off again, on again, and it kept on
8 going for how many years?

9 A. A year-and-a-half, two years, I'm not sure off
10 the top of my head.

11 Q. The other street name by the way is snitch?

12 A. I heard that earlier.

13 Q. When you kept the drugs, were you wearing gloves
14 that day?

15 A. I don't know.

16 Q. So you found a package in the car, you didn't try
17 to check for fingerprints

18 A. No, we didn't try to check for fingerprints?

19 Q. You don't know if you wore drugs?

20 A. I don't know if I had them that day.

21 Q. Would that prevent any other fingerprints on the
22 package?

23 A. Yes, sir.

24 Q. Did you ever check into the ownership of the car.

25 A. We checked the DMV records.

State versus Leon Goodman

1 Q. You know the name, but did you ever check that
2 person?

3 A. Check who she was?

4 Q. Who the person was? Was she ever involved in
5 that or that she has a prior record.

6 A. No, I didn't.

7 Q. So it's possible she could have been the drug
8 person but it's possible, isn't it?

9 A. I possible.

10 Q. Your eyes are 15 feet above the ground?

11 A. Yes, sir.

12 Q. Was the car facing the building when it drove up?

13 A. Yes, sir.

14 Q. And if there's a sidewalk there and the car
15 turned it would be about seven foot or six feet, wouldn't
16 it?

17 A. Yes.

18 Q. You could see into the window of the car?

19 A. Yes, sir.

20 Q. And you say that the CI looked into the window of
21 the car and said, that's him or that's them?

22 A. He said that's him.

23 Q. It's a question of them versus him.

24 A. I don't know exactly what he said.

25 Q. Did you talk to Mr. Stover after the arrest?

State versus Leon Goodman

1 A. I'm sure if I did.

2 Q. Somebody talked to him. Was he interrogated.

3 A. They asked him if he would cooperate and he said
4 no?

5 Q. He said no?

6 A. Yes, sir.

7 Q. Did Mr. Stover tell you he had nothing to do with
8 anything.

9 A. Yes.

10 Q. He did say that.

11 MR. CORBETT: Objection, Your Honor.

12 THE COURT: On what grounds?

13 MR. CORBETT: Hearsay, Your Honor.

14 THE COURT: Did he talk to you?

15 THE WITNESS: He didn't talk to me
16 specifically but he did talk to some officers there. I'm
17 certain of that.

18 BY MR. DEVOE:

19 Q. Was that conversation transcribed?

20 A. No, sir.

21 Q. Taped?

22 A. No, sir. We asked him if he wanted to cooperate
23 for some time and he didn't. He took the 5th.

24 Q. But you're saying he did say something to you; is
25 that right?

State versus Leon Goodman

1 A. Yes.

2 MR. DEVOE: Nothing further, Your Honor.

3 MR. CORBETT: Nothing further.

4 THE COURT: Ladies and gentlemen, we're going
5 to talk about a 10 minute break. I remind you please
6 don't discuss the case.

7 (Whereupon, there was a brief break.)

8 THE COURT: Solicitor, call your next
9 witness.

10 MR. CORBETT: The State calls Barbara
11 Crawford.

12 THE CLERK: Place your left hand on the Bible
13 and raise your right hand.

14 BARBARA CRAWFORD, having been duly sworn,
15 testified as follows:

16 State your name for the record.

17 THE WITNESS: Barbara Crawford.

18 DIRECT EXAMINATION

19 BY MR. CORBETT:

20 Q. Ms. Crawford, good morning.

21 A. Good morning.

22 Q. Speak up a little for me please.

23 A. All right.

24 Q. Tell us by whom are you employed?

25 A. Claredon County Sheriff's Office.

State versus Leon Goodman

1 Q. And how long have you been with the Claredon
2 County Sheriff's Office?

3 A. March will be 13 years.

4 Q. And what are your duties with the Claredon County
5 Sheriff's Office?

6 A. My main duties is evidence custodian.

7 Q. Have you done other jobs at the Sheriff's
8 Department as well?

9 A. Investigator Coordinator so I handle all the case
10 files for the investigators, search warrants, things like
11 that.

12 Q. You were telling us a little bit about you are
13 evidence custodian. What do those duties include?

14 A. I have to maintain the care and chain of custody
15 and control of all of the evidence that's turned in by all
16 of the officers that work for the Sheriff's Office,
17 transport to and from SLED if it needs to go, to and from
18 the lab for analysis if it needs to go, to and from court
19 and the whole time I have to have complete control of it.

20 Q. Let me specifically about drug evidence, if
21 officers turn in drug evidence, how do they turn it in?

22 A. It's turned in, in a BEST Kit to go and be
23 analyzed.

24 Q. Is it handed to you or how is it normally done?

25 A. We have lockers. If I'm in the office normally

State versus Leon Goodman

1 during the day time, they can bring it directly to me. 99
2 percent of the time it's placed in evidence, lockers that
3 we have on the outside. It's lockers with keys, the
4 officer opens the locker, puts the evidence in, closes it,
5 locks it and then there's a hole that they drop the key in
6 and I'm the only one with access to that.

7 Q. Now, I'm going to show you what's been marked for
8 identification as State's No. 2 and I'm going ask you if
9 you can identify what this is?

10 A. This is the BEST Kit turned in by Agent Kennedy.

11 Q. And, if you would please, tell us the procedure
12 by which you came into contact with that Kit?

13 A. Agent Kennedy put this in the evidence locker
14 2-11-09 at 6:50 p.m. I took it out of the locker at
15 2-13-09 at 1:40 p.m. and brought it into the evidence
16 room.

17 Q. When you take it out of the evidence locker, do
18 you look at it, examine it or anything of that nature?

19 A. When I'm preparing it to go for analysis, I have
20 paperwork I fill out so at that time I take it out.

21 Q. Well, let me ask it this way, when you got it out
22 of the evidence locker, was it in this clear bag here?

23 A. No.

24 Q. What bag was it in?

25 A. The one that says Sumter County Sheriff's Office

State versus Leon Goodman

1 inside -- that's the bag that I see but this bag is inside
2 of the brown envelope. It has BEST Kit and a BEST Kit
3 number and that's how it's identified by a control number.

4 Q. Let me refer to the bag contained in that sealed
5 envelope with blue edges, is that what the evidence would
6 be sealed in when you received it?

7 A. This bag is what it's sealed in, the one that's
8 inside with the green line across it. That let's ne know
9 that it is sealed and it has not been tampered with once
10 it was put in the locker. This is the condition is in and
11 when I carry it to Sumter, it's in the same condition.

12 Q. Now, you retrieve it out of the evidence locker
13 and before you take it -- first let me ask you this
14 question, where did you take that particular evidence bag?

15 A. It goes to the Sumter County Sheriff's Office to
16 the chemist drop box is where I put it.

17 Q. Are you the person who took it there?

18 A. I did.

19 Q. Now, are you able to tell us if that bag was
20 sealed when you took it to Sumter County?

21 A. Yes.

22 Q. When you retrieved it to the evidence locker and
23 you delivered it to SLED, it was in the same condition
24 between those two points?

25 A. That's correct.

State versus Leon Goodman

1 Q. Did you have occasion to unseal that bag?

2 A. No.

3 Q. Was the seal in tact from the time you received
4 it until the time it was delivered to Sumter?

5 A. It was.

6 Q. Now, at some point in time -- let me back up just
7 a moment. So you deliver it to Sumter; is that correct?

8 A. Right.

9 Q. Now, at some point in time it comes back to you
10 from Sumter?

11 A. Right.

12 Q. How does that happen?

13 A. I pick it up.

14 Q. And in what form is it when you pick it up from
15 Sumter County?

16 A. Just like this in a sealed bag with his lab
17 number on it, with the same BEST Kit number on it.

18 Q. So that package was sealed in Sumter County?

19 A. Yes.

20 Q. Now, from the time you had retrieved it from
21 Sumter County, have you had occasion to open it?

22 A. No.

23 Q. Is it in substantially the same condition today
24 as it was when you picked it up in Sumter County?

25 A. It is.

State versus Leon Goodman

1 Q. And where has it been kept since you picked it up
2 from Sumter County?

3 A. It's actually -- I put it all in a bigger
4 envelope than this so that it is not damaged and place our
5 case number in the file so that I am able to access it.

6 Q. And where is that location?

7 A. It's locked in a back room of my office in the
8 evidence room.

9 Q. And you indicated that's a secure room?

10 A. Right, I'm the only one with the key to that
11 room.

12 MR. CORBETT: Your Honor, at this time the
13 State would move into evidence the Exhibit No. 2 which has
14 previously been marked for identification.

15 THE COURT: What says the defense?

16 MR. ROBINSON: No objection.

17 MR. DEVOE: No objection.

18 THE COURT: Without objection.

19 (Drugs previous marked as State's Exhibit No.
20 2 for identification was admitted into evidence.)

21 BY MR. CORBETT:

22 Q. Ms. Crawford, you've indicated to us that you're
23 the evidence custodian, you have handled and stored that
24 particular item; is that correct?

25 A. That's correct.

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1 Q. Were you actually involved in the actual incident
2 itself?

3 A. No, I was not there.

4 Q. So you weren't present at the scene or anything
5 of that nature?

6 A. No, I was not.

7 Q. You didn't participate in any follow-up
8 investigation or anything of that nature?

9 A. No, sir.

10 Q. In this particular case, you were the evidence
11 custodian?

12 A. That is correct.

13 MR. CORBETT: That's all the questions I
14 have. Thank you.

15 MR. ROBINSON: I don't have any questions.

16 THE COURT: Mr. Devoe.

17 MR. DEVOE: I have one questions, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. DEVOE:

20 Q. Do you wear gloves when you handle this kind of
21 evidence?

22 A. Yes, sir.

23 MR. DEVOE: No further questions.

24 THE COURT: You can step down.

25 MR. CORBETT: Judge, may we approach briefly?

State versus Leon Goodman

1 THE COURT: Yes.

2 (Whereupon, there was a bench conference.)

3 Call your next witness, Solicitor.

4 MR. CORBETT: The State calls Burnell
5 Blanding.

6 THE CLERK: Place your left hand on the Bible
7 and raise your right.

8 BURNELL BLANDING, having been duly sworn,
9 testified as follows:

10 State your full name for the record.

11 THE WITNESS: Burnell Blanding.

12 DIRECT EXAMINATION

13 (first part of testimony missing)

14 Q. As a matter of fact, you're in some trouble
15 yourself; is that right.

16 A. Yes, sir.

17 Q. And the bottom line is you're trying to help
18 yourself out today?

19 A. Yes, sir.

20 Q. Now, Mr. Blanding, I want to turn your attention
21 back to February 11th of last year. Did you get arrested
22 that day?

23 A. Yes, sir.

24 Q. What did you get arrested for?

25 A. Drugs.

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1 Q. At that point in time were you involved in buying
2 crack cocaine?

3 A. Yes, sir.

4 Q. Now, where did they take you that day?

5 A. To the motel around the Waffle House.

6 Q. Mr. Blanding, what did they have you do when you
7 got there?

8 A. Make a phone call.

9 Q. Who did you make a phone too?

10 A. I didn't know the name at first but Leon Goodman.

11 Q. How did you know to make a phone call to this
12 person?

13 A. Because I was dealing with him.

14 Q. Now, prior to this day, how long had you been
15 dealing with him?

16 MR. ROBINSON: Your Honor, I'm going to
17 object to the relevance of that question and also prior
18 bad acts.

19 THE COURT: Y'all approach.

20 (Whereupon, there was a bench conference.)

21 (Whereupon, jury exits the court room.)

22 MR. CORBETT: Your Honor, if I may, I was
23 beginning to ask him questions about his prior involvement
24 with the defendant and there was an objection interposed
25 as to prior bad acts. The primary purpose in my question

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1 was to demonstrate that this witness had personal
2 knowledge of the defendant. That's the primary purpose of
3 the question, but secondary to that, his testimony
4 regarding his prior dealings with the defendant, in this
5 particular instance Goodman, are admissible and are
6 relevant as to the course of conduct, et cetera.

7 THE COURT: Go ahead and ask the question and
8 we'll see where it goes.

9 BY MR. CORBETT:

10 Q. Mr. Blanding, you indicated a few moments ago
11 there was an individual that you dealt with over some
12 period of time?

13 A. Yes.

14 Q. At that point in time you did not know him by his
15 name?

16 A. No, sir.

17 Q. Prior to this day, how long have you been -- and
18 for right now I'm going to use the words dealing with him
19 -- dealing with him prior to this day?

20 A. About three months.

21 Q. And what was the nature of your contacts with
22 him?

23 A. Dealing.

24 Q. And when you say dealing, what do you mean?

25 A. Drugs..

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1 MR. ROBINSON: Now, I need to object at this
2 point. The proper testimony has been discussed and I will
3 have objection to that kind of testimony coming in. I
4 don't think that's relevant to him knowing what type of
5 contact.

6 (Jury exits the courtroom.)

7 THE COURT: What's your position on that?

8 MR. CORBETT: Your Honor, I believe that
9 shows a common scheme or plan it's how he knew how to call
10 this individual.

11 MR. ROBINSON: Your Honor, common scheme or
12 plan is if Mr. Blanding was involved with this hand of
13 one, hand of all and there was a conspiracy charge. My
14 client has been charged with PWID crack cocaine, what hand
15 does that have anything to do with the other one? Prior
16 to my -- my concern here: No. 1, is prior bad acts and No.
17 2 an attempt to back door the fact that my guy is not here
18 to testify and or at least make it appear that he has some
19 prior criminal record or criminal involvement. I think
20 that's no necessary at all to establish identification,
21 the frequency of the contact whether it's by phone or in
22 person, witnessing a drug deal or arrest I don't think
23 it's relevant.

24 THE COURT: I kind of agree with Mr. Robinson
25 at this point that I don't know that prior drug dealings

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1 is going to be admissible. The question at this point is
2 his prior knowledge and identity, so I don't think prior
3 drug sales is going to be admissible under the common
4 scheme or plan as far as Lyles is concerned. Of course, I
5 don't know the dates or times and it has to be a lot
6 closer in time than just prior drug deals.

7 So you need to solve the identification, how
8 he knew him, and leave out the drug part unless you know
9 something I don't know that this happened that day that he
10 was going to get additional drugs or something.

11 MR. CORBETT: Judge, may I proffer a couple
12 of additional things?

13 THE COURT: Yes.

14 BY MR. CORBETT:

15 Q. Mr. Blanding, on the particular day that the
16 police already had you placed under arrest and offered you
17 the opportunity to help yourself, did you call who you now
18 understand to be Mr. Goodman at that time?

19 A. Yes.

20 Q. When you called him, what did you ask him for?

21 A. I want to buy a half ounce.

22 Q. When you say a half ounce, a half ounce of what?

23 A. Crack cocaine.

24 MR. ROBINSON: Your Honor, just to clarify,
25 could we read that back exactly the way that was worded?

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1 Here's my question, did Mr. Blanding just say what did he
2 mean you said that or what did he say. There is a CD of
3 phone conversation and my recollection of exactly what was
4 said is different than what Mr. Blanding just said. Now,
5 Mr. Corbett just asked him what meant when he said that,
6 that's fine ---

7 THE COURT: My recollection is asked him what
8 meant.

9 MR. ROBINSON: That's fine. I can't object
10 to that, but if he's asking him what he said, we got a
11 Best Evidence issue. He did not mention the word crack
12 cocaine from my recollection of the voice CD.

13 MR. CORBETT: I'm trying to remember exactly
14 how I phrased it but I think I said what did you mean by a
15 half ounce.

16 MR. ROBINSON: And again ---

17 THE COURT: Well, ask the question again.

18 BY MR. CORBETT:

19 Q. Mr. Blanding, when you placed the phone call what
20 did you ask for?

21 A. Crack cocaine, half ounce.

22 Q. A half ounce.

23 MR. ROBINSON: And I would object to that,
24 Your Honor, because that's not what he said on the phone.
25 He asked for a half, not, a half ounce of crack cocaine,

State versus Leon Goodman

1 not crack cocaine and we've got the Best Evidence Rule.
2 We've got an audio tape that speaks for itself and I don't
3 want him cleaning that up or bolstering himself as a
4 witness for the State's case as to what he meant to say.
5 I think the tape speaks for itself and any comment on that
6 by him is contrary to exactly verbatim of what's on that
7 audio as to what it said, not what he meant but what he
8 said.

9 THE COURT: I don't know that that exists.
10 It's not in evidence and if he says something different on
11 the stand that you think he said that day and you have
12 evidence he said something different, that's certainty
13 something you can impeach him by. I don't have an audio
14 tape into evidence right now.

15 MR. ROBINSON: I understand and I'll withdraw
16 that objection.

17 THE COURT: All right, go ahead.

18 BY MR. CORBETT:

19 Q. When you say a half, what does that mean?

20 A. Crack cocaine.

21 Q. Now, Mr. Blanding, the individual that you had
22 previously dealt with, did you know anything about the
23 type of vehicle that they were commonly in or drove?

24 A. Yes.

25 Q. And what type of vehicle that you had seen

State versus Leon Goodman

1 before?

2 A. It was a white -- I can't remember the name of it
3 -- and it was a green car.

4 MR. CORBETT: Your Honor, is it my
5 understanding of the Court's ruling that it would be
6 appropriate for me -- necessary for the Court not to
7 testify to prior drug offense actions but just prior
8 dealing.

9 THE COURT: Do you understanding that?

10 MR. ROBINSON: Your Honor, I hate to be
11 hypothetical with the word dealings, drug dealings. I
12 think if the Court would instruct if he had contact.

13 THE COURT: You can talk about prior contact
14 with him but not about drug dealing. Because under our
15 rules of evidence the fact that he may or may not did any
16 criminal activity in the past can not be used to prove
17 this, so don't refer to any past dealings you may have had
18 with him unless you are asked by the defense, but if
19 Mr. Corbett ask you that, you can't talk about it. Do you
20 understand?

21 THE WITNESS: Yes, sir.

22 MR. CORBETT: Your Honor, there are
23 additional questions for this witness but as to the
24 proffer as Mr. Robinson's objection, I believe those are
25 all the questions that I have.

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1 THE COURT: All right. Anything before we
2 bring the jury in?

3 MR. ROBINSON: I just want to make sure that
4 doesn't become an issue.

5 THE COURT: I'm sure it won't become an
6 issue.

7 MR. ROBINSON: I know you've done all you
8 can, Judge.

9 THE COURT: Based on all the evidence, I've
10 heard I don't think it fits under one of the Lyle
11 exceptions unless he testifies as far as identity as to
12 his prior dealings or prior contact with the defendant in
13 this case. Now, based on cross-examination, if identity
14 becomes a real issue then you may go further. I don't
15 know what your understanding as to cross. But the only
16 thing that fits under my opinion as to Lyle is identity
17 and not common scheme or plan unless that is brought in an
18 somehow connected. I don't know how long that is before
19 that happens but I don't know if that fits under Lyle.
20 Unless we get into identity then maybe the defense wants
21 to get more information about it.

22 All right. Bring in the jury.

23 (Jury re-enters the courtroom.)

24 BY MR. CORBETT:

25 Q. Mr. Blanding, I was asking you a few moments

State versus Leon Goodman

1 about back when you got arrested back on February 11th and
2 the police had taken you to a hotel out near the
3 interstate; is that correct?

4 A. Yes, sir.

5 Q. And you were telling me about placing a phone
6 call that day; is that correct?

7 A. Yes, sir.

8 Q. Now, at this point in time, did you know that
9 person's name?

10 A. No, sir.

11 Q. Had you seen this person before?

12 A. Yes, sir.

13 Q. Prior to this particular day, how far back in
14 time had you had contact about this particular person?

15 A. About three months.

16 Q. And in that three-month period, had you had
17 occasion to personally see them?

18 A. Yes, sir.

19 Q. Tell me how many times per week do you think you
20 saw that person?

21 A. I'd say about eight or nine times.

22 Q. Would you have occasion to see them more than one
23 time in a day?

24 A. Yes, sir.

25 Q. Now, on this particular day, you indicated that

State versus Leon Goodman

1 you had placed a phone call to this individual; is that
2 correct?

3 A. Yes, sir.

4 Q. And when you placed that phone call, what did you
5 ask for?

6 A. Half ounce.

7 Q. Now, when you half ounce, what does that mean?

8 A. (Inaudible).

9 Q. Now, Mr. Blanding, I'm going to show you this and
10 if you can identify that.

11 A. Yes, sir.

12 Q. What is that a picture of?

13 A. The white Altima.

14 Q. And had you seen that car prior?

15 A. Yes, sir.

16 Q. Now, I know it's a little bit difficult because
17 we're talking about an individual that you didn't know
18 their name; is that correct?

19 A. Yes, sir.

20 Q. A few moments ago you were telling us about your
21 contact over the three months with that individual.

22 A. Yes, sir?

23 Q. Had they ever been driving that car?

24 A. One of them.

25 Q. Prior to February 11, 2009, the day you were at

State versus Leon Goodman

1 the motel, had you seen that car before?

2 A. Not that day.

3 Q. Before that day?

4 A. Yes, sir.

5 Q. I'm going to show you what has been marked as

6 State's Exhibit No. 3 and ask you if you can identify

7 that?

8 A. Yes.

9 Q. Now, that picture there, who is that?

10 A. Leon.

11 Q. Now, we've been talking here today about the

12 person you placed the phone call to; is that correct?

13 A. Yes, sir.

14 Q. Now, you said at that time you did not know his

15 name; is that correct?

16 A. Yes, sir.

17 Q. Is that the individual?

18 A. Yes, sir.

19 Q. Now, you have told us here today about having

20 contact with him over the previous three months I believe

21 you said?

22 A. Yes, sir.

23 Q. Is that the individual?

24 A. Yes, sir.

25 Q. Now, you were there at the motel room; is that

State versus Leon Goodman

1 correct?

2 A. Yes, sir.

3 Q. And you indicated that you placed the phone call?

4 A. Yes, sir.

5 Q. Was anyone else present when you did that?

6 A. The officers.

7 Q. What happened after you placed the phone call?

8 A. Sat down and wait for a while and keep calling
9 them, you know, and they finally called back and they said
10 they was at a truck stop and I told him to come to the
11 motel.

12 Q. What happened after that?

13 A. Then he came.

14 Q. Did you leave the motel room?

15 A. No, sir.

16 Q. At any point in time from the hotel or motel
17 room, did you see the individuals inside?

18 A. Yes, I was looking out the window.

19 Q. Do you remember how many individuals there were?

20 A. I just saw the car.

21 Q. Did you recognize the vehicle?

22 A. Yes, sir.

23 Q. Was this a vehicle that you had seen before?

24 A. Yes, sir.

25 Q. On prior occasions when you had seen the vehicle,

State versus Leon Goodman

1 who was in it?

2 A. Just him some times.

3 Q. When you say just him, who are you talking about?

4 A. Leon.

5 Q. The person you identified from the photograph?

6 A. Yes, sir.

7 Q. Just for the record let me identify that that's
8 State's No. 3 that you're referring to.

9 A. Yes, sir.

10 Q. Mr. Blanding, there's no question that you're
11 here today in an effort to help yourself; is that correct?

12 A. Yes, sir.

13 Q. You have some charges pending against you?

14 A. Yes, sir.

15 Q. And your hope is that your testimony and
16 cooperation will make it go easier on you later?

17 A. Yes, sir.

18 Q. Mr. Blanding, please answer any questions these
19 gentleman have.

20 THE COURT: Mr. Robinson.

21 MR. ROBINSON: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. ROBINSON:

24 Q. Mr. Blanding, you said that you were hoping to
25 help yourself in this particular case; is that right?

State versus Leon Goodman

1 A. Yes, sir.

2 Q. What makes you think that somebody's going to
3 help you?

4 A. Help me?

5 Q. Yes. Why do you think you're going to get some
6 help.

7 A. Hoping.

8 Q. You just hoping and praying? Man of faith.

9 A. Yes.

10 Q. Nobody's told you anything about giving you some
11 help?

12 A. No, sir.

13 Q. You just got arrested for drug changes and just
14 volunteered to help?

15 A. They told me that this could help.

16 Q. Could help?

17 A. Yes.

18 Q. What does that mean? What kind of help? Get you
19 a better jail cell, better uniform? What kind of help you
20 looking for?

21 A. Time cut off of something.

22 Q. For what? What charge?

23 A. My charges.

24 Q. What charge?

25 A. The drugs.

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1 Q. Which drug charges?

2 A. Crack cocaine.

3 Q. And what date are they from?

4 A. The same date.

5 Q. The same date. Are you sure?

6 A. Yes.

7 Q. Absolutely positive?

8 A. Positive.

9 Q. Do you know what a RAP sheet is?

10 A. Yes.

11 Q. That's your criminal record, isn't it?

12 A. Yes.

13 Q. And you got one don't you?

14 A. Yes.

15 Q. Have you looked at it? Ever looked at it before?

16 A. No, sir.

17 Q. Do you have an explanation that why on your RAP
18 sheet there are no arrest charges from February 11, 2009
19 and even showing up?

20 MR. CORBETT: Objection, Your Honor.

21 THE COURT: What's the grounds?

22 MR. CORBETT: Your Honor, the grounds are
23 calls for speculation on the part of the witness. It
24 depends on the date that document of produced. It's not
25 under his control or knowledge.

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1 THE COURT: He can testify to his knowledge.

2 BY MR. ROBINSON:

3 Q. Do you have any idea as to why your arrest on
4 February 11, 2009 is not on your RAP sheet?

5 A. (Inaudible).

6 Q. Do you know how a RAP sheet works.

7 A. Yes.

8 Q. Whether you're guilty or not guilty or whatever
9 happens, it goes in a computer, doesn't it?

10 A. Yes.

11 Q. And they print off a sheet off a computer and
12 that's a RAP sheet, right?

13 A. Yes.

14 Q. And on that sheet it shows your pending arrest or
15 your prior convictions, both of them, doesn't it?

16 A. Yes.

17 Q. So you're telling me that you have charges
18 pending against you that took place on February 11, 2009?

19 A. 2009?

20 Q. Yes. That's the date in question. Are you
21 talking about a different date?

22 A. Say that again.

23 Q. What date did you get arrested and decided to
24 help law enforcement.

25 A. That night.

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1 Q. And what date was that?

2 A. I can't remember.

3 Q. You don't remember. February 11, 2009 sound
4 correct?

5 A. Yes, sir.

6 Q. Any explanation you might have as to why your RAP
7 sheet ends on January ---

8 MR. CORBETT: Objection.

9 MR. ROBINSON: -- 2009?

10 THE COURT: What's the objection?

11 MR. ROBINSON: To offer evidence off of this
12 document that this witness has no knowledge of. It's an
13 effort to try to use any document without any type of
14 foundation or basis for it.

15 THE COURT: I understand, but you can ask him
16 a question, but --

17 BY MR. ROBINSON:

18 Q. Let me let you look at that, Mr. Blanding. Take
19 a minute and look at that.

20 Does that look familiar to you?

21 A. Yes, sir.

22 Q. What is it?

23 A. My RAP sheet.

24 Q. Does the arrest from February 11, 2009 appear
25 anywhere on this RAP sheet?

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1 A. I don't see it.

2 Q. Do you see anything on this RAP sheet after
3 January 28, 2009?

4 A. Can I look at it again?

5 Q. And do you see anything anywhere that shows you
6 were arrested after January 28, 2009 according to that
7 sheet.

8 A. No, sir.

9 Q. No, sir. So based on that document and your
10 familiarity with it there's no record that you were
11 arrested on February 11, 2009, is it?

12 A. That's what I see.

13 Q. So how are you trying to help yourself on charges
14 that don't exist?

15 A. I got locked up, though.

16 Q. What happened to your charges?

17 A. I don't know.

18 Q. You don't know. What kind of deal did you get?

19 A. No deal.

20 Q. No deal. There must be something going on.

21 Didn't you tell us a little while ago that you're trying
22 to get some time cut off?

23 A. Yeah.

24 Q. Isn't that a deal?

25 A. I didn't talk to no one.

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1 Q. You didn't talk to a sole, nobody?

2 A. Nobody. Not yet.

3 Q. So let me get this straight, you got arrested and
4 you said hold on a minute, I'll help y'all and you haven't
5 talked to nobody since February 11th about that?

6 A. Nobody.

7 Q. They didn't promise you anything?

8 A. No, sir.

9 Q. They didn't say they was going to help you?

10 A. No, sir.

11 Q. You were just being harassed because you like
12 being harassed?

13 MR. CORBETT: Objection, Your Honor,
14 badgering the witness.

15 THE COURT: Stop badgering the witness.

16 BY MR. ROBINSON:

17 Q. How did you do it?

18 A. I just signed a piece of paper.

19 Q. So you want this jury to believe that despite
20 anything else you may have heard, you're here because of
21 one piece of paper; is that right?

22 A. Uh-hum.

23 Q. You're not trying to help yourself out at all?

24 A. Yes, I'm trying to help out.

25 Q. But nobody's talked about that?

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1 A. Nobody.

2 Q. Nobody's told you, you could help yourself by
3 being here?

4 A. They told me to call him, yes.

5 Q. Do you know why your arrest on that date is not
6 on your record?

7 A. I don't know nothing about that.

8 Q. What do you know, Mr. Blanding? You don't seem
9 to know a whole lot other than what happened on that day
10 and that's it. What would have happened to you if you had
11 not been able to set somebody up?

12 A. I don't know.

13 Q. You don't know. They didn't discuss that with
14 you?

15 A. No, sir.

16 Q. So tell me how -- bring me back a little bit
17 because I'm confused. When you got arrested, how is it
18 that you come to become a CI? Did you put a note in the
19 crack cocaine that you had that said, if you arrest me,
20 I'll be a CI?

21 A. No, sir.

22 Q. Whose idea was it?

23 A. To help myself, that's how it happened.

24 Q. To help yourself by doing what?

25 A. Getting somebody else arrested.

State versus Leon Goodman

1 Q. Getting somebody arrested.

2 A. Yes.

3 Q. Snitching on somebody?

4 A. Yes.

5 Q. Making sure somebody brought you some drugs?

6 A. Yes.

7 Q. So you were willing to do that?

8 A. Yes, sir.

9 Q. But it was law enforcement's idea?

10 A. Yes, sir.

11 Q. And they said you can help yourself by doing
12 that?

13 A. Yes, sir.

14 Q. So that's your deal. If you bring them somebody,
15 they going to help you out.

16 A. Yes, sir.

17 Q. So that's your deal.

18 A. Yes, sir.

19 Q. Are you sure about that?

20 A. Yes, sir.

21 Q. Now, when you said when the car pulled up at the
22 motel, you recognized the car?

23 A. Yes.

24 Q. You didn't know who was in the car?

25 A. I know that Leon was in the car.

State versus Leon Goodman

1 Q. How did you know that?

2 A. I talked to him.

3 Q. You talked to him in the car?

4 A. On the phone.

5 Q. Did he tell you he was in the car?

6 A. By the time I hung up.

7 Q. You don't know who was in the car, do you? You
8 talked to somebody on the phone but you didn't know who
9 was in the car?

10 A. It was Leon.

11 Q. You know that now.

12 A. No, I know he was in the car.

13 Q. I thought that you said on direct examination
14 that you recognized the car?

15 A. Yes.

16 Q. Did you recognize somebody in the car before they
17 pulled out?

18 A. Say again?

19 Q. Did you recognize anybody in the car before the
20 police pulled them out of the car?

21 A. I saw them.

22 Q. You didn't have a clue who was in the car when
23 the car pulled up to the motel, then you got a good look
24 at them when the police pulled them out of the car, right?
25 Or did you get a good look at them.

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1 A. No, I didn't get a good look at them.

2 Q. What did you see?

3 A. Leon Goodman.

4 Q. When did you see Mr. Goodman?

5 A. At the jailhouse?

6 Q. You didn't see them at the motel?

7 A. No, sir.

8 Q. How do you know they was at the motel? Somebody
9 told you didn't they? Law enforcement told you this is
10 the fellas from the motel; isn't that right?

11 A. Nah, they never told me.

12 Q. Then how do you know they were there? Somebody
13 told you?

14 A. They came to the jailhouse.

15 Q. There's a bunch of people in the jailhouse, was
16 all of them was at the motel? How do you know that the
17 picture that you've identified as Mr. Goodman was at the
18 motel?

19 A. They came to the jailhouse, that's all I can tell
20 you.

21 Q. Answer my question, how do you know -- I didn't
22 ask you about the jailhouse. How do you know that that
23 man was at the motel?

24 A. Because I talked to him on the phone.

25 Q. Did you see him at the motel?

State versus Leon Goodman

1 A. No, but I know he was on his way there.

2 Q. Somebody was on their way there, but you said you
3 didn't know his name?

4 A. No, but he was on his way there.

5 Q. And he told you that on the phone?

6 A. Yes.

7 Q. He did. That he told you I'm in the car and I'm
8 on my way there?

9 A. Yes.

10 Q. And you saw the car?

11 A. Yes, sir.

12 Q. You got no idea who was in the car when it got to
13 the motel, did you?

14 A. I don't know who was in the car but I know that
15 was the guy.

16 Q. You don't know who was in the car, but you know
17 it was him. You think it was him because that's what
18 somebody said on the phone, right?

19 A. That's what he said.

20 Q. You don't know that was him in the car because
21 you never saw who was in the car, did you?

22 A. Say again?

23 Q. Did you see anybody in that car when it pulled up
24 to the motel.

25 A. No, sir.

State versus Leon Goodman

1 Q. Thank you. It wasn't that hard for you to
2 remember whether you saw him or you didn't see him. Why
3 is it that hard? You hiding something?

4 A. No, I'm not hiding nothing. Why would I be
5 hiding something?

6 Q. Well, I don't know. You say you have pending
7 charges and you're trying to help yourself out.

8 MR. CORBETT: Objection, Your Honor. That's
9 not a question.

10 MR. ROBINSON: I'll move on, Your Honor.

11 BY MR. ROBINSON:

12 Q. The day that all this went down, you made a phone
13 call to somebody you don't know by name, right?

14 A. Yes.

15 Q. How do you know his name now?

16 A. Police.

17 Q. Police told you.

18 A. Right.

19 Q. And the police told you that was the man that was
20 at the motel and you never saw him, right?

21 A. I saw him at the jail ---

22 Q. You never saw him at the motel on February 11,
23 2009 the day we're talking about, did you?

24 A. Yes.

25 Q. Yes. You did see him at the motel.

State versus Leon Goodman

1 A. No.

2 Q. Okay. All I'm asking you is to tell the truth
3 now. You never saw him at the motel, you don't know his
4 name when you talked to him on the phone, and the only
5 reason you know his name is because it's printing on the
6 bottom of that sheet and the police told you he was,
7 didn't they? Isn't that the truth? You didn't know his
8 name.

9 A. No, I didn't.

10 Q. And you never saw him at that motel.

11 A. No.

12 Q. You saw a white car.

13 A. Right.

14 Q. The phone that you used to make that call from
15 the motel, what phone did you use?

16 A. My phone.

17 Q. Your cell phone?

18 A. Yes.

19 MR. ROBINSON: I don't have any further
20 questions. Thank you.

21 THE COURT: Mr. Devoe.

22 CROSS-EXAMINATION

23 BY MR. DEVOE:

24 Q. I represent the co-defendant, Mr. Stover.

25 A. Yes, sir.

State versus Leon Goodman

1 Q. Before the day in question, February 11th, had
2 you ever seen my client before?

3 A. No, sir.

4 Q. Had you recognized his voice before?

5 A. No, sir.

6 Q. Had you ever talked to him any where?

7 A. At the jailhouse.

8 Q. Were the two of you booked together?

9 A. No, sir.

10 Q. Where did you see him at the jailhouse?

11 A. He was in the hallway.

12 Q. In the hallway. And that's the only time?

13 A. Yes, sir.

14 Q. And were you surprised to see him?

15 A. Yes, sir.

16 MR. DEVOE: I have no further questions.

17 Thank you.

18 THE COURT: Anything further from the State?

19 REDIRECT EXAMINATION

20 BY MR. CORBETT:

21 Q. Mr. Blanding.

22 A. Yes, sir.

23 Q. You have charges pending; is that correct?

24 A. Yes, sir.

25 MR. CORBETT: That's all the questions I

State versus Leon Goodman

1 have.

2 THE COURT: You may step down.

3 (Witness leaves the witness stand.)

4 You may call your next witness.

5 THE CORBETT: Your Honor, the State would
6 call Investigator Donnie Drose to the stand.

7 THE COURT: Please your left hand on the
8 Bible and raise your right to be sworn in.

9 THE CLERK: Step up to the stand.

10 DONNIE DROSE, having been duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. CORBETT:

14 Q. Investigator Drose, good morning. By whom are
15 you employed?

16 A. Claredon County Sheriff's Department.

17 Q. And how long have you been with the Claredon
18 County Sheriff's Department?

19 A. Three years and before that I worked with the
20 seven years with the Mandolin(ph) Police Department.

21 Q. And what section or division at the Sheriff's
22 Department are you currently assigned to?

23 A. I've been in Narcotics since I been with the
24 Sheriff's Department.

25 Q. So February 11, 2009, you would have been in the

State versus Leon Goodman

1 Narcotics Department?

2 A. Yes.

3 Q. And were you involved in the case we've been
4 talking about here for the last few days or so?

5 A. Yes, I was.

6 Q. If you would, please, tell us your involvement?

7 A. On February 11, 2009, we were conducting an
8 operation. We had arrested Mr. Blanding earlier that day
9 for a drug violation. We asked him if he wanted to help
10 us and he said, yes. We then took him to the Quality Inn
11 which was behind the Waffle House in Claredon County. We
12 actually paid for two rooms and I'm going to look at my
13 notes and I think it was 229 and 231 which was on the back
14 side away from I95 in the back corner.

15 When we got to the rooms we asked him who he
16 knew that he could talk to and he said he knew a guy from
17 Suffolk County that he had been dealing with. And he had
18 a number for this individual in his phone.

19 He called this individual from his personal
20 cell phone at 803 365 . That number was in his phone.
21 This was about 11:32 a.m., and he told this individual
22 that he wanted an ounce, which is a half ounce of crack
23 cocaine. The individual told him it would be about \$250.
24 Mr. Blanding told this individual that that would be fine.

25 Mr. Blanding also told officers at this time

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1 that this individual was usually driving an older Nissan
2 Altima, white in color, or sometimes an older green
3 vehicle.

4 We waited a little bit of time. Myself,
5 along with Captain Ardis and Lt. Kennedy were in the room
6 with Mr. Blanding when he made that phone call. We waited
7 an amount of time. Mr. Blanding at called the individual
8 again at approximately 12:03 and the individual stated he
9 was almost there, and at that time Mr. Blanding had told
10 this individual he was in Room 229.

11 At approximately 12:07 p.m., a white Nissan
12 Altima which Mr. Blanding had described pulled up in front
13 of Room 229. Room 229 is right beside the stairs. Both
14 of these rooms were upstairs and they weren't adjoining
15 rooms but they were connected. The Altima pulled up in
16 front of Room 229 and blew the horn.

17 At that time, Mr. Blanding looked out of the
18 window. He stated to the officers, "That's them," I think
19 were his words. That's what we have in our report and I'm
20 almost sure that's exactly what he said, "that's them."

21 At this time, we had units with the Community
22 Action Team which is part of the Sheriff's Office. They
23 are marked patrol units and they pull up behind this car
24 and blocked them in. At the same time that was happening,
25 we rushed out of Room 229, down the stairwell to the car.

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1 Officers went to both sides of the vehicle and we pulled
2 out Mr. Stover who was the driver and Mr. Goodman who was
3 a passenger in that car. And to my knowledge, we placed
4 them face down on the ground for our safety and they were
5 handcuffed for our safety.

6 At the same time this was happening, Lt.
7 Kennedy and other officers were looking into the interior
8 of that car and he said or somebody said, I can't recall
9 who, said there's the coke. When we found it, both those
10 suspects were immediately under arrest. When we placed
11 them under arrest, I was with Mr. Stover, we stood
12 Mr. Stover up for additional coke, if there was any, or
13 weapons for our safety.

14 I recovered \$443 from Mr. Stover's, I
15 believe, right front pants pocket and his watch pocket. I
16 believe there was some money in his pocket and his watch
17 pocket. I took that money off his person, and they were
18 placed under arrest and we took them to the Detention
19 Center.

20 Q. You were present at the scene; is that correct?

21 A. Yes.

22 Q. I'm going to show you what's been previous marked
23 as State's Exhibit No. 3 and ask you if you could identify
24 that?

25 A. Yes, that's Leon Goodman, the passenger in the

State versus Leon Goodman

1 car.

2 Q. That's the passenger in the car that day?

3 A. Yes.

4 Q. That is the individual that y'all arrested?

5 A. Yes.

6 Q. I'm also going to show you this picture and ask
7 you if you can identify that?

8 A. Yes, I can.

9 Q. And tell us what that is, please?

10 A. That's the white Altima that pulled up to the
11 motel that day.

12 Q. And where is that located in that picture?

13 A. It's in the front just below the stairwell as I
14 mentioned right below rooms 229 and 231.

15 Q. Is that the vehicle that the two individuals who
16 were arrested arrived in?

17 A. Yes.

18 Q. And does that picture there accurately reflect
19 what the car looked like back in February of 2009?

20 A. Yes.

21 MR. CORBETT: At this time, Your Honor, we
22 would offer the photograph of the white Nissan Altima
23 looking at the driver's side as State's Exhibit No. 4.

24 MR. ROBINSON: No objection.

25 MR. DEVOE: No objection.

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1 THE COURT: State's Exhibit No. 4 is in
2 without objection.

3 (Photograph marked as State's Exhibit No. 4
4 for identification and admitted into evidence.)

5 BY MR. CORBETT:

6 Q. I'm going to show you this photograph and ask you
7 if you can identify that?

8 A. Yes, I can.

9 Q. If you would tell us what we're looking at there?

10 A. This is on that date February 11th this is the
11 same car from the rear.

12 Q. Are you able to see the tag number in that
13 picture?

14 A. Yes, I am.

15 Q. And is it decipherable from that photograph?

16 A. Yes, it is. 7086EH.

17 Q. And is this the car that the two individuals
18 arrested arrived in on that date?

19 A. Yes, it is.

20 Q. Is this an accurate picture of the car?

21 A. Yes, it was taken on that date.

22 MR. CORBETT: Your Honor, we'd offer this as
23 State's Exhibit No. 5.

24 MR. DEVOE: No objection.

25 MR. ROBINSON: No objection.

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1 (Photograph marked as State's Exhibit No. 5
2 for identification and admitted into evidence.)

3 THE COURT: Do you have any other
4 photographs?

5 MR. CORBETT: Yes, Your Honor.

6 THE COURT: Do you have any objections to any
7 of the photographs?

8 MR. ROBINSON: Just as to I'd like to see
9 them.

10 THE COURT: We need to speed this up.

11 MR. DEVOE: I doubt it.

12 (Photo marked as State's Exhibit No. 6 for
13 identification and admitted into evidence.)

14 BY MR. CORBETT:

15 Q. I'm going to show you this photograph and ask you
16 if you could identify this?

17 A. Yes.

18 Q. And tell us what we're looking at please?

19 A. That was the plastic bag that contained the crack
20 cocaine recovered from that vehicle.

21 Q. And that picture was taken on that date?

22 A. Yes, it was.

23 Q. And is that an accurate reflection of how that
24 bad was in the car on that date?

25 A. Yes. All photographs were taken before any

State versus Leon Goodman

1 evidence was removed.

2 MR. CORBETT: This is being offered as
3 State's Exhibit No. 6.

4 THE COURT: Any objection?

5 MR. DEVOE: No objection.

6 MR. ROBINSON: No objection.

7 (Photograph marked as State's Exhibit No. 6
8 for identification and admitted into evidence.)

9 BY MR. CORBETT:

10 Q. I'm going to ask you to look at this photograph
11 and tell us what that is?

12 A. Yes. That's the same plastic bag containing the
13 crack cocaine after it was removed from the console.

14 MR. CORBETT: Your Honor, we would offer this
15 photograph as No. 7.

16 MR. ROBINSON: No objection.

17 MR. DEVOE: No objection.

18 THE COURT: Without objection. Exhibits 4,
19 5, 6 and 7 are in without objection.

20 (Photograph marked as State's Exhibit No. 7
21 for identification and admitted into evidence.)

22 BY MR. CORBETT:

23 Q. Let me ask if you could identify this photograph?

24 A. Yes, it's a photo of the same vehicle.

25 Q. Where is that car when its photograph?

State versus Leon Goodman

1 A. In the same location in front of Room 229.

2 Q. That same spot where the two individuals pulled
3 into.

4 A. Yes.

5 MR. CORBETT: Your Honor, this will be
6 offered as State's No. 8.

7 THE COURT: Any objection.

8 MR. ROBINSON: No objection.

9 MR. DEVOE: No objection.

10 THE COURT: Without objection.

11 (Photograph marked as State's Exhibit No. 8
12 for identification and admitted into evidence.)

13 BY MR. CORBETT:

14 Q. I'm going to show you this photograph and ask you
15 if you can identify that?

16 A. Yes, I can.

17 Q. And what is that a photograph of?

18 A. A photograph of a traffic ticket that was
19 recovered from that vehicle that day.

20 Q. When you say that vehicle, are we referring to
21 the same vehicle that we have the photographs of?

22 A. Right, the white Altima that pulled up to the
23 motel.

24 Q. What day was that recovered?

25 A. February 11th.

State versus Leon Goodman

1 Q. Same date?

2 A. Same date.

3 Q. Would that have been found in close proximity to
4 where the car was found time wise?

5 A. Yes.

6 Q. In other words, they arrived on the scene was
7 your testimony, y'all went to the car, got them out and
8 began to search the car.

9 A. Yes.

10 Q. Is that correct?

11 A. That's correct.

12 Q. Was that found as part of that process?

13 A. Yes.

14 MR. ROBINSON: Your Honor, I'm going to
15 object unless he was the actually the one that found that.
16 Chain of custody unless he was the actually the one that
17 found that and recovered that.

18 MR. CORBETT: Your Honor, let me ask a
19 follow-up question?

20 THE COURT: Yes, sir.

21 BY MR. CORBETT:

22 Q. Were you present at the search of that vehicle
23 when that ticket was recovered?

24 A. Yes.

25 Q. You were physically present?

State versus Leon Goodman

1 A. Yes.

2 Q. You were there when it was photographed?

3 A. Yes.

4 Q. Is that picture an accurate reflection of the
5 traffic ticket that we recovered from that vehicle?

6 A. Yes.

7 MR. ROBINSON: I have the same objection.

8 THE COURT: You have to have some further
9 foundation.

10 MR. CORBETT: Yes, Your Honor.

11 BY MR. CORBETT:

12 Q. Were you present and witnessed when that was
13 recovered?

14 A. No, I did not witness it.

15 Q. Did you take the picture?

16 A. No, I didn't take the picture.

17 Q. Were you there when the ticket was recovered?

18 A. Yes, I was.

19 Q. Was it recovered in your presence?

20 A. Yes.

21 Q. You wasn't there when it was photographed?

22 A. No.

23 Q. Now, let me ask you the question this way, do you
24 know who took that picture?

25 A. No, sir.

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1 Q. You were physically present and observed the
2 search of the vehicle?

3 A. Yes.

4 Q. Did you observe when that item was recovered?

5 A. When they initially found it?

6 Q. Yes.

7 A. No.

8 MR. ROBINSON: I renew my objection based on
9 that testimony.

10 THE COURT: Are you through, Mr. Corbett?

11 MR. CORBETT: If you'll give me just a
12 moment.

13 BY MR. CORBETT:

14 Q. Now, I'm going to show you what's been marked as
15 State's Exhibit 4, 5 and 8, photographs of the cars. I'm
16 not sure if it was your testimony or other testimony as to
17 other vehicles in the proximity. What, if any, any other
18 vehicles that were close to the white car?

19 A. I don't recall any vehicles close to that vehicle
20 on that end of the parking lot.

21 Q. To your recollection were any vehicles told to
22 move away, towed away, or anything else before those
23 pictures were taken?

24 A. No.

25 Q. Thank you. Please answer any questions these

State versus Leon Goodman

1 gentleman may have.

2 A. Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. ROBINSON:

5 Q. Investigator Drose, Mr. Blanding, is that his
6 name.

7 A. Yes.

8 Q. Mr. Blanding was arrested earlier that day; is
9 that correct?

10 A. That's correct.

11 Q. And cooperated or was willing to cooperate or
12 however you want to phrase that with y'all?

13 A. Yes.

14 Q. And based upon that, y'all -- law enforcement
15 then took control of the situation, didn't let
16 Mr. Blanding out of your sight, present in the room when
17 he conducted the phone call or everything else; is that
18 correct?

19 A. That's correct.

20 Q. Did he have the phone or keep the phone when he
21 was taking to Mr. Goodman or the individual you believed
22 to be Mr. Goodman?

23 A. No, he did not.

24 Q. So how were you able to -- you testified about
25 what was said on both ends of that conversation. How were

State versus Leon Goodman

1 you able to hear what the person on the other end of that
2 phone was saying?

3 A. We actually made a recording of that
4 conversation.

5 Q. And when the white Altima that we had seen the
6 pictures of, did you observe them breaking any laws when
7 they pulled up to the parking lot.

8 A. No.

9 Q. And y'all immediately rushed the vehicle, pulled
10 people out, handcuffed them, put them face down on the
11 ground, searched the car, then searched them.

12 A. The amount of time between their arrest and them
13 pulling in the parking lot was very (inaudible).

14 Q. I understand that. I'm not saying they were
15 laying in the parking lot for an hour. I know it was very
16 quick.

17 A. When I seared Mr. Stover, he was under arrest?

18 Q. I understand and I'm not trying to get hung up on
19 that. But you didn't find any drugs on any one of their
20 persons?

21 A. No.

22 Q. You found drugs in the car?

23 A. Yes.

24 Q. No fingerprints on the containers the drugs were
25 in?

State versus Leon Goodman

1 A. No.

2 Q. The car is not registered to Mr. Stover or
3 Mr. Goodman?

4 A. No.

5 Q. Obviously you didn't know who either one of them
6 were when you pulled them out of the car. You had to go
7 through the Department of Motor Vehicles to identify them?

8 A. That's how we identified Mr. Goodman, yes.

9 Q. Because Mr. Blanding never saw them at the motel?

10 A. No.

11 Q. And based upon the belief that that was
12 Mr. Goodman on the other end of that telephone when that
13 car pulled into the parking lot, y'all basically went into
14 action?

15 A. Yes.

16 Q. And the information came from that phone call?

17 A. That's correct.

18 Q. And that phone call was placed initially by
19 Mr. Blanding? He initiated that phone call. He called
20 who y'all believed to be Mr. Goodman?

21 A. He initiated under our direction.

22 Q. Under y'all's direction and control.

23 A. That's correct.

24 Q. He wasn't calling the shots, y'all were calling
25 the shots?

State versus Leon Goodman

1 A. Yes, sir.

2 Q. He called and set up the buy?

3 A. Yes.

4 Q. And the crime that we're talking about here were
5 the fact that there were drugs in this vehicle, and based
6 upon what you heard during that recorded phone
7 conversation, you believe that to be the people that
8 Mr. Blanding was talking to?

9 A. Yes. That along with when they pulled up they
10 blew the horn.

11 Q. And the description of the vehicle. Prior to
12 that you didn't know Mr. Goodman, did you?

13 A. No.

14 Q. He was not the subject of any ongoing Claredon
15 County narcotics investigation?

16 A. No.

17 Q. Same is true for Mr. Stover?

18 A. No.

19 Q. Total strangers as far as you know?

20 A. Yes.

21 Q. And if there was a Claredon County narcotics
22 investigation, you would have known about it?

23 A. Yes, I would have.

24 MR. ROBINSON: I don't have any further
25 questions.

State versus Leon Goodman

1 THE COURT: Mr. Devoe.

2 MR. DEVOE: Thank you.

3 CROSS-EXAMINATION

4 BY MR. DEVOE:

5 Q. Investigator, I just have one more questions of
6 you. You were at the window itself when the car pulled up
7 or were you in the same room?

8 A. I was in the same room with Mr. Blanding.

9 Q. Who got to the car first?

10 A. I really couldn't answer that question because we
11 all was trying to get down the stairs as quick as we
12 could. Myself and another officer went to the driver's
13 side door of the car and being that I was focused on who
14 was in the car, for my safety, I couldn't tell you who got
15 to the car first.

16 Q. Are you saying that -- would you say that
17 Mr. Stover was the first person that was taken out of the
18 car.

19 A. It was simultaneous to my knowledge. There were
20 officers on the other side of the car.

21 Q. How did you identify Cornell Stover was Cornell
22 Stover?

23 A. I think he told us he was Cornell Stover to begin
24 with and then we later verified that through the
25 Department of Motor Vehicles.

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1 Q. Did you ever handle the drug bag?

2 A. The plastic bag that the crack cocaine was in?

3 Q. Yes.

4 A. No.

5 Q. Do you know who did.

6 A. To my knowledge Agent Kennedy did.

7 Q. You also testified that Mr. Blanding had said
8 that, "That's them." Did you say, that's them or that's
9 him?

10 A. To my knowledge, he said, "That's them." And the
11 reason I say that is we put that in our report and we try
12 to keep that as accurate as we can.

13 Q. That was recorded while you were in the room?

14 A. No, not the statements.

15 Q. Now, you testified that you got some money from
16 Cornell Stover?

17 A. I think it was \$443.

18 Q. And that money has since been returned to him?

19 A. It has.

20 Q. Why was the money returned to him?

21 A. We thought the money was part of the drug
22 investigation. He later came to the Sheriff's Office with
23 a receipt that he had cashed a check. To my knowledge it
24 had been a tax check.

25 Q. That's correct.

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1 A. And he came with a receipt to the Sheriff's
2 Office and that money was returned to him.

3 Q. So he had no money on him to do anything?

4 A. He had \$443 on him but we gave the money back to
5 him.

6 Q. And no drugs were found on him. Did you check
7 his fingerprints for drugs on his fingers?

8 A. No.

9 MR. DEVOE: I have no further questions.

10 THE COURT: Anything further for this
11 witness?

12 MR. CORBETT: Nothing from this witness.

13 THE COURT: You may step down.

14 (Witness leaves the witness stand.)

15 MR. CORBETT: Your Honor, may we approach?

16 THE COURT: Yes.

17 (Whereupon, there was a bench conference.)

18 Okay. You may call your next witness.

19 MR. CORBETT: Your Honor, the State would
20 call Clerk of Court, Beulah Roberts.

21 BEULAH ROBERTS, having been duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CORBETT:

25 Q. Ms. Roberts, good afternoon?

State versus Leon Goodman

1 A. Good afternoon.

2 Q. Tell us, if you would, your job?

3 A. I am the Clerk of Court for the County of
4 Claredon.

5 Q. And as part of that job, do you maintain the
6 court records?

7 A. Yes, I do.

8 Q. At my request, did you pull Indictment 2009-GS-
9 14-148?

10 A. Yes, I did.

11 Q. Is that a document kept in the ordinary course of
12 business?

13 A. Yes, it is.

14 Q. And if you would, please, tell us who is charged
15 in that indictment?

16 A. Burnell Blanding.

17 Q. And does that document allege the date of his
18 offense?

19 A. February 11, 2009.

20 Q. And according to your records, what is the
21 current status of that indictment?

22 A. It is still pending.

23 Q. Thank you. That's all the questions I have.

24 THE COURT: Mr. Robinson.

25 CROSS-EXAMINATION

State versus Leon Goodman

1 BY MR. ROBINSON:

2 Q. I just want to be clear, has he been indicted as
3 a True Bill indictment?

4 A. This is a True Bill indictment indicted May, 7,
5 2009.

6 Q. And what was he indicted for?

7 A. He was indicted for possession with intent to
8 distribute cocaine base.

9 Q. February 11, 2009.

10 A. February 11, 2009.

11 MR. ROBINSON: Thank you.

12 THE COURT: Mr. Devoe?

13 MR. DEVOE: I have no questions, Your Honor.

14 THE COURT: All right. You may step down.

15 (Witness leaves the witness stand.)

16 Is it my understanding that y'all would like
17 to take a lunch break at this time.

18 MR. CORBETT: Yes, Your Honor, we would like
19 to take a recess at this time.

20 THE COURT: All right. We will start back at
21 2:30.

22 MR. CORBETT: That's fine.

23 THE COURT: Ladies and gentlemen, we are
24 going to take a lunch break and come back at 2:00 versus
25 2:30. That will give you an hour-and-a-half. When you

State versus Leon Goodman

1 come back, go straight to the jury room. Please don't
2 discuss this case. Have a good lunch and I'll see you
3 back at 2:00.

4 (Jury exits the courtroom for lunch.)

5 Anything before we break for lunch?

6 MR. CORBETT: Nothing from the State.

7 MR. ROBINSON: Just a procedural concern -- I
8 mean it's really none of my business but if we excuse the
9 jury for lunch and Mr. Corbett comes back and doesn't call
10 any witnesses and rest and then we have 30, 45 minutes, an
11 hour worth of motions at that point in time, I think maybe
12 we can pick out a better way of doing it rather than
13 bringing them back.

14 THE COURT: An hour worth of motions?

15 MR. ROBINSON: I've got to renew all of my
16 pretrial motions, all of the objections I made at certain
17 points and then a directed verdict motion, and Mr. Devoe
18 has to argue as well. You know how lawyers are when they
19 say 10 or 15 minutes, I assume it will be at least 30
20 minutes and I'm just procedurally when they come back and
21 the State stands up and says the State rests and then --

22 THE COURT: Do you know whether you're
23 resting?

24 MR. CORBETT: Judge, I may call one
25 additional witness and that deals with the objections to

State versus Leon Goodman

1 some photographs I have.

2 THE COURT: Okay.

3 MR. CORBETT: I mean at the break of the case
4 I understand there's motions for directed verdict, but I
5 don't know we have to rehash every objection and motion
6 during the course of the trial.

7 MR. ROBINSON: My understanding if I need to
8 preserve it, I need to address it, maybe not in the same
9 amount of detail, but I do need to address it. I'm not
10 trying to delay the Court's time but I ---

11 THE COURT: I understand but I can't control
12 that and we'll deal with whatever falls out.

13 MR. ROBINSON: I understand that.

14 THE COURT: Let me ask you this, just from a
15 scheduling standpoint are we going to get this case to the
16 jury today?

17 MR. ROBINSON: I don't plan on calling any
18 witnesses.

19 THE COURT: Okay.

20 MR. DEVOE: I may have my client, yes, sir.

21 THE COURT: I need to cover his rights for
22 the record.

23 Mr. Stover, would you stand up, please, sir,
24 and raise your right hand.

25 CORNELL STOVER, having been duly sworn,

State versus Leon Goodman

1 testified as follows:

2 Sir, we have reached a point in the trial
3 where you have a right to put up evidence and or testify.
4 As far as whether you testify or not, you have a
5 Constitutional Right not to testify and that's totally
6 your decision. You certainly can talk to your lawyer as
7 to whether you want to testify or not. He can advise you
8 of his opinions, but ultimately, it is your decision
9 whether to testify.

10 If you choose not to testify, then I will
11 instruct the jury that you have a right to do so and you
12 don't necessarily have to tell me now whether you want to
13 testify or not, you can discuss that with your lawyer and
14 decide at some later point.

15 I just want to be sure that you understand
16 you have a choice whether to testify or not testify. Do
17 you understand that?

18 DEFENDANT STOVER: Yes, sir.

19 THE COURT: Any questions you want to ask me
20 concerning your rights?

21 DEFENDANT STOVER: No, sir.

22 THE COURT: All right, the court will be in
23 recess until 2:00.

24 (Whereupon, there was a lunch break.)

25 Is everyone ready?

State versus Leon Goodman

1 MR. CORBETT: Ready, Your Honor.

2 MR. ROBINSON: Yes, Your Honor.

3 MR. DEVOE: We're ready, Your Honor.

4 THE COURT: Okay, bring the jury back in.

5 (Jury re-enters the courtroom.)

6 Mr. Corbett.

7 MR. CORBETT: The State would recall

8 Investigator Kennedy.

9 THE COURT: I'll remind you, you're still
10 under oath.

11 REDIRECT EXAMINATION

12 (Witness recalled)

13 BY MR. CORBETT:

14 Q. Investigator Kennedy, good afternoon.

15 A. Good afternoon.

16 Q. Investigator Kennedy, I'm going to show you
17 what's been marked as State's Exhibit No. 5 and ask you if
18 you can identify what that is?

19 A. That is the vehicle Mr. Stover arrived in.

20 Q. Now, I'm going to show you this and ask if you
21 can identify that?

22 A. It's a traffic ticket that was found inside the
23 vehicle.

24 Q. First of all, let me ask you, do you know who
25 took that photograph?

State versus Leon Goodman

1 A. I did.

2 Q. You took the photograph. Do you know when that
3 photograph was taken?

4 A. It was taken that day when we arrested them.

5 Q. And were you one of the officers searching that
6 vehicle?

7 A. Yes, sir, I was.

8 Q. And the item reflected in that photograph, just
9 generically tell me what it is?

10 A. It's a traffic ticket to Leon Goodman.

11 Q. Do you, to your knowledge, know where that
12 traffic ticket was found?

13 A. It was found in the glove box.

14 Q. Of what?

15 A. Of the white Nissan Altima they arrived in.

16 MR. CORBETT: Your Honor, at this time, we
17 would offer the photograph of the uniformed traffic ticket
18 that's State's Exhibit No. 9.

19 THE COURT: Any objection?

20 MR. ROBINSON: No objection.

21 MR. DEVOE: No objection.

22 THE COURT: It's in without objection.

23 (Traffic Ticket photograph marked as State's
24 Exhibit No. 9 for identification and admitted into
25 evidence.)

State versus Leon Goodman

1 BY MR. CORBETT:

2 Q. Now, Investigator Kennedy, what information, if
3 any, was contained on that traffic ticket?

4 A. The name Leon A. Goodman, the address, County
5 Road, vehicle license number, vehicle description of the
6 white Nissan Altima.

7 Q. Now, let me stop you there for just a moment and
8 I'm going to ask you to refer to Exhibit 5. Is there
9 anything there in Exhibit 9 that relates to Exhibit 5?

10 A. A photo of the license plate and you can
11 definitely make [REDACTED] on the traffic ticket.

12 MR. CORBETT: Thank you. I have no further
13 questions.

14 THE COURT: Mr. Robinson.

15 MR. ROBINSON: I have no questions.

16 THE COURT: Mr. Devoe.

17 RECROSS EXAMINATION

18 BY MR. DEVOE:

19 Q. Do you have any idea when that traffic ticket was
20 issued?

21 A. I can't make it out when it was issued so I'd
22 have to look that up. I can make out the trial date that
23 was supposed to be held on 2/24/09.

24 Q. And you can't make out the date issued?

25 A. No, you can't. It's further down.

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1 MR. DEVOE: I have no further questions.

2 MR. CORBETT: Your Honor, the State would
3 recall Donnie Drose.

4 THE COURT: I remind you that you're still
5 under oath.

6 REDIRECT EXAMINATION

7 (Witness recalled.)

8 BY MR. CORBETT:

9 Q. Investigator Drose, good afternoon.

10 A. Good afternoon.

11 Q. Earlier I believed there was testimony where you
12 were talking about being present when the confidential
13 informant made a phone call?

14 A. Yes.

15 Q. And I believe that during the course of that
16 phone call that was recorded?

17 A. That's correct.

18 Q. And that was recorded in the presence of the
19 confidential informant?

20 A. Yes.

21 Q. With his knowledge?

22 A. Yes.

23 Q. Did you maintain a copy of that conversation?

24 A. I did.

25 Q. Can you describe for us the quality of it?

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1 A. The quality is not good. I don't know how else
2 to put it. You can hear Mr. Blanding very well, but the
3 other end of the conversation is not real good.

4 Q. Are you able to play back to disc?

5 A. Yes.

6 Q. Were you able to review what's on that disc?

7 A. Yes.

8 Q. Is it, in fact, phone conversations from that
9 date?

10 A. Yes.

11 MR. ROBINSON: Your Honor, are we going to
12 put this into evidence before we play it?

13 MR. CORBETT: Your Honor, at this time, we
14 would move into evidence a CD disc. It's identified by
15 the No. 0-092-0622 and the date 2-11-2009 with some
16 additional writing.

17 THE COURT: Any objection from the defense?

18 MR. ROBINSON: No objection.

19 MR. DEVOE: No objection.

20 THE COURT: It will be marked as State's 10.

21 (CD marked as State's Exhibit No. 10 for
22 identification and admitted into evidence.)

23 THE WITNESS: The first from the call that
24 took place at 11:22 a.m.

25 (CD recording was played in open court).

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1 MR. CORBETT: Your Honor, that's all the
2 questions I have for this witness.

3 THE COURT: Mr. Robinson, any questions?

4 MR. ROBINSON: No questions.

5 MR. DEVOE: I don't have any questions, Your
6 Honor.

7 THE COURT: You can step down.

8 (Witness leaves the jury stand.)

9 MR. CORBETT: If it please the Court, State
10 rests.

11 THE COURT: Ladies and gentlemen, I've got to
12 take up some matters of law and I need you to go to the
13 jury room and I'll get back with you as soon as I can. I
14 will also remind you not to discuss this case. Thank you.

15 (Jury exits the courtroom.)

16 Any motions?

17 MR. DEVOE: Yes, Your Honor. On behalf of my
18 client, Cornell Stover, I ask for a directed verdict at
19 this time. The grounds of my directed verdict being that
20 there is absolutely no evidence, none, that my client was
21 involved in any drug dealing in the case at hand. The
22 only evidence is that he was in the car and that he drove
23 the car. He had no drugs on him and the money that was
24 seized was returned to him by the Sheriff's Department.
25 There is no prior involvement showing in any testimony

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1 with the confidential informant on this day or any day
2 before nor was law enforcement ever aware of him.

3 He has no -- the best of my knowledge, he has
4 no involvement in drugs over the past year or so.

5 He sits here as an innocent person. He was
6 asked to drive a car and he cashed his check that day, and
7 the co-defendant asked him to drive for unknown reason to
8 my client. The other co-defendant drove him to cash his
9 check. That will come up in his testimony. Meanwhile,
10 there is nothing showing that any involvement other than
11 the fact of mere presence. Mere presence is not a crime
12 even though there's a hand of one is the hand of all, but
13 that's not the case. Your Honor, I would ask for a
14 directed verdict at this time.

15 THE COURT: The State want to respond?

16 MR. CORBETT: Just briefly, Your Honor. Your
17 Honor, obviously the theory of constructive possession and
18 the theory of accomplice liability, the jury could find
19 for an aider, abetter, co-conspirator, or however it is
20 approached to be guilty of the offense. Your Honor, I
21 believe there's case law in particular about constructive
22 possession within the confines of a car that the jury can
23 find construction possession under those circumstances.

24 Some of what Mr. Devoe told you is not in the
25 record as to what the co-defendant said to his client, et

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1 cetera, none of that is in the record and it doesn't
2 matter if you don't have a prior record or they don't know
3 you or anything of that nature, those aren't grounds for
4 directed verdict. What the Court has to rule on is the
5 existence of evidence, is there any evidence in the record
6 for which this jury could find the defendant guilty?
7 There's been testimony in the record that often times in
8 drug transactions that more than one person will come. I
9 believe the testimony from the officer was to have some
10 backup for safety reasons and things of that nature. But
11 it's not uncommon for more than one person to be involved
12 in the transaction such as this.

13 And the evidence is that Mr. Stover was
14 driving the car and next to that driver's seat was seven-
15 and-a-half grams of crack. Now, if we take Mr. Devoe's
16 argument to its logical absurdity, anybody arrested for
17 drugs in the car could go, they're not mine, I'm just in
18 the car, so we would never ever get past a directed
19 verdict in any case in which drugs are found in the car.

20 THE COURT: Mr. Devoe, the evidence I heard
21 in this case was that your client was driving the vehicle
22 at the time that it arrived and in fact the drugs were
23 found between your client's seat and the console. And the
24 testimony of the officer is that you could look in from
25 the rear and see the bag of crack cocaine there. I think

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1 under constructive possession at least as the existence of
2 some evidence that the drugs may have been in your
3 client's dominion and control and, in fact, they could be
4 seen and possible he had knowledge of their existence.

5 Unlike if the drugs had been found in the
6 coat pocket of the co-defendant and none in the car, then
7 I'm not real sure that the State would have met it's
8 burden of constructive possession and being able to show
9 actual knowledge and could have had dominion and control
10 over it. I think that's the law and I respectfully deny
11 your motion because there is some existence of some
12 evidence even though your client's involvement minimum at
13 best, I guess.

14 Anything else?

15 MR. ROBINSON: Your Honor, I would renew two
16 of my three earlier motions to suppress, the drugs
17 themselves and the phone calls and I renew my motion to
18 suppress that. As my recollection of what Mr. Corbett
19 basically told the Court what he expected the testimony to
20 be the phone calls made from the defendant's cell phone
21 with his permission, he didn't say anything other than
22 they came from his cell phone not that he didn't know it
23 was being tape recorded, nor did he give permission for it
24 to be tape recorded, anything whatsoever came from the
25 CI's information when he testified about the phone

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1 conversation other than it was done on his cell phone and
2 it was not on speaker phone.

3 He testified that he did not see the
4 individuals when they arrived in the vehicle, he never saw
5 them at the motel, so all the probable cause for the
6 search came from information derived from that telephone
7 conversation.

8 They had no evidence in the record from the
9 confidential informant that he knew that that telephone
10 conversation was being recorded or that he agreed to have
11 it recorded. I understand that Agent Drose testified that
12 he said okay, that's hearsay. That witness was here and
13 he was on the witness stand and that evidence was not
14 produced. The State has the burden of proving that and
15 they have rested their case.

16 There is no evidence before Your Honor to
17 prove that Federal Wiretap Statute had not been violated,
18 therefore, it's my position that the recording itself is
19 not admissible and certainly any drugs that were seized as
20 a result of that were inadmissible. The testimony is
21 clear that all the information about these people came as
22 a result of that telephone call. Law enforcement didn't
23 know them, had no existing case on them, didn't know what
24 they looked like. The CI didn't know them by name, didn't
25 know who they was, didn't see anybody in the car at the

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1 motel that he identified on sight.

2 Basically he placed the phone call and a
3 white car showed up and all the other information was
4 based on that telephone call that was earlier leading to
5 the probable search of the vehicle.

6 We don't believe that the State has met his
7 burden for probable cause in this case and therefore I
8 would renew my motion to suppress the contents of that
9 telephone call as well as the drugs that were seized from
10 the car as a result of probable cause that was based on
11 the telephone call.

12 THE COURT: Do you want to respond to that?

13 MR. CORBETT: Your Honor, just a few moments
14 ago, Investigator Drose testified that the call was made
15 from the confidential informant's cell phone. It was
16 recorded with his knowledge and consent and that evidence
17 was admitted in court here a few minutes ago and it was
18 published to the jury. There's nothing with that
19 evidence. I believe the disc was admitted into evidence
20 without objection. A foundation had been laid for that
21 evidence. We believe that there was sufficient probable
22 cause to arrest and search for those individuals on that
23 day.

24 THE COURT: Mr. Robinson, I deny your motion.
25 I think there was sufficient cause and, in fact, the tape

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1 was admitted without objection. The evidence is before
2 this jury of the taped conversation and it wasn't objected
3 to at the time that it was introduced and I think there is
4 sufficient evidence in this record for the jury to connect
5 a finding. At this stage, it's the existence of evidence
6 and not the weight of evidence, I think there is certainly
7 enough evidence in the record to meet the burden. So I
8 would respectfully deny your motion.

9 MR. ROBINSON: Thank you, Your Honor. I
10 would also make a motion for directed verdict in this
11 case. I understand Mr. Devoe's arguments. The
12 information is that law enforcement didn't know any of
13 these individuals in the vehicle, that the confidential
14 informant knew a name, did not know a number, knew a name,
15 never saw anybody at that motel and there has been no
16 identification that the person he talked to on the
17 telephone arrived at the motel. He did not say he
18 recognized the voice. He said I knew the phone number and
19 I had dealt with the person's phone number in the past but
20 there is no link to Mr. Goodman being at the motel other
21 than what he was told by law enforcement.

22 The picture identification was derived later.
23 I think you first have to establish that you have some
24 identification issues as well in particular driving the
25 vehicle or the that the person in the vehicle was not

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1 necessarily Mr. Goodman or that Mr. Goodman was on the
2 telephone just because the person who was later brought to
3 the jail was the same person that the confidential
4 informant had dealt with in the past. So I think we have
5 a linkage problem.

6 I also have a problem with the hand of one
7 and the hand of all under this constructive possession
8 somewhere under someone's dominion and control. Certainly
9 what I saw in the photographs is it was between the
10 driver's seat and the console of the car. Now, the
11 picture was taken when there was nobody sitting there.
12 When you have a body there covering that area that was not
13 Mr. Goodman's body, I don't know how he could exercise
14 dominion and control.

15 Furthermore, as far as co-conspirator, there
16 has been no evidence whatsoever in this particular case,
17 only law enforcement testimony that it is not uncommon,
18 but there has been no evidence in this case to show that
19 there was any plan that they discussed. Two people
20 arrived and Mr. Stover or Mr. Goodman discussed this
21 transaction ahead of time or there was any plan made that
22 one knew or the other didn't know, only that there were
23 drugs in the car. And the area that they were in and the
24 way they would have been situated in the vehicle while
25 Mr. Stover was sitting in the car, it was an area beyond

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1 Mr. Goodman's dominion and control.

2 Based on that I would ask you for a directed
3 verdict.

4 MR. CORBETT: Your Honor, the officers
5 testified that the individual here in State's Exhibit No.
6 5 was the individual that was arrested on the date in
7 question. Confidential informant testified that this
8 particular individual is the person that he had, and we
9 use the word contact, contact with on the day in question,
10 that he's the person that called asking for a half. And
11 what does that mean? Crack cocaine.

12 And that's the link up is the confidential
13 informant has identified him as the person he called. He
14 has been identified as the person who was arrested on the
15 scene that day in the car with seven-and-a-half grams of
16 cocaine base.

17 THE COURT: Mr. Robinson, I think there is
18 sufficient evidence in this record that links. The police
19 officers testified that your client was in the car when it
20 arrived, the confidential informant testified that even
21 though he didn't know his name, the person in the picture
22 was the person he called and the person he had prior
23 dealing with and that he saw him in jail after the arrest
24 was made. So certainly there exists evidence in this
25 record that the jury can make that link. So I

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1 respectfully deny it.

2 Anything else?

3 MR. ROBINSON: Your Honor, if we could
4 address a procedural point. I don't know whether or not
5 Mr. Devoe intends to produce any evidence in this case but
6 how does that affect my client's rights? There will be no
7 evidence introduced by defendant Leon Goodman as far as
8 closing arguments are concerned.

9 THE COURT: The State versus Crowe, 1972 case
10 and when the defendants are tried jointly, if any one of
11 the defendants offers any evidence, the State has that
12 burden.

13 MR. ROBINSON: Just to be clear on the record
14 and I discussed this is Mr. Devoe and I just want to make
15 sure I'm protected on the record, based on my
16 understanding of this case, there are no statements that
17 have been introduced or intended to be introduced by
18 either defendant that are not going to subject to cross-
19 examination. My client didn't make any statements and
20 he's not here to make any statements. Mr. Stover had not
21 made any statements prior but it's my understand that he
22 might testify. However, if he testifies, I would
23 certainly have the right to cross-examine him.

24 It's my understanding that that solves any
25 potential Brouden(ph) issues, but I just want to make sure

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1 that I am correct in protecting my client's interest.

2 THE COURT: That's correct. The State has
3 not offer any evidence in this case given to the police
4 that one defendant had made a statement and the State
5 would introduce that evidence. So there has been no
6 statements. If the co-defendant takes the stand and
7 testifies, you certainly have the right to cross-examine
8 him on his testimony.

9 Anything else?

10 MR. CORBETT: Nothing from the State, Your
11 Honor.

12 THE COURT: Mr. Devoe, has your client
13 decided to testify? Have y'all made that decision?

14 MR. DEVOE: He will, Your Honor.

15 THE COURT: Mr. Stover, your lawyer tells me
16 you want to testify.

17 DEFENDANT STOVER: Yes, sir.

18 THE COURT: And that's your decision?

19 DEFENDANT STOVER: Yes, sir.

20 THE COURT: And do you understand you will be
21 subject to cross-examination?

22 DEFENDANT STOVER: Yes, sir.

23 THE COURT: Just a procedural standpoint,
24 does he have a criminal record?

25 MR. CORBETT: The last ten years, Your Honor?

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1 THE COURT: Yes. Does the State intend to
2 impeach him on any criminal record?

3 MR. CORBETT: The only thing that we see that
4 could potentially be an impeachable offense took place in
5 1982.

6 THE COURT: So that is not within the time
7 limit that you notified the defense of your intentions to
8 go past 10 years?

9 MR. CORBETT: Yes, sir, Your Honor.

10 THE COURT: So it's your position that he
11 does not have an impeachable record that you intend to
12 impeach him on; is that right?

13 MR. CORBETT: That is correct, Your Honor.
14 Now, Judge, we would take issue if he got on the stand and
15 said, I don't have a criminal record.

16 THE COURT: Mr. Devoe, do you intend to ask
17 that question?

18 MR. DEVOE: I don't intend to ask that
19 question.

20 THE COURT: Anything else we need to talk
21 about?

22 MR. CORBETT: Not that I'm aware of.

23 THE COURT: Okay. Just from a scheduling
24 standpoint, are you offering any other witnesses beside
25 your client?

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1 MR. DEVOE: No.

2 THE COURT: It's 2:45 and I don't know how
3 long he's going to testify. I don't know if he's going to
4 charge and argue this afternoon or -- we're reaching close
5 to the times -- I usually don't like charging or arguing
6 after 4:00 simply because the jury may be out until 10:00
7 at night.

8 MR. CORBETT: Judge, it's my understanding of
9 the existing rules that once a jury is given a case, they
10 are to remain deliberating until they reach a verdict or a
11 mistrial is declared unless both sides consent to a jury
12 being discharged for the evening. If that factors in to
13 the Court's decision at all, the State would consent to
14 they being allowed to go home for the evening, if
15 necessary.

16 THE COURT: Both sides would have to consent
17 to that.

18 MR. ROBINSON: Your Honor, the problem I find
19 myself in is I have no client and I just consent to that.

20 THE COURT: In my opinion -- like it is said
21 about passing a football, three things can happen, two of
22 them are bad. I'm reluctant about letting them go home
23 and come back in the morning unless there are extenuating
24 circumstances. Usually once we give it to them, they stay
25 there until they finish. Having said that, I mean, we're

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1 here for two weeks and unless y'all have a whole lot to do
2 and got trial backed up, then maybe we're not in such a
3 hurry not to finish this in the morning.

4 Because I asked Ms. Land and she doesn't have
5 anything else to do unless you've got another trial to do.
6 Whatever. You never know what a jury is going to do and
7 sometimes you think that jury is going to be out 15
8 minutes and then five hours later, I wonder what they are
9 doing. You never know.

10 I guess at this point, maybe we'll press on
11 and see how long the testimony is going to last and see
12 whether or not the State is going to put up some reply
13 testimony and then we'll make that call as to whether
14 we're going to charge at all.

15 Do y'all have any particular charges you
16 want?

17 MR. DEVOE: Mere presence is not a crime.

18 MR. CORBETT: Accomplice liability and
19 constructive possession.

20 THE COURT: I already do constructive
21 possession. That's built into my charge on possession
22 with intent to distribute. So I will charge the standard.
23 I will charge expert witness and I'll charge the fact that
24 the client does not testify because we have one defendant
25 who will not testify and they can't hold that against him

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1 because he's not here; criminal intent and circumstantial
2 evidence multiple defendants, absent defendant, the hand
3 of one is the hand of all which is includes mere presence
4 in there, as well as possession with intent to distribute
5 which covers actual and constructive possession.

6 And I don't know of anything else.

7 MR. ROBINSON: I would request an entrapment
8 charge, Your Honor. I think I elicited testimony from the
9 officer and the CI. Number one, I think I clearly
10 established that he was acting as an agent of law
11 enforcement without question. The next thing is a
12 question of weight. I think everyone has admitted no
13 prior contact with law enforcement wise, no
14 investigations, no knowledge of this gentleman, no subject
15 of an ongoing investigation, and so the question is then
16 whether they introduced some mean to do that which he
17 wouldn't have ordinarily done.

18 The CI placed the phone call and is that
19 enough for inducement, I don't know, but I think it meets
20 the two elements that I've got to meet to at least get a
21 charge to the jury. I think I look at it like a directed
22 verdict, the weight of the evidence and the existence of
23 the evidence I think I've proven, number one, a government
24 actor and number two, that the act was initiated and
25 carried out by the government. Whether or not he was, you

State versus Leon Goodman

1 know, predisposed to do that, I think is for the jury to
2 decide.

3 So I would request a charge of entrapment.

4 MR. CORBETT: Judge, they have not met the
5 elements of entrapment. The confidential informant
6 placing a call saying I need a half and then him showing
7 up sometime later with seven-and-a-half grams of cocaine
8 base in the car, that's not entrapment.

9 THE COURT: I don't think it is either, but
10 I'll look at that closer by the time I am to charge. I
11 don't think it meets that threshold. I haven't seen any
12 evidence that the police planted the seeds in the
13 defendant's mind and but for that planting, he would not
14 have done that. But I will think through that process and
15 let y'all know but it doesn't appear that it meets that
16 threshold based on the evidence in this case. I'll let
17 y'all know at that time.

18 MR. ROBINSON: Just, Your Honor, to briefly
19 address that but the elements are government inducement
20 and lack of predisposition. They don't talk about a
21 degree of a lack of predisposition. The evidence of that
22 from my standpoint comes from the fact that he was not a
23 target of an ongoing investigation of law enforcement and
24 nobody testified that, yes, he had this ongoing
25 predisposition, et cetera, not whether or not that carries

State versus Leon Goodman

1 the (inaudible), but I think that gives me enough evidence
2 to the fact that there is some lack of predisposition
3 through the State's own witnesses that the jury gets to
4 consider that evidence.

5 THE COURT: The Court offered evidence of
6 predisposition and you objected to it.

7 MR. ROBINSON: Then there is no evidence of
8 predisposition, Judge, because it didn't get in.

9 THE COURT: I understand. I think in the
10 prior bad acts that he'd been dealing with confidential
11 informant, I think the confidential informant said eight
12 or nine times a week over the last three or four months.

13 MR. ROBINSON: Your Honor, that was contact.
14 That contact could have been badgering the mess out of him
15 to get him to make this one drug transaction. We can't
16 assume what's not in the record.

17 THE COURT: I understand your argument. I'm
18 not really sure, but we'll see.

19 MR. ROBINSON: Allow me this, Judge, if you
20 consider that testimony that didn't get to the jury about
21 the frequency ---

22 THE COURT: That's not going to get to the
23 jury.

24 MR. ROBINSON: He didn't say to buy drugs or
25 sell drugs but he said I had frequent contact. That could

State versus Leon Goodman

1 be badgering this guy to sell drugs.

2 THE COURT: I understand your argument.

3 Anything else? You objected to it. If it's close, I will
4 charge it. It's nothing to get reversed on a charge that
5 you didn't make that doesn't make any difference to a jury
6 but let me look at the case law and I'll let y'all know at
7 that time after the close of the case. If your client
8 shows up and says it's entrapment, I might reconsider.

9 Bring the jury in.

10 (Jury re-enters the courtroom.)

11 Mr. Devoe, are you ready to begin your case?

12 MR. DEVOE: Yes, Your Honor. The defense
13 would call Cornell Stover to the stand.

14 THE COURT: Come up to the Bible, place your
15 left hand on the Bible and raise your right.

16 CORNELL STOVER, having been duly sworn,
17 testified as follows:

18 Have a seat in the witness chair.

19 DIRECT EXAMINATION

20 BY MR. DEVOE:

21 Q. For the record, give your full name?

22 A. Cornell Stover, Jr.

23 Q. And you're co-defendant in this case that we're
24 here on today?

25 A. Yes, sir.

State versus Leon Goodman

1 Q. Along with Leon Goodman.

2 A. Yes, sir.

3 Q. You've heard the testimony today and yesterday?

4 A. Yes, sir.

5 Q. Now, there's no question that you were in the car
6 that was at the Quality Inn Motel and you were arrested
7 out of that car; is that correct?

8 A. Yes, sir.

9 Q. And you were the driver of that car?

10 A. Yes, sir.

11 Q. The particular day in question, you went to the
12 mailbox and then what happened there?

13 A. I went to the mailbox and got my tax check.

14 Q. How much was that for?

15 A. \$500 and \$2.

16 Q. And at that point, were you able to tax the
17 check?

18 A. No, I had to get a ride. I had to get a ride to
19 cash the check.

20 Q. And how did you get that ride?

21 A. My car was broke down so there's a garage next to
22 my house, maybe about 500 yards from my house. I went
23 over the garage and asked if it wasn't any trouble, could
24 they work on my car. So I asked Leon could he do it and
25 he asked me if I had any money and I said I have to cash

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1 this check and I asked him if he could take me to cash my
2 check so I could make my car payments. So he asked me if
3 I could ---

4 Q. Let me -- did he offer to drive you somewhere to
5 get the check cashed to make the car payments.

6 A. No, he told me that he would take me but I'd have
7 to drive because he didn't have no license.

8 Q. Did you have a license?

9 A. Yes, sir.

10 Q. So where did you go to cash the check?

11 A. I went to the convenience store around the
12 street.

13 Q. And with money in hand, did Leon agree to drive
14 you or let you drive that same car?

15 A. Yes, sir.

16 Q. To make the car payment?

17 A. To cash the check and make the payment at
18 American Auto Company.

19 Q. Where are they located in Sumter?

20 A. Right on the corner of Lafayette and Manning
21 Avenue at 521.

22 Q. And that's about 15, 20 miles from Pelzer?

23 A. Yes, sir.

24 Q. And when you got there, why didn't you then turn
25 around and go back home?

State versus Leon Goodman

1 A. Well, before we went to make my car payment, he
2 got, Leon, his phone had rang and the got a call and he
3 asked me to drive him to the truck stop.

4 Q. Did Leon tell you how to get there?

5 A. Yes.

6 Q. How did you get there?

7 A. We came down 15th and Packsville(ph) and then 261
8 or something like that.

9 Q. So you came down 15th and Packsville?

10 A. Yes.

11 Q. He didn't tell you to go another direction?

12 A. No, he just kept giving me directions.

13 Q. And when he got a phone call, did you hear Leon's
14 conversation from his end?

15 A. No, I was listening to the music. He wasn't on
16 the phone but two minutes or so.

17 Q. Let me go back a second, when you got in the car
18 initially, was that white Altima?

19 A. Yes.

20 Q. Did you notice anything on the seat that you were
21 sitting in?

22 A. No.

23 Q. Or next to the seat and the console?

24 A. No.

25 Q. You sure of that?

State versus Leon Goodman

1 A. Positive.

2 Q. When you get to Jerry's Truck Stop, was another
3 phone call made?

4 A. Yes, the phone rang again and he said a couple of
5 things, and then he directed me to go on out to the motel
6 stop.

7 Q. But he received the call, he didn't make the
8 call?

9 A. No, I didn't -- I don't remember him making the
10 call.

11 Q. You didn't hear his conversation?

12 A. No, I was listening to music, thinking about
13 getting my car fixed, and getting back to making my car
14 payments.

15 Q. And you're doing this because he was going to fix
16 your car later?

17 A. Yeah, because the garage was about 100 or so feet
18 away.

19 Q. Did you know him or his father or both?

20 A. Me and his father was sort of raised up nearby.
21 We all lived in the same neighborhood.

22 Q. Do you know if Leon may or may not have been in
23 drugs?

24 A. No, I never seen him.

25 Q. So when you got the second phone call, you drove

State versus Leon Goodman

1 across 261 to this Quality Inn?

2 A. Yes.

3 Q. Did he tell me where to park?

4 A. He told me to drive around the room to where I
5 parked.

6 Q. You parked next to the stairs, that's where he
7 told you to park?

8 A. Yes, sir.

9 Q. When you got there and parked, what happen then?

10 A. The next then, I looked in the rear view mirror,
11 I saw all kinds of police cars coming out and grabbed a
12 hold of my hand and I said I don't know nothing about
13 nothing.

14 Q. You decided getting out was the right thing to
15 do?

16 A. When they pulled up the cars, I didn't know what
17 was going on so I didn't want no accidents so I just --

18 Q. At that point, were you aware of any drugs in the
19 car.

20 A. I didn't see none. I didn't know what was going
21 on or nothing.

22 Q. When they stopped you and patted you down, you
23 had some money in your pocket?

24 A. Yes.

25 Q. And they took it?

State versus Leon Goodman

1 A. Yes.

2 Q. How much was?

3 A. \$442.

4 Q. And did you eventually get that money back?

5 A. Yes. I wrote back to our State Treasury and I
6 got a copy of the cancelled check and I brought it to the
7 Sheriff's Department and showed that the proof, and they
8 wrote out some stuff that I signed and they finally gave
9 me my money -- I got my money back.

10 Q. Had you been in the car with Leon Goodman before?

11 A. No, that's the first time I ever rode in the car
12 before.

13 Q. Had he ever fixed your car before?

14 A. No.

15 Q. How did you know he was a good mechanic?

16 A. I didn't know he was a good mechanic and I found
17 out that he wasn't, but he was close to my house and saw
18 he was working on cars all the time.

19 Q. Did you trust that particular shop to fix your
20 car properly?

21 A. Well, I didn't have no place to go and I just had
22 got laid off before then.

23 Q. Did he tell you why he couldn't drive the car?

24 A. He said he didn't have no license on him.

25 Q. Did he say why he didn't have a license?

State versus Leon Goodman

1 A. No, he didn't say he had lost his license, he
2 said he didn't have it on him.

3 Q. Wasn't it an imposition on you to drive all the
4 way from Sumter back again?

5 A. Not really -- no, because I needed him to start
6 doing some work on my car and that's all I had in my mind
7 is to get my car fixed.

8 Q. And you got out of jail right away on a bond?

9 A. I got out that Saturday morning.

10 Q. And how much is your bond?

11 A. \$10,000. I had to pay the bail bondsmen \$1,000.

12 Q. You're telling the jury, basically, that you had
13 nothing to do with this case, nothing to do with the
14 drugs?

15 A. I didn't know nothing about it.

16 Q. None of the money laying around the car was
17 yours?

18 A. No.

19 Q. Just the money in your pocket?

20 A. Just the money in my pocket.

21 Q. The drugs they found next to you in the console,
22 you didn't know about?

23 A. I didn't never see. No drugs in the car. I
24 never heard him talking about the drugs. There was no
25 mention of drugs period, not that I heard.

State versus Leon Goodman

1 Q. And when you got out of the car, you got out of
2 the car first before Leon did?

3 A. As soon as I saw the patrol cars in the rear view
4 mirror, I opened the doors and threw up my hands and said
5 I don't know nothing about nothing. They told me to lay
6 down on the ground and they patted me down and I
7 cooperated with him and they reached in my pocket and
8 found the money and that's all I knew about anything until
9 it was too late.

10 Q. And you were here at the trial today and
11 yesterday because of what reason? You're not guilty?

12 A. Because I feel like I didn't know nothing about
13 nothing. I was innocent and that's how I feel.

14 MR. DEVOE: No further questions. Thank you.

15 THE COURT: Mr. Robinson, do you want to go
16 first.

17 MR. ROBINSON: I'll let Mr. Corbett go first.

18 CROSS-EXAMINATION

19 BY MR. CORBETT:

20 Q. Mr. Stover, good afternoon.

21 A. Good afternoon.

22 Q. Your name is Cornell Stover, Junior?

23 A. Yes.

24 Q. And you're here because of an incident that took
25 place back on February 11, 2009?

State versus Leon Goodman

1 A. Yes.

2 Q. And that was a Wednesday; is that correct?

3 A. Yes.

4 Q. First of all, let me ask you a couple of
5 questions if I may, about coming to Manning. I'm going to
6 show you what's been marked as State's Exhibit 4 and ask
7 if you can tell me what that is?

8 A. That's the car I drove.

9 Q. Can you tell me where that car is located?

10 A. At the hotel in Manning.

11 Q. And I'll try to be brief, this is State's Exhibit
12 No. 5 and State's Exhibit No. 8, is that different views
13 of the same car?

14 A. Yes.

15 Q. Now, whose car were you driving?

16 A. I thought it was Leon's.

17 Q. And when you say Leon, who are you talking about?

18 A. (Inaudible).

19 Q. What's his name.

20 A. Leon Goodman.

21 Q. Leon Goodman, okay, the individual who is here in
22 State's Exhibit No. 3?

23 A. Yes.

24 Q. So there's no question you were in that car and
25 Leon Goodman was in the car that day; is that correct?

State versus Leon Goodman.

1 A. Both of us was in the car.

2 Q. Now, let me back up just a little bit. You were
3 in Dazhill that morning; is that correct?

4 A. Yes.

5 Q. Do you live in the Dazhill area?

6 A. Yes, sir.

7 Q. Do you know if Mr. Goodman lives in the Dazhill
8 area?

9 A. I know his parents, but I don't really know where
10 he lives. I know his mother lives there.

11 Q. Are you familiar with a road there named Cannery
12 Road, Dazhill?

13 A. Yeah, that's the road that I live on.

14 Q. And is that the road where Mr. Goodman would live
15 on as well?

16 A. That's where his mother lives at.

17 Q. So you went over to ask Mr. Goodman to work on
18 your car?

19 A. I went over to the car to see if somebody --
20 anybody over there would work on my car and Mr. Goodman
21 was over there with another car and he was working on his
22 car at the time.

23 Q. And he wanted to know if you had any money?

24 A. He asked me if I had money to fix my car.

25 Q. And you told him that you would need a ride to go

State versus Leon Goodman

1 and cash a tax check?

2 A. I told him that I had the money if I cash my tax
3 check and then I'll know how much money I had to work on
4 my car with.

5 Q. So then the two of you get in what you believe to
6 be Mr. Goodman's car; is that correct?

7 A. Yes.

8 Q. And you go to a local convenience store and cash
9 your tax check?

10 A. Yes.

11 Q. And then you leave there and you drive from
12 Dazhill -- now, for those of us who may not know, Dazhill
13 is up there near Shaw Air Force Base?

14 A. South of 85 where the airport at.

15 Q. Now, you leave from the Dazhill area and you go
16 over to Lafayette heading towards Highway 15, would that
17 be it?

18 A. Yes. I was coming up and as soon as I crossed
19 the bridge, to make the car payment that's when he got the
20 phone call and we went two more miles.

21 Q. So you are in Sumter to make the car payment,
22 you're driving the car; is that correct?

23 A. Yes.

24 Q. And Leon Goodman is in the passenger seat?

25 A. Yes.

State versus Leon Goodman

1 Q. And while you are with him he gets a phone call;
2 is that correct?

3 A. Yes.

4 Q. He then directs you to drive to Manning?

5 A. He, at that time, asks me to drive him to the
6 truck stop and I said yes because he was going to work on
7 my car.

8 Q. Did you make your car payment before you came to
9 Manning?

10 A. No.

11 Q. You had not made your car payment yet?

12 A. No.

13 Q. Do you remember about where you were in Sumter
14 when Mr. Goodman got the phone call?

15 A. Just across the bridge in Sumter where the
16 railroad -- do you know where that is.

17 Q. The railroad overpass by the Harbin Meat Place?

18 A. Yes.

19 Q. Okay.

20 A. Right there and I said I need to go ahead and
21 make my car payment now so he can go back and look at my
22 car.

23 Q. Let me ask you if you remember, do you remember
24 coming out of Jinard(ph) and getting on Highway 15.

25 A. Yes, that's it, straight on up.

State versus Leon Goodman

1 Q. Do you know that area?

2 A. Yes.

3 Q. Do you remember passing the Pilgrims Pride,
4 former Campbell Soup Plant on the right?

5 A. Yes.

6 Q. And where did you go from there?

7 A. Packsville.

8 Q. What did you when you got to Packsville?

9 A. Turning to 51.

10 Q. As y'all were coming into Manning was there
11 another phone call that Mr. Goodman got?

12 A. Yeah. By the time we got there and I think we
13 were standing at Jerry's Truck Stop, he got a phone call
14 and all he did was tell me to drive around to the motel
15 and he said let's go.

16 Q. So you followed his directions and you drove
17 around to the motel?

18 A. Yes.

19 Q. Is that correct?

20 A. Yes.

21 Q. And when you parked there, you blew the horn,
22 right?

23 A. I don't remember blowing the horn.

24 Q. You don't know if you did or not?

25 A. I don't remember, no.

State versus Leon Goodman

1 Q. Now, how long had you --

2 A. I remember seeing all the police calls.

3 Q. Let me ask it this way, do you know how much time
4 there was between when you pulled into this parking space
5 and when the police cars pulled up behind you?

6 A. By the time I wondered what's going on and I
7 looked in my rear view mirror and I saw the police cars
8 come around and at that time I opened that door and I
9 jumped out and said hey ---

10 Q. I don't know nothing about nothing.

11 A. I don't know nothing about nothing. I knew
12 something was going on when I saw all them police cars
13 coming around.

14 Q. Why would you step out and say, I don't know
15 nothing about nothing?

16 A. With that young boy and I seen all them police
17 cars come around I knew something was going on and I
18 didn't know nothing about nothing.

19 Q. Is it because Leon Goodman sells crack?

20 A. I haven't saw him sell no crack.

21 MR. DEVOE: Your Honor, I object to that
22 question.

23 THE COURT: On what grounds?

24 MR. DEVOE: Prejudicial, leading.

25 THE COURT: Well, this is cross-examination

State versus Leon Goodman

1 and it may prejudicial, but there is the probative value
2 so I'll allow the question.

3 BY MR. CORBETT:

4 Q. Is it because Leon Goodman sells crack?

5 A. I never known him to sell crack. I never saw
6 nothing like that.

7 Q. So you get up on a Wednesday morning in Dazhill?

8 A. Yes.

9 Q. And go a couple hundred yards to get your car
10 fixed?

11 A. To get somebody to work on my car, yes.

12 Q. And you end up at the motel off of Highway 261
13 near I95 in Manning?

14 A. Yes.

15 Q. Doesn't that seem odd to you?

16 A. Yeah. My mind was really was thinking about
17 getting that fella to come back and work on my car.

18 Q. What was your understanding of why you were
19 driving to Manning?

20 A. I didn't know I was driving to Manning. I didn't
21 really know where I was. I thought I was just going
22 around the corner. It was early that morning, so --

23 Q. I'm going to show you what's been marked as
24 State's Exhibit No. 6. Can you tell me what that is.

25 A. I guess that's the bag with the dope.

State versus Leon Goodman

1 Q. Where was that bag?

2 A. I don't really know where it was, you know. All
3 I see if -- okay, okay. It was in the console on the seat
4 next to the driver's seat.

5 Q. That was Leon Goodman's car?

6 A. I guess. I never saw it there.

7 Q. You don't deny that this was in Leon Goodman's
8 car?

9 MR. DEVOE: Your Honor, that question was
10 already asked and answered by Mr. Stover. He said he
11 didn't know it was there.

12 THE COURT: I think it's a proper question.

13 THE WITNESS: In Leon Goodman's car, I don't
14 know what his car look like.

15 BY MR. CORBETT:

16 Q. Were you there that day when they found this?

17 A. That's what I was charged with. I never saw it.
18 I didn't know about it until they told me about it.

19 Q. Now, the individual who was testifying earlier
20 this morning, Mr. Blanding, did you know him?

21 A. Never saw him before a day in my life until down
22 there at the jail house.

23 Q. Did you have any phone conversations with him?

24 A. I never knew him from Adam.

~25 Q. But in the time that you were in the car with

State versus Leon Goodman

1 Mr. Goodman, you know that his phone rang on at least two
2 occasions?

3 A. Yes, and it rang and he said a couple of things
4 and he didn't talk about so much.

5 Q. The truth was you weren't heading to Manning
6 until after that phone call, correct?

7 A. Correct.

8 Q. And I apologize if I've already asked you but
9 this is Leon Goodman?

10 A. Yes.

11 Q. That's the person you were riding with that day?

12 A. Yes.

13 MR. CORBETT: One moment please, Your Honor.

14 BY MR. CORBETT:

15 Q. Now, you were present earlier when some tapes
16 were played or some audio tapes, correct?

17 A. Yes.

18 Q. Do you know who was on that car?

19 A. It sound like the voice I heard I guess it's
20 Leon.

21 Q. Did you ever ask why you were going to Jerry's
22 Truck Stop?

23 A. No. I thought we was going to work on somebody
24 car or something because he was always working on cars.

25 MR. CORBETT: That's all the questions I

State versus Leon Goodman

1 have.

2 THE COURT: Mr. Robinson.

3 MR. ROBINSON: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. ROBINSON:

6 Q. Mr. Stover, I just want to ask you a few
7 questions briefly. Now, it's your understanding that when
8 you ran into Mr. Goodman, you inquired of him about fixing
9 your car?

10 A. Yeah, because he do mechanic work. He worked on
11 cars a lot.

12 Q. So you paid him?

13 A. Yeah.

14 Q. You didn't have any money but you had a check?

15 A. Yes.

16 Q. You needed a ride to get your check cashed?

17 A. Right.

18 Q. He had a ride, you had the money?

19 A. Yes.

20 Q. So you had it where you wanted to get your check
21 cashed and come back and work on your car?

22 A. That's it.

23 Q. At some point, he got a phone call?

24 A. Yes.

25 Q. Any idea who was on the other line?

State versus Leon Goodman

1 A. No.

2 Q. Was it Mr. Blanding?

3 A. I found it today it was Mr. Blanding.

4 Q. Do you know that for sure?

5 A. That's what happened in the courtroom today.

6 Q. Was it the girlfriend?

7 A. I don't know.

8 Q. Was it the momma?

9 A. I didn't hear the conversation. That's what I
10 heard on the tape.

11 Q. Now, Jerry's Truck Stop is a truck stop right off
12 of I95. You said you'd been there?

13 A. I guess.

14 Q. You drove across 95 to get there?

15 A. Yeah.

16 Q. I'm not trying to trick you, I'm just asking what
17 you know. You ever car pooled with anybody?

18 A. I usually drive my own car.

19 Q. You ever pick anybody up from somewhere?

20 Somebody says come and pick me up and you go by and pick
21 them up at the house?

22 A. My friends.

23 Q. You picked up a friend and take them somewhere.

24 When you pick up a friend, do you get out of the car and

25 go ring the doorbell or do you toot the horn and let them

State versus Leon Goodman

1 know you're there?

2 A. They'll call me and tell me when I get there they
3 would be ---

4 Q. Standing in the yard?

5 A. Or either if I'm planning going on, I'll ---

6 Q. But I mean if you're in a hurry and you're taking
7 somebody somewhere so you can get back, you toot the horn
8 and they come out and get in the car.

9 A. That's what I would do.

10 Q. So anything unusual in your experience that you
11 offered to give somebody a ride somewhere or fixed their
12 car or you come by and pick them up, you toot the horn
13 when get there?

14 A. Yes.

15 Q. Is there any information you have -- you said you
16 didn't know anything about Mr. Goodman dealing drugs?

17 A. No, I never saw him with no drugs.

18 Q. You didn't see the drugs in the car?

19 A. No.

20 Q. You didn't pull in and y'all saw blue lights and
21 he started throwing them in your seat, did he?

22 A. When I saw that blue light, I didn't look towards
23 him, I just looked for the door and got out with my hands
24 so the police won't think I'm doing anything wrong.

25 Q. Do you have any knowledge if Mr. Goodman knew

State versus Leon Goodman

1 there were any drugs in the car?

2 A. I don't know whether he know it accept for in the
3 courtroom today or whatever.

4 Q. Was the phone call that he got could have been
5 telling him to go and pick somebody up at this motel?

6 A. It could have been, it could have been from you.

7 MR. ROBINSON: Thank you. I don't have any
8 further questions.

9 THE COURT: Anything further?

10 MR. DEVOE: Yes, Your Honor, one question.

11 REDIRECT EXAMINATION

12 BY MR. DEVOE:

13 Q. What time in the morning do you go and get your
14 mail?

15 A. After 10:00, 10:30.

16 Q. If that check had not been in the mail, would you
17 have gone over to the shop to get your car fixed?

18 A. I wouldn't have had no reason.

19 MR. DEVOE: No further questions. Thank you.

20 THE COURT: You can step down.

21 (Witness leaves the witness stand.)

22 Anything further, Mr. Devoe?

23 MR. DEVOE: Nothing further. Defense rests.

24 THE COURT: Mr. Robinson.

25 MR. ROBINSON: I don't have anything to offer

State versus Leon Goodman

1 so we rest as well, Your Honor.

2 THE COURT: Okay. Solicitor, do you have any
3 reply witnesses?

4 MR. CORBETT: Nothing in reply, Your Honor.

5 THE COURT: Okay. Ladies and gentlemen,
6 we're going to take about a ten minute break and we'll get
7 you right back out. One of two things will happen, either
8 we'll send you home for today or we're going to do
9 charging arguments and charge. Don't discuss this case
10 yet and I'll get you back out as soon as possible.

11 (Jury exits the courtroom.)

12 From a scheduling standpoint point, how long
13 do you think y'all will take in your closing argument?

14 MR. CORBETT: I don't think I'll take more
15 than 20 minutes.

16 MR. ROBINSON: I take 15 to 30 tops. I've
17 never -- I don't think I've ever argued longer than that.

18 MR. DEVOE: I'd say the same thing, Your
19 Honor.

20 THE COURT: So we're taking about an hour or
21 hour and a half and it's going to take me at least 20
22 minutes to charge them so that's going to be 5:40 and that
23 doesn't sound good.

24 (Discussion off the record).

25 I'm inclined to let the jury go for the

State versus Leon Goodman

1 evening and then argue and charge in the morning. Find
2 out what they want first and then bring them out.

3 (Jury returns to the courtroom.)

4 Ladies and gentlemen, what's left to do in
5 this trial is closing arguments and charging on the law
6 and what I was doing was trying to figure out the time and
7 since I've got three attorneys involved in this case and
8 most of the time arguments are 30 or 40 minutes but it
9 could be as long as two hours and it's going to take me 30
10 minutes or longer to charge you on the law. That means
11 you won't get this case until 4:30 or 5:00 at the
12 earliest. Once you get this case, I can't let you go home
13 and we have no idea how long it's going to take and you
14 don't know so that's why we don't like to give a jury a
15 case unless it's real unusual circumstances after 4:00
16 because I promise you that I try to get you home to your
17 families at a reasonable time but once I give you a case,
18 y'all have to stay together until you reach a verdict.

19 Now, because of that, I'm going to let y'all
20 go home tonight and bring you back at 9:30 in the morning
21 and then you'll hear the closing arguments and the charge,
22 and then we'll be done with this case tomorrow. After
23 that, you'll be free to go the rest of the week and you
24 don't have to come back otherwise I don't know how long
25 we'll be here tonight.

State versus Leon Goodman

1 I remind you please don't discuss this case
2 tonight. Don't let anybody talk to you about it. Don't
3 read any news articles or anything like that and I'll see
4 you 9:30 in the morning.

5 (Whereupon, the jury was dismissed for the
6 evening.)

7 Okay. Any motions or anything I need to
8 consider?

9 MR. ROBINSON: I will renew my earlier
10 motions but I don't have anything additional I need to
11 argue.

12 MR. DEVOE: My motion also for directed
13 verdict.

14 THE COURT: I understand your client
15 testified that he had no knowledge of the drugs, but there
16 is prior testimony of the location of the drugs of the car
17 and whether the jury can believe whether he had
18 constructive possession and that poses a question of fact
19 that they've got to determine, so there is evidence to the
20 contrary. So I respectfully deny your motion and let the
21 jury decide.

22 MR. CORBETT: Judge, on the issue of the
23 charge, and I'll have to get you the citation for that,
24 but I placed a call to Sumter and asked some of my
25 colleagues there do some research for me and they pulled

State versus Leon Goodman

1 one of the -- it's got Anderson written at the bottom of
2 it and it's Section 6-15, entrapment, Page 476 and I don't
3 know if it predates the case law that Your Honor was
4 looking at and the defense of entrapment is an affirmative
5 defense. This means the defendant must prove by a
6 preponderance of the evidence that he was entrapped by
7 actions of law enforcement, law enforcement entity, or a
8 person acting at the request or the behest of law
9 enforcement. Defendant has the burden of proving that he
10 was induced, tricked, or incited to commit a crime for
11 which he would not otherwise have committed.

12 THE COURT: And I think that's correct, and
13 that was one thing I just asked the lawyer and in the
14 Brown case, I think he did raise that in the Brown case
15 and the real question with the defendant not being here
16 whether that defense was raised or not.

17 MR. ROBINSON: I can't raise it?

18 THE COURT: You might can, but I don't know
19 that you did.

20 MR. ROBINSON: Your Honor, I mentioned it in
21 my opening and I asked law enforcement, more than one
22 officer, was he acting under an agent of law enforcement,
23 was there any prior knowledge that goes to predisposition,
24 was he investigated, you ever heard of him, seen him? Was
25 he in any way a target of any investigations? The only

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1 link came through the initiation of the confidential
2 informant. I understand that may not be the strongest
3 evidence, but as far as me interjecting that defense, I
4 clearly laid out the evidence or the elements that I think
5 that would try to meet that was presented, and I did
6 mention that in my opening argument.

7 THE COURT: That fact that he was a target, I
8 don't have anything to do with that in the trial.

9 MR. ROBINSON: Well, that goes to
10 predisposition. He was not the subject of any ongoing
11 investigation. There was no knowledge by law enforcement
12 that he was predisposed to commit this crime, and the only
13 what this came about was through the intervention of the
14 confidential informant who was at the time acting as a law
15 enforcement officer. Now whether or not he was
16 predisposed, I think at this point is a question for the
17 jury to determine based upon the credibility of the
18 confidential informant and a number of witnesses, and
19 perhaps even Mr. Stover's testimony.

20 But as far as getting me beyond the hurdle of
21 getting the charge to the jury, I think I have done that
22 through the testimony of the State's witnesses about the
23 two elements that are involved, predisposition, acting by
24 an agent of the State, law enforcement, which I think they
25 clearly admitted the CI was.

State versus Leon Goodman

1 MR. CORBETT: Your Honor, if I may, an
2 affirmative defense is not your statements in opening
3 arguments, that's not an affirmative defense. It's not an
4 affirmative defense to as a witness on the stand did you
5 have any ongoing investigation on him. The necessarily
6 elements are not otherwise inclined to do so. An
7 affirmative defense, particularly when using the term,
8 particularly when the defendant has the burden of showing
9 a preponderance of evidence, he has to bring some evidence
10 forward that he was not predisposed or inclined to commit
11 this defense. That's the nature of an affirmative
12 defense. It's not asking the officer did you have an open
13 investigation on him. The fact that he's from Sumter
14 County and they didn't in and of itself is not an
15 affirmative defense and not meeting its burden.

16 MR. ROBINSON: The fact that I didn't call
17 any witnesses doesn't mean that I didn't elicit any
18 evidence. I certainly could have put in photographs or
19 whatever through the officers. Every bit of testimony I
20 got out of them is evidence whether I call my client or
21 call witnesses in his portion of the case, doesn't mean I
22 didn't introduce evidence. I introduced it through the
23 State's witnesses. I don't have to use the magic word
24 entrapment when I'm questioning them. I questioned them
25 specifically about the elements and the testimony and the

State versus Leon Goodman

1 information that was available. I may not win the
2 argument of entrapment, but that's a weight question and
3 not the existence of evidence. I think I have done that
4 through the State's witnesses.

5 I elicited testimony which can be taken as no
6 prior disposition. That is a question for the jury to
7 decide, that he was not under investigation, no knowledge
8 of this disposition, and through Mr. Stover who said I
9 never known him to do anything with drugs. I think you
10 combine that with the fact that clearly the CI admitted he
11 was an agent of the State, he was under the dominion and
12 control of law enforcement and at their insistence he
13 placed his car, I met the burden to have the charge made.

14 Whether or not I win -- you can charge the
15 jury obviously what the charge is that I have the burden
16 of proof and they don't think I met then, then they're not
17 going to find entrapment, but as far as getting that
18 charge to the jury, I think I have done that. I don't
19 have to call witnesses of my own to introduce evidence.

20 MR. CORBETT: If I may, and this is the last
21 thing I'm going to say on this point, are we really to a
22 point of law where the defense can object to me putting in
23 evidence of the defendant's predisposition to commit a
24 crime, moving to exclude it on prior bad acts, and then
25 argue to the Court that I didn't prove prior bad acts?

State versus Leon Goodman

1 MR. ROBINSON: Your Honor, he could have
2 argued that it wasn't through prior bad acts, that it was
3 through, you know, that they didn't have to induce it. He
4 didn't make that argument.

5 THE COURT: Okay. I'm going to read this
6 case but not today. You bring up some interesting
7 arguments, but this case is ---

8 MR. ROBINSON: Is that State v. Range(ph)?

9 THE COURT: The judge did charge them because
10 he bought the State's argument that the defendant didn't
11 meet it's burden of proof and the Supreme Court disagreed
12 with all of that, and so I'll let y'all know in the
13 morning about entrapment. If it's a close argument --
14 this case is almost directly on point and in that case the
15 trial judge refused, because the defendant didn't testify,
16 the defense counsel brought it up through his cross-
17 examination of the State's witnesses. The trial judge
18 said he hadn't made that burden and the Supreme County
19 disagreed.

20 I'll read the case in great detail tonight
21 and let y'all know in the morning.

22 MR. CORBETT: Judge, are we at recess on this
23 case?

24 THE COURT: Yes.

25 (Whereupon, the trial will reconvene at

State versus Leon Goodman

1 (Whereupon, the trial will reconvene at
2 9:30 a.m.)
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State versus Leon Goodman

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2 I, the undersigned Caroline Hiskell, Official
3 Court Reporter for the Thirteenth Judicial Circuit of the
4 State of South Carolina, do hereby certify that the
5 foregoing is a true, accurate, and complete transcript of
6 record of all the proceedings had and evidence introduced
7 in the trial of the captioned case, relative to appeal, in
8 the Circuit Court of Clarendon on County, South Carolina
9 on the 7th day of December, 2010.

10 I do further certified that I am neither of
11 kin, counsel, nor interest to any party hereto.

12
13
14 August 10, 2011

15 _____
16 Caroline Hiskell

17
18 (Please note that this trial was transcribed but not taken
19 by the above named court reporter to the best of her
20 ability.)
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State versus Leon Goodman

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2 STATE OF SOUTH CAROLINA)
3 COUNTY OF CLARENDON) COURT OF GENERAL SESSIONS
4) 2009-GS-14-0190
5)
6 State of South Carolina) TRANSCRIPT OF RECORD
7 vs)
8 Leon Goodman)
9 -----)

Day 3 - December 9, 2010
Clarendon, South Carolina

B E F O R E:

THE HONORABLE FERRELL COTHRAN, Jr., Judge

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

ROBERT CORBETT, Esquire
Assistant Solicitor
Attorney for the State

SCOTT ROBINSON, Esquire
Attorney for the Defendant Goodman

WILLIAM DEVOE, Esquire
Attorney for the Defendant Stover

Caroline Hiskell
Circuit Court Reporter

(Please note this trial was transcribed but not taken by
the court reporter listed above to the best of her
abilities.)

State versus Leon Goodman

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I N D E X

(No witnesses or exhibits admitted on this day.)

Jury Charge

Closing: Mr. Devoe

Mr. Robinson

Mr. Corbett

State versus Leon Goodman

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P R O C E E D I N G S

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(Whereupon, the trial of the State versus
Leon Goodman and Cornell Stover resumes.)

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6

THE BAILIFF: All rise, the Honorable Ferrell
Cothran presiding.

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THE COURT: Thank you. Please have a seat.
Good morning ladies and gentleman.

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The charge of entrapment, I have read the
cases we have here and I don't think there's any evidence
in this record to support a charge of entrapment. In the
Brown case, there was a CI who made a telephone call to
get defendant Charles Brown bring him some cocaine or
drugs. In that case, but for his friend asking him to
bring him these drugs and handing him these drugs, it
would not have happened and there is some evidence to that
affect and there was entrapment involved.

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In this case, the CI testified that they were
not friends and he didn't even know his name and he had
contact with him over the last few months eight or nine
times and therefore the prior relationship was drug
related if he, in fact, was practicing in drugs in this
particular case and the State didn't cause that.

24

25

In addition, the testimony of the
co-defendant is it wasn't a scenario where he got a phone

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1 call and went to accommodate someone and he had to go find
2 the drugs from someone else. They were in the car and
3 they were going to pay the co-defendant's car payment and
4 the call came in and they turned right on 15 and came to
5 Manning, 261, straight to the hotel and didn't stop
6 anywhere to purchase the drugs prior to the telephone call
7 coming in. So I don't think there is any factual basis in
8 this case for a charge of entrapment.

9 Anything else?

10 MR. CORBETT: Nothing from the State.

11 THE COURT: Anything from the defense?

12 MR. ROBINSON: Do you want me to argue that?

13 THE COURT: No, it's over. I think you
14 argued it all yesterday. If you want to add anything to
15 that and ask me to reconsider it, I will.

16 MR. ROBINSON: I honestly don't have any new
17 information that I didn't give you yesterday, but based on
18 the information you considered overnight, I didn't have
19 any additional facts to add to what you already heard and
20 what I argued yesterday.

21 THE COURT: And the State evidence that you
22 objected to coming in of prior bad acts or prior drug
23 dealings between the CI and the defendant and quite
24 frankly I think that was a violation of Lyle and it wasn't
25 a Lyle exception and at that point you didn't lay a

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1 defense of entrapment. I'm not really sure how to deal
2 with Lyle issues and entrapment. If you raise the defense
3 of entrapment then that may open the door to Lyle
4 testimony that otherwise would not be admitted. The State
5 had offered that testimony and I did not allow it to come
6 in under Lyle.

7 MR. ROBINSON: It's my understanding that
8 entrapment is not under Lyle either. That's not under the
9 list of exceptions to say, this, this, this, or to evoke
10 the defense of entrapment and show prior disposition.

11 THE COURT: I understand that argument and I
12 guess if it comes under anything it comes under intent. I
13 guess the argument that you're client didn't intend to be
14 a drug dealer or distribute drugs but for the police
15 planting that idea of his head, he was not predisposed to
16 do that. So in this case, the fact that he was
17 predisposed, the police did not plant this idea in his
18 head, but for that planning he would have never have done
19 that.

20 MR. ROBINSON: Isn't that a factual question
21 whether or not he was predisposed?

22 THE COURT: I understand that but I excluded
23 all of that evidence so the jury doesn't get to hear that.
24 and we proffered that evidence that there was prior drug
25 dealings in this case. And the other issue is because of

State versus Leon Goodman

1 the time line is he didn't go and get these drugs, the
2 drugs were already in the car and he delivered them. It's
3 not a situation where, well, I never thought about being a
4 drug dealer and I got this call and maybe I can make \$250
5 so I'll go and get these drugs and carry them down to
6 Manning and make myself \$250. Basically the testimony in
7 this record is the drugs were already in the car and
8 that's a factual issue, and the conversation and
9 everything else came from your client and not the
10 co-defendant. The evidence was the CI identified your
11 client. He didn't know who he was, never had any contact
12 with him at all, he identified your client by the picture.

13 I just don't think it warrants the charge,
14 but I could be wrong and I'm sure it will be corrected on
15 appeal.

16 Is the State ready to argue?

17 MR. CORBETT: I'll just wait and go at the
18 end.

19 THE COURT: Is the defense ready?

20 MR. ROBINSON: Yes.

21 MR. DEVOE: Yes, Your Honor.

22 (Jury enters the court room.)

23 THE COURT: Good morning ladies and
24 gentlemen. You have heard all the evidence that you're
25 going to hear and now it's time for the closing arguments

State versus Leon Goodman

1 of the lawyers. Then I will charge you and give you to
2 case to deliberate.

3 Mr. Devoe.

4 MR. DEVOE: Thank you, Your Honor.

5 Good morning, I hope y'all had a good night.

6 In this case I think is a strange case. Strange in the
7 sense that there are two defendants, one of the defendants
8 is not here. My client, Cornell Stover is here.

9 COURT REPORTER: Can you speak up.

10 MR. DEVOE: I'm sorry. The State has the
11 burden of proving my client guilty and I submit to you
12 that the I believe the State hasn't proven it's case
13 beyond a reasonable doubt. My client is a law abiding
14 citizen with no record of criminal wrong doing.

15 (Whereupon, this portion of the closing can
16 not be transcribed due to the inaudible recording.)

17 THE COURT: Mr. Robinson.

18 MR. ROBINSON: Good morning, ladies and
19 gentlemen. I know some of y'all are so glad we're almost
20 finished. I do this for a living but y'all have had your
21 lives interrupted and your schedules inconvenience to come
22 in here and listen to this case and I appreciate it that
23 very much, not just for me but for Mr. Goodman. At the
24 end of the day, win, lose, or draw I'm going to go home
25 and sleep in my bed tonight, but Mr. Goodman's future is

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1 in your hands, not my hands, not the Judge's hands, but
2 your hands. That's the way our Constitution and our laws
3 work that before you can take away a man's freedom, 12 of
4 your peers must unanimously decide beyond a reasonable
5 doubt that he's done something and the State has met it's
6 burden of proof.

7 Now, I talked to y'all a little bit about
8 that in my opening statement and why the State has the
9 burden of proof and I think it's become pretty apparent to
10 y'all when this whole thing took place there were eight or
11 ten officers there with recording devices and sirens and
12 community action teams and high tech equipment, and you
13 got Mr. Goodman and Mr. Stover.

14 So the State has the burden of proof and
15 Mr. Stover nor Mr. Goodman doesn't have to prove anything,
16 absolutely nothing. Just like I told y'all in my opening
17 statement when the trial started, they're innocent and
18 they're innocent right now until and unless y'all go in
19 that room and decide otherwise, they are presumed innocent
20 until and unless somebody proves to the 12 of y'all beyond
21 a reasonable doubt that they're guilty.

22 Now, beyond a reasonable doubt is a term that
23 the Judge is going to talk to you about and a lot of
24 people talk about and I want to give you an idea. The
25 basically of what that means is it's not beyond any doubt.

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1 We all assume things that we never thought would happen
2 that was thought was impossible but anything is possible,
3 but a reasonable doubt is the kind of doubt that would
4 make a reasonable person hesitate to act, to do something.
5 Now, we're not talking about if you're sure enough to drop
6 a quarter in a drink machine because you're not sure
7 whether it is turned on, we're talking about potentially
8 sending a man to prison so you need to be relatively sure,
9 and judge him guilty or not guilty based on what you've
10 heard.

11 I want to take you back to what Mr. Corbett
12 told you a little bit about in his opening statement. He
13 told you this case would not be based on speculation,
14 conjecture or pie in the sky. I told y'all I agreed then
15 and I agree now more than ever because this is important,
16 an important case. Y'all can't base what y'all decide on
17 speculation, conjecture, pie in the sky and we've heard a
18 lot of that.

19 We've heard the officers burying you with
20 what's customary and what normally happens; normally a
21 drug dealer does that and normally a drug dealer does
22 that, that ain't proof. Normally, it's warm in the summer
23 and cold in the winter. Some days it's 70 degrees in the
24 winter. That ain't normal and customary but it's
25 happened, we all know that. So the fact that in 13 years

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1 of 10 years or 15 years that's normally what happens
2 doesn't mean you can just assume that it happened that day
3 in this case because that's speculation and conjecture.
4 That's not good enough. You have to be convinced by the
5 facts.

6 Now, the facts and the evidence come from
7 that witness stand through testimony, but remember I also
8 told you that evidence can come from a lack of evidence
9 and in my mind and I made some notes on a note pad about
10 several things I thought about and I think you should
11 think about. First thing is the confidential informant,
12 law enforcement or anybody else, they didn't know Leon
13 existed, never knew about him and didn't know who he was.

14 We've got eight to ten law enforcement
15 officers who are trained in drug enforcement and drug
16 dealing and this is some big time drug dealer and nobody
17 ever heard of him. They never heard of Mr. Stover either,
18 never heard of him. He's got the same charge today,
19 possession with intent to distribute crack cocaine, that
20 same charge is what the confidential informant is charged
21 with on that same day and we're here in trial for
22 Mr. Goodman and the confidential informant is still
23 walking about on this street. They haven't gotten to his
24 case, there was no deal, maybe there was, I don't know,
25 but it's pretty clear he was lying. He wasn't sure what

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1 he was supposed to say. He didn't want to tell y'all the
2 deal was because he didn't want to mess up the deal by
3 telling y'all what the deal was. He couldn't tell the
4 same story twice to save his life up on that stand.

5 He got mad at me because I was asking him the
6 same thing, making him look bad because I was putting him
7 on the spot. Well, if you're going to set forth to put
8 somebody in prison, you'd better be man enough to get up
9 on that stand and tell what the deal was and he wasn't. I
10 don't think he was credible. You heard testimony from the
11 witness stand and it's your right, your prerogative, and
12 your job to decide whether or not was credible. I don't
13 that testimony was credible.

14 Law enforcement told you the facts of the
15 events that day, a white car pulled up to the motel that
16 day, the police swarmed in, snatched them out the car,
17 handcuffed them and put them on the ground. You had a
18 couple of officers who didn't know if they were on the
19 ground or not. The car was searched. No search warrant,
20 just on the word of this confidential informant and drugs
21 were in the car. That's what we know. Now, everything
22 else from that point on is conjecture, speculation, pie in
23 the sky. We don't know whose phone it was. Why? We
24 don't need to check because drug dealers never have phones
25 in their names. Why didn't they run the phone records?

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1 You're right.

2 What about the car? The car wasn't
3 registered to either one of these guys. Oh, drug dealers
4 never drive their own cars. Maybe so. That's
5 speculation. They don't have any proof of that. What
6 about the owner of the car, why did they do an
7 investigation of the owner of the car? Oh, we think we
8 got the guy, that's good enough for us. That's too much
9 work and too much running around, we can't go get somebody
10 else. Let's rush to judgment. These guys got drugs in
11 the car, the must be drug dealers, in my experience they
12 don't drive their own car or have their own phone, that's
13 speculation ladies and gentlemen. They decided that day
14 that these two gentlemen were guilty.

15 They didn't wait on y'all to hear this. They
16 decided that day we don't need to look at anybody else.
17 We don't need to question the driver of the car. We don't
18 need to contact the telephone company. We don't need to
19 put all the pieces of the puzzle together. That is not
20 good enough, ladies and gentlemen. That is not good
21 enough

22 There was no voice identification on the
23 phone. It is a phone number. We don't know who it was
24 registered to. The confidential informant, himself, told
25 you I don't know who he was talking to on the other end, I

State versus Leon Goodman

1 recognized the phone number.

2 Y'all heard the audio tape. I don't know how
3 anybody would recognize anything on that audio tape or
4 what was said, but guess what? They told you what was
5 said, didn't they. Somehow or another they knew exactly
6 what was said. The confidential informant didn't know and
7 he had no idea who was in that car. They told him what
8 was in that car. Yeah, they showed me the picture and I
9 saw them in jail and that's how I knew it had to be
10 Mr. Goodman. That's how I knew it was Mr. Goodman because
11 the police told me so, if the confidential informant
12 identify him and they didn't know who he was, they
13 wouldn't have a case. That way the confidential
14 informant, Mr. Blanding, could help himself out.

15 Guess what, if you're trying to help yourself
16 out by setting up someone else and your information is not
17 good, you don't get no deal, so he got to make this thing
18 go down. That's why he was so nervous yesterday. His
19 case is hanging on by a thread and he didn't know which
20 way to turn. That's what we've got.

21 They decided that we're satisfied that this
22 man is guilty and we don't have to do anything else.
23 We've done enough so I suggest to y'all it can't happen
24 that way because we can not get by with this kind of
25 stuff. You have to be convinced. Like I said, there are

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1 facts that we know. The car was at the motel, there was
2 drugs in the car and these two people were in the car and
3 there were drugs in the car. We don't know if it was even
4 their drugs.

5 Now, at the beginning I talked to you about
6 rats. It's interesting how when trouble falls on people,
7 the rats seem to come out of it. As I stand here this
8 morning and listen to how bad my client was and now
9 Mr. Stover has turned into a rat. It wasn't me, it wasn't
10 me, I had nothing to do with it, it was all Mr. Goodman.
11 He didn't tell you that on the witness stand yesterday.
12 He sat right there and said I never known him to do drugs,
13 be involved with drugs. I never saw him dealing drugs, I
14 didn't know anything about drugs. And that's the truth
15 but now his lawyer is going to come up here and try to
16 convince y'all that Mr. Goodman is some kind of bad guy.

17 What testimony have y'all heard telling y'all
18 that Mr. Goodman is any different than Mr. Stover. The
19 police didn't know either one of them. There is no
20 evidence that either one of them was drug dealers. All of
21 that is speculation, conjecture, pie in the sky. That's
22 what the police believe. That's what they want y'all to
23 believe, but it's not based on what y'all believe or what
24 you think. It's based on what you know and what has been
25 proven. Do you know that to be a fact? Has that been

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1 proven?

2 And that's what this case is about. Whether
3 you like him or don't like him, believe or don't believe,
4 it's about proof. Has the State met it's burden of proof
5 and I'm going to submit that there are too many unanswered
6 questions, too many things that they wasn't y'all to take
7 a leap of faith and believe their conjecture and
8 speculation. It's customary for drug dealers to that,
9 customary for drug dealers to do that. These are big time
10 drug dealers. He doesn't have a driver's license and law
11 enforcement never heard of him but he's a big time drug
12 dealer.

13 I've watched y'all through the trial and
14 y'all have paid attention and was listening and I know
15 y'all care about doing the right thing and I'm convinced
16 of that. I just want y'all to go back there and do what
17 you've done your whole life consider the facts, all the
18 facts, think about and do what you think it right based on
19 what the Judge will tell you that this isn't based on
20 opinion, liking somebody or not like somebody. Has the
21 State met their burden of proving to you beyond a
22 reasonable doubt enough that y'all will take away
23 Mr. Goodman's Constitutional presumption of innocence and
24 find him guilty.

25 As I said, in my opinion which unfortunately

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1 doesn't count, but based on the questions that I reminded
2 you of we just don't know for sure if -- they could have
3 gotten in the car with drugs. It could have been
4 anybody's and we just don't know for sure. And I hope
5 that before you take a step to put a man's freedom at
6 stake that you make sure that it's not speculation; it's
7 not conjecture and it's not pie in the sky and what they
8 believe happened but has been proven to you based on
9 facts.

10 Thank you.

11 THE COURT: Mr. Corbett.

12 MR. CORBETT: Thank you, Your Honor, may it
13 please the Court.

14 Ladies and gentlemen, often times we prepare
15 closing arguments and then after you listen to the other
16 side deliver their closing arguments, you tend to adjust
17 and modify it and change as we go. I'm going to stand
18 behind this podium as I talk to you because I was once
19 told that I walk when I talk and it's distracting, so I'll
20 try to stay within arms length of this.

21 You remember in the days of the old
22 testament, there was a common test to determine whether a
23 profit was in fact a prophet and what he told you came
24 true, and that was the measure of a profit. Now, I do not
25 want to elevate for one moment Mr. Blanding to the status

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1 of a profit, but I do want to point this out, is what he
2 told the police come true?

3 You can stand here and argue and you can call
4 them speculations and you can call them conjectures, but
5 that's not evidence. To pick and choose bits in pieces of
6 a trial what you want to call speculation is not evidence.

7 What I want to do today for the new few
8 minutes to the best of my ability talk to you about
9 evidence. What do we know happened on February 11, 2009
10 sometime there around noon? What do we know? What we
11 know is that this car arrived the Quality Inn here in
12 Manning. That's what we know. Mr. Stover himself told
13 you that. That's where I parked it which is complete
14 consistent with what the police told you. We know that
15 that car comes to Manning. We know that Burnell Blanding
16 told the officers that they are usually in an older model
17 Nissan Altima.

18 Now, Mr. Robinson can stand here and tell you
19 that we don't know who was on the other end of that phone,
20 but let me tell you something if it was not Leon Goodman,
21 these guys have to be the most unluckiest people on the
22 face of the earth to be driving a white Altima, show up
23 exactly in front a hotel room that Mr. Burnell Blanding
24 told the person to come to, and happened to have seven-
25 and-a-half grams of crack cocaine in the car.

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1 You can put this together. When Burnell
2 Blanding who is no saint who tells you I deal in dope says
3 I want to help myself. Okay. I want to help myself now
4 that I've been arrested. I want to make a call. Who are
5 you calling? I don't know his name. Does it surprise me
6 that people dealing in dope don't use their real name?
7 No, that doesn't surprise me at all and it shouldn't
8 surprise you.

9 This the guy that I've had contact with for
10 about three months; that's the guy I called that day,
11 okay. Now, this is the guy who shows up in the car. The
12 car that has seven-and-a-half grams of crack cocaine in
13 it, which is here. The car that has Leon Goodman's
14 traffic ticket in it. Leon Goodman who is identified as
15 the person that arrest confirmed his identity through the
16 Department of Motor Vehicles. That's what we know.

17 Now, Mr. Robinson referred to him as a big
18 time drug dealer. My recollection is that no one up here
19 called him a big time drug dealer; made a point of the
20 fact that police didn't know him. What did Mr. Stover
21 tell you that he and Mr. Goodman lived? In Dazhill(ph).
22 Do you really believe that law enforcement knows every
23 single person who sells crack cocaine? Would your job be
24 a whole lot easier if there was some bulletin that says,
25 oh, yeah, Leon Goodman is a drug dealer, let's go to

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1 Dazhill and check him out.

2 They want you to believe that if two guys
3 that sold drugs in Dazhill and nobody knew them, then
4 they're not guilty. Does even make sense to anyone? Phil
5 Ardis took the stand first and he testified how he set up
6 this operation and he told you, yes, we deal with unsavory
7 characters from time to time. We arrest people. We
8 present them with an opportunity to help themselves.
9 They're looking to minimize their punishment and they're
10 going to make a call for you.

11 In this particular case, we arrested that
12 gentleman on that morning and about 11:30, he was placing
13 the call. We took him to the hotel there, the Quality
14 Inn, and we waited. He call again a little bit later and
15 they said, yeah, we're over here at Jerry's Truck Stop,
16 and within, I believe, a four-minute window that car was
17 there.

18 Donnie Drose testified that he was one of the
19 officers and said I was there to provide support and back
20 up, and I did help search the car and when I saw that bag,
21 I said to Agent Kennedy, what is that so that you would
22 know which people were involved in the case.

23 Mitch Hansen from the Sumter County Sheriff's
24 Department comes down and talks to you about his training
25 and his testing of this crack cocaine. Investigator

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1 Kennedy testifies and he again walks you through the
2 process and the telephone call and seeing the car through
3 the window.

4 The custodian clerk tells you about
5 maintaining custody and control of the package before it
6 went Sumter County and when it came back to Sumter County.

7 Burnell Blanding testified and Burnell
8 Blanding is as drug dealer of some time type. Now, they
9 don't want you to convict on this case because Burnell
10 Blanding is a bad guy and believe that Burnell Blanding is
11 a bad guy, but Burnell Blanding wasn't in this car.
12 Burnell Blanding was not in that car.

13 Now, I've seen this before and it's quite
14 insidious the technique that defense attorneys will use
15 with this argument. Ladies and gentlemen, law enforcement
16 went out here and they found this bad guy and he gave them
17 some information that led them to another drug dealer.
18 He's a bad guy for turning in another bad guy. What? Why
19 would you knock on the Sheriff's car door and they tell
20 them to go home, we don't need you. Hey, don't do you
21 your job and get out there and pursue leads, don't get
22 information from the people who are locked up and go and
23 pursue it further. Go take the rest of the day off. Is
24 that what they want us to believe law enforcement should
25 do.

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1 Law enforcement is out there doing their job
2 and now they're being critics for doing their job.
3 Burnell Blanding tells you, I don't know this guys name,
4 but I had contact with him a lot over the last few months,
5 and when I got in trouble, they offered me the opportunity
6 to help myself. I don't know what kind of deal I'm
7 getting but I'm hoping that by being here today, it helps
8 me out down the road. He still has charges pending. You
9 heard that he still has an indictment. Does it surprise
10 anybody that someone would want to help themselves out?
11 Is that really a news flash? Happens all the time.

12 So he told you that he made a phone to this
13 person right here and he said that's the guy I was talking
14 to. I told the police that he drives an older model
15 Altima or sometimes a green vehicle and that he's at the
16 motel.

17 We also have to put in the phone call. What
18 is the quality of this recording? It's not very good, I'm
19 going to tell you it's not, and I had a very hard time
20 hearing the other end of it. So it sounded to me, and
21 again it's in evidence, like Burnell Blanding said I need
22 a half, yo, crack cocaine. He makes the call. Sure
23 enough about 35 minutes later, the white car shows up.
24 Does it matter whose name the car is in? Does it matter
25 whose name that the phone is it because they showed up.

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1 Burnell Blanding made the call and they show up.

2 You know Mr. Robinson stood here and called
3 this speculation because the car was registered to
4 somebody else. He called it speculation because they
5 didn't check the phone number. Is that the right
6 speculation? Does this look like speculation? Does this
7 look like speculation?

8 Mr. Stover got on the stand and testified.
9 Now, I haven't talked a lot about Mr. Stover. I'm going
10 to take a few minutes and talk about Mr. Stover because
11 the testimony is, is that this is the person that Burnell
12 Blanding named in the car. That's the testimony, but even
13 in Mr. Stover's testimony he talks about leaving Dazhill
14 that morning to cash the check and I believe they said
15 they were on their way to make a car payment -- and again
16 I'm trying to remember his testimony as accurately as you
17 can -- he said that somewhere around or over the railroad
18 overpass we got a phone call. I wasn't listening into it
19 but I before I made my car payment, we went on to Manning.

20 Now, he said I thought Jerry's Truck Stop was
21 down the road and Goodman is telling me where to go. They
22 went on to Manning and got another call and they pulled up
23 to the motel. It sounds to me like it was already in the
24 process. Now, where does that leave us with Mr. Stover.
25 Mr. Stover testified that he was from Dazhill -- by the

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1 way, Mr. Robinson just a few moments ago said how can he
2 be a drug dealer if he doesn't have a driver's license.
3 From my recollection of Mr. Stover's testimony was I
4 don't, he said he didn't have it on him, because I think
5 he was asking about the status of his driver's license and
6 he said he said he didn't have it on him.

7 There is no evidence as to whether he did or
8 did not have a driver's license, he said he didn't have it
9 on him. Now, this is a strange set of circumstances to
10 me. He said, I want to get my car worked on. I get up
11 that morning and walk over to the garage, and they tell me
12 I need some money so instead of getting to the convenience
13 store, I drive his car with him to the convenience store
14 right down the road. I'm not sure how right down the road
15 to the convenience store ends up paying a car payment, but
16 apparently he wanted to see how much money he had left,
17 but instead he ended up in Manning.

18 The one thing I found curious about all of
19 this is when Mr. Stover said that I don't know nothing
20 about nothing. Nothing about nothing? He never said,
21 hey, officers, what's the problem? What y'all doing here?
22 No, it was I don't know nothing about nothing. Maybe I'm
23 reading more into than what's there but that seems like a
24 very strange response to officers particularly when
25 there's a bag of crack cocaine in the car.

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1 Ladies and gentlemen, I think sometimes what
2 will frustrate people is you get in the courtroom and talk
3 about everything except for this trial. We will take a
4 simple set of circumstances and we will try to convolute
5 it. Simple scenario is on February 11, 2009, this car
6 with Mr. Stover and Mr. Leon Goodman came to Manning. The
7 came to Manning in response to a phone call from Burnell
8 Blanding. Burnell Blanding told the police what to be on
9 the lookout for. They did their job and sure enough that
10 car has seven-and-a-half grams of cocaine in the car.
11 Technically that's 7.54. It's really that simple.

12 Now, let me talk to you just a moment about
13 the law. Mr. Stover is a defendant charged with
14 possession with intent to distribute cocaine base.
15 Cocaine base is also known as crack. Possession with
16 intent to distribute, there are two components of this.
17 In the law of South Carolina, the jury can infer that the
18 person more than a gram of cocaine base, you can infer
19 that there is an intent distribute. That inference is
20 based on the weight, seven grams, so it's more than one
21 gram. It's twice that amount, three grams would be three
22 times as much. Four grams would be four times the amount.
23 Y'all see where I'm going with this. The law says seven
24 grams is an inference of distribution.

25 Now, this case is a little bit different

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1 though because there are occasions where people are caught
2 with a quantity of cocaine on their person and they say,
3 oh, no, I just use a lot of it. I didn't intend to
4 distribute this, but this case is different. They came
5 from Dazhill to Manning with it. I need a half, you, \$250
6 so you don't have to worry about the weight. The intent
7 to distribute it plain in its circumstances, that they
8 came to Manning to put this poison on the street. They
9 came to Manning to put this poison on the street for
10 money.

11 Sometimes people have their opinions on what
12 the law should be but you're oath as jurors is to apply
13 these facts to the law as it exists. The law in the State
14 of South Carolina the intent to distribute cocaine base is
15 against the law. That's the law. Your oath and your
16 responsibility is to apply the facts to the law and these
17 two guys were in Manning to distribute cocaine base. It's
18 plain and simple.

19 You will go back in the jury room and
20 deliberate. I will not presume for a moment that it is
21 easy to sit in judgment of someone else. I know that is
22 not an easy task, but I ask that you apply the facts to
23 the law. Does it matter if Burnell Blanding is a bad guy?
24 Does it matter that the car was in someone else's name?
25 What do you know the facts to be? Leon Goodman came to

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1 Sumter County to sell crack cocaine.. Cornell Stover was
2 in the car with him, that's what we know.

3 Ladies and gentlemen, I believe if you go
4 back there and consider the facts, it will lead you to the
5 conclusion that they are guilty. Thank you.

6 THE COURT: Ladies and gentlemen, you've
7 heard all the evidence in this case and the arguments from
8 the attornies, I am now going to tell you the law that you
9 ought to apply.

10 In our Constitutional Code of Law, only the
11 jury can make the finding of facts in this case. I am not
12 permitted to indicate to you how I might feel about the
13 facts. So if I've said anything or done anything that
14 would make you think I have an opinion about the facts,
15 you are to disregard that because you are that can have an
16 opinion about the facts and I'm not allowed to by law.

17 Under that same Constitutional code of Law
18 that makes you the exclusive judge of the facts, it makes
19 me exclusive judge of the law. So if you have an idea of
20 what the law is or what you think the law ought to be and
21 it differs from what I am going to tell you the law is,
22 then under your oath you are to disregard your idea of
23 what the law is and apply the law that I give to you to
24 the facts that you think to be true in this case.

25 The facts that these defendants were arrested

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1 and charged in the indictment in this case is not evidence
2 in this case and should not be considered by you of guilt
3 in this case nor does it create any presumption of guilt.
4 An indictment is simply the formal written instrument
5 which contains the charges against these defendants. It
6 serves as a formal document to process this case through
7 court.

8 The defendants in this case have pled not
9 guilty to this indictment therefore it casts the burden on
10 the State of South Carolina to prove each and every
11 element of the indictment beyond a reasonable doubt. A
12 person charged with committing a criminal offense in South
13 Carolina is never required to prove himself or herself
14 innocent.

15 Under the laws of this State, a defendant may
16 be tried even if the defendant does not attend the trial.
17 The fact that one of the defendants in this case is not
18 present may not be considered by you in any way whatsoever
19 nor hold that against this defendant in any way
20 whatsoever. It is an important rule of law that a
21 defendant in a criminal trial will always be presumed
22 innocent of the crime for which he or she is indicted
23 unless or until his guilt has been proven by evidence that
24 satisfies you the jury of guilty beyond a reasonable
25 doubt.

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1 The presume of innocence is not an illegal
2 theory, it is not just a legal claim, it is a substantial
3 Constitutional Right in which every defendant is entitled.
4 This presumption of innocence is upon the defendant from
5 the time he is charged and throughout the trial, until you
6 reach a verdict of guilt based upon evidence that
7 satisfies you of that guilty beyond a reasonable doubt.

8 A reasonable doubt is a doubt which makes a
9 honest, sincere, conscientious jury in such of the truth
10 hesitate to act. Proof beyond a reasonable doubt must
11 therefore be proved in such a convincing character that a
12 reasonable person would not hesitate to rely and act upon
13 it in the most important of his or her own affairs. Proof
14 beyond a reasonable doubt can also be described as proof
15 that leaves you firmly convinced of the defendant's guilt.

16 There are very few things that we know in
17 this world with absolute certainty and in a criminal case,
18 the law does not require proof that overcomes every
19 possible doubt but based on your consideration of the
20 evidence you are firmly convinced that the defendant or
21 defendants are guilty of the crime charged, you must find
22 him or her guilty. If, on the other hand, you think
23 there's a real possibility that he is not guilty, you must
24 give him the benefit of that doubt and find him not
25 guilty.

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1 In determining what the facts are in this
2 case, you must necessarily pass upon the credibility which
3 simply means the believability of the witnesses and the
4 value or weight to be given to their testimony. You alone
5 must decide the weight or truth of that testimony.

6 In making these decisions, there are many
7 things that you may and should take into consideration
8 such as the appearance and the manner of the witness on
9 the stand sometimes referred to as the demeanor of the
10 witness. Was the witness forthright or hesitant? Was the
11 witnesses testimony consistent or did it contain
12 discrepancies? What was the ability to know that facts
13 about which he or she testified? Did the witness have
14 cause or reason to be bias or prejudice in favor of his or
15 her testimony? Was the testimony of the witness
16 corroborated or made stronger by other evidence and
17 testimony or was it impeached by other evidence and
18 testimony?

19 The Rules of Evidence ordinarily do not
20 permit witnesses to testify to opinions or conclusions.
21 An exception to this rule exists for witnesses we call
22 expert witnesses, a witness who by education or experience
23 has become an expert in some art, science, profession or
24 calling may state an opinion as to relevance in the
25 material manner in which the witness claims to be an

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1 expert and may also state the reasons for the opinion.

2 You should consider an expert's opinion
3 received in evidence in this case like any other evidence
4 and give it to the weight you think it deserves. If you
5 decide the opinion of an expert is not based on education
6 and experience or you conclude that the reason given in
7 support of that opinion are not sound, or that an opinion
8 is outweighed by other evidence, you may disregard that
9 opinion in its entirety. An expert's testimony is to be
10 given no greater weight than that of any other witness
11 simply because the witness is an expert. You are not
12 required to except and expert's opinion even though it is
13 not contradicted.

14 As jurors you have a right to believe a
15 small portion of a witness's testimony and disregard the
16 larger or visa versa. You may believe all of the
17 witness's testimony or none. You may believe the
18 testimony of a single witness against that of many
19 witnesses or the other way around.

20 Now, criminal intent of a necessary element
21 of each crime must be proven by the State beyond a
22 reasonable doubt. Criminal intent is always a matter that
23 must be determined by a jury and the circumstances
24 surrounding the situation. There is no way to prove
25 intent to a mathematical certainty. There is no way that

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1 medical science can dissect a person's brain to determine
2 what he had in mind. What the law states criminal intent
3 may be inferred from the circumstances shown to have
4 existed both before and after the facts. This is how you,
5 the jury makes a determination of whether or not the
6 elements required that an intent was present.

7 Criminal intent is a state of mind that
8 operates jointly with an act or omission in the commission
9 of a crime. Criminal intent is a mental state or
10 conscious wrong doing so you, the jury, must determine
11 what the defendant or defendants intended to do based on
12 the circumstances shown to have existed. And I tell you
13 the State must prove criminal intent beyond a reasonable
14 doubt and that is the State must prove every element.

15 There are two types of evidence that is
16 generally presented throughout the course of a trial,
17 direct evidence and circumstantial evidence. Direct
18 evidence is testimony is evidence who asserts or claims to
19 have actual knowledge of a fact such as an eyewitness.
20 Circumstantial evidence is proof of a chain of facts or
21 circumstances indicating the existence of a fact and I'll
22 give you an example. We're in here trying this case and
23 we came in this morning and outside was dry. Sometime
24 during the trial of this case, it rained outside and you
25 go out this afternoon when we get through this case and

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1 the ground is soaking wet. You may not have seen it rain
2 outside because we may all have been focused on what's
3 going on in this courtroom and not looked out the window.
4 We came out and the ground is soaking wet and there is mud
5 puddles everywhere, you can assume that some time during
6 the day it rained outside. That's circumstantial
7 evidence. If you had seen it raining outside, that's
8 direct evidence. The law makes absolutely no distinction
9 to the weight or value given to either direct or
10 circumstantial evidence nor is there any greater degree of
11 certainty required of circumstantial evidence than that of
12 direct evidence. You should weigh all of the evidence in
13 this case and after weighing all of the evidence and if
14 your not convinced of the defendants guilt beyond a
15 reasonable doubt, you must find them not guilty.

16 Now, in this case, we have multiple
17 defendants. I charge you that we have two defendants in
18 this case. Each defendant is charged with possession with
19 intent to distribute crack cocaine with cocaine base and I
20 charged you crack cocaine is the same thing as cocaine
21 base. The case of each defendant and the evidence and
22 that law concerning the defendant should be considered
23 separately and individually. Your verdict does not have
24 to be the same for both defendants. The fact that you may
25 find one defendant and the other not guilty should not

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1 control your verdict as to the other defendant.

2 When more than one person is charged with a
3 crime, if the evidence warrants it, you may convict one
4 and not the other or you may acquit both or you may
5 convict both. It would depend on your view of the
6 testimony and evidence. You must take each defendant and
7 consider the evidence as to that defendant and my
8 instructions to you of the law as to that defendant. You
9 will then write a separate verdict as guilty or not guilty
10 for each individual defendant.

11 Now, if a crime has been committed by one or
12 more people who were acting together in committing the
13 crime, the act of one is the act of all. A person who
14 joins in committing an unlawful act is criminally
15 responsible for everything done by the other person that
16 happens as a probable and nature consequence of the acts
17 done in carrying out the common plan and purpose. Two
18 people can be guilty of killing another person when only
19 one of the two had a gun and there was only one bullet and
20 only one of the two fired a shot that caused the death.

21 If two or more people are acting together
22 assisting each other in committed the offense, the act of
23 one is the act of all sometimes referred to as the act of
24 one is the act of all in the law.

25 Prior knowledge that crime is going to be

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1 committed without more is not sufficient to make a person
2 guilty of a crime. Mere knowledge if another person is
3 going to commit a crime even if the person is present when
4 the crime is committed is not sufficient to convict the
5 defendant as a principal. Guilt has to be shown by actual
6 or constructive presence at the scene as a result of prior
7 arrangement; therefore, a finding of a prior arrangement,
8 plan or common scheme is necessary for a finding of guilt
9 as a principal. The State must prove beyond a reasonable
10 doubt of competent evidence the theory of the hand of one
11 is the hand of all.

12 Now, the principal in a crime is either one
13 who actual commits the crime or who is present aiding or
14 abetting or assisting in committing the crime. When a
15 person does not act in the presence of or with the
16 assistance of another the act is done by both. Let me
17 repeat that. If a person doesn't act in the presence of
18 or with the assistance of another then the act is done by
19 both. If two or more acting with a common plan on intent
20 are present at the commission of a crime, it does not
21 matter who actually committed the crime, all are guilty..
22 The hand of one is the hand of all.

23 Presence at the commission of a crime needs
24 to be sufficiently near to aid, abet and assist in the
25 commission of a crime. Mere presence at the scene of a

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1 crime, is not sufficient to convict as a principal on the
2 theory of aiding and abetting.

3 Intent is also a necessary element. There
4 must have been a common plan or intent to commit the crime
5 and the crime must have been committed pursuant thereto
6 with the person acting and abetting by some overt act.
7 Intent means intending the result which actually occurred
8 not accidentally or involuntarily. Intent may be shown by
9 acts and conducts of the defendant and other circumstances
10 for which you may naturally and reasonably infer intent.
11 The State must prove these elements beyond a reasonable
12 doubt.

13 Mere presence at the scene is not efficient
14 to prove someone guilty of a crime. A defendant's
15 presence there while a crime is being committed or mere
16 association with a person committing a crime does not make
17 the defendant an accomplice or an aider or abetter to the
18 person committing the crime. The burden is on the State
19 to prove every element of the crime charged.

20 If you find after reviewing all of the
21 evidence that the State has proved that the defendant was
22 only present at the scene of the crime and that they have
23 not proved beyond a reasonable doubt any other
24 participation of the crime, then you must find the
25 defendant not guilty. The law is that presence at the

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1 scene of the crime is not sufficient to find someone
2 guilty.

3 Now, defendants in this case are charged with
4 possession with intent to distribute cocaine base or crack
5 cocaine. The State must prove beyond a reasonable doubt
6 that the defendant or defendants possessed crack cocaine
7 with intent to distribute it. For true possession, the
8 State must prove beyond a reasonable doubt that the
9 defendant or defendants had both the power and the intent
10 to control the disposition or use of crack cocaine or
11 crack cocaine base.

12 Possession may either be by actual or
13 constructive possession. Actual possession means that the
14 crack cocaine or cocaine base was in the actual or
15 physical control of the defendant. Constructive
16 possession means that the defendant had dominion or
17 control or the right to exercise dominion and control over
18 the crack cocaine itself or the property in which the
19 crack cocaine was found. Mere presence at the scene where
20 the drugs were found is not enough evidence to prove
21 possession. Actual knowledge of presence of the crack
22 cocaine is strong evidence of the defendant's intent to
23 control its distribution or use.

24 The defendant's knowledge and possession may
25 be inferred when a substance is found on the property

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1 under the defendant's control. However, this evidence is
2 simply and evidentiary fact to be taken into consideration
3 by you along with all of the other evidence in this case
4 and be given whatever weight you think it should deserve.

5 Two or more persons may have joint possession
6 of a drug. The State must prove beyond a reasonable doubt
7 that the defendant intended to distribute crack cocaine or
8 cocaine base. Distribution means to deliver by
9 administering or dispensing the drug. The intent may be
10 shown by act or conduct of the defendant and other
11 circumstances in which you would naturally and reasonably
12 infer intent.

13 In determining whether the defendant had
14 intent to distribute the crack cocaine or cocaine base,
15 you may consider circumstances surrounding defendant's
16 alleged possession. You may consider the amount of
17 substance alleged to have been possessed, the manner in
18 which it has been alleged possessed, the placed where it
19 was alleged to have been possessed, any other factors that
20 you consider to be important. You must find that the
21 defendant did not intend to have the crack cocaine or
22 cocaine base solely for his or her own personal use.

23 Possession of more than 1 gram of crack
24 cocaine or cocaine base creates an inference that the
25 defendant possessed the crack cocaine or cocaine base with

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1 intent to distribute it. This evidence does not relieve
2 the State from proving beyond a reasonable doubt the
3 defendant had the intent to distribute it. It's simply
4 and evidentiary fact to be taken into consideration by you
5 along with all the other evidence in this case and give it
6 whatever weight you determine to be true.

7 Now, ladies and gentlemen, you are not
8 parcels or advocates for the State of South Carolina or
9 for these defendants. You do not serve as jurors to
10 reward your friends or punish your enemies. That system
11 of justice simply would not be tolerated. You have
12 selected by both the State and these defendants to be fair
13 and impartial jurors. It is your duty then by you joint
14 deliberation to determine guilt in this case giving to
15 these defendants the benefit of every reasonable doubt on
16 each of every issue.

17 To the facts that you determine to be true to
18 take and apply the facts that I have now given you to
19 reach a verdict that speaks the truth. When you have
20 accomplished the task you have satisfied your
21 responsibilities to this court.

22 Now, Mr. Foreman, I am going to send to the
23 jury room with y'all a verdict form. This form was drawn
24 up by my law clerk and it states the name of the case,
25 State versus Leon Goodman and Cornell Stover and the

State versus Leon Goodman

1 indictment number. And these are the possible verdicts
2 that you may reach: One is "We the jury find the
3 defendant Leon Goodman guilty of possession with intent to
4 distribute cocaine base or not guilty of possession with
5 intent to distribute cocaine base," or, "We the jury find"
6 -- and as I told you earlier that you are the consider
7 each defendant separately.

8 The second is, "We, the jury, find the
9 defendant Cornell Stover guilty of possession with intent
10 to distribute cocaine base or not guilty of intent to
11 distribute cocaine base." The verdict on each defendant,
12 as I told you, must be unanimous to each defendant
13 separately.

14 When you have reached a unanimous verdict,
15 you are to sign the bottom of this form and date it and
16 knock on the door to let us know that you have reached a
17 verdict and we will receive that verdict.

18 During your deliberations, you are simply to
19 guide over the deliberations. You have no greater weight
20 than any of the other jurors. If anybody needs to takes a
21 break to go to the restroom or leave for whatever reason,
22 y'all must stop and take a break. You must all take about
23 this case when y'all are all in the jury room. If anybody
24 must stop to go to the restroom, you must stop and when
25 they return you continue your deliberations. When you

State versus Leon Goodman

1 reach a verdict, knock on the door and we will receive
2 that verdict.

3 Before I can let you start deliberations in
4 this case, I need to talk to the lawyers to make sure I
5 haven't left anything out in my charge. If I have
6 forgotten some aspect of the law or need to explain
7 something to you in detail, I will bring you back out and
8 correct that. If I have covered anything, then I will
9 send this verdict form along with the evidence to the jury
10 room. When you get this verdict form, that will be your
11 indication to begin your deliberations.

12 Now, while you're deliberating if questions
13 come up that you want to ask me, then you can write those
14 down on a piece of paper and give it to the bailiff, but I
15 can tell you right now I can only answer questions of law.
16 If you have a question of law, then I charge you I can
17 bring you back out and recharge you. If you have a
18 question of fact, I can't help you with that. You've
19 heard all the evidence you're going to hear and I can't
20 come back and answer questions of fact. You've got to
21 determine those facts based on the evidence you've heard
22 in this court room.

23 So having said that, you go to the jury room
24 and wait for the verdict for and evidence to begin
25 deliberations or I'll bring you back out.

State versus Leon Goodman

1 (Jury exits the jury room.)

2 Okay. Anything from the State?

3 MR. CORBETT: Nothing from the State, Your
4 Honor.

5 THE COURT: From the defense?

6 MR. ROBINSON: Nothing from the defense.

7 MR. DEVOE: Nothing, Your Honor.

8 THE COURT: All right, gentlemen, if y'all
9 get the evidence together, we'll send it back and the
10 verdict form and let them begin their deliberations.

11 (Whereupon, deliberations began at
12 11:30 a.m.)

13 We are at ease until a verdict is reached.

14 Mr. Corbett, Mr. Robinson and Mr. Devoe the
15 jury as reached a verdict. Bring them back in.

16 (Jury re-enters the courtroom with verdict at
17 12:20 p.m.)

18 Mr. Foreman, I understand you've reached a
19 verdict?

20 MR. FOREMAN: We have.

21 THE COURT: Is it a unanimous verdict?

22 MR. FOREMAN: Yes, sir.

23 THE COURT: Would you please pass it up.

24 THE CLERK: Will the defendant please rise.

25 In the case of the State of South Carolina versus Leon A.

State versus Leon Goodman

1 Goodman and Cornell Stover, Jr., "We the jury unanimously
2 find Leon Goodman guilty of possession with intent to
3 distribute cocaine base. We the jury unanimously find the
4 defendant, Cornell Stover, Jr., not guilty of possession
5 with the intent to distribute cocaine base." It is signed
6 by the foreman this 8th day of December.

7 THE COURT: Anything before I release the
8 jury for the day?

9 MR. CORBETT: Nothing from the State, Your
10 Honor.

11 THE COURT: From the defendants?

12 MR. DEVOE: Nothing from Mr. Devoe.

13 MR. ROBINSON: Please pole the jury.

14 THE CLERK: As I call your name, would you
15 please stand and answer the following questions: Ronald
16 Porter, as to defendant Goodman, is this your verdict?

17 JUROR PORTER: Yes, ma'am.

18 THE CLERK: Is this still your verdict?

19 JUROR PORTER: Yes, ma'am.

20 THE CLERK: Frederick Holmes, Jr., is that
21 your verdict?

22 JUROR HOLMES: Yes, ma'am.

23 THE CLERK: Is this still your verdict?

24 JUROR HOLMES: Yes, ma'am.

25 THE CLERK: Steven Span, is this your

State versus Leon Goodman

1 verdict?

2 JUROR SPAN: Yes, ma'am.

3 THE CLERK: Is this still your verdict?

4 JUROR SPAN: Yes.

5 THE CLERK: Joseph Henry, Jr., is this your

6 verdict?

7 JUROR HENRY: Yes.

8 THE CLERK: Is this still your verdict.

9 JUROR HENRY: Yes.

10 THE CLERK: Elaine Hunter, is this your

11 verdict?

12 JUROR HUNTER: Yes.

13 THE CLERK: Is this still your verdict?

14 JUROR HUNTER: Yes.

15 THE CLERK: Marilyn Seals, is this your

16 verdict?

17 JUROR SEALS: Yes.

18 THE CLERK: Is this still your verdict?

19 JUROR SEALS: Yes.

20 THE CLERK: Ella Johnson, is this your

21 verdict?

22 JUROR JOHNSON: Yes.

23 THE CLERK: Is this still your verdict?

24 JUROR JOHNSON: Yes.

25 THE CLERK: Evelyn Nelson, is this your

State versus Leon Goodman

1 verdict?

2 JUROR NELSON: Yes.

3 THE CLERK: Is this still your verdict?

4 JUROR NELSON: Yes.

5 THE CLERK: David Wack, is this your verdict?

6 JUROR WACK: Yes, ma'am.

7 THE CLERK: Is this still your verdict?

8 JUROR WACK: Yes, ma'am.

9 THE CLERK: Ulyses Max, is this your verdict?

10 JUROR MAX: Yes.

11 THE CLERK: Is this still your verdict?

12 JUROR MAX: Yes.

13 THE CLERK: Loraine Johnson, is this your

14 verdict?

15 JUROR JOHNSON: Yes.

16 THE CLERK: Is this still your verdict?

17 JUROR: Yes.

18 THE CLERK: Thermum Floyd, is this your

19 verdict?

20 JUROR FLOYD: Yes.

21 THE CLERK: Is this still your verdict?

22 JUROR: Yes.

23 THE CLERK: Your Honor, the jury has been

24 poled and the verdict remains.

25 THE COURT: Anything else?

State versus Leon Goodman

1 MR. ROBINSON: No.

2 THE COURT: Mr. Solicitor, do you have the
3 sentencing sheet?

4 MR. CORBETT: Bear with me one moment, Your
5 Honor.

6 MR. ROBINSON: Your Honor, if I may have 10
7 days to file (inaudible) and I'll have everything in
8 writing.

9 THE COURT: For sentencing purposes, does he
10 have a prior record?

11 MR. CORBETT: He does, Your Honor.
12 Mr. Goodman's prior record is 1999 a conviction for
13 possession of cocaine base, from 2004 a possession of
14 cocaine base, from 2007 a possession of cocaine base.

15 THE COURT: All of these are possession?

16 MR. CORBETT: Your Honor, it looks like
17 convictions. There is also a marijuana conviction from
18 2007, driving under suspension, failure to maintain
19 insurance, and other related traffic offense regarding
20 improper tag and no vehicle license.

21 THE COURT: And Mr. Robinson, you've had an
22 opportunity to review his record as well?

23 MR. ROBINSON: I have, Your Honor.

24 THE COURT: Any question this would be his
25 third subsequent drug offense.

State versus Leon Goodman

1 MR. ROBINSON: No, Your Honor.

2 THE COURT: Ladies and gentlemen, I
3 appreciate you serving. The way this works since
4 Mr. Goodman is not here I will sentence him and seal this
5 sentence and place it with the Clerk's Office and if he's
6 ever picked up it by law enforcement it will be read at
7 the appropriate time. I appreciate you serving this week.
8 It's my understanding that all the jury is through for the
9 week and I can excuse you and you don't have. To do this
10 again. I been telling you you can't talk about this case
11 and now you can talk about it with anybody you want to.

12 You can go home and tell your family what
13 you've been doing all week. You don't have to talk about
14 it. If somebody wants to talk about it and you don't want
15 to talk about it, you don't have to talk about it.

16 The post office is going to mail your check.
17 If you need an excuse for work, you'll have to see someone
18 from the Clerk's Office. When you get that check, you're
19 going to see what a huge service you did and the
20 compensation for your services.

21 I enjoyed serving with you and you have a
22 great week. I'll see you sometime in the future, come up
23 and introduce yourself to me. Thank you.

24 (Jury exits the courtroom.)

25 ---END OF TRANSCRIPT RECORD---

State versus Leon Goodman

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Circuit Court of Clarendon County, South Carolina on
8 the 8th day of December, 2010.

9 I do further certified that I am neither of
10 kin, counsel, nor interest to any party hereto.

11
12
13 August 10, 2011

14 _____
15 Caroline Hiskell

16
17 (Please note that this trial was transcribed but not taken
18 by the above named court reporter to the best of her
19 ability.)
20
21
22
23
24
25

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Clarendon	)	2009-GS-14-190
	)	
State of South Carolina	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Leon A. Goodman,	)	
	)	
Defendant,	)	

March 8, 2010
Columbia, South Carolina

BEFORE:

THE HONORABLE R. FERRELL COTHRAN, JR., JUDGE.

APPEARANCES:

JASON CORBETT, ASSISTANT SOLICITOR
Attorney for the State

SCOTT ROBINSON, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T SINDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 MR. CORBETT: Your Honor, may it please the Court.

2 THE COURT: Yes, sir.

3 MR. CORBETT: Your Honor, this is the State of South
4 Carolina vs. Leon A. Goodman, indictment 2009-GS-14-190.

5 Your Honor, a case was called against Mr. Goodman on
6 January 26th of 2010 on the charge of possession with
7 intent to distribute cocaine base third or subsequent
8 offense.

9 The trial took place from January 26th, 2010 through
10 January 28th, 2010. At the conclusion of the trial, the
11 jury returned a verdict of guilty against Mr. Goodman.

12 At that time, Your Honor sentenced Mr. Goodman and
13 sealed the sentence. In the interim period, Mr. Goodman
14 was taken into custody by the Clarendon County Sheriff's
15 Department, and he is before the Court today for
16 sentencing.

17 THE COURT: Okay. All right. I'll open the seal.

18 (Pause).

19 All right. The sentence of the Court is the
20 defendant is committed to the State Department of
21 Corrections for a term of 20 years and pay a fine of
22 \$50,000.

23 MR. ROBINSON: Your Honor, would the Court entertain
24 a verbal motion for reconsideration of that sentence, or
25 do you want me to file something in writing?

1 THE COURT: I will but I don't -- do you want to be
2 heard on any of the factual allegations of it?

3 What's the State's position? Is it something you
4 want to hear now, or do you want to do it later this week?

5 MR. CORBETT: Your Honor, the State's position is
6 that this is a charge -- if my memory is correct, it
7 carries a minimum of 15 years. I believe it is a maximum
8 of 30 years.

9 THE COURT: That's right.

10 MR. CORBETT: The sentence of the Court -- I'm sorry,
11 Judge. Let me answer your initial question first.
12 Whatever the Court's pleasure is, Judge. We can either
13 deal with it now or later in the week. It does not matter
14 to us.

15 THE COURT: If you're ready to go now, we can argue
16 it now.

17 MR. ROBINSON: Thank you, Your Honor.

18 Your Honor, if it pleases the Court, as you will
19 recall, as Mr. Corbett said, this case was tried over a
20 period of three days. It was initially called on
21 January 26th.

22 I spoke with Mr. Goodman's mother and his sister and
23 then finally heard from him. He was in Columbia working,
24 was on the way here.

25 The State extended him an offer to plead to a

1 lesser-included offense which carried substantially less
2 time. He indicated to me that he wanted to take that
3 offer, and that he was on his way.

4 Unfortunately, Mr. Goodman tells me, quite frankly,
5 that he had some trouble getting from Columbia, was
6 running late, went home to see his children. He has four
7 children, Your Honor, ranging in age from two years to 13
8 years with a six and a seven year old sandwiched in the
9 middle there.

10 Two of those children live with Mr. Goodwin --
11 Mr. Goodman. The other two, he pays direct support for.
12 Your Honor, he tells me, quite frankly, obviously, he has
13 a drug problem, but that he simply got scared when he
14 wasn't able to make it when he was originally scheduled to
15 be here and just panicked and did not know what to do.

16 I realize that it's not within the Court's auspices
17 but just for your information, Your Honor, the State
18 offered to reduce this to a second and let him plead to a
19 five-year recommendation.

20 I understand that the Court does not have
21 jurisdiction to deal with that particular offer at this
22 time.

23 However, I would ask Your Honor to consider
24 Mr. Goodman's circumstances and the fact that, obviously,
25 he is very remorseful for his actions; that he does have

1 four children who count on him for support and reduce your
2 sentence to the minimum allowable by law, which is 15
3 years, which would still take a substantial portion of his
4 life away from him, Your Honor, but I understand under the
5 circumstances, that is all the latitude that the Court
6 has.

7 THE COURT: Okay.

8 Anything from the State?

9 MR. CORBETT: Yes, sir. If I may, Your Honor.. Your
10 Honor, I'm going to speak from memory, and if I speak
11 incorrectly and Mr. Robinson needs to correct me, I have
12 no problem with that..

13 Your Honor, it is my recollection that in a term of
14 court prior to the January 2010 term of Court, I attempted
15 to call Mr. Goodman's case.

16 THE COURT: That's right.

17 MR. CORBETT: Mr. Goodman, apparently, was in
18 Columbia and could not get there.

19 THE COURT: Wasn't his -- his child had swallowed a
20 paper clip or a safety pin?

21 MR. ROBINSON: Safety pin.

22 MR. CORBETT: So we did not deal with the issue at
23 that time. A bench warrant was not issued for
24 Mr. Goodman.

25 Mr. Goodman was placed back on the trial list for the

1 term of court beginning on January 26th, 2010. An offer
2 was extended to Mr. Goodman; that is correct.

3 Your Honor, I will tell the Court, as an officer of
4 the court, that I attempted to leave my options open
5 through Tuesday to extend that offer to him, and quite
6 frankly, Your Honor, this was a case in which the State
7 used the testimony of a confidential informant.

8 Our hope was to not have to put the confidential
9 informant on the witness stand, so I attempted to leave
10 that offer open through Tuesday and use my confidential
11 informant as late in my trial as I possibly could.

12 By Tuesday, Mr. Goodman still had not appeared. We
13 continued with the case through Tuesday and on into -- I'm
14 sorry. I may have my days wrong, Judge. I don't remember
15 what day of the week the 26th was, but we continued on
16 through the 28th. So it was the 26th, the 27th, and the
17 28th, never seen Mr. Goodman.

18 We had no option but to try the case as it was
19 indicted. We believe that the sentence imposed by the
20 Court is entirely appropriate given Mr. Goodman's prior
21 history and the nature of the circumstances of this
22 charge.

23 Your Honor, if I may just briefly remind the Court,
24 officers in Manning arrested someone involved in a drug
25 transaction here in Manning, then used that person as a

1 confidential informant. That person phoned Mr. Goodman.

2 Testimony came from a codefendant that Mr. Goodman
3 and this other individual were already in the car in
4 Sumter, I believe heading to a -- a car lot or something
5 of that nature when they received the call, and
6 Mr. Goodman had that individual drive him to Manning.

7 At the time of his arrest -- Judge, I want to check
8 back and at least advise the Court of the quantity.

9 (Pause).

10 7.54 grams of cocaine base was found in the car at
11 the time of his arrest.

12 THE COURT: Okay. All right.

13 MR. CORBETT: And also, Judge, prior to the Court
14 entering that sentence and sealing it, I would have
15 advised the Court of the record, and I can do so again if
16 need be.

17 THE COURT: When he was arrested, my -- the first
18 court appearance, I had tried to contact the bondsman to
19 meet in here in January, and I realized that's when he had
20 a PR bond. Then when he didn't show up again in
21 February -- do you have his record?

22 MR. CORBETT: I do, Your Honor. Mr. Goodman has a
23 conviction for possession of cocaine base from 1999. At
24 the same time as that arrest and conviction, there was
25 also a companion charge of possession of marijuana.

1 In 2004, it appears that there was another possession
2 of cocaine base charge, and it appears to be another
3 possession charge in 2007.

4 THE COURT: Okay. All right. Anything else?

5 THE DEFENDANT: Any way I can get some help, Your
6 Honor. I can't do all that time, sir, please.

7 THE COURT: Well, the law -- once you get a third
8 offense, it's a mandatory 15 to 30 years.

9 THE DEFENDANT: Please give me another chance, Your
10 Honor.

11 THE COURT: I can't. You -- you had your
12 opportunity, and you didn't take advantage of it, the
13 solicitor's office. You rolled the dice and lost, and I
14 think the sentence was appropriate. So I'm going to leave
15 the sentence of 20 years.

16 (Whereupon, the proceedings were concluded.)
17
18
19
20
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22
23
24
25

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Clarendon County, South Carolina, on the 8th day of March,
2010.

June 12, 2013

Karen Ambroziak

Karen Ambroziak, Court Reporter

My Commission Expires: 04/01/14

The South Carolina Court of Appeals

The State,

Respondent,

v.

Leon Goodman,

Appellant.

The Honorable R. Ferrell Cothran, Jr.
Unknown County
Trial Court Case No. 2009-GS-14-00190

ORDER of DISMISSAL

The above entitled case is pending on appeal in this Court. Due to the failure of Appella
timely order the transcript in the above matter, as provided for in Rule 207 of the South Ca
Appellate Court Rules,

IT IS ORDERED that the above captioned appeal be and hereby is dismissed. Pursuant
Rule 221(b) of the South Carolina Appellate Court Rules, the remittitur in this case will be
to the Clerk of Court for Clarendon County after fifteen (15) days, exclusive of the date of
this Order.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Clavin Allen, Deputy
Clerk

Columbia, South Carolina
4/29/2010

cc: Chief Appellate Defense Robert Dudek
Scott Lamar Robinson, Esquire
Assistant Deputy Attorney General Salley W. Elliott
The Honorable Beulah G. Roberts

FILED
ilbert in

The South Carolina Court of Appeals

The State,

Respondent

v.

Leon Goodman,

Appellant.

The Honorable R. Ferrell Cothran, Jr.
Clarendon County
Trial Court Case No. 2009-GS-14-00190

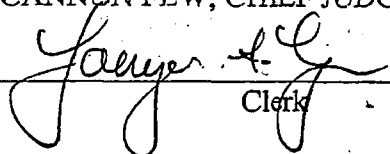
REMITTITUR

No Petition for Reinstatement having been filed in the above matter since issuance of this Court's Order dated April 29, 2010,

IT IS SO ORDERED that the above appeal be and hereby is remitted to the Clerk of Court for York County.

JOHN CANNON FEW, CHIEF JUDGE

BY


Clerk

Columbia, South Carolina
5/18/2010

Original to: The Honorable Beulah Roberts

cc: Scott Lamar Robinson, Esquire
Chief Appellate Defender Robert Dudek
Assistant Deputy Attorney General Salley W. Elliott

FILED

5/18/10 

STATE OF SOUTH CAROLINA

County of CLARENDONLEON A. GOODMAN # 321501
Full name and prison number (if any) of Applicant,

vs.

STATE OF SOUTH CAROLINA
Name of Respondent.

2010 DEC 15 AM 10:19

2010-CP-14-705

In the Court of Common Pleas

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 12/15/10Beverly B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

POST-CONVICTION RELIEF

INSTRUCTIONS — READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten); signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention Lee CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence CLARENDON COUNTY COURT,
HOUSE GENERAL SESSIONS COURT MANNING S.C. 29102
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2009-GS-14-D190
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) JANUARY 28, 2010
 - (b) 20 YEARS
 - (c) _____

5. Check whether a finding of guilt was made
- (a) after a plea of guilty N/A
 - (b) after a plea of not guilty N/A
 - (c) after a plea of nolo contendere N/A (D) TRIED IN Absent
6. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
 - i. SOUTH CAROLINA COURT OF APPEALS
 - ii. (See Attachment)
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. Dismissed
 - ii. (See Attachment)
 - iii. _____
 - (c) the date of each such result:
 - i. APRIL 29, 2010
 - ii. (See Attachment)
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. ORDER OF DISMISSAL PURSUANT RULE 221(B)
 - ii. (See Attachment)
 - iii. _____
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a) N/A
 - (b) _____
 - (c) _____
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
 - (b) _____
 - (c) _____
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
- (a) COUNSEL FAILED TO PROPERLY PERFECT DIRECT APPEAL
 - (b) (See Attachment)
 - (c) _____

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? N/A

(b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? N/A

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? N/A

(d) any other petitions, motions or applications in this or any other Court?

N/A

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. N/A

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) COUNSEL FAILED TO PERFECT DIRECT APPEAL
- (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? NO
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. MR. SCOTT L. ROBINSON, Esq.
8. SOUTH BROOKS ST. MANNING S.C. 29102
- ii. _____
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. CRIMINAL TRIAL
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

APPLICANT SEEKS RELIEF IN THE FORM OF A GRANTED BELATE
APPEAL UNDER THE TERMS OF A RECONSIDERATION

19. Are you now under sentence from any other court that you have not challenged?

NONE

STATE OF SOUTH CAROLINA

VERIFICATION

County of CLARENDON

I, LEON A GOODMAN, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Leon A Goodman
LEON A. GOODMAN #321501

SWORN to and subscribed before me this 14day of Dec.2010

Shirley J. Smith (L.S.)
 Notary Public

My Commission Expires: 5-16-12

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
 OF COSTS AND AFFIDAVIT
 IN SUPPORT THEREOF**

I, Leon A. Goodman, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

Leon Goodman
 Applicant

SWORN or affirmed to and subscribed before me this

14 day of Dec., 2010
Shirley J. Smith
 Notary Public

My Commission Expires 5-16-12



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMNER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 10, 2010

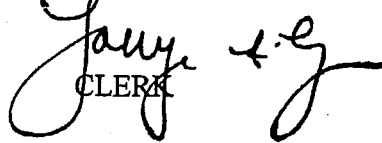
Leon Goodman #321501
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

Re: The State v. Goodman, Leon

Dear Mr. Goodman:

This office is in receipt of your letter received May 26, 2010. Please be advised Attorney Scott Robinson filed a timely Notice of Appeal on your behalf on March 18, 2010. The appeal was dismissed on April 29, 2010 and remitted to the clerk of Court for Clarendon County on May 18, 2010. Enclosed you will find a copy of both orders.

Very truly yours,


CLERK

TAG/lb

cc: Chief Appellate Defense Robert Dudek
Scott Lamar Robinson, Esquire
Assistant Deputy Attorney General Salley W. Elliott

**SCCID**

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Exhibit # 1

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Defender
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate

May 25, 2010

Mr. Leon Alonzo Goodman, #321501
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Dear Mr. Goodman:

The affidavit of indigency that we received was a copy from 2009. We wrote Mr. Robinson on April 9, 2010, and enclosed an affidavit of indigency. A current affidavit from Mr. Robinson that was on our form, completed and notarized has not been received by this office.

Please be advised you only have one year from the date of your conviction to file for PCR if you want to request that you be granted a belated appeal. The one year statute of limitations is very strictly enforced. Enclosed is a post-conviction relief form which needs to be filed in the county in which you were convicted. In the pcr application you need to assert ineffective assistance of counsel and that you want a White v. State belated appeal.

Sincerely,

Robert M. Dudek
Chief Appellate Defender

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Leon A. Goodman, #321501,

2010-CP-14-0705

Applicant,

RETURN

v.

State of South Carolina,

Respondent.

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC
2011 AUG -8 PM 12:23

In response to the post-conviction relief application filed on December 15, 2010, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. The Applicant was indicted at the May 2009 term of the Clarendon County Grand Jury for Possession with Intent to Distribute Cocaine Base (2009-GS-14-0190). Scott Robinson, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable R. Ferrell Cothran, Jr where he was found guilty on January 28, 2010. Applicant was sentenced to twenty (20) years imprisonment and a \$50,000 fine. A notice of appeal was filed on Applicant's behalf on March 18, 2010, but was dismissed on April 29, 2010 as the transcript was never timely ordered as provided in Rule 207 of SCACR. The remittitur was sent May 18, 2010.

II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel.
 - a. Counsel failed to perfect direct appeal.

For the purpose of this Return, the Respondent incorporates the Clarendon County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections and the appellate records. The trial transcripts will be forwarded upon their receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

In his application, Applicant claims that he was denied effective assistance of counsel because his trial attorney did not properly appeal his conviction. Respondent submits that trial counsel for the Applicant was diligent in his representation of Applicant and that he performed within the wide range of reasonable professional assistance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984). In Strickland, the United States Supreme Court held that a convicted defendant's claim that counsel's assistance was so defective as to require a reversal of a conviction requires that the defendant show, first, that counsel's performance was deficient and, second, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. Respondent submits that trial counsel's performance was not deficient nor was the Applicant prejudiced in any way by such performance. The decision of the South Carolina Supreme Court, in White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), holds that even though the post-conviction relief court finds that the Applicant had never voluntarily and intelligently abandoned his appeal, the court has no jurisdiction to grant a belated appeal. However, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected.

Respondent submits that this allegation is totally frivolous and demands strict proof thereof. Nevertheless, the allegation raises a question of fact which cannot be conclusively refuted by the record and, therefore, requires that an evidentiary hearing be held. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); Delaney v. State, 269 S.C. 555, 238 S.E.2d 679 (1977).

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective in failing to perfect a direct appeal on Applicant's behalf, thereby entitling Applicant to a belated direct appeal pursuant to White v. State.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

ROBERT D. CORNEY
Staff Attorney

By: Rlt S
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

August 5, 2011.

STATE OF SOUTH CAROLINA)

COUNTY OF CLARENDON)

LEON A. GOODMAN, 321501)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2010-CP-14-0705

AFFIDAVIT OF SERVICE BY MAIL

2011 AUG -8 PM 12:23

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Eleazer R. Carter, Esquire
The Carter Law Firm
Post Office Box 2073
Columbia, SC 29202

DATED this 5th day of August, 2011.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

State of South Carolina)
)
 County of Clarendon)
)

Leon A. Goodman
 Plaintiff,

PCR Hearing
 2010-CP-14-00705

vs.

September 18, 2012
 Manning, S.C.

The State of South Carolina,
 Defendants

Before the Honorable W. Jeffrey Young, Judge.

Mr. Eleazer R. Carter,
 Attorney for Plaintiff

Ms. Megan Harrigan,
 Attorney for Defendant

Margaret T. Sullivan
 Court Reporter

	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1	Leon Goodman				
2	by Mr. Carter	4		22	
3	by Ms. Harrigan		21		
4	Scott Robinson				
5	by Mr. Harrigan	24			
6	by Mr. Carter		27		
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1 MS. HARRIGAN: This Leon A. Goodman versus the
2 State of South Carolina. Docket No. 2010-CP-14-0705.
3 Applicant is presently confined to the South Carolina
4 Department of Corrections. He was indicted during the
5 May 2009, term of Clarendon County Grand Jury, with
6 possession with intent to distribute cocaine base third
7 or subsequent offense. Scott L. Robinson represented
8 him.

9 Applicant proceeded to a jury trial before
10 the Honorable Ferrell Cothran, Jr. And he was
11 convicted and indicted on January 28th 2010.
12 Judge Cothran sentenced Applicant to 20 years
13 imprisonment and a \$50,000 fine. The Applicant
14 filed a notice of appeal which was dismissed due
15 to failure to timely order the transcript.
16 Remittitur was sent on May 18th 2010. Applicant
17 filed a 10-day application for post conviction
18 relief on December 15th. Alleging that trial
19 counsel was ineffective for failing to properly
20 perfect a direct appeal.

21 The state made a return on August 5th
22 2011, requesting an evidentiary hearing to be held
23 solely on this issue as to whether Applicant is
24 entitled to a belated to a direct appeal pursuant
25 to White vs. State. And is represented in this

Leon Goodman-direct by Carter

1 action by Eleazer Carter.

2 THE COURT: Mr. Carter, are you ready to
3 proceed on that one issue?

4 MR. CARTER: Okay, Judge, I understand.
5 Give me one second.

6 MS. HARRIGAN: Your Honor, I apologize.
7 There is one more other thing. On July 25th 2012,
8 we did receive a pro se notice of motion and
9 motion to amend. But as he is represented by
10 counsel, the state disregarded that. Pursuant to
11 Rule 11 did not consider that to the---

12 THE COURT: Right.

13 MS. HARRIGAN: ---amendment.

14 MR. CARTER: Thank you, Your Honor. I
15 would like to call Leon Goodman to the stand.

16 THE COURT: Mr. Goodman, come forward and
17 be sworn.

18 LEON GOODMAN, after being duly sworn,
19 testified as follows:

20 THE CLERK: Please state your full name
21 and spell your last name for the record.

22 A Leon Alonzo Goodman. G-O-O-D-M-A-N.

23 DIRECT EXAMINATION Mr. Carter:

24 Q Mr. Goodman, prior to your incarceration
25 where did you reside? Where did you live?

Leon Goodman-direct by Carter

1 A Oh, [REDACTED]. Dazell, South
2 Carolina.

3 Q And that is in Sumter County here?

4 A Yes, sir.

5 Q And are you a resident of Sumter County or
6 Clarendon County?

7 A Sumter County.

8 Q Okay. You were tried in?

9 A My absence.

10 Q In what county?

11 A Clarendon County.

12 Q In clarendon County. And what were you
13 charged with? Do you recall?

14 A Possession with intent to distribute crack
15 cocaine third offense.

16 Q Third offense. Okay. And you wanted a
17 trial on that matter; is that correct?

18 A Yes, sir.

19 Q Now do recall, you heard counsel indicate
20 your trial was on January 28th, 2010, is that
21 correct?

22 A Yes, sir.

23 Q Now prior to that day, the last time you
24 were in court do recall that date?

25 A No, sir, Your Honor. No, sir.

Leon Goodman-direct by Carter

1 Q Okay. that's, Your Honor. I am your
2 lawyer. Okay, you maybe I didn't understand my
3 question. Did you ever show up in court Clarendon
4 County prior to the date of your trial and the
5 date you were brought back?

6 A Yes, sir.

7 Q Do you remember when you were there?

8 A I was there during the roll call. Each
9 roll call.

10 Q And you attended each roll call. Do you
11 the last roll call before your trial?

12 A December 10th.

13 Q You have to give full dates.

14 A On December 10th 2009.

15 Q 2009? And that was December 10th 2009.
16 And did you talk with your lawyer on that day?

17 A No, sir.

18 Q Why didn't you talk with your lawyer?

19 A Because I was never aware that he was my
20 lawyer?

21 Q Huh?

22 A I was never aware that he was my lawyer.

23 Q Who was that? Who was your lawyer?

24 A Scott Robinson.

25 Q Okay. On December 10th, you didn't know

Leon Goodman-direct by Carter

1 he was your lawyer?

2 A No, sir. I had Deborah Butcher was my
3 lawyer from the term of roll call.

4 Q Okay. So Ms. Deborah Butcher---

5 A Butcher.

6 Q ---who was your lawyer. I mean she was
7 your lawyer constantly all the way up until your
8 last recollection in December of 2009?

9 A 2009. December 10th.

10 Q Okay. And then 2000. And then the next
11 month would have been?

12 A January 28th. That's when I went to
13 court.

14 Q Give me full dates.

15 A January 20th, 2010.

16 Q 2010. Okay. And had you talked with
17 Deborah Butcher during that month?

18 A No.

19 Q Okay. Was Deborah Butcher your lawyer at
20 that time?

21 A Well I was aware that she was my lawyer,
22 but she went get relieved on my case. And she
23 forwarded everything to Scott Robinson.

24 Q Okay. When did you learn that?

25 A By the time of my court date Mr. Scott

Leon Goodman-direct by Carter

1 Robinson had been appointed my lawyer.

2 Q Okay. And the court, the judge wanted
3 this, so you've got to help us out. That's why
4 I'm trying to lock down these dates to get us
5 started. You said the time of your court date,
6 which time are you talking about?

7 A The court -- my court date was January
8 28th 2010.

9 Q So you are talking about your trial date.

10 A Trial date; yes, sir.

11 Q Okay. January 28th of?

12 A 2010.

13 Q Okay. And what happened at that time?

14 A Well my case had gotten called.

15 Q Your case got called for trial?

16 A For trial.

17 Q Okay. Did you attend your trial?

18 A No. No, sir.

19 Q How did you know your case was called for
20 trial?

21 A He had notified me saying I had a case
22 coming up. Well I asked him about it. We were
23 never in communication about my case.

24 Q Okay. You asked him why or who, what?

25 A I asked him, he let me know that my case

Leon Goodman-direct by Carter

1 was called on January 28th 2010. I was never --
2 we didn't never have communication together about
3 my case.

4 Q How did you learn he was your lawyer?

5 A He had informed me that he was my lawyer.

6 Q Okay. And that was when? When did he
7 inform you of that?

8 A January 28th 2010.

9 Q Okay. And that you had a trial coming up?

10 A Yes, sir.

11 Q Okay. And did you show up for trial?

12 A No, sir.

13 Q Why didn't you show up that day?

14 A Because we -- I didn't never communicate.

15 When I wasn't aware. I didn't ever -- I wasn't
16 aware of what the outcome would be before I went

17 to court. I never communicated with him about

18 nothing about my trial. But he was my lawyer.

19 Deborah Butcher was my lawyer. She never warned

20 me that he was my lawyer. I didn't know he knew

21 nothing about my case or nothing like that.

22 Q Okay. And ultimately you were tried in
23 your absence; is that correct?

24 A Yes, sir.

25 Q And after you were tried in your absence,

Leon Goodman-direct by Carter

1 you were subsequently brought before the court; is
2 that correct?

3 A Yes, sir.

4 Q And then you got sentenced; is that
5 correct?

6 A I got sentenced to 20 years.

7 Q And did you still have the same lawyer
8 when you were standing in front of the judge?

9 A Yes, sir.

10 Q Okay after you were sentenced, did you
11 communicate with the lawyer?

12 A No, sir.

13 Q I'm talking about Mr. Robinson.

14 A Scott Robinson, yes. Where I was at,
15 standing in front of his house, communicating.
16 Communicating with him.

17 Q Okay. After the sentence did you talk
18 with him before you went in front of the judge?

19 A No, sir.

20 Q Okay.

21 A No, sir.

22 Q Okay. When did you first talk with Scott
23 Robinson?

24 A I didn't really talk to him until, it was
25 kind of confusing. Because when they arrest me, I

Leon Goodman-direct by Carter

1 went in front of the judge and they sentenced me.

2 Then when my sentence was up and that was that.

3 Q Well wasn't your lawyer with you when you
4 got sentenced?

5 A Yes, sir.

6 Q Okay. And you hadn't talked with him even
7 up to that point. Am I understanding, or you
8 don't recall who you were standing with?

9 A I don't recall actually what I was doing
10 that day. I know he was standing right beside me.

11 Q Okay. Before he started standing beside
12 you in front of the judge, is it your testimony
13 that you didn't h talk to him?

14 A I didn't talked to him.

15 Q Okay.

16 A He just called my case out. And just read
17 off. The sealed sentence opened and they
18 sentenced me.

19 Q Okay. And then you got sentenced.

20 A Yes, sir.

21 Q Okay. After the judge had sentenced you,
22 and you all walked away from standing in front of
23 the judge, did you have a chance to talk with him
24 then?

25 A No, sir.

Leon Goodman-direct by Carter

1 Q Okay. You're saying you didn't talk with
2 him afterward?

3 A No, because when they sentenced me, the
4 officer went and pulled me out and I went on back
5 to the jail.

6 Q Okay. Did you -- all right, well how did
7 you get an appeal filed on your behalf?

8 A He filed a notice of appeal. He filed a
9 notice of appeal on this behalf. And he filed it
10 but he didn't perfect an appeal.

11 Q Now did you know he was going to file a
12 notice of appeal?

13 A Yes, I knew he was filing an appeal.

14 Q How did you know he was going to file?

15 A He tell me he say he was going to file an
16 appeal before I had left. He was going to file an
17 appeal.

18 Q Okay. Did he, and I am trying to
19 establish, did you all have some time to talk?
20 That's really what I was going to say.

21 A No, sir, we didn't have no time to talk.

22 Q When did he tell he was going to file an
23 appeal?

24 A When the case was -- when the judge was
25 finished doing the case.

Leon Goodman-direct by Carter.

1 Q Okay. You just second ago started telling
2 me that the officers came up and got you.

3 A Yeah, he came up. But before the officer
4 came up and got me he said well I am filing an
5 appeal on your behalf, and then I left out.

6 Q And did you talk to him with him after
7 that.

8 A No, sir.

9 Q And you understood that was going to file
10 an appeal?

11 A Yes, sir.

12 Q And do you know if he in fact filed the
13 appeal?

14 A Excuse me?

15 Q Do you know if attorney Robinson in fact
16 filed the appeal?

17 A He filed an appeal, but he did not perfect
18 the appeal.

19 Q And when he filed the appeal, did you
20 receive a copy of the notice of appeal he filed?

21 A No.

22 Q Huh?

23 A Are you talking about receive a copy of
24 the appeal?

25 Q Of the appealed papers that he filed with

Leon Goodman-direct by Carter

1 the court?

2 A No, uh-uh. No, sir.

3 Q And in filing the appeal, do you know
4 whether -- do you in fact know whether he sought a
5 copy of your transcript from the Court Reporter?

6 A He did not order the transcript in a
7 timely manner. It was never ordered.

8 Q How do you know he never ordered it?

9 A Because the appellate defense office send
10 me a copy of the letter saying the transcript was
11 never ordered. It was never timely ordered.

12 Q Okay. And now you said the appellate
13 defense office. Did you start dealing with the
14 appellate defense aspect?

15 A Yes, sir. Because I had wanted to know
16 why my appeal -- what was going on with my case,
17 why I didn't ever get an appeal. Because I felt
18 like it was my constitutional right to have an
19 appeal.

20 Q Did the appellate -- when did the
21 appellate defense first come into your matter?

22 A Well after. It was a couple of months
23 after, I started realizing what was going on with
24 my case; why I got an appeal. You know, why
25 appeal wasn't perfected or nothing like that.

Leon Goodman-direct by Carter

1 Q Okay. They sent you a letter saying.

2 A My appeal got dismissed for not ordering
3 the transcript in a timely manner.

4 Q You said that was a couple of months
5 later.

6 A Uh-huh. (affirmative.)

7 Q Was that the first -- had you been dealing
8 with the appellate defense before they sent you
9 that letter, or was that your first communication?

10 A My first communication.

11 Q Okay. And after they sent you that letter
12 saying that your appeal was dismissed, did you
13 have anymore communication with the appellate
14 defense?

15 A No, sir.

16 Q Did you have anymore communications with
17 attorney Robinson?

18 A No, sir.

19 Q And if I understand you, you're saying
20 that you met with attorney Robinson and you were
21 going for your sentence?

22 A Yes, sir.

23 Q Okay. And it is your testimony that you
24 didn't have any conversation with him before the
25 sentence?

Leon Goodman-direct by Carter

1 A No, sir.

2 Q Okay.

3 A I didn't have no communication with him
4 before the trial or nothing.

5 Q Okay. And you're saying after you got the
6 20-year-sentence, the extent of your conversation
7 was that he was going to file an appeal for you?

8 A He was going to file an appeal on my
9 behalf.

10 Q Did you have anymore -- did you write him
11 any time afterward?

12 A Not that I recall, I didn't.

13 Q Okay. And do you recall whether he wrote
14 you at anytime---

15 A No, sir.

16 Q ---after your sentence?

17 A No, sir.

18 Q Now did you want an appeal to be done?

19 A Yes, sir.

20 Q Okay. And were you expecting an appeal to
21 be done.

22 A Yes, sir.

23 Q Was there ever any period where you
24 informed the court or Mr. Robinson that you didn't
25 want to go forward with your appeal?

Leon Goodman-direct by Carter

1 A No, sir.

2 Q Okay. But did you want to go forward with
3 the appeal?

4 A Yes, sir.

5 Q Did you have -- did you have a -- you
6 testified earlier that you were tried for a third.
7 Possession with intent to distribute third
8 offense?

9 A Third offense.

10 Q Okay. And understood what that means;
11 right? I mean I am not saying you agree with it,
12 but you understood what it means to be tried.

13 A Third offense; yes, sir.

14 Q Third offense.

15 A Yes, sir.

16 Q Huh?

17 A Yes, sir.

18 Q Okay. And did you have an issue about
19 whether you were in fact properly charged with a
20 third offense?

21 A Yeah, it was---

22 Q You I need you to answer the question
23 first.

24 A Yes, sir.

25 Q We have got to understand that.

Leon Goodman-direct by Carter

1 A Yes sir.

2 Q And did you take an issue with that?

3 A Yes, sir.

4 Q Was that something you would have wanted
5 to address?

6 A Yes, sir.

7 Q Okay. And what is your understanding of
8 Mr. Robinson's knowledge of your case other than
9 saying, come on up here, we are going to trial
10 today? Did you have an understanding about what
11 he understood your case to be about? Do you know
12 if he understood your case for your understanding?

13 A No, I don't think he understood.

14 Q That doesn't mean he didn't understand.
15 I'm saying for your understanding.

16 A No, sir.

17 Q Is there any reason you didn't come up and
18 ask him to try to get the case put off so that you
19 can know who he is, and understand whether he
20 understood your case?

21 A No, sir.

22 Q Okay. Well what did you want Mr. Robinson
23 to do if they were calling your case for trial?

24 A I would like to have a communication---

25 MS. HARRIGAN: Your Honor, I would object

Leon Goodman-direct by Carter

1 to this testimony. This is not---

2 THE COURT: Sustained. This is not in the
3 appeal. It was not in the appeal.

4 Q Mr. Goodman, why didn't you follow up on
5 the appeal?

6 A Because really I didn't know the procedure
7 about doing it. I know there is a process that
8 you have to do in being convicted of a crime. And
9 I felt like the lawyer would have did his best to
10 try to help me out on that.

11 Q And did you believe that that's what the
12 process that was going on?

13 A Yes, sir.

14 Q You understood the court had dismissed
15 your appeal; right?

16 A Yes, sir.

17 Q Okay. And you got a letter about the
18 appeal being dismissed?

19 A Yes, sir.

20 Q Who -- did you get that letter from
21 Mr. Robinson at the defense or the Clerk of Court?

22 A I got it from the, if I am not mistaken, I
23 believe it was Lorie French at the appellate
24 defense's office.

25 Q Okay. And then after the matter was

Leon Goodman-direct by Carter

1 dismissed, there was also a remittitur. Do you
2 remember that---

3 A Yeah, it was a remittitur with a paper.

4 Q I mean, but did they come at separate
5 times?

6 A Well they came all together.

7 Q You got them all together?

8 A Yes, sir.

9 Q Okay. And that's what you would have
10 gotten from the appellate defense?

11 A Yes, sir.

12 Q Okay. And other than that, did you have
13 any other idea about it?

14 A No, sir.

15 Q Okay. If you had known that your matter
16 was in the process of being dismissed for
17 something not being done, would you have attempted
18 to do something on your own?

19 A Yes, sir, I will have.

20 Q Huh?

21 A Yes, sir.

22 Q And you would have attempted to procure
23 the appeal yourself?

24 A Yes, sir, I would.

25 Q Would that have been your belief about the

Leon Goodman-direct by Carter

1 circumstances in which you found and convicted?

2 A Yes, sir.

3 Q Was that the ground in which you were
4 going to pursue your appeal?

5 A Yes, sir.

6 MR. CARTER: Thank you. Please answer any
7 questions counsel has.

8 MS. HARRIGAN: Thank you.

9 Cross Examination by Ms. Harrigan:

10 Q Mr. Goodman, following the when your
11 sentences came down, the sentence sealed, you
12 spoke with Mr. Robinson briefly; correct?

13 A After the sentence was opened?

14 Q Yes.

15 A Yes, ma'am.

16 Q And during that conversation you informed
17 him you would like to file an appeal on your
18 behalf.

19 A Yes, ma'am.

20 Q And until you received the letter that is
21 attached to your application post conviction
22 relief marked as Exhibit 1, you had no idea that
23 anything was going with your appeal. This was
24 your first indication?

25 A Yes, ma'am.

Leon Goodman-cross by Harrigan

1 Q And you didn't file your application for
2 another 6 months; correct?

3 A Yes, ma'am.

4 MS. HARRIGAN: No further questions, Your
5 Honor.

6 Redirect Examination by Mr. Carter:

7 Q You indicated that you had gotten a letter
8 or something you said from Ms. French; correct,
9 with the indigent appeal?

10 A Yes, I got a letter saying the appeal was
11 dismissed.

12 Q Okay. Now work with me a second here now.
13 And in that letter it told you about, what did
14 that letter tell you about?

15 A It says appeal -- the appeal was dismissed
16 through not timely ordered transcript, in a timely
17 manner or something like that.

18 Q And besides the appeal being dismissed,
19 did it give you -- did it tell you something else
20 you could do?

21 A I could file a White vs. State belated
22 appeal.

23 Q A White vs. State belated---

24 A Appeal.

25 Q Appeal. Okay. Did it say anything to

Leon Goodman-redirect by Carter

1 you -- counsel just asked you about something
2 being attached to your PCR, a letter that was
3 attached. Did it say anything PCR right to file?

4 A A PCR, right to file a belated appeal.

5 Q And in that letter did it tell you about a
6 time period you had to do it? Or do you remember?

7 A A one year. You had one year to do it.

8 Q Okay. So counsel asked you about waiting
9 6 months. You were sort of following what you
10 understood the procedure was.

11 A Yes, sir.

12 MR. CARTER: Thank you, nothing further.

13 MS. HARRIGAN: No additional questions.

14 THE COURT: Thank you. you may step down.

15 Any other witnesses, Mr. Carter?

16 MR. CARTER: No, other witnesses, Judge.

17 THE COURT: Thank you.

18 MS. HARRIGAN: The state would call Scott
19 Robinson.

20 Scott L. Robinson, being
21 first duly sworn, testified as follows:

22 THE CLERK: State your state your full
23 name and spell your last name for the record.

24 A Scott Lamar Robinson. R-O-B-I-N-S-O-N.

25 Direct Examination by Ms. Harrigan:

Leon Goodman-redirect by Carter

1 Q Mr. Robinson, do you recall when you were
2 appointed in this case?

3 A Not specifically. What happened, Debbie
4 Butcher, I had left the public defender's office
5 as an independent contractor in Clarendon County,
6 sometime in 06 or 07. Debbie Butcher had taken my
7 place and assumed my case load. And then, I think
8 it was sometime in 2008, 2009, she moved to Camden
9 and took over in Lee County. And I came back to
10 Clarendon, and her cases were transferred to me.
11 So I don't know what specifically whatever that
12 starting date was. I think Mr. Goodman was
13 arrested some time in March or April of 2009. And
14 Debbie represented him. So it must have been in
15 2009.

16 What happened, my understanding was, the
17 public defender's file was here in the circuit
18 defender's office; just sent out a letter to all
19 her clients saying Scott Robinson now has your
20 file, this is his contact information.

21 Q And did you have an opportunity to speak
22 with Mr. Goodman prior to this trial?

23 A Well, I guess I had an opportunity. If he
24 was there at roll call in December. I don't
25 recall speaking to him, but that's not unusual.

Scott Robinson-direct by Harrigan

1 Typically they go through a trial list for a
2 docket calling the people's names on call.
3 Regardless of what I tell them or the solicitor's
4 office, you usually can't outrun them to the door.
5 So his name wasn't on that particular list. So he
6 left.

7 So other than the phone call the morning
8 that the case was called for trial, I do not
9 recall ever meeting or talking with Mr. Goodman
10 prior to that.

11 Q And you were present when the sentence was
12 unsealed; correct?

13 A Correct.

14 Q Following that, do you recall him asking
15 for you to file an appeal on his behalf?

16 A Well actually we had talked about that
17 before then. There was some lag in time between
18 the when the sealed sentence was handed down, and
19 when it was actually opened and read. Because I
20 think he was convicted the end of January. He
21 wasn't sentenced until March. I think he was
22 arrested sometime in February. He wrote me a
23 letter letting me know that he had been arrested.
24 He was down in the county jail.

25 And I did go down there and meet with him

Scott Robinson-direct by Harrigan

1 prior to that. Because he had asked me to, and I
2 had also been in contact with his family. I think
3 his sister had called me and asked me that as
4 well. So I did go down there and talk to him, you
5 know, just to explain to him what his options were
6 and what had happened. And really told him that
7 his only real chance was perhaps to file an
8 appeal.

9 Q And following his sentencing, did you file
10 a direct appeal? Attempt a direct appeal on his
11 behalf?

12 A I filed a notice of intent to appeal; yes.

13 Q And in regards to ordering a transcript,
14 is that typically something you so do after you
15 file notice of appeal?

16 A That is not something I do ever, as a
17 public defender after filing an appeal. My
18 understanding of the rule is that in public
19 defender or indigent appointment cases, once trial
20 counsel files the notice of appeal, they are
21 automatically relieved as counsel in that case
22 without further motion and appellate defense takes
23 over.

24 Q So in your experience appellate defense
25 requests the transcript be ordered, and takes the

Scott Robinson-direct by Harrigan

1 cases from there.

2 A I've had a few cases and a few clients
3 that wanted an appeal filed. And I never in that
4 capacity ordered a transcript and never had any
5 problem. It's always been done by appellate
6 defense.

7 MS. HARRIGAN: I don't have anything
8 further.

9 MR. CARTER: May it Please the Court.

10 THE COURT: Yes, sir.

11 Cross Examination by Mr. Carter:

12 Q Mr. Robinson, and I understand about
13 public defenders in regards to appeals, because
14 I've been appointed on a few myself. When you
15 filed a notice of appeal on behalf of Mr. Goodman,
16 what was your understanding about what he
17 understood you were going to do, besides just
18 filing the notice of appeal?

19 A That was pretty much my understanding. I
20 explained to him when we meet at the jail that I
21 wouldn't be handling the appeal. I was not an
22 appeal lawyer; that the office of appellate
23 defense or who OID. I don't know if I used the
24 exact words appellate defense. But there was
25 another division or branch that would pick that

Scott Robinson-cross by Carter

1 up. And another lawyer would pick up his case,
2 and handle the appeal for him. But that I would
3 certainly file the notice to make sure his appeal
4 was perfected. And that's what I did.

5 Q And then just for clarification purposes
6 and when you were at the jail, you were going to
7 see other clients; right? I mean or did you go
8 there to see him?

9 A Well I went there to see him. I probably
10 did see other clients while I was there, yeah.

11 Q You went there to see him after he was
12 sentenced.

13 A No, it was presentence. After he got
14 arrested before we had another term of court where
15 he could be sentenced. There was several weeks.
16 We have court every other month basically in
17 Clarendon. I think he got arrested in February
18 before the March term. So I went to see him to
19 prior to court just to let him know what to expect
20 and talk about it.

21 Q And you guys talked about an appeal before
22 he was sentenced?

23 A I am sure we did, yeah.

24 Q Huh?

25 A Yes, I am sure we did. Because that was

Scott Robinson-cross by Carter

1 really about the only option he had left after a
2 sealed sentence.

3 Q Okay. And at that time you told him you
4 were going to do the appeal.

5 A Yes.

6 Q Okay. And then afterwards you all went
7 and got the sentence done. Got him sentenced; is
8 that correct?

9 A Right.

10 Q And then did you talk to him about an
11 appeal afterward?

12 A Well I am sure he asked me, or I told him
13 I will file the appeal.

14 Q Okay.

15 A But it wasn't a long conversation.

16 Q And in terms of the appellate defense, and
17 you didn't have any communications with them about
18 it; is that correct?

19 A Yes, I did. They sent me their standard
20 form that says we need the plea sheets. The order
21 appointing you or the affidavit amended. You
22 know, just the typical check list of the things
23 that they request and I sent them that.

24 Q Okay. And did you communicate with them
25 first or did they communicate with you?

Scott Robinson-cross by Carter

1 A Well I guess I communicated with them
2 first. Typically what I do when I file an appeal
3 is, I serve the lower court and the Clerk of Court
4 of Appeal, but I also send a copy to the Office of
5 Indigent Defense so they will be on alert. And
6 then they send me their little letter so they can
7 request a transcript.

8 Q Okay. And from your understanding a
9 transcript was never ordered.

10 A That is my understanding. They never
11 ordered one.

12 Q Okay. And is it your understanding that
13 his appeal was dismissed because of the failure to
14 order by you or them or whoever for him.

15 A That is my understanding.

16 Q And thereafter the jury was done and the
17 action was over with.

18 A That's correct, yes.

19 Q And so who failed to order the transcript?

20 A My conviction is appellate defense failed
21 to order it.

22 MR. CARTER: Okay. Thank you very much.

23 THE COURT: You filed your notice of
24 intent to appeal.

25 A Yes sir.

Scott Robinson-cross by Carter

1 THE COURT: Within a timely.

2 A Timely filed. Sent everything to OID.

3 Transcript was never ordered. And got notice of
4 dismissal. And dealt with disciplinary counsel as
5 well. They sent me some documentation after
6 Mr. Goodman filed a grievance.

7 THE COURT: No further questions.

8 MS. HARRIGAN: Nothing additional from the
9 state.

10 THE COURT: Thank you. I will take this
11 matter under advisement.

12 MR. CARTER: Thank you, Your Honor.

13 -----End of Requested Transcript of Record-----
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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the
Third Judicial Circuit of the State of South Carolina,
do hereby Certify that the foregoing is a true, accurate
and complete Transcript of Record of the proceedings had
and evidence introduced in the Common Pleas Nonjury
Court on September 18, 2012, Clarendon County, Manning,
South Carolina.

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

3/25/13
DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 9/7/21

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Leon A. Goodman, #321501,

2010-CP-14-0705

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed December 15, 2010; Applicant's sole request for relief is a belated direct appeal. The State filed its Return on August 5, 2011. An evidentiary hearing was convened on September 18, 2012, at the Sumter County Courthouse solely on the issue of whether Applicant was entitled to a belated direct appeal pursuant to White v. State¹. The Applicant was present at the hearing with counsel, Eleazer R. Carter, Esquire. The Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office.

At the hearing, testifying was Applicant's trial counsel, Scott L. Robinson, Esquire ("Counsel"). This Court also had before it a copy of the transcript of the proceedings against Applicant, the records of the Clarendon County Clerk of Court, and Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. Applicant was indicted during the May 2009 term of the Clarendon County Grand Jury for Possession with Intent to Distribute Cocaine Base (2009-GS-14-0190). Applicant

¹ 263 S.C. 110, 108 S.E.2d 35 (1974).

was represented by Scott L. Robinson, Esquire. Applicant proceeded to a jury trial in his absence before the Honorable R. Ferrell Cothran, Jr., where he was found guilty as indicted. On January 28, 2010, Judge Cothran sentenced Applicant to twenty years imprisonment and a fifty-thousand dollar fine.

A timely notice of appeal was filed on Applicant's behalf, but was dismissed on April 29, 2010, as Appellate Defense failed to timely order the transcript as provided for in Rule 207 of SCACR. The Remittitur was sent May 18, 2010.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully due to ineffective assistance of trial counsel because "Counsel failed to properly perfect [a] direct appeal."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Failure to File Direct Appeal

The sole issue before this Court is whether Applicant is entitled to a belated direct appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

At the evidentiary hearing, Applicant testified that Counsel was present with him when his sentence was unsealed and that he asked Counsel to file a direct appeal on his behalf at this time. Applicant acknowledged that Counsel did indeed file a timely direct appeal on his behalf. Applicant stated that he did not have any communication with Appellate Defense until he

received correspondence stating that his appeal was dismissed due to Counsel's failure to submit an affidavit of Applicant's indigence and suggesting that he file an application for post-conviction relief.

Counsel testified that he met with Applicant prior to his sentence being unsealed when Applicant was arrested in mid-February of 2010. Counsel stated that Applicant and he discussed an appeal and that Applicant requested he file an appeal on his behalf. Counsel stated that he stood with Applicant when his sentence was unsealed; following sentencing, Counsel filed a timely notice of appeal on Applicant's behalf and properly served all necessary parties. Counsel testified that it was his understanding that at this time, Appellate Defense would take over representation of Applicant on his appeal, as is the general practice. Counsel stated that Appellate Defense sent him a checklist, which he filed out and returned promptly.

Based on the testimony presented at the hearing in conjunction with a thorough review of the transcript, this Court finds that Counsel was not ineffective for failing to properly perfect a direct appeal. Further, this Court finds counsel's testimony to be credible. When the question is whether counsel was ineffective in failing to file a direct appeal from a conviction and sentence, the United States Supreme Court has held that counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000).

Counsel's credible testimony reflected that he consulted and advised Applicant of his right to appeal his conviction and sentence. Furthermore, Counsel did indeed file a timely notice

of appeal on behalf of Applicant and properly served all necessary parties. Therefore, Counsel was not ineffective for failing to perfect a direct appeal on Applicant's behalf.

CONCLUSION

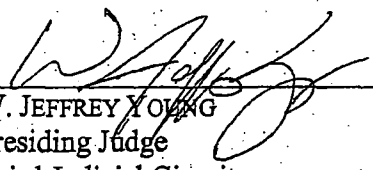
~~Based on all the foregoing, this Court finds and concludes that the Applicant has not~~
established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

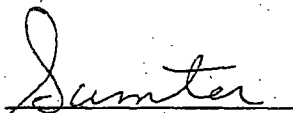
This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 16 day of Oct, 2012.


W. JEFFREY YOUNG
Presiding Judge
Third Judicial Circuit

 Sumter, South Carolina.

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WITNESSES

Phillip M. Ardis - CCSO

DOCKET NO. 2009-GS-14- 0190

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MAY TERM 2009

THE STATE
VS.

LEON A. GOODMAN

CORNELL STOVER, JR.

ARREST WARRANT NUMBER

M082326

M082327

ACTION OF GRAND JURY

True Bill

Ray B. Ardis
Foreperson of Grand Jury
Date: 5-7-09

VERDICT

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE BASE

Foreperson of Petit Jury
Date:

C. KELLY JACKSON, SOLICITOR

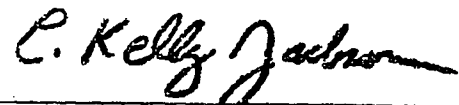
STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

INDICTMENT FOR
POSSESSION WITH INTENT TO DISTRIBUTE COCAINE
BASE

At a Court of General Sessions, convened on May 7, 2009, the Grand Jurors of
CLARENDON COUNTY present upon their oath:

That LEON A. GOODMAN AND CORNELL STOVER, JR. did in Clarendon
County on or about February 11, 2009, possess with intent to distribute a quantity of
cocaine base, over one (1) gram to a confidential informant working under the direction
of the Clarendon County Sheriff's Office, a controlled substance under the provisions of
Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended [Section
44-53-375 (B) et. seq., 1976 Code of Laws of South Carolina, as amended], such
possession not having been authorized by law.

Against the peace and dignity of the state, and contrary to the statute in such
case made and provided.


SOLICITOR