

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY

Clifton Newman, Circuit Court Judge

ORIGINAL

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LAVERN ANDERSON,

APPELLANT

APPELLATE CASE NO. 2013-000561

RECORD ON APPEAL

BENJAMIN JOHN TRIPP
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

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

Attorneys for Respondent

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STATE OF SOUTH CAROLINA)

COUNTY OF WILLIAMSBURG)

Lavern Anderson,)

PLAINTIFF,)

vs.)

The State of South Carolina,)

DEFENDANT.)

COURT OF GENERAL SESSIONS

TRANSCRIPT OF TRIAL

C/A #:2012-GS-45-00082

Williamsburg County Courthouse
January 30 and 31st, 2013

BEFORE:

HONORABLE CLIFTON NEWMAN, PRESIDING JUDGE.

APPEARANCES:

Assistant Solicitor Kimberly Barr
Attorney for The State of South Carolina

Cezar McKnight, Esquire
Attorney for Lavern Anderson

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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1 Ms. Barr: Please the Court, Your Honor. At this
2 time, State calls indictment 2012-GS-45-82. The State vs.
3 Ronnie Lavern Anderson. It's an indictment for
4 possession with intent to distribute crack cocaine. Mr.
5 Anderson is represented by Attorney Cezar McKnight and
6 the State is ready for trial.

7 The Court: Alright. Are there any motions for the
8 record?

9 Mr. McKnight: Yes, Your Honor.

10 The Court: Alright Ladies and gentlemen, the State
11 has called the trial of the case of the State versus
12 Ronnie Lavern Anderson. He's indicted by the grand jury
13 of Williamsburg County and charged with possession with
14 intent to distribute cocaine base. He's pled not guilty,
15 he's presumed to be not guilty and he cannot be found
16 guilty unless a jury finds him guilty. Mr. Anderson is
17 not present in court at this time, however that does not
18 factor in at all in your consideration of whether or not
19 the State can prove beyond a reasonable doubt if he's
20 guilty or not guilty. The State must prove beyond a
21 reasonable doubt that he's guilty, otherwise he must be
22 found not guilty. He's present, he is in court, he is
23 represented by counsel. Introduce yourself.

24 Mr. McKnight: Thank you Your Honor and may it please
25 the Court? Good morning ladies and gentlemen of the jury

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1 panel. My name is Cezar McKnight and I have the pleasure
2 of representing Mr. Anderson in this matter. I have a
3 small practice here in Lake City and I practice by
4 myself.

5 The Court: Okay, the State is represented by the
6 Solicitor's office. Ms. Barr you introduced yourself
7 before to the jury.

8 Ms. Barr: Yes sir, I did.

9 The Court: Alright Ladies and gentlemen Mr. Anderson
10 is from the Hemingway area. Is that right?

11 Mr. McKnight: Yes sir, Your Honor. He's from the
12 Hemingway area.

13 The Court: Hemingway area. And what is his full
14 name?

15 Mr. McKnight: Ronnie Lavern Anderson.

16 The Court: Ronnie Lavern Anderson. If any member of
17 the jury panel knows, if you know Ronnie Lavern Anderson
18 of Hemingway, please stand if you know him. No one is
19 standing. The following people may testify as witnesses:
20 Investigator Alex Edwards of the sheriff's office, Lt.
21 Roger Tilton from the Lake City police department,
22 Jeffrey Scott formerly of the sheriff's office, Agent
23 Lawrence ...

24 Ms. Barr: Zivkovich.

25 The Court: Zivkovich from SLED, Mindy Perry, where

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1 is she from?

2 Ms. Barr: She's from the Hemingway area as well.

3 The Court: Hemingway area?

4 Ms. Barr: Yes sir.

5 The Court: Sergeant Juan Ballard of the sheriff's
6 office. Those folks may testify. If any juror knows any
7 of them please stand. Alright no jury knows any of those
8 possible witnesses. This is not just if you want to
9 stand. If it applies, you must stand if you know any of
10 them. Yes sir?

11 Juror: I know one of the officers.

12 The Court: He's your, you know Jeffrey Scott, he's
13 your ...

14 Juror: Yeah, my sister's daughter's husband.

15 The Court: Your sister's daughter's husband is how
16 you know him right?

17 Juror: Right.

18 The Court: I'll go through these questions again for
19 the benefit of everyone else. You said you knew a lot of
20 them.

21 Juror: Yeah.

22 The Court: Right. Hopefully you're not the only one
23 in the jury panel who knows somebody. The possible
24 witnesses are Investigator Alex Edwards, I saw him, where
25 is he?

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1 Ms. Barr: He was up here earlier Judge. He'll be
2 back.

3 The Court: Alright Lt. Roger Tilton from Lake City,
4 Jeffrey Scott who's now Professor Scott, and then Agent
5 Zivkovich from SLED, Mindy Perry from Lake City and Juan
6 Ballard, Sergeant Juan Ballard and he works for the
7 sheriff's office. If you know any of them, if you think
8 you know any of them, please stand. Alright, that makes a
9 little more sense. Well, if you stand I have to ask a few
10 questions, so please stand. Yes ma'am, tell us your juror
11 number?

12 A: 141.

13 The Court: And who do you know?

14 A: Juan Ballard, Tilton and the professor.

15 The Court: That's all three of them. Does that
16 affect your ability to be a fair and impartial juror?

17 A: No sir.

18 The Court: Alright, thank you. Yes ma'am, juror
19 number?

20 A: Eleven.

21 The Court: Eleven.

22 A: I know Alex Edwards. I mean I don't know them
23 personally, but I know them around town.

24 The Court: Will that fact affect your ability to be
25 a fair and impartial juror?

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1 A: No sir.

2 The Court: Yes ma'am in the turquois there?

3 A: I know Alex Edwards.

4 The Court: Will that fact affect your ability to be
5 fair and impartial?

6 A: No.

7 The Court: Thank you. Alright, back to Ronnie Lavern
8 Anderson, do any of you know him, please stand. If you
9 know of any reason why you should not be selected as a
10 juror in this case, please let me know at this time. If
11 you've got something else to do today or, yes ma'am?

12 A: Mr. Anderson. Do you know where he lives? I know
13 some Andersons in the Hemingway area.

14 The Court: What area of Hemingway is he from, Mr.
15 McKnight?

16 Mr. McKnight: Your Honor I know his address. We have
17 his address, but I'm not familiar with Hemingway enough
18 to say what kind of area it is.

19 The Court: What route is he on? What street is he
20 on?

21 Ms. Barr: King Street, [REDACTED].

22 The Court: King Street, King Street in Hemingway?

23 Mr. McKnight: Donnelly.

24 A: No I don't know him.

25 The Court: Okay. If you know of any reason why you

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1 shouldn't be picked to be on this jury, please stand.

2 Alright, anything else from the State or defense?

3 Ms. Barr: Nothing on behalf of the State Your Honor.

4 Mr. McKnight: Nothing from the defense.

5 The Court: Alright. Give the clerk your attention
6 and we'll proceed with the selection.

7 Clerk: Juror 195, Christopher E. Wilson. What say
8 you for the State?

9 Ms. Barr: Please present the juror.

10 Clerk: What say you for the defense?

11 Mr. McKnight: Please seat Mr. Wilson.

12 Clerk: Please have a seat in the jury box Mr.
13 Wilson. Juror 198, William Witherspoon. What say you for
14 the State?

15 Ms. Barr: Please excuse Mr. Witherspoon.

16 Clerk: Okay, Mr. Witherspoon, please return to your
17 seat. Juror 146, Ms. Judy A. Price.

18 Ms. Barr: What was the juror's number again?

19 Clerk: Number 146.

20 Ms. Barr: Thank you.

21 Clerk: What say you for the State?

22 Ms. Barr: Please present the juror.

23 Clerk: What say you for the defense?

24 Mr. McKnight: Please seat Ms. Price.

25 Clerk: Ms. Price you may take your seat in the jury

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1 box. Juror 188, Margaret S. Williams. What say you for
2 the State?

3 Ms. Barr: Please present Ms. Williams?

4 Clerk: What say you for the defense?

5 Mr. McKnight: Please excuse Ms. Williams.

6 Clerk: Ms. Williams you may return to your seat.

7 Juror 131, Sandra Parker. What say you for the State?

8 Ms. Barr: Please present Ms. Parker.

9 Clerk: What say you for the defense?

10 Mr. McKnight: Please seat Ms. Parker.

11 Clerk: Ms. Parker please be seated in the jury box.

12 Juror 21, Mr. Robbie Bufkin. What say you for the State?

13 Ms. Barr: Please excuse Mr. Bufkin from the trial of
14 this case.

15 Clerk: Okay Mr. Bufkin, you may return to your seat.

16 Juror 191, Tina Williams. What say you for the State?

17 Ms. Barr: Please excuse the juror from the trial of
18 this case.

19 Clerk: Okay, you may return to your seat. Juror 63,
20 Lavern Frazier. What say you for the State?

21 Ms. Barr: I'm sorry, his number?

22 Clerk: Number 63.

23 Ms. Barr: 63, thank you. Please present Mr. Frazier.

24 Mr. McKnight: Please seat Mr. Frazier.

25 Clerk: You may take your seat in the jury box. Juror

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1 8, Mr. Ray Bimbo. What say you for the State?

2 Ms. Barr: Please present Mr. Bimbo.

3 Clerk: What say you for the defense?

4 Mr. McKnight: Please seat Mr. Bimbo.

5 Clerk: Have a seat in the juror box. Juror 70, Mr.

6 Bobby Goins. What say you for the State?

7 Ms. Barr: Please present this juror.

8 Clerk: What say you for the defense?

9 Mr. McKnight: Please excuse Mr. Goins.

10 Clerk: Mr. Goins you may return to your seat. Juror

11 20, Ms. Cecelia Brunson. What say you for the State?

12 Ms. Barr: Please present Ms. Brunson.

13 Clerk: What say you for the defense?

14 Mr. McKnight: Present Mr. Brunson.

15 Clerk: Please take your seat in the jury box. Juror

16 11, Mayleen Blow. What say you for the State?

17 Ms. Barr: Please present Ms. Blow.

18 Clerk: What say you for the defense?

19 Mr. McKnight: Please seat Ms. Blow.

20 Clerk: Ms. Blow please be seated in the jury box.

21 Juror 122, Tori Miller. What say you for the State?

22 Ms. Barr: Please present Ms. Miller.

23 Clerk: What say you for the defense?

24 Mr. McKnight: Please excuse the juror.

25 Clerk: Ms. Miller you may return to your seat. Juror

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1 154, Turquoise Ralph. What say you for the State?

2 Ms. Barr: Please present Ms. Ralph.

3 Clerk: What say you for the defense?

4 Mr. McKnight: Please seat Ms. Ralph.

5 Clerk: Please be seated in the jury box. Juror 173,

6 Verica Timmons. What say you for the State?

7 Ms. Barr: Please present Ms. Timmons.

8 Clerk: What say you for the defense?

9 Mr. McKnight: Please seat Ms. Timmons.

10 Clerk: Please be seated in the jury box. Juror 14,

11 Thadius Bradley. What say you for the State?

12 Ms. Barr: Please present Mr. Bradley.

13 Clerk: What say you for the defense?

14 Mr. McKnight: Please seat Mr. Bradley.

15 Clerk: Please be seated in the jury box. Juror 187,

16 Marcus Williams. What say you for the State?

17 Ms. Barr: Please excuse Mr. Williams for the trial
18 of this case.

19 Clerk: Alright Mr. Williams, you may return to your
20 seat. Juror 78, Timothy Hamm. What say you for the State?

21 Ms. Barr: Please present Mr. Hamm.

22 Clerk: What say you for the defense?

23 Mr. McKnight: Please seat Mr. Hamm.

24 Clerk: Please be seated in the jury box. Juror 190,

25 Reginald Williams. What say you for the State?

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1 Ms. Barr: Please present Mr. Williams.

2 Clerk: What say you for the defense?

3 Mr. McKnight: Please seat Mr. Williams.

4 Clerk: Please have a seat in the jury box. Juror

5 The Court: And one alternate.

6 Clerk: And one alternate. Juror 141, Diane Presley.

7 What say you for the State?

8 Ms. Barr: Number 141?

9 Clerk: Juror 141.

10 Ms. Barr: Please seat Ms. Presley.

11 Mr. McKnight: Please seat Ms. Presley.

12 Clerk: Please be seated.

13 The Court: Mr. Hamm, when did you say you had that
14 appointment?

15 Mr. Hamm: It was yesterday.

16 The Court: Yesterday, alright. Are there any matters
17 of law regarding the jury selection?

18 Ms. Barr: Not on behalf of the State Your Honor.

19 Mr. McKnight: Not on behalf of the defense.

20 The Court: Alright Ladies and gentlemen you have
21 been selected to be the jury in this case. Those of you
22 who were not selected have put in your day's work
23 already. This is jury duty for the day and y'all are
24 excused for the balance of the day, but I want y'all to
25 call back after six pm and see what's next. Thank you

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1 very much and have a good day. Alright Ladies and
2 gentlemen we're going to have you go back to the jury
3 room for, are you ready to start Ms. Barr or are you
4 ready to roll now?

5 Ms. Barr: Judge we do have a matter to take up
6 outside the presence of the jury.

7 The Court: Alright Ladies and gentlemen, go to the
8 jury room and please do not discuss the matter. When you
9 return, Mr. Hamm, I'm going to appoint you to be the
10 foreperson in charge of the jury.

11 {Jury break 10:52}

12 The Court: Alright yes sir Mr. McKnight?

13 Mr. McKnight: Your Honor I respectfully move for a
14 continuance. My client is not available. I've made
15 attempts to contact him, but we believe that justice is
16 best served with Mr. Anderson present. So, respectfully
17 move for a continuance.

18 The Court: Alright Ms. Barr?

19 Ms. Barr: Your Honor we would object to the motion
20 for continuance. The Defendant's name has been on the
21 trial list I believe since I believe the beginning of
22 January. Certainly at least two prior to the last week's
23 term of court Mr. Anderson did not appear at the last
24 term of court, he did not appear on Monday. On last night
25 I made an attempt to contact the bondsman, to ensure that

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1 he was going to be here in court today. The bondsman is
2 Rocky Roads, C and J bonding company and he shared with
3 me that he tried to get Mr. Anderson a few weeks ago and
4 he actually had him in handcuffs and he managed to run
5 from him in handcuffs and so he believes that he is
6 continually evading the law and evading this case.
7 Judge, Mr. Anderson was before the Court a couple of
8 months ago and he had, at that time, two separate arrests
9 warrants pending for drug related offenses. He also was
10 incarcerated, not because of drugs at that time, but
11 because he had an outstanding bench warrant from a prior
12 term of court and Your Honor that bench warrant was
13 lifted. The Defendant, through his absence, has basically
14 not had contact with his lawyer and has not reported to
15 court as he is required to do and we would respectfully
16 request that the motion be denied.

17 The Court: Do you have any testimony to present to
18 give the Court the basis to proceed with the trial in the
19 absence of the Defendant?

20 Ms. Barr: We do and Your Honor we would call the
21 Honorable Sharon Staggers at this time.

22 The Court: Swear her in. If you will stand there
23 and I'll swear you in to testify. Do you solemnly swear
24 or affirm the testimony that you will give will be the
25 truth, the whole truth and nothing but the truth, so help

1 you God?

2 A: I do.

3 Ms. Barr: It please the Court Your Honor?

4 The Court: Yes ma'am.

5 Proffer Testimony of Sharon Staggers - Examination by Ms.

6 Barr:

7 Q: Ma'am state your full name for the record.

8 A: Sharon W. Staggers.

9 Q: And you are the newly elected Williamsburg County
10 Clerk of Court?

11 A: Yes.

12 Q: And ma'am, in part of your duties and
13 responsibilities as our clerk, you are required to
14 maintain records in common pleas court, general
15 sessions court, family court and so forth?

16 A: Yes.

17 Q: Alright and in that capacity, do you have a court's
18 file related to the State versus Lavern Anderson,
19 indictment 2012-GS-45-82?

20 A: Yes.

21 Q: Okay, alright and contained within that file, did
22 you all have the original copy of his bonding form?
23 And I'm going to hand you what's been marked as
24 Court's exhibit 1. Is that the copy of the
25 Defendant's bonding form related to this charge?

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1 A: Yes it is.

2 Q: And ma'am on that form, the Defendant was released
3 on I believe on, or his bond was set on January 21,
4 2012. Is that correct?

5 A: January 27.

6 Q: January 27th, I'm sorry.

7 A: Yes that's correct.

8 Q: And the magistrate who set that bond appears to be
9 Judge Glen Kennedy. Is that correct? Can you read
10 the signature? That's fine. I'm going to have you
11 look at the second side of that form of what you're
12 facing. Alright did the presiding magistrate who set
13 the Defendant's bond advise him that he had the
14 right and the obligation to be present at trial?

15 A: Yes.

16 Q: Alright and did the magistrate also advise him that
17 should he fail to attend court, the trial would
18 proceed in his absence?

19 A: Yes.

20 Q: Alright does the form also indicate that he was
21 advised that if he failed to attend court as
22 required that a warrant would be issued for his
23 arrest?

24 A: Yes.

25 Q: Alright does the form contain an acknowledgment by

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1 the Defendant that he was aware of those rights and
2 that he understood those rights?

3 A: Yes.

4 Q: Alright does the form reflect his signature? And
5 that's January 27, 2012?

6 A: Yes.

7 Q: Okay and our court records reflect that Mr. Cezar
8 McKnight has been his attorney some time?

9 A: Yes._

10 Q: Alright, alright.

11 Ms. Barr: Judge that's all the questions that I
12 have for our Madam Clerk.

13 The Court: Mr. McKnight?

14 Mr. McKnight: No questions Your Honor.

15 The Court: Alright thank you. You can step down.

16 Ms. Barr: We call Lt. Deborah Collins.

17 Clerk: Place your left hand on the Bible, raise your
18 right hand. Do you solemnly swear or affirm to tell the
19 truth, the whole truth and nothing but the truth, so help
20 you God?

21 A: I do.

22 **Proffer Testimony of Deborah Collins - Examination by Ms.**

23 **Barr:**

24 Q: Ma'am state your full name for the record.

25 A: Deborah McElveen Collins.

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1 Q: And you're employed at the Williamsburg county
2 sheriff's office?

3 A: Yes.

4 Q: And were you present in court when the jury in this
5 case was selected?

6 A: Yes ma'am.

7 Q: And at my request, did you go outside of the
8 auditorium, into the hallway and call the Defendant
9 Lavern Anderson's name three times?

10 A: Yes ma'am.

11 Q: Did you receive a response to that call?

12 A: No.

13 Q: And he is not present in the courtroom?

14 A: No, he isn't.

15 Ms. Barr: Thank you. Please answer any questions
16 that the Court or Mr. McKnight may have.

17 Mr. McKnight: No questions Your Honor.

18 The Court: Okay, thank you.

19 Ms. Barr: Your Honor that's all of the evidence the
20 State would offer at this time.

21 The Court: Do you have anything to offer Mr.
22 McKnight?

23 Mr. McKnight: Nothing Your Honor.

24 The Court: Rule 16 under Rules of Criminal Procedure
25 states that except in cases wherein capital punishment is

1 risk of sentence, the person indicted
2 for misdemeanors and for felonies may voluntarily waive
3 his right to be present and the case may be tried in his
4 absence. Upon the finding by the Court that such person
5 has received notice and his right to be present and that
6 a warning was given that the trial will proceed in his
7 absence, upon failure to attend court. Based on the
8 testimony
9 presented, it appears that he was notified of his right
10 to be present, also warned that a
11 trial would proceed upon his absence upon his failure to
12 attend the court. Mr.
13 Anderson was also before the court in recent months
14 regarding bench
15 warrants. He's aware of his right and obligation to be
16 present and the case will proceed in his absence.

17 Ms. Barr: Thank you Your Honor.

18 The Court: Alright.

19 Ms. Barr: I'm sorry. May I approach?

20 {Break}

21 Ms. Barr: Judge I'm sorry; before we go right quick,
22 Mr. McKnight at times referred to the Defendant as Brian
23 Lavern Anderson. Your Honor to the extent that the
24 indictment lists Lavern Anderson on the indictment,
25 Ronnie, I'm sorry, Lavern Anderson, aka Ronnie Anderson,

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1 Ronnie Lavern.

2 The Court: Okay.

3 Mr. McKnight: I don't have an objection.

4 The Court: Alright. Okay, let's bring them on.

5 {Jury Enters 11:29}

6 The Court: Alright the jury is back. Ladies and
7 gentlemen if y'all will stand to be sworn. Oh yeah, I
8 want to ask you all --- I wanted to ask you all whether
9 any of you all are currently being represented or have
10 been represented in the past by any of the lawyers
11 involved in this case. Mr. Sabb, Ronnie Sabb's office. If
12 so, raise your hand. If you're currently or have been
13 represented. Alright Ladies and gentlemen if y'all will
14 stand to be sworn.

15 Clerk: Please raise your right hand. Do you solemnly
16 swear or affirm that you shall well and truly try case
17 number 2012-GS-45-82, the State versus Lavern Anderson;
18 indicted for possession with intent to distribute cocaine
19 base, render a true verdict according to the law and the
20 evidence, so help you God.

21 Jury: I do.

22 Clerk: Thank you. Please be seated.

23 The Court: Alright Ladies and gentlemen you've been
24 selected and sworn to be the jury in the trial of this
25 case. This Defendant is indicted for possession with

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1 intent to distribute cocaine base and he's pled not
2 guilty to the charge and he cannot be found guilty of the
3 charge unless the State presents evidence that convinces
4 you of his guilt beyond a reasonable doubt. One important
5 thing I want to emphasis is that you listen to the
6 testimony and see the evidence so that you can weigh the
7 evidence in the end, but you're not allowed to discuss
8 the case with each other or with anyone else until the
9 case is submitted to you for your decision. Mr. Foreman
10 it will be your responsibility to serve as a spokesperson
11 for the jury, to preside over the jury deliberation and
12 to complete the verdict form representing the unanimous
13 verdict of the jury. Opening statement Ms. Barr.

14 **OPENING STATEMENT BY MS. BARR:**

15 Ms. Barr: Thank you Your Honor. May it please the
16 Court. Mr. McKnight, Mr. Foreman, Ladies and gentlemen of
17 the jury, good morning. Now I know you all are about as
18 happy and excited about being here this week, somebody
19 gave me the evil look when I said that. I hope you all
20 are happy and excited to be here as I am obviously. Let
21 me share with you my appreciation for the sacrifices that
22 you have made; some of you have pulled double duty this
23 week. We want you to know that we understand that there
24 are a many places that you would rather be other than
25 this courtroom trying a case but I can promise you that

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1 in our system of
2 justice, the thirteen of you good folks, good citizens
3 are willing to come in and
4 serve to see that justice is done. So I thank you all
5 again for your time. Now because of that, I'm not going
6 to spend a whole lot of time talking this morning in
7 opening statements. I did want to however take this
8 opportunity to tell you what this case is about. Law
9 Enforcement got got involved in the case because they
10 were assisting another law enforcement agency in the
11 investigation of the crime that actually happened at the
12 Walmart in Lake City. The Lake City police department was
13 following up on the investigation of shoplifting charge
14 there. That investigation led into Williamsburg County.
15 You will hear testimony from one of the officers who
16 worked there. That's Lieutenant Tilton, he worked there
17 and he contacted the sheriff's office and two of the
18 deputies of the Sheriff's Office came out to the address
19 in Kingstree, which is of course, in Williamsburg County
20 and what you will hear is the address of the Defendant,
21 Lavern Anderson and when they arrived at his residence,
22 they will tell you that the Defendant had a quantity of
23 crack cocaine inside his vehicle and stolen property
24 inside his vehicle. You will also learn from the
25 evidence, that once the police arrived there, Mr.

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1 Anderson became aware that the police were there, the
2 first thing he did was take off running and of course
3 they apprehended him later and that is why we are here.
4 Now, in terms of the charge of possession and intent to
5 distribute crack cocaine, the State has to prove a couple
6 of things to you; obviously we have to prove that the
7 Defendant possessed the crack cocaine and you'll hear all
8 about the circumstances surrounding where the drugs were
9 found, according to the Defendant's actions and
10 everything. We hope that at the conclusion of this case,
11 you will conclude that we have met that burden in proving
12 that he possessed crack cocaine. He's not only charged
13 with possessing it, he's charged with possessing with the
14 intent to distribute and what that means simply is that
15 you can look at the evidence and determine, based on the
16 weight of the drugs or based on how they were packaged
17 that he had an intent, not just to use it personally, but
18 had intentions to sell it or give it away or whatever his
19 intent was and of course as jurors, that's a decision
20 that you all will have to make once you go back in the
21 jury room to deliberate. And folks that will essentially
22 be the case. Now I will tell you that you will have to
23 come back on tomorrow; two of the witnesses involved in
24 this case are out of town and they cannot be here today,
25 but they'll be here first thing in the morning. One of

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1 the witnesses is from SLED. He will testify as to his
2 analysis of the drugs. He will tell you it's cocaine.
3 But folks we certainly hope you continue to enjoy your
4 jury experience; we hope that you'll find it educational
5 and certainly I look forward to addressing you again in
6 closing arguments. Thank you all.

7 The Court: Alright Mr. McKnight.

8 **OPENING STATEMENTS BY MR. MCKNIGHT:**

9 Mr. McKnight: Thank you Your Honor, may it please
10 the Court? Ms. Barr?

11 Ms. Barr: Yes sir.

12 Mr. McKnight: Ladies and gentlemen of the jury, good
13 morning.

14 Jurors: Good-morning.

15 Mr. McKnight: As I've told you all previously, I'm
16 attorney Cezar McKnight and I have the pleasure of
17 representing Mr. Anderson in this matter. On behalf of
18 Mr. Anderson I'd like to thank the thirteen of you for
19 your service here today. I know that there are a thousand
20 different things that we all could be doing right now and
21 there's a thousand other places you'd rather be, but
22 Ladies and gentlemen, in this country, this is the way
23 that we maintain our society. In other parts of the
24 world, when a person is accused of something they drag
25 them off, hack off their hands, shoot them in the street,

1 do whatever, but here, in this country, I believe we have
2 the greatest system yet discovered for deciding whether
3 or not a person is guilty or innocent of a particular
4 crime. We have a jury trial, that means twelve citizens,
5 twelve of their peers, twelve persons from their
6 community come together, listen to the facts as they are
7 presented and hear it all and based upon their collective
8 experiences and common senses, they decide whether or not
9 the facts support the persons guilt or innocence. Now,
10 you may here, and Winston Churchill is the one I quote
11 the most; he says, "Other than in a time of war, the
12 greatest service that a person could do for their country
13 is participate on a jury trial." And you may sit there
14 and think, wow that's a lot of hype or that's a lot of
15 big talk, but it's really not. Because like I told you,
16 if we didn't have the twelve of you all, we wouldn't be
17 able to have justice. Now, you're going to hear the
18 evidence when it comes from this stand, you may see a few
19 pieces of evidence that are moved in and you're going to
20 have to wonder, well what's the standard by which I
21 decide whether or not this person is guilty or innocent
22 and that's a good question. We have what we call a burden
23 of proof and in a criminal trial, the burden of proof is
24 beyond a reasonable doubt; compare that to a civil trial
25 like in a car wreck or something, the burden of proof is

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1 by a preponderance of the evidence. You say, well
2 attorney McKnight what's that? What that means is, is
3 that we have to put on enough evidence, beyond a
4 reasonable doubt to prove the person guilty. What that
5 means is, imagine the scales of justice and you all have
6 seen that statue with the lady blinded and she's got the
7 toga on holding the scales. Well, Ms. Barr is the
8 Prosecutor. Ms. Barr has to put enough evidence on that
9 scale to not make it tip, but she has to make it go all
10 the way over to her side. That's the burden. Beyond that,
11 unlike in a civil trial, where you just have to put
12 enough evidence on it just to get it to tip slightly over
13 to your side. No, they got a high standard. The way that
14 I better understand this and it works for me is I like to
15 think about me getting ready for church on Sunday and I'm
16 ironing my shirt and I'm running a little late because I
17 guess I've watched The Press or whatever, but I run out
18 of the door and I'm getting in the car and that
19 hesitation I have as to whether or not I unplugged the
20 iron, if you've got that much hesitation, once you've
21 heard the facts in this case, then you have a reasonable
22 doubt and that means Ladies and gentlemen of the jury,
23 you have to say to the judge, when he asks, that my
24 client is not guilty. Now, you heard me give you that big
25 talk that --- I'm going to tell you something else, your

1 power here, your twelve people's power here is enormous.
2 Right now you're more powerful than Judge Newman. Right
3 now you are more powerful than Barack Obama. The only
4 persons that can say, at the right time whether or not my
5 client's guilty are you twelve. There's no more. So
6 here's what I need you to do. I need you to listen. Ms.
7 Barr needs you to do, we all need you to listen to the
8 facts and we need you to go into that jury room at the
9 appropriate time and we need you to take your collective
10 experiences and listen and come up with a verdict. Now,
11 it doesn't take, it doesn't require any large education.
12 It's your collective experience that we need. It's your
13 common sense. Think about it when ---and we all have
14 seen little children, we know that they have done
15 something. They've eaten cookies, there's chocolate all
16 over their face. You didn't see them eat the cookies but
17 you know after listen to a person on whether or not they
18 are telling you the truth. That's all we need you to do
19 and if you do that then you have met your duty and the
20 obligation you took when you took the oath from the
21 clerk. We thank you for that and I'll talk to you all
22 later. Thank you.

23 The Court: Your first witness please.

24 Ms. Barr: The State would call Mr. Alex Edwards.

25 Clerk: Place your left hand on the Bible and raise

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1 your right hand. Do you solemnly swear or affirm to tell
2 the truth, the whole truth and nothing but the truth, so
3 help you God?

4 A: Yes I do.

5 Clerk: Please have a seat in the witness box.

6 **DIRECT EXAMINATION OF MR. EDWARDS BY MS. BARR:**

7 Q: Sir let me get you to state your full name for the
8 record for me.

9 A: Alex Edwards.

10 Q: And we see that obviously you have your uniform on,
11 but for the record, just tell the Ladies and
12 gentlemen what it is that you do for a living.

13 A: I'm a criminal investigator with the Williamsburg
14 County Sheriff's office. We normally work murder,
15 robbery, homicide, property thefts, auto crimes.

16 Q: Okay, how long have you worked at the sheriff's
17 office?

18 A: This January will be six years.

19 Q: Okay, alright and sir would you, prior to the date
20 of this particular incident, were you familiar with
21 the Defendant Lavern Anderson?

22 A: Yes ma'am.

23 Q: Okay, where did you know him from?

24 A: We attended school together in Johnsonville.

25 Q: Okay, so you were very familiar with him?

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1 A: Yes ma'am.

2 Q: Alright now I'm going to take you back to the date
3 of November 22, 2011. Of course you were working
4 that day?

5 A: Yes ma'am.

6 Q: Tell us how is it that you became involved in this
7 case and what your role in this case was.

8 A: We were contacted by Lt. Tilton of the Lake City
9 Police Department.

10 Q: Okay.

11 A: In reference to traveling to a location in
12 Hemingway, South Carolina.

13 Q: Okay.

14 A: Reports in our county.

15 Q: Okay.

16 A: In reference to he had some information on some
17 stolen items that one of the suspects in his case
18 was willing to show him where she took the items to.

19 Q: Okay.

20 A: And we were supposed to me them at the Hemingway
21 police department.

22 Q: Alright, now, and I'll be careful not to get into
23 too much of what somebody else may have said, but as
24 a result of receiving that call from Lt. Tilton,
25 where did you go?

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- 1 A: We met them at the Hemingway police department.
- 2 Q: Alright and from that location, who was present when
- 3 you arrived there?
- 4 A: It was Lt. Tilton.
- 5 Q: Okay.
- 6 A: Another female named Perry.
- 7 Q: Another female named?
- 8 A: Mindy Perry.
- 9 Q: Mindy Perry, okay.
- 10 A: Myself and Investigator Ballard.
- 11 Q: Alright did you have a conversation with Mindy
- 12 Perry?
- 13 A: No ma'am. I did not.
- 14 Q: Okay, were you present when, and not telling me
- 15 anything that was said, but were you present when
- 16 she had the conversation with Lt. Tilton?
- 17 A: No ma'am.
- 18 Q: Okay, alright, now after you arrived there and you
- 19 observed Lt. Tilton there and Ms. Perry there, what
- 20 did you do next?
- 21 A: Lt. Tilton advised us that ...
- 22 Q: Wait a minute. Don't tell me what he said. Just
- 23 tell me what you did as a result of what he said.
- 24 A: Well, we followed him to the address in Kingstree.
- 25 Q: Okay, what was that address?

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- 1 A: [REDACTED].
- 2 Q: And who resided at that address.
- 3 A: Lavern Anderson.
- 4 Q: Okay, alright now when you went out to the address,
- 5 you said you followed Lt. Tilton?
- 6 A: Yes ma'am.
- 7 Q: Was Ms. Perry out there at the time?
- 8 A: Yes ma'am. She was in his vehicle.
- 9 Q: Ms. Perry was in Lt. Tilton's vehicle?
- 10 A: Yes ma'am.
- 11 Q: Alright so you followed behind his vehicle and when
- 12 you arrived at the address on King Street tell me
- 13 what happened at that point.
- 14 A: Once we got on at the address on scene, Lt. Tilton
- 15 exited the vehicle.
- 16 Q: Okay.
- 17 A: At that point in time, myself and Investigator
- 18 Ballard exit our vehicle that was behind them.
- 19 Q: Okay.
- 20 A: And Lt. Tilton asked for the name of Lavern.
- 21 Q: He called the name Lavern?
- 22 A: Yes ma'am.
- 23 Q: Okay.
- 24 A: And then at that point in time, myself and
- 25 Investigator Ballard were walking up to the end of

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1 his vehicle and we seen a black male sitting inside
2 a white color pick up truck.

3 Q: Okay, when you said you walked to the end of his
4 vehicle, who's vehicle about, when you said his
5 vehicle?

6 A: Lt. Tilton.

7 Q: Okay.

8 A: As we were walking up and walking up towards him, he
9 called the name Lavern and we were walking up and I
10 noticed a black male sitting in the drive seat of a
11 white color pick up truck.

12 Q: Okay and did you recognize the black male that you
13 saw in the driver's seat of the pick up truck?

14 A: No ma'am. Not at first, until the guy actually got
15 out of the vehicle and exited it.

16 Q: Okay, when the driver got out of the vehicle and
17 exited, who did you recognize if anybody?

18 A: Lavern Anderson.

19 Q: Okay and, now tell us what happened as you walked up
20 to the vehicle as Mr. Anderson got out.

21 A: Mr. Anderson exited and out the vehicle when his
22 name was called again Lavern. That's when he
23 proceeded to run and that's when I gave chase.

24 Q: Okay.

25 A: A chase pursued right after that, shortly after

- 1 that.
- 2 Q: Okay, were you able to catch up with him that day?
- 3 A: No ma'am. He knows those paths in those woods
- 4 pretty good and I lost him in the woods.
- 5 Q: Alright he a little faster than you?
- 6 A: He had a jump on me.
- 7 Q: Okay.
- 8 A: He had a jump on me.
- 9 Q: Now, in terms of after he left, did you, well first
- 10 of all, before he got out of the vehicle, do you
- 11 recall whether or not anyone else was there around
- 12 the vehicle or inside the vehicle?
- 13 A: There was another black male, but it was not, who
- 14 was not in the truck. I know, when I got there I
- 15 didn't notice him in the truck; he was off from the
- 16 truck.
- 17 Q: Okay, alright, now did you see any vehicles, I'm
- 18 sorry any computers, before you started chasing
- 19 after Mr. Anderson?
- 20 A: No ma'am. That wasn't discovered until I got back.
- 21 Q: Okay.
- 22 A: Not til I got back and Lt. Tilton and Investigator
- 23 Ballard saw the computer like in plain view sitting
- 24 in the center console.
- 25 Q: Alright.

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1 A: Turned towards the driver's side.

2 Q: Okay, tell us about what you observed about the
3 computer when you got back and looked and in the
4 vehicle that you said you saw the Defendant get out
5 of.

6 A: When I was able, when I got back to the truck, I
7 noticed that the computer was turned towards the
8 driver's side and it was on.

9 Q: Okay.

10 A: It had a screen locked on it and it said Vern and it
11 was on the screen.

12 Q: Okay.

13 A: At that point in time, through further
14 investigation, Lt. Tilton already had information
15 that was supposed to be the computer that was stolen
16 from Walmart and verified it through the serial
17 number.

18 Q: Okay.

19 A: That was also on the laptop and they said that was
20 the one stolen out of, it was taken to the
21 residence.

22 Q: Okay, did you find anything else inside the vehicle
23 other than the laptops?

24 A: Once the vehicle was abandoned, we noticed that
25 there was a stolen laptop then we proceeded to take

1 an inventory of the vehicle.

2 Q: Okay.

3 A: And after we did the inventory of the vehicle, we
4 discovered that there was some narcotics that was
5 inside the vehicle, inside the center console.

6 Q: Okay.

7 A: Also, with the joint of marijuana.

8 Mr. McKnight: Objection. Speculative.

9 The Court: Alright Ms. Barr?

10 Ms. Barr: Well, alright. I'll ask it a different way
11 Judge.

12 Q: Of course when you all seize items that you all
13 believe to be drugs, someone else actually, some
14 other chemist actually performs the analysis on
15 those drugs on what we believe are drugs?

16 A: Yes.

17 Q: Now, instead of saying at this point whether it was
18 marijuana or crack cocaine, at this point, tell us
19 what you believe the substances to be; and I think
20 that may resolve any objection that Mr. McKnight
21 has. Tell us what you believe the substances to be
22 that you describe as narcotics..

23 Mr. McKnight: Objection. That question calls for
24 him to speculate as to what it is Your Honor.

25 The Court: Ms. Barr?

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1 Ms. Barr: Judge, it's not speculating as to what his
2 belief was. He's not testifying as to what the substance
3 was; we'll have somebody else to do it later. He's
4 testifying to what his belief was, because obviously,
5 he's charged with ...

6 The Court: He can tell us what he thought it was.

7 Q: Okay.

8 A: At that point in time in our investigation, I had
9 reason to believe that it was crack cocaine.

10 Q: Alright tell us why you believed it to be crack
11 cocaine. What was it about its
12 appearance specifically that you, made you believe
13 it was crack cocaine.

14 A: How it was packaged; it was in a container and how
15 it was separately packaged. Also with the razor.

16 Q: Okay, was the appearance consistent with what you've
17 seen on other drug cases that you've made?

18 A: Yes ma'am, that's correct.

19 Q: You've made a number of arrests for persons
20 possessing crack cocaine?

21 A: Yes ma'am, that's correct.

22 Q: Alright you also indicated that you saw what you
23 thought to be marijuana as well.

24 A: Yes ma'am.

25 Q: Alright have you also arrested persons for

1 possessing marijuana?

2 A: Yes ma'am.

3 Q: Alright and the item that you saw inside of the
4 Defendant's vehicle, was it consistent with what you
5 know marijuana to look like, smell like, based on
6 your prior experience and making arrest?

7 A: Yes ma'am, that's correct.

8 Q: Alright now, were there any other items noted to be
9 important in this case, other than the computers,
10 other than the, what we believe to be crack cocaine
11 and other than the marijuana?

12 A: Yes ma'am, there was approximately four hundred and
13 five dollars, the funds was counted, four hundred
14 and five dollars that was also left inside the
15 vehicle too as well.

16 Q: What was the proximity of the four hundred and five
17 dollars in relation to the narcotics that were
18 taken?

19 A: Right in the center console.

20 Q: Okay.

21 A: The general area where we have reason to believe the
22 crack cocaine was found.

23 Q: Okay and when you say center console, are you
24 talking about that portion of the car that's between
25 the driver's seat and the passenger seat?

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1 A: Yes ma'am, that's correct.

2 Q: And that's where a lot of people have their cup
3 holders and so forth?

4 A: Yes ma'am, that's correct.

5 Q: Alright, so any, what you believe to be the
6 narcotics and the money were found in the same
7 place?

8 A: Yes ma'am.

9 Q: Alright did you find anything else that you believe
10 was important or note-worthy in connection with the
11 drug case?

12 A: No ma'am, that was it.

13 Q: Okay. Was there a razor inside the vehicle?

14 A: Yes ma'am, that was found in the container with the
15 individual baggies of what we have reason to believe
16 is crack cocaine.

17 Q: Alright you saw, you all saw a razor inside the
18 baggies where they, I'll just call it crack cocaine,
19 I'll just call it that, where the crack cocaine was
20 at?

21 A: Yes ma'am..

22 Q: Okay, now Investigator Edwards, prior to November of
23 2011, give me a rough estimation of the number of
24 crack cocaine charges or cases you might have been
25 involved in as a police officer.

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1 A: It was a number of them.

2 Q: More than twenty?

3 A: I'll say, I'll say maybe about that, around that.

4 Q: Alright and have you ever had occasion in your prior
5 experience as a police officer to see a razor blade
6 in connection with a drug case?

7 A: Yes ma'am, we've executed search warrant and also
8 inside of the vehicle we have discovered it.

9 Q: Okay, and based upon your experience as a police
10 officer handling these type cases, what purpose
11 would a person have for having a razor blade with
12 crack cocaine?

13 A: They use that to cook down the base of the drugs for
14 packaging for sale. To make smaller pieces for an
15 individual and sell it.

16 Q: Okay. Alright now, at some point, did Lt. Tilton
17 take the computers back to his office?

18 A: Yes ma'am. That's correct.

19 Q: Alright and in terms of that particular case, that
20 was being handled in Lake City? The computer case?

21 A: Yes ma'am.

22 Q: Okay, alright, did Lt. Tilton or one of the
23 sheriff's officers take any pictures of the
24 computers that were seized?

25 A: We had a camera on scene, but I think there was an

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1 issue with the battery I think.

2 Q: Okay, at some point did somebody take pictures of
3 the computers?

4 A: Yes ma'am, I reached out to Lt. Tilton and I asked
5 him could he actually email us the actual computer
6 that was stolen from Wal-Mart.

7 Q: Okay.

8 A: Since we had the serial number for the case file and
9 he was nice enough to email us a actual picture and
10 what was said on the screen.

11 Q: Alright, I'm going to hand you what's been marked for
12 identification purposes as State's exhibit 1 and 2
13 and I'll ask if you recognize those particular
14 exhibits?

15 A: Yes ma'am. I do.

16 Q: And how is it that you recognize those exhibits?

17 A: This is the computer that was on top of the center
18 console turned towards the driver's side of the
19 vehicle and it was opened up and operational and it
20 had this screen on it.

21 Q: Okay. Judge, we would move in State's Exhibits 1 and
22 2.

23 Mr. McKnight: Your Honor I have numerous objections
24 about these pictures.

25 The Court: Alright. Ms. Barr.

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1 Ms. Barr: Judge do you want ...

2 Mr. McKnight: First one being hearsay. Number one a
3 proper foundation hasn't been laid. We don't know which
4 computer this screen belongs to, when it was taken, how
5 it was, how this image was obtained, its, its and it's
6 also hearsay with what's stated on the front.
7 Furthermore, he says this is the computer, but where's,
8 where's the actual device?

9 The Court: Alright Ms. Barr?

10 Ms. Barr: Judge, we would take the position that
11 it's not hearsay, it's not an out of court statement
12 being offered for the truth of the matter asserted as a
13 photograph of a particular exhibit and obviously when you
14 have items that are alleged to have been stolen from
15 somebody you would take them and you would hopefully
16 return the items to the original owners, which what was
17 done in this particular case. So in terms of why we don't
18 have the computer here, I don't necessarily believe that
19 that's relevant, based on this drug charge and so we
20 would take the position that particular objection is not
21 relevant. And also it's not hearsay, because it's not an
22 out of court statement.

23 Mr. McKnight: Your Honor it's very much relevant,
24 because they're using the computer and what it supposedly
25 says to establish custody of the narcotics claim. That is

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1 hearsay.

2 The Court: Mr. Foreman and members of the jury, I'm
3 going to have you go to the jury room for a break. We
4 will have this discussion outside of your presence.
5 Please do not discuss the case.

6 {Jury Exits}

7 The Court: Alright I haven't seen whatever we're
8 talking about.

9 Mr. McKnight: Permission to approach?

10 The Court: Yes sir. Now Ms. Barr, recapping things;
11 what did you ask Officer Edwards, what did you ask him
12 about these things?

13 Ms. Barr: I asked him whether or not he had taken
14 photographs of the computers that were seized from the
15 vehicle. He said that he did not; Lt. Tilton took
16 photographs and later emailed him photographs of the
17 pictures. But he identified the photographs as being
18 pictures of the computer that was taken from the vehicle
19 that was taken from the vehicle that day and he also
20 testified prior to me even showing him the pictures, that
21 the computer was face up in the driver's seat and had the
22 name Vern on it, which is what the specifics reflect.

23 The Court: So that's number 1 and number 2 is what?

24 Ms. Barr: I think that's the computer closed;
25 shutdown. And then the other...

1 The Court: How did he authenticate whatever this is?
2 How did Edwards authenticate or verify his knowledge of
3 that?

4 Ms. Barr: Judge, if I'm not mistaken, I believe that
5 this might be the same computer and Investigator Edwards
6 you tell me if I'm mistaken. Is that the same computer
7 where the exhibit number 1 shows the Defendant's name on
8 it or is that the second computer that was taken from the
9 vehicle, if you know?

10 A: That's-from the same, that's from the same computer.

11 Ms. Barr: Okay. That's the one that had the
12 Defendant's name on it Vern?

13 A: Yes ma'am.

14 Ms. Barr: Okay. Judge, it looks like this is the
15 laptop that is closed and exhibit number 1 is an older
16 laptop with a monitor shot.

17 Mr. McKnight: Your Honor we can't tell from that
18 picture there, we cannot tell whether or not that's a
19 laptop or a desk top and so Your Honor, it's prejudicial,
20 the prejudicial nature of that outweighs its probative
21 value. Your Honor I mean, what's and I'm not at all
22 suggesting they've done anything sinister, but what is
23 it, how can we prove that they didn't sit there with
24 someone at the sheriff's office name Vern or have a
25 cousin named Vern with a screen and took a picture of the

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1 screen and says here it is? Now, maybe that could have
2 been a better picture; we don't know, but based upon that
3 and the fact that they get that statement from Tilton,
4 who's out of court and they're using it to prove the link
5 in custody and possession of my client of the narcotics,
6 then we believe that it shouldn't be allowed in.

7 The Court: Alright Investigator Edwards, this
8 State's exhibit number 1, what is this?

9 A: That's the actual locked screen of the computer.

10 The Court: How do you know that?

11 A: Cause that's the computer that we saw inside of the
12 truck, well I saw inside of the truck.

13 The Court: Is this what you saw?

14 A: Yes sir.

15 The Court: In the truck?

16 A: Yes sir.

17 The Court: And what is number 2?

18 A: That's with the laptop being closed Your Honor.

19 The Court: How do you know that this is a photograph
20 of the laptop that is closed?

21 A: I asked Lt. Tilton to email me the pictures of the
22 computer that we turned over to him for the case
23 file.

24 The Court: Well, I admit number one, I exclude
25 number 2.

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1 Mr. McKnight: Which one is that?

2 The Court: Number one is the picture that he said he
3 saw of Vern typed on the computer. I admit number one, I
4 exclude number 2. Alright let's take a few minutes break.

5 Ms. Barr: Sure.

6 (Court break was taken)

7 The Court: Bring the jury back in.

8 (Jury enters courtroom 12:18)

9 The Court: Ms. Barr.

10 (State's Number One was marked)

11 **CONT'D EXAMINATION OF INVESTIGATOR EDWARDS BY MS. BARR:**

12 Q: Investigator Edwards, I'm going to show you this
13 very, very quickly. We might have some power
14 problems. I am publishing State's Exhibit Number 1.
15 Is that the monitor of one of the computers that was
16 seized from --- that was seized from the Defendant's
17 vehicle? I'll show it to you from over here.

18 A: Yes ma'am.

19 Q: Okay, I'm going to try it one more time. So that
20 we'll have some contents for how this is positioned,
21 what is this? This is a picture of what part of the
22 computer?

23 A: It's actually the start up screen where you log on
24 to the computer to access like the applications and
25 stuff on the computer program. You have to log in.

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1 Q: Alright and it would be the monitor portion of the
2 laptop?

3 A: Yes ma'am.

4 Q: Alright so, wait minute, if I use this for
5 demonstrative purposes, this is a laptop right?

6 A: Yes ma'am.

7 Q: Alright so, which portion of that State's exhibit
8 number 1 would be on this particular exhibit that I
9 have in my hand? Would it be here? Just the screen?

10 A: Just the screen.

11 Q: Alright and can you read that out there for me, what
12 it says there?

13 A: I believe it says Vern, V-E-R-N.

14 Q: Okay, alright, thank you. Now at this time I'm going
15 to hand you what's been marked for identification
16 purposes as State's exhibit number three and I'll
17 ask you if you recognize that particular exhibit.

18 A: Yes ma'am. I do.

19 Q: Okay tell the jury how it is that you recognize it.

20 A: This is the substance or the item that was found in
21 the container inside the center console of the
22 vehicle.

23 Q: Alright in terms of the what you described earlier
24 in your testimony as narcotics, is this what you
25 believed to be crack cocaine at the time?

1 A: Yes.

2 Q: Okay, alright. Now, tell us why this particular
3 exhibit is in a plastic bag and what the
4 significance of it being in the plastic bag and I
5 want you to just kind of make sure, explain for the
6 jury, is this, how it's packaged now, is this how it
7 was inside the Defendant's vehicle? Was all this
8 ...

9 Mr. McKnight: Objection Your Honor. She's leading
10 the witness.

11 The Court: Don't lead the witness.

12 Q: Tell me how it was that you found it and is it any
13 different from how exactly it's packaged right now.
14 And if I can get you to step down from the witness
15 stand for me.

16 A: Alright these items right here the reason we believe
17 it crack cocaine is individual type container, the
18 container.

19 Q: Okay, okay.

20 A: It was not in evidence best kit and it was not also
21 with a plastic seal around it.

22 Q: Okay. Alright.

23 A: All this was together in a plastic container.

24 Q: Okay and why is it now in this, you call it an
25 evidence best kit, but a lot of us don't know what

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1 that means; tell the Ladies and gentlemen of the
2 jury what an evidence best kit is.

3 A: A best kit is used, any time we have some type of
4 narcotics, dealing with methamphetamines, crack
5 cocaine we send it to the lab for analysis and we
6 put it in a Sled best kit and we send it to the lab
7 for analysis and that confirms what kind of
8 narcotics it is. The weight.

9 Q: And do you all seal that bag?

10 A: That is correct, yes. It's also sealed in this
11 plastic container here and it also has to be signed
12 off on as well and the date and time submitted.

13 Q: Okay and what is the purpose behind you sealing it
14 to send it off to SLED to be tested? Why do y'all do
15 that?

16 A: For the chain of custody in evidence. To make sure
17 it's not tampered with, opened, nothings been taken
18 from it. It is what it is

19 Q: Very good. Now, tell me does this particular exhibit
20 3 does it contain your signature?

21 A: Yes ma'am, it does.

22 Q: Alright and is that located here?

23 A: Yes ma'am, that's correct.

24 Q: Alright and they have what date on this?

25 A: November 22, 2011.

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1 Q: And once you took it from the vehicle who did you
2 give it to?

3 A: I kept it in my possession.

4 Q: Okay and did you later turn it over to Lt. Jeff
5 Scott?

6 A: Yes ma'am, it was, it was then taken to the
7 sheriff's office, placed inside of a best kit.

8 Q: Okay.

9 A: And signed off on the paperwork and then it was
10 taken to the drug and dropped off.

11 Q: Okay.

12 A: And then Lt. Jeff Scott retrieved it from them.

13 Q: Alright. Alright and just to be clear, the
14 Defendant's residence on King Street in Hemingway is
15 located in Williamsburg county?

16 A: Yes ma'am, that's correct.

17 Q: And based upon all of the things that you observed
18 and what you knew about the case, you signed a
19 warrant against him for possession with intent to
20 distribute crack cocaine?

21 A: Yes ma'am.

22 Ms. Barr: Please answer any questions the defense
23 counsel may have.

24 Mr. McKnight: May it please the Court Your Honor?

25 The Court: Yes sir.

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CROSS EXAMINATION OF MR. EDWARDS BY MR. MCKNIGHT:

1

2

Q: Investigator, you are trained to collect evidence,
are you not?

3

4

A: Yes sir.

5

6

Q: And you've gone to the criminal justice academy in
Columbia to learn this training, have you not?

7

A: Correct.

8

9

Q: And you've had extensive training within your
department for the collection of

10

evidence, have you not?

11

A: Yes sir.

12

13

Q: You're not just an ordinary, and when I say an
ordinary, I'm not belittling the deputies, but you
are a specialized deputy within the department, are
you not?

14

15

16

A: Yes sir.

17

18

Q: I mean they prepare the crime scene for you to come
in and gather evidence, do they not?

19

A: Yes sir. That's correct.

20

21

Q: You're trained to gather all the evidence as best
you can, are you not?

22

A: Yes sir.

23

24

Q: And you're supposed to, and you gather it in a way
that there's no confusion as to what something is to
the best of your ability, are you not?

25

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1 A: Yes.

2 Q: You testified that you read this screen here, did
3 you not?

4 A: Yes sir.

5 Q: And you only read the name Vern, did you not?

6 A: Yes sir.

7 Q: But there's something else on that screen isn't it?

8 A: Yes sir.

9 Q: What else is on that screen?

10 A: Switch user.

11 Q: And what else is under Vern?

12 A: Locked.

13 Q: Locked. You got this picture sent to you via email,
14 did you not?

15 A: Yes sir.

16 Q: And you don't know, of your own knowledge who took
17 this picture, do you not?

18 A: I received the email from Lt. Tilton.

19 Q: Do you know of your own knowledge, who took this
20 picture?

21 A: I was advised by Lt. Tilton.

22 Q: Do you know of your own knowledge who took this
23 picture?

24 A: I was not present when the picture was taken.

25 Q: I'm going to ask you the question again, cause maybe

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1 you're not understanding. Do you know of your own
2 knowledge, who took this picture?

3 A: Lt. Tilton.

4 Q: How do you know that?

5 A: I called him and asked him to email me a picture of
6 the laptop that was turned over to him.

7 Q: He emailed you a picture?

8 A: Yes sir.

9 Q: You know he sent you the picture?

10 A: Yes sir.

11 Q: But did you see him take the picture?

12 A: No sir.

13 Q: Were you present when he took the picture?

14 A: No sir.

15 Q: So you don't know, do you?

16 A: No sir.

17 Q: Okay, so you don't know whether or not this name,
18 this word locked, under the bottom is someone's last
19 name do you?

20 A: No sir.

21 Q: You don't even really know which computer this
22 screen is from do you?

23 A: It's from the one that was turned over.

24 Q: How do you know? Did you see him take the picture?

25 A: No sir.

1 Q: So you do not know? Sir, do you know? I'm asking you
2 a question Investigator, do you know?

3 A: Like I said, sir, I asked him to email me the
4 picture and he obliged and I got it from my email. I
5 was able to download it into the case file.

6 Q: I understand that, but you, again you don't know do
7 you? Let's talk about something you do know for a
8 second; you testified, you told Ms. Barr that when
9 you found the drugs, there was a razor blade, did
10 you not?

11 A: Yes sir.

12 Q: Where's the razor blade?

13 A: All that was, all that was submitted into evidence.

14 Q: But you were the investigator right?

15 A: Yes sir.

16 Q: You collected it right?

17 A: Yes sir.

18 Q: This is your case is it not?

19 A: Yes sir.

20 Q: So where's the razor blade?

21 A: It was submitted into evidence.

22 Q: Okay, but didn't you bring the evidence over there?

23 A: No sir, I didn't.

24 Q: You didn't?

25 A: No sir.

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1 Q: Who did?

2 A: Lt. Tilton.

3 Q: Okay, so where's the razor blade?

4 A: It was submitted, it was submitted into ...

5 Q: Don't you think we need see this razor blade? Did
6 you test the razor blade for
7 residue?

8 A: No sir I didn't test it.

9 Q: Okay.

10 A: I didn't do no type of testing.

11 Q: Did you take a picture of the razor, of anything of
12 the scene of the crime when you discovered all of
13 this so called narcotics, did you?

14 A: Our camera wasn't in operation.

15 Q: Okay. You also said that when you found the razor
16 blade with the drugs because they use it when they
17 distribute. Is that what you said?

18 A: They use it to cut it up before they distribute it
19 for sale.

20 Q: That's not the only reason why they use a razor
21 blade is it? Is it?

22 A: A razor blade has many ...

23 Q: I understand, but we're talking about for drugs.
24 That's not the only reason why they use it is it? If
25 there is a razor blade, assuming that there is one,

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1 because we don't know, but don't they sometimes, you
2 know I seen them on t.v. don't they chop up the
3 cocaine an snort it? Sir?

4 A: Yes.

5 Q: Okay, so it's possible that that cocaine or this
6 substance, the razor blade, if there was a razor
7 blade, wasn't there to distribute, but for use? Sir?

8 A: It could be either.

9 Q: You don't know, do you? Sir? Let me explain
10 something, there's a Court Reporter here and she's
11 taking down what we say, so she cannot record a head
12 gesture, so you have to say yes or no, because we
13 may need the record later on, so please sir, tell
14 me, do you know?

15 A: Yes sir, it was packaged along with, it was along
16 with the ...

17 Q: But you don't know what its use was for; whether it
18 was for distribution or
19 consumption do you?

20 A: No sir.

21 Q: Okay, now let's talk about this computer. You guys
22 do computer crimes too don't you?

23 A: Yes sir, we do.

24 Q: Okay, and when you, let's say you take a computer,
25 don't y'all send it off to SLED if they want to get

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- 1 something?
- 2 A: If we need some additional information we do.
- 3 Q: This computer you claim that you have, did you send
- 4 it off to SLED?
- 5 A: No sir, it was turned over to the Lake City police
- 6 department.
- 7 Q: Did you dust it for fingerprints?
- 8 A: No sir.
- 9 Q: Did you find any fingerprints at the scene that
- 10 belong to Lavern Anderson?
- 11 A: No sir.
- 12 Q: Did you bother to check?
- 13 A: No sir, it was ...
- 14 Q: Who's car was it that y'all found it?
- 15 A: He was sitting inside of a ...
- 16 Q: Who's car was it?
- 17 A: The vehicle came back registered to a female.
- 18 Q: Who?
- 19 A: I don't have that, I don't have the name.
- 20 Q: So you got dope in a car for a person other than
- 21 Ronnie Lavern Anderson? Why she ain't over here
- 22 today? It's her car.
- 23 A: Yes sir.
- 24 Q: Did you talk to her?
- 25 A: We had spoke to a female at the scene who was

- 1 calling inquiring about her vehicle.
- 2 Q: Okay.
- 3 A: And ...
- 4 Q: Did you ask her if it was her drugs?
- 5 A: No sir. Well, we advised her that drugs were found
- 6 in the vehicle, but we didn't ask her if they were
- 7 hers.
- 8 Q: So you just assumed, this whole thing is you don't
- 9 know anything. You didn't bother to check. You just
- 10 assumed that everything belongs to Lavern, right?
- 11 A: He was in the driver's seat of the vehicle.
- 12 Q: Let me ask you something; you said he outran you.
- 13 A: Yes sir, he did.
- 14 Q: How close did you get to him before he outran you?
- 15 A: Maybe about fifteen feet.
- 16 Q: So you telling me, stand up for a minute. Stand and
- 17 walk around right here. I'm 5'5 so fifteen feet is
- 18 about three of me. You telling me as in good a shape
- 19 as you are, you got that close to dude and you
- 20 couldn't catch him? You telling me that?
- 21 A: Yes sir.
- 22 Q: Okay, have a seat. Now, you have, you have pictures
- 23 of the person you saw?
- 24 A: No sir.
- 25 Q: Did you bother to gather any picture of the person

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1 you saw?

2 A: No sir.

3 Q: You have access to the DMV right?

4 A: Yes sir, that's correct.

5 Q: Don't you always pull up somebody's driver's license
6 picture?

7 A: Yes sir.

8 Q: Did you bother to look and verify that the person
9 you thought, that the person you thought you saw was
10 the person you saw?

11 A: I know it was the person I saw.

12 Q: How do you know that?

13 A: I attended school with him.

14 Q: Okay, does he got brothers and sisters?

15 A: I can't answer that.

16 Q: So you don't know. So rather than know for certain,
17 you do what again? You assume.

18 Ms. Barr: Objection; argumentative Your Honor.

19 The Court: Objection sustained.

20 Q: The truth is we don't know who's computer this is
21 right?

22 A: It was the one stolen from Wal ...

23 Q: You don't know cause you don't know who's name this
24 is. You already told us you don't even know if this
25 the picture from the computer that you found.

1 Ms. Barr: Judge ...

2 Q: Did you?

3 Ms. Barr: You know, we would object. Compound
4 question and he's not giving the witness a chance, an
5 opportunity to answer.

6 The Court: Alright, give them to him one at a time
7 and let him answer.

8 Q: Yes sir Your Honor. You already told us you ain't
9 know whose computer it was didn't you?

10 A: It was entered into evidence as ...

11 Q: Ah, I got you. The other person that was at the car,
12 you said there was another person, another guy
13 right? You got to say yes or no; remember she's
14 recording it.

15 A: Yes sir.

16 Q: Alright did you talk to him?

17 A: I don't recall speaking with him.

18 Q: Did you ask him if it was his drugs?

19 A: I don't recall talking to him at the scene. I came
20 up after, after I was on the chase.

21 Q: I got you.

22 Mr. McKnight: Your witness Ms. Barr.

23 RE-DIRECT EXAMINATION OF MR. EDWARDS BY MS. BARR:

24 Q: Investigator Edwards, at the time that you got
25 involved and the Defendant was charged with the drug

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1 offense, were you concerned with any crimes related
2 to the theft of the computer or was that someone
3 else's jurisdiction?

4 A: That was someone else jurisdiction. We was going
5 with Lt. Tilton to help him recover those items. He
6 was coming to Williamsburg County.

7 Q: I got you. Would he have had authority to come into
8 Williamsburg county and arrest somebody for
9 something that may have happened in Lake City just
10 by himself?

11 A: No, he would need assistance from deputies from
12 Williamsburg sheriff's office.

13 Q: Alright and when you gave this assistance to Lt.
14 Tilton, did you have any idea in your mind when you
15 were pulling up there that the Defendant would have
16 drugs in his car?

17 A: No ma'am.

18 Q: Okay, alright and when Mr. McKnight asked you about
19 the computer crimes and whether or not you
20 investigated those type of offenses, did that have
21 anything to do with this case? Computer crimes?

22 A: No ma'am.

23 Ms. Barr: Okay, alright and Judge I neglected
24 earlier, but I would like to move State's exhibit number
25 3 in at this time.

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1 The Court: What says the defense?

2 Mr. McKnight: No objection Your Honor.

3 The Court: It's been admitted.

4 **(State's Exhibit Number Three was admitted into evidence)**

5 Ms. Barr: Judge, that's all the questions that I
6 have. Thank you.

7 The Court: Any re-direct? Re-cross?

8 Mr. McKnight: Briefly Your Honor.

9 The Court: Okay.

10 **RE-CROSS EXAMINATION OF MR. EDWARDS BY MR. MCKNIGHT:**

11 Q: Investigator, but when Sergeant or Investigator
12 Tilton, or whoever it is from Lake City comes into
13 your county and let's say he's looking for the
14 stolen computer, if you discover that that computer
15 is possibly linked to a crime that occurred in your
16 county, doesn't it become your evidence too?

17 A: Yes sir, it does.

18 Q: Don't you have a duty to maintain it?

19 A: Yes sir, at that point in time we decided to go
20 ahead and turn it over to them. That's why we was
21 able to get pictures in the email to put into the
22 case file.

23 Mr. McKnight: I got you. No further questions Your
24 Honor.

25 The Court: Alright thank you sir. You may step down.

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1 Do you have any other witnesses today Ms. Barr?

2 Ms. Barr: No Your Honor.

3 The Court: So Ladies and gentlemen we're going to
4 quit for today on this case and start back at ten o'clock
5 tomorrow morning. So y'all are free to go. Please be back
6 in the jury room tomorrow morning at ten o'clock and
7 please do not discuss the case. See you tomorrow.

8 {Jury excused for today 12:38}

9 The Court: Anything before the jury comes in?

10 Ms. Barr: Yes sir Judge. I think probably it would
11 be a good time to address an issue that may come up that
12 Mr. McKnight may object to. I believe one of the
13 witnesses to the incident regarding the computers may
14 testify that the individual who gave the computers to the
15 Defendant received drugs and money in exchange for that
16 transaction ...

17 The Court: Say it again, now.

18 Ms. Barr: The witness, I believe the witness may
19 testify that the individual who gave money to the
20 Defendant for the computers ...

21 Mr. McKnight: Judge, can you hold on a minute. I
22 can't hear. This door is open and it's loud. I'm sorry.

23 The Court: Yes, if you'd do that.

24 Mr. McKnight: I'm sorry.

25 The Court: I'm glad you closed it.

1 Ms. Barr: I didn't realize that; I'm sorry. Your
2 Honor the witness may testify that the individual who
3 sold the stolen computers to the Defendant did so and
4 receive drugs and money in exchange for that transaction
5 and I anticipate there may be an objection by the
6 Defendant and so I wanted to deal with it outside the
7 presence of the jury.

8 The Court: The individual who sold the stolen
9 computers led them to the Defendant's house ...

10 Ms. Barr: Yes sir.

11 The Court: Was what now?

12 Ms. Barr: Received drugs and money from the
13 Defendant.

14 The Court: The person who's going to do that
15 testifying, that's going to be based on what ...

16 Ms. Barr: She saw.

17 The Court: What she observed taking place?

18 Ms. Barr: Yes sir.

19 The Court: Did the Defendant exchange drugs for a
20 computer?

21 Ms. Barr: Drugs and money.

22 The Court: Drugs and money for a computer?

23 Ms. Barr: Yes sir.

24 The Court: Alright. And who's that person?

25 Ms. Barr: Ms. Mindy Perry. The individual who sold

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1 the computers is a Ryan Williams. He's currently at the
2 Department of Corrections and has charges pending here.

3 The Court: She was there to witness the transaction?

4 Ms. Barr: Yes.

5 The Court: Okay. Mr. McKnsight?

6 Mr. McKnight: I would object to it first on its
7 relevance to the crime here. The issue is, there is, the
8 only way that the computer comes into this matter as a
9 method of identifying mister or allegedly identifying the
10 Defendant. There has been no testimony as to him
11 exchanging or having someone there who bought drugs from
12 him and they gave him a computer in exchange for it. The
13 charge which we are here for today is possession with
14 intent to distribute. I think, I think the prejudicial
15 nature of that testimony outweighs its probative value
16 and I don't believe that it's relevant to the issue here.
17 The issue is whether or not he had in his possession, at
18 the time that the police came to him, these drugs with
19 the intent to distribute them and whether or not he did
20 this in the past is irrelevant to the issue with which
21 we're here today and that is which the time and place and
22 locale that is at issue here in this trial.

23 The Court: What's the time sequence between the
24 delivery of drugs and money for the computer and his
25 being arrested or his --- was he arrested on the day that

1 the officers went there or he got away?

2 Ms. Barr: He got away...

3 Mr. McKnight: He got away.

4 Ms. Barr: He was arrested like two months later.

5 The Court: Well, the time sequence between the
6 attempted apprehension on that day and the exchange

7 Ms. Barr: The computers were taken to the Defendant
8 on the 18th of November and this incident happened on the
9 22nd..

10 The Court: Well, I think considering the
11 Defendant's, Mr. McKnight you've raised in cross
12 examination with Mr. Alex Edwards, Investigator Alex
13 Edwards, the defense or the lesser included of
14 possession, you've cross examined him as to the many uses
15 of a razor blade and of course when you did that I
16 immediately prepared a lesser included charge to the jury
17 of possession as opposed to possession with intent to
18 distribute. So, I think all of that is relevant on the
19 issue of whether the Defendant possessed the drugs with
20 intent to distribute it based on his actions freshly
21 committed and the persons who appears to be an adequate
22 witness to testify. To the extent that this is being
23 presented to me in advance of hearing any testimony in
24 the form of the motion by the State ---. It's not a
25 motion in limini, it's a motion to not limit.

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1 Mr. McKnight: A motion to allow.

2 The Court: Of course, I make it a practice of not
3 screening testimony just for the sake of moving forward
4 based on what I think might be the testimony. I'm not
5 going to exclude the testimony so any objections that
6 should be made should be made now.

7 Mr. McKnight: Your Honor I renew the right to renew
8 my objection at the appropriate time.

9 The Court: Oh yes sir. Alright let's bring them on.
10 (Jury Enters courtroom at 10:24)

11 Ms. Barr: We Call Lawrence Zivkovich at this time,
12 Your Honor..

13 Clerk: Place your left hand on the Bible and raise
14 your right hand. Do you solemnly swear or affirm to tell
15 the truth the whole truth and nothing but the truth, so
16 help you God?

17 A: I do.

18 Clerk: Okay, please sit in the witness box.

19 Ms. Barr: May it please the Court?

20 The Court: Yes.

21 DIRECT EXAMINATION OF MR. ZIVKOVICH BY MS. BARR:

22 Q: Mr. Zivkovich spell your name. Well, first state
23 your full name and then spell your last name for us.

24 A: My name is Lawrence Zivkovich. The last name is
25 Z-I-V-K-O-V-I-C-H.

1 Q: Okay, and tell us where you work.

2 A: I work at the South Carolina Law Enforcement
3 Division, commonly known as SLED.

4 Q: Alright and, and in the courtroom, of course, we've
5 heard the term SLED used many times before, but for
6 the benefit of the jury, tell us what it is that
7 SLED does.

8 A: We assist local agencies in investigating particular
9 crimes as far as giving them the man power or
10 laboratory resources.

11 Q: Okay, alright and tell us what it is that you do for
12 SLED.

13 A: I work as a chemist in the drug identification
14 department.

15 Q: Alright and if you would, kind of briefly go through
16 your educational background, your training and so
17 forth for the position that you hold now.

18 A: I received a Bachelor's of Science in Chemistry from
19 the University of South Carolina and I received a
20 training course when I arrived at SLED for forensic
21 science and I've attended seminars at the DEA, the
22 drug enforcement agency and I've also worked in the
23 lab for ten years prior to working at SLED.

24 Q: Alright and in terms of the job that you were
25 performing at the time that you assisted

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1 Williamsburg county on this particular case, just
2 outline for the jury what it is that you do from
3 day to day.

4 A: Day to day, all I do is I receive casework that has
5 been submitted to SLED for
6 identification purposes and I just work individual
7 cases to identify the presence or absence of
8 controlled substances.

9 Q: Okay, alright and what is a controlled substance?

10 A: A controlled substance is defined by the state and
11 federal statutes that you have to have a
12 prescription to hold or its deemed not to be used
13 for medical useful at all and illegally possessed.

14 Q: Now have you ever had an opportunity in your
15 capacity as an analyst with SLED to testify in the
16 courts of this State?

17 A: Yes ma'am.

18 Q: Alright and have you been declared an expert witness
19 in the field of drug
20 identification?

21 A: Yes ma'am.

22 Q: Alright Your Honor at this time we would tender Mr.
23 Zivkovich as an expert in the field of drug
24 identification.

25 The Court: Drug identification?

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1 Ms. Barr: And analysis, yes sir.

2 The Court: Alright Mr. McKnight was says the
3 defense?

4 Mr. McKnight: Your Honor I don't believe we've heard
5 enough about his qualifications to stipulate as to him
6 being an expert.

7 The Court: Would you like to voir dire?

8 Mr. McKnight: Very much so Your Honor.

9 The Court: Yes sir, you may.

10 Mr. McKnight: Help me say your name.

11 A: Zivkovich.

12 Mr. McKnight: Zivkovich?

13 A: Yes sir.

14 **Mr. Zivkovich - Voir Dire Examination by Mr. McKnight:**

15 Q: You testified that you have been with SLED for how
16 long?

17 A: I think it's been over seven years and prior to that
18 I worked ten years in another laboratory.

19 Q: Are you qualified in collaborating spectrometers
20 and various other equipment used by SLED to test
21 alleged controlled substances?

22 A: Yes.

23 Q: And you are certified by which agency in that?

24 A: I'm certified by SLED and through the validation
25 offered by the equipment manufacture.

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1 Q: Okay. And you stated that you worked for a lab for
2 ten years prior to
3 SLED?

4 A: Yes sir.

5 Q: Okay what lab was that?

6 A: That would be the Department of Health and
7 Environmental control.

8 Q: Or what we call DHEC?

9 A: Yes sir.

10 Mr. McKnight: Okay, Your Honor I have no further
11 questions. I have no objections.

12 The Court: He is so qualified. Now Ladies and
13 gentlemen when a person is qualified as an expert, which
14 is a person who by virtue of education, training and
15 experience acquired some special knowledge for training
16 in a field or calling, those witnesses are able to offer
17 opinions, whereas other witnesses may not. You may
18 proceed..

19 Ms. Barr: Thank you, Judge.

20 **Mr. Zivkovich - Examination by Ms. Barr:**

21 Q: Mr. Zivkovich if I can get you to step down off the
22 witness stand for a moment for me please. Alright,
23 right here. Sir I'm going to hand you what's been
24 admitted as State's exhibit 3 and I'll ask you if
25 you recognize this particular exhibit.

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1 A: Yes m'am.

2 Q: Alright tell the jury how it is that you recognize
3 it.

4 A: The kit inside this plastic bag is what we issue to
5 agencies so that they can have a uniform it way of
6 submitting evidence to SLED for analysis.

7 Q: Is that what we've called or we've heard about as
8 the best kit?

9 A: Yes ma'am.

10 Q: Alright.

11 A: Best kit is just the best evidence, sampling,
12 testing and that's where the word best comes from .
13 So yes it was submitted to SLED and it has the SLED
14 identification on it, it has my initials and date on
15 it and ...

16 Q: Alright, go ahead, I'm sorry.

17 A: Go ahead.

18 Q: You said it had your initials and date on it? Can
19 you point out to the jury where your initial and the
20 date are you referred to?

21 A: Yes ma'am. When I picked up the kit, I noted on the
22 actual kit that the seal was intact and I dated it
23 December 6, 2011 and put my initials on it.

24 Q: Okay, now what's the significance of noting that the
25 seal is in intact?

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1 A: Well, what it means is each kit is in for evidence
2 which means that anybody could tamper with it but if
3 they do then it would be evident; these lines all
4 across these edges that have the green seal on the
5 top would show signs if anybody attempted to open
6 it.

7 Q: Okay and your inspection of it indicated that nobody
8 had tampered with this
9 prior to receiving it?

10 Mr. McKnight: Objection; leading.

11 The Court: Objection is sustained.

12 Q: What did your inspection of this item indicate to
13 you when you received it as far as whether or not it
14 had been tampered with?

15 A: That after it had been sealed and that no one had
16 tampered with it.

17 Q: Alright now tell us what happened once you received
18 it, how did you begin your analysis and what the
19 result of that analysis was.

20 A: Sure. When we pick up the kit, I take it upstairs
21 and put it in a vault until I have time to work it.
22 Once I have time to work it, I look at the paperwork
23 and submit it along with the kit and I open it up to
24 make sure that the evidence matches the paperwork
25 and if the evidence matches the paperwork, then I

1 proceed to do a chemical and instrumental analysis
2 on the evidence submitted in the bag.

3 Q: Okay and tell us how that analysis was done and what
4 was the result of that analysis.

5 A: The first thing we do is just a physical analysis,
6 like I said, to make sure you know, it matches the
7 paperwork. And then we do a spot check analysis
8 which will give us a general idea of what it may or
9 may not contain.

10 Q: Okay.

11 A: It's not a positive identification, it just gives us
12 an idea of what type of instrumentation extractions
13 to use.

14 Q: Okay.

15 A: And then once we identify what it may be with the
16 chemical analysis
17 we do a instrument analysis with it and the
18 instrument analysis allows us to make a positive
19 identification of the
20 substance.

21 Q: Okay and were you in fact able to make a positive
22 identification of the substance in connection with
23 this case?

24 A: I was.

25 Q: Alright and tell the jury what you determined

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1 State's exhibit 3 to be.

2 A: If I could ...

3 Q: Yes, get your report, absolutely.

4 A: I found that it contained thirteen bags of rock like
5 substance which I identified as cocaine base,
6 commonly known as crack combined later to 3.5 grams.

7 Q: 3.5 grams?

8 A: That's correct.

9 Q: Alright and you indicated how many baggies were
10 contained there?

11 A: There was a total of thirteen bags of which I
12 analyzed --- a total of thirteen bags and I analyzed
13 seven of them.

14 Q: Okay.. Tell the Ladies and gentlemen of the jury why
15 you analyzed seven as opposed to all thirteen of it
16 and did they have a significance to you, analyzing
17 seven versus all these thirteen.

18 A: Yes ma'am. The purpose of the kit, by it's name is
19 best evidence testing. So what we do is we analyze
20 according to our knowledge of what the statutes in
21 the state might be.

22 Q: Okay.

23 A: And since they're different punishments for
24 different amounts of substances, we analyze up to
25 the highest charges that we can find.

1 Q: Alright and you indicated that it had a combined
2 weight of 3.5 grams?

3 A: Yes ma'am.

4 Mr. McKnight: Objection; leading.

5 The Court: Don't lead the witness.

6 Q: And ...

7 The Court: ... Objection is sustained.

8 Mr. McKnight: Thank you Your Honor.

9 Q: In connection with the case, what was the name, the
10 subject's name assigned to this case as reflected in
11 your police report?

12 A: It was Lavern Anderson.

13 Q: Alright now as far as the individual baggies, let me
14 get you to step just a little bit closer to the jury
15 box. There contains and appears to be some writing
16 on the individual bags.

17 A: Yes ma'am.

18 Q: Alright can, and I may put it up on the screen. Hold
19 on just a second for me.

20 Alright I have, am referring to State's exhibit 3,
21 there appears to be some writing on there?

22 A: Yes ma'am.

23 Q: Can you tell us how that writing came to be on those
24 baggies if you know?

25 A: Yes ma'am. When I open up the bag, each of the

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1 individual bags gets its own item number.

2 Q: Okay.

3 A: So every time I analyze something, like this one was
4 item number six and this was number seven and so
5 forth. The large bag contains the extra bags that I
6 didn't actually analyze.

7 Q: Okay.

8 A: So they all go in and it's listed as untested and
9 then I write repack on what it is and I repackaged
10 the items that were submitted. So each time I make
11 an analysis on each individual bag, it gets its own
12 particular item number that I put on the bag.

13 Q: Okay. So, in terms of the writing, those will be,
14 it's your handwriting?

15 A: Yes ma'am.

16 Q: Okay and in terms of how the package was presented
17 when you began your testing, was there any writing
18 contained on the individual baggies prior to you
19 coming into contact with it?

20 A: No ma'am, I did not notice, did not note in my
21 worksheet any writing.

22 Q: Okay, alright, thank you sir. Alright and sir, prior
23 to today, of course, you do not nor do you now know
24 a Lavern Anderson?

25 A: No ma'am.

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1 Q: Okay. This, in terms of your analysis of the test,
2 this is simply what you do for --- an analysis of
3 the exhibit is simply what you do for the State Law
4 Enforcement Division?

5 A: That's correct.

6 Ms. Barr: Alright I believe that's all of the
7 questions that I have; please answer any questions from
8 the defense counsel may have for you.

9 The Court: Mr. McKnight.

10 CROSS EXAMINATION OF MR. ZIVKOVICH BY MR. MCKNIGHT:

11 Q: How do you say your name again?

12 A: Zivkovich.

13 Q: Zivkovich. And you were with DHEC for how long?

14 A: Almost seven years, a little over.

15 Q: Why did you leave DHEC to go to ...

16 A: I apologize. I heard SLED, but you said DHEC. I was
17 with DHEC for about ten years, yes.

18 Q: Okay, why did you leave DHEC to go to SLED?

19 Ms. Barr: Objection; relevance.

20 The Court: I'll overrule the objection.

21 A: It was just a change of pace, something different to
22 do.

23 Q: Okay.

24 Mr. McKnight: That's, those are all of the
25 questions that I have.

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1 The Court: Alright Ms. Barr?

2 Ms. Barr: Nothing further from the State.

3 The Court: Alright thank you. You may step down.

4 Ms. Barr: We would call Lt. Roger Tilton.

5 Clerk: Place your left hand on the Bible and raise
6 your right hand. Do you solemnly swear or affirm the
7 testimony to this court shall be the truth, the whole
8 truth and nothing but the truth, so help you God?

9 A: I do.

10 Clerk Have a seat in the witness box.

11 DIRECT EXAMINATION OF LT. TILTON BY MS. BARR:

12 Q: Lt. Tilton, state your full name for the record.

13 A: My name is Roger William Tilton.

14 Q: And sir tell me where you are employed currently.

15 A: I'm employed by the Lake City police department.

16 Q: Okay and what do you do there?

17 A: I'm the supervisor over the investigation division.

18 Q: Alright now, how long have you been employed with
19 the Lake City police department?

20 A: I've been in Lake City fifteen years.

21 Q: Alright and give the jury an idea of what it is that
22 you do day to day with the police department in Lake
23 City.

24 A: Currently I supervise two detectives and two
25 narcotics detectives. Day to day I take the incident

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1 reports that are filed by patrol. Go through them,
2 decide what needs to be followed up on. If it needs
3 to be followed up on I assign it to one of my
4 detectives or I investigate it myself; I still
5 investigate some cases. Once those cases are handed
6 out, investigators work it. They bring it back to me
7 for supervision once I approve on it, either arrest
8 are made in cases or they are closed out.

9 Q: Alright now sir where you working there obviously
10 and participated in the
11 investigation of the shoplifting complaint of
12 Walmart in Lake City in November of 2011?

13 A: Yes ma'am.

14 Q: Alright when did you become involved in that case?

15 A: I was contacted by patrol officers on Sunday,
16 November 20th about an incident that had happened at
17 Walmart. The --- couple of days prior to that, the
18 Walmart law prevention lady is a part time police
19 officer.

20 Q: Okay.

21 A: They were concerned on the recovery of some stolen
22 laptops. They contacted me and asked me if I would
23 follow up on this case.

24 Q: Okay and you, of course, did that?

25 A: Yes ma'am.

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1 Q: Okay. Now, did you happen to watch the surveillance
2 footage or the surveillance video tape of any
3 footage of the crime in Walmart in connection with
4 your investigation?

5 A: Yes ma'am.

6 Q: Alright now in terms of watching the surveillance
7 tape and seeing footage, did you identify two or
8 more subjects related to that shoplifting at the
9 Walmart in Lake City?

10 A: Yes ma'am. There were three defendants that were
11 positively identified.

12 Q: Okay, and their names?

13 A: The first one was Ryan Williams, the second one was
14 Mindy Perry.

15 Q: Okay.

16 A: And the third one was a Robert Barnhill.

17 Q: And Ms. Perry is current, currently in the courtroom
18 today?

19 A: She is.

20 Q: Okay, she's seated behind the prosecution table?

21 Mr. McKnight: Objection; leading.

22 The Court: Sustained.

23 Q: Where is Ms. Perry seated?

24 A: She's the young lady with the purple sweater on.

25 Q: Alright thank you sir. Now, having identified your

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1 suspects related to the shoplifting charge, how did
2 you follow up on that investigation?

3 A: I spoke with my magistrate and received arrest
4 warrants for Ryan Williams and Mindy Perry.

5 Q: Okay.

6 A: The Barnhill subject was a juvenile at the time, so
7 no warrants were obtained on him.

8 Q: Okay.

9 A: Got the warrants. The address for Mr. Williams was a
10 Hemingway address, but a Georgetown county location.

11 Q: Okay.

12 A: So I contacted the Georgetown county. We attempted
13 to locate the subject at his home. Upon our arrival
14 on Choppy Road, we pulled up in the yard with
15 Georgetown, myself and Georgetown county pulled up
16 in that yard and Ms. Perry and Mr. Williams and an
17 unknown subject, I don't know if it was Barnhill or
18 not, ran out of the house into the woods.

19 Q: Okay.

20 A: To elude arrest.

21 Q: Okay.

22 A: Georgetown county deputies chased into the woods.
23 They did detain Ms. Perry and bring her back to my
24 location.

25 Q: Alright did you have a conversation with Ms. Perry

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1 at that point?

2 A: She was mirandized and questioned about the incident
3 at which time she admitted to participating in the
4 larceny of the laptops and at that time I asked her
5 if she could help me recover the stolen laptops.

6 Q: Did she agree to do that?

7 A: She did.

8 Q: Alright and as a result of her agreeing to do that,
9 where did you go?

10 A: She informed me that ...

11 Q: Don't tell me what she said. Just tell me what you
12 did as a result of what she said.

13 A: I went to Hemingway police department and contacted
14 the Williamsburg police department where the
15 location of the laptops possible were. It was in
16 Williamsburg county.

17 Q: Okay.

18 A: Williamsburg county deputies came to Hemingway PD
19 with me.

20 Q: Okay.

21 A: I told them what was going on, informed them of what
22 Ms. Perry had told me.

23 Q: Okay.

24 A: We went to the location known as the Donley area. I
25 don't know exactly what the address was.

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1 Q: Okay.

2 A: Went to the residence where I was told the laptops
3 were at.

4 Q: Okay. When you arrived at the residence, did you
5 have a marked vehicle or an
6 unmarked vehicle?

7 A: I drive an unmarked Dodge Charger.

8 Q: Alright and where was Ms. Perry at the time that you
9 went to the residence in the Donley community?

10 A: She was in the front seat, beside me.

11 Q: Okay. Alright when you arrived at that residence,
12 tell me what happened.

13 A: We pulled into the lane, which is Hwy 41/51, we
14 turned right into the lane. There was a mobile home
15 to your left, facing 41/51 and the driveway led back
16 to, there was more residence in the back I believe.
17 We pulled around the mobile home.

18 Q: Okay.

19 A: As we pulled around the mobile home, I observed a
20 white, maybe a late model Chevy S-10, a smaller
21 pickup. I pulled straight up to the pick up and Ms.
22 Perry said that's him in the front seat.

23 Q: Okay.

24 A: I then exited my vehicle.

25 Q: Okay.

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1 A: Approached the vehicle. I was in plain clothes; I
2 was not in a uniform. The Defendant stood up out the
3 vehicle, looked at me and by that time that's when
4 Alex came around behind me.

5 Q: Okay.

6 A: And he took off running on a foot chase.

7 Q: Okay. Alright now, I'm going to hand you what's been
8 marked for identification purposes as State's 4.
9 Tell me if you recognize what's, who is depicted in
10 that particular exhibit.

11 A: That's the individual that I know as Lavern and was
12 in the front passenger seat of the pick up.

13 Q: Okay.

14 Ms. Barr: Alright, Your Honor we would move State's
15 exhibit 4 in at this time.

16 Mr. McKnight: Your Honor I object to this exhibit as
17 hearsay.

18 The Court: I think I'll have to see it to be able to
19 ...

20 Mr. McKnight: Permission to approach?

21 The Court: ... sustain or overrule.

22 Ms. Barr: Judge here you go.

23 The Court: I overrule the objection; you can admit
24 it into evidence.

25 Ms. Barr: Thank you. Your Honor, I'm sorry. Your

1 Honor permission to publish State's 4?

2 (State's Exhibit Number 4 was marked)

3 The Court: Yes.

4 Q: Alright Mr. Tilton, if I can get you to step down.

5 Alright sir, publishing what's been admitted as
6 State's 4. You've identified this individual as the
7 person who you saw run out of the driver's seat?

8 A: That's correct.

9 Q: Alright, what address is reflected on the particular
10 exhibit for Mr. Ronnie Lavern Anderson?

11 A: It says [REDACTED] Hemingway, South Carolina.

12 Q: Alright is that the address that you were at that
13 day?

14 A: I don't know the exact address; I just know it was
15 off, it was off of, a side street off of 41/51.

16 Q: Alright now, I need you to do me a favor and I
17 promise I won't hold you to it as being an artist,
18 but if you can just for demonstrative purposes, kind
19 of draw a very simple diagram of the mobile home,
20 the position of the white pick up truck that you
21 described and the direction in which your vehicle
22 would have come in. And you can just do it and then
23 we'll put it on the screen for display.

24 A: Okay.

25 Q: Alright and if you will again, only for

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1 demonstrative purposes, kind of explain to the jury
2 what you've drawn here.

3 A: This is highway 41/51, Hemingway is that way;
4 towards town is this way. We came in from the
5 Hemingway end, turned down this gravel road here.
6 The mobile home here, this lane led back to some
7 other homes here. I pulled in first in my unmarked
8 car and as I rounded the home, I pulled straight up
9 to the pick up that was sitting in the back yard.
10 The two Williamsburg county deputies that were with
11 me pulled in behind me and I exited my vehicle and
12 approached it and that's when the Defendant exited
13 the driver's side and ran back into the woods and
14 that's when Alex came around me and chased him into
15 the woods.

16 Q: Okay, alright. Now, tell us what happened after the
17 Defendant exited his vehicle and ran into the woods.

18 A: As he ran into the woods and Alex went behind him, I
19 approached the vehicle. I observed in the front
20 driver's seat a brown laptop.

21 Q: Okay.

22 A: That's the color of the laptop that I was looking
23 for.

24 Q: Okay.

25 A: I took and picked the laptop up and turned it over,

1 confirmed the price tag was still on it from Wal-
2 Mart.

3 Q: The price tag was still on it?

4 A: The price tag was still on it and the serial numbers
5 did match the one that was stolen from Wal-Mart and
6 confirmed that it was my stolen laptop.

7 Q: Alright and I'm going to hand you what's been
8 admitted, well not admitted, but marked for
9 identification purposes only as State's exhibit 2
10 and I'll ask you if you recognize what's depicted in
11 that particular photograph.

12 A: This is a picture of the laptop that I ...

13 Mr. McKnight: Objection Your Honor.

14 A: That's a picture of the laptop ...

15 Ms. Barr: Wait, wait, hold on. He has an objection.

16 Mr. McKnight: Your Honor he's attempting to publish
17 something that's not into evidence.

18 Ms. Barr: I had him turn it around Judge to face
19 him.

20 The Court: So at this point what am I ruling on if
21 anything?

22 Mr. McKnight: Well, could you please instruct him
23 not to publish exhibits that are not admitted into
24 evidence to the jury?

25 The Court: He's not, he just ...

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1 Mr. McKnight: Yes sir.

2 A: This is a picture of the laptop that I recovered
3 from the vehicle.

4 Q: Now who took that picture?

5 A: I did.

6 Ms. Barr: Alright and Your Honor we would at this
7 time, move State's 2 into evidence.

8 The Court: What says the defense?

9 Mr. McKnight: Without objection.

10 The Court: Okay, it's admitted without objection.

11 **(State's Exhibit Number 2 was marked)**

12 Ms. Barr: Permission to publish Your Honor?

13 The Court: You may.

14 Q: Alright where is the, in this photograph, where is
15 the computer actually located?

16 A: This is on my desk in my office.

17 Q: I see, I see. Okay, alright, now I'm also going to
18 show you what's been admitted as State's 1. In terms
19 of the computer itself, did you have an opportunity
20 that day, at the scene to view the monitor or the
21 screen on the computer?

22 A: I did.

23 Q: Alright tell us what if anything was significant
24 when you viewed the screen of the computer?

25 A: When I opened the laptop up it was powered on. The

1 screen was a screen and it had a little box on it as
2 a user.

3 Q: Okay.

4 A: It said Vern.

5 Ms. Barr: Okay, permission to publish State's 1?

6 The Court: Anything in evidence you can use.

7 Q: Alright Lt. Tilton, is this how the screen of the
8 computer would have looked to you that day?

9 A: It was.

10 Q: Okay. Alright, alright I'm going to hand you what's
11 been marked for identification purposes as State's 5
12 and just hold that to yourself for now and tell me
13 if you recognize what's depicted in that particular
14 photograph?

15 A: That's another photograph I took of the laptop in my
16 office with the screen open, with that screen on.

17 Ms. Barr: Your Honor we would at this time move
18 State's 5 into evidence.

19 The Court: What says the defense?

20 Mr. McKnight: Without objection Your Honor.

21 The Court: Admitted without objection.

22 **(State's Exhibit Number Five was marked)**

23 Q: And very briefly Lt. Tilton, publish State's 5, let
24 me get this one minute. Of course that's the
25 position of the vehicle while it was open, of the

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1 laptop when it was open?

2 A: That's right.

3 Ms. Barr: Okay. Alright sir you can take your
4 seat. Thank you.

5 (Witness complies)

6 Q: Of course Lt. Tilton you understand that you were
7 required to testify here in connection with a drug
8 case. Did you have anything to do at all with the
9 investigation of the Defendant Lavern Anderson for
10 any drug related offense?

11 A: I didn't participate in the investigation. I was
12 present when the drugs were found.

13 Q: Okay. And would you have had any jurisdiction at all
14 to participate in the investigation of the drug
15 offense?

16 A: No ma'am.

17 Q: Okay. Do you recall seeing anyone else at the scene,
18 either inside the vehicle or near the vehicle when
19 you arrived there?

20 A: There was another older gentleman there.

21 Q: Okay.

22 A: But I don't know if he was getting out of the
23 vehicle, sitting or standing outside. He didn't run,
24 he stayed there.

25 Q: The whole time?

1 A: The whole time.

2 Q: Okay. And do you recall how the, the interior of the
3 vehicle looked? I know sometimes in pick up trucks
4 sometimes you have the driver's side and the
5 passenger side with two separate seats and sometimes
6 it's like a long seat, like a bench seat. Do you
7 recall how the inside of the vehicle looked?

8 A: To the best of knowledge, it was a, it was a small
9 pick up. Driver's side, there may have been a
10 console in the middle and then a passenger side
11 seat.

12 Ms. Barr: Okay. Alright that's all the questions
13 that I have. Please answer any questions that Mr.
14 McKnight may have for you.

15 The Court: Mr. McKnight.

16 Mr. McKnight: Thank you Your Honor. May it please
17 the Court?

18 CROSS EXAMINATION OF LT. TILTON BY MR. MCKNIGHT:

19 Q: Officer Tilton, you're with the Lake City PD are you
20 not?

21 A: Yes sir.

22 Q: You said you took the serial numbers off this
23 computer, did you not?

24 A: I was given the serial numbers by Wal-Mart.

25 Q: Do you still have them?

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- 1 A: I do.
- 2 Q: Okay and you say that they match?
- 3 A: Yes sir.
- 4 Q: Okay. Where are those pictures?
- 5 Court Reporter: Right there.
- 6 Q: You're familiar with taking fingerprints, are you
- 7 not?
- 8 A: Yes sir.
- 9 Q: Did you have an opportunity to dust this computer
- 10 for fingerprints?
- 11 A: I did not.
- 12 Q: Did anybody from Williamsburg county, I mean knowing
- 13 this isn't your investigation, but did anybody from
- 14 Williamsburg county bother to dust it for
- 15 fingerprints?
- 16 A: Not to my knowledge.
- 17 Q: You can see a bunch of fingerprints on that screen,
- 18 can you not?
- 19 A: I see a bunch yes sir.
- 20 Q: We call those Latent fingerprints, do we not?
- 21 A: That's right.
- 22 Q: And with Latent fingerprints, we're able to put dust
- 23 on them and use what looks like tape and collect
- 24 them right?
- 25 A: That's correct.

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1 Q: And with the fingerprints, they are unique, are they
2 not?

3 A: Yes sir.

4 Q: Okay, with every person, each person has a different
5 type of fingerprints, right?

6 A: That's right.

7 Q: I mean yours would be different from mine, mine
8 would be different from my mother's, is that
9 correct?

10 A: Yes sir.

11 Q: Okay.

12 Mr. McKnight: Your witness.

13 RE-DIRECT EXAMINATION OF LT. TILTON BY MS. BARR:

14 Q: Lt. Tilton, in terms of the idea of dusting the
15 computer for fingerprints, that's useful when you're
16 trying to tie an individual to a crime related to
17 the computer, is that fair to say?

18 A: Yes ma'am.

19 Q: Now, did you, where you able to observe anything on
20 the computer that would identify Lavern Anderson as
21 being the one in possession of the computer?

22 A: The only thing on the computer itself was the name
23 Vern.

24 Q: Yes sir.

25 A: And there were some photographs on there and they

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1 were of the young lady who lived in that mobile
2 home.

3 Q: Okay.

4 A: It was told to me to be his girlfriend.

5 Q: Okay.

6 A: And there was some music on there that was labeled
7 DJ Vern.

8 Ms. Barr: Thank you sir.

9 RE-CROSS EXAMINATION OF LT. TILTON BY MR. MCKNIGHT:

10 Q: Where are these pictures of the other people on the
11 computer?

12 A: They're on the laptop.

13 Q: Made available to Williamsburg county sheriff's
14 department, was it not?

15 A: I provided the laptop to them yes.

16 Mr. McKnight: No further questions.

17 The Court: Alright you may step down.

18 Ms. Barr: We call Mindy Perry.

19 Clerk: Place your left hand on the Bible and raise
20 your right hand. Do you solemnly swear or affirm to tell
21 the truth, the whole truth and nothing but the truth, so
22 help you God?

23 A: I do.

24 Clerk: Thank you. Have a seat in the witness box.

25 DIRECT EXAMINATION OF MS. PERRY BY MS. BARR:

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- 1 Q: Ma'am, state your full name for the record.
- 2 A: Mindy Perry.
- 3 Q: Okay and Ms. Perry you were subpoenaed to testify in
- 4 this case?
- 5 A: Yes I was.
- 6 Q: Alright do you know a fellow by the name of Ryan
- 7 Williams?
- 8 A: Yes ma'am, I do.
- 9 Q: How is it that you know him?
- 10 A: Me and him were dating at the time that we stole the
- 11 laptops from Wal-mart. We were dating.
- 12 Q: Alright now how old are you?
- 13 A: Nineteen.
- 14 Q: And how old is Mr. Williams?
- 15 A: Twenty-two.
- 16 Q: Okay now you of course, you admitted that you all
- 17 were dating at the time you stole the laptops from
- 18 Wal-mart?
- 19 A: Yes ma'am.
- 20 Q: Have you, you were charged with that crime?
- 21 A: Yes ma'am.
- 22 Q: Did you plead guilty to that crime?
- 23 A: Yes ma'am.
- 24 Mr. McKnight: Objection. Leading the witness.
- 25 The Court: Objection is overruled.

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- 1 Q: You were charged with the crime?
- 2 A: Yes ma'am. I went in that day ...
- 3 Q: No, no. just make sure you hear my questions. Did
- 4 you plead guilty to that charge?
- 5 A: Yes ma'am.
- 6 Q: Okay, alright. Now, did you at some point have a
- 7 conversation with Lt. Roger Tilton of the Lake City
- 8 police department regarding computers?
- 9 A: Yes ma'am.
- 10 Q: Okay, alright tell me what you told him during that
- 11 conversation?
- 12 A: I told Roger Tilton, Mr. Roger Tilton that I was
- 13 guilty, I pled guilty to that and I also told him
- 14 that I could help him get the laptops back.
- 15 Q: Okay now, the day you all stole the laptops, where
- 16 did you take the laptops to?
- 17 A: To Vern's house; Lavern Anderson.
- 18 Q: Okay, alright. Now, when were the computers taken to
- 19 Lavern's house?
- 20 A: The night, that they were stolen.
- 21 Q: Same day?
- 22 A: Yes.
- 23 Q: Alright and I'm going to publish what's been
- 24 admitted as State's Exhibit Number 4. Ms. Perry can
- 25 you see this from where you are?

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- 1 A: Yes ma'am.
- 2 Q: Alright can you recognize the individual that's in
- 3 that photograph?
- 4 A: Yes ma'am, that's how he looked whenever we took the
- 5 laptops.
- 6 Q: And when you say that's how he looked, you're
- 7 talking about Lavern Anderson?
- 8 A: Yes ma'am.
- 9 Q: Alright and State's Exhibit Number 4, is that the
- 10 individual who you all took the laptops to?
- 11 A: Yes ma'am.
- 12 Q: Alright so you indicated that you took it to Lavern
- 13 Anderson. Where did you take it to specifically?
- 14 A: Coming to his house, where he lives.
- 15 Q: Okay.
- 16 A: Coming from Hemingway, you're on 41/51 coming from
- 17 Hemingway going next Georgetown.
- 18 Q: Okay.
- 19 A: He lives on the right, right after you pass the
- 20 Laundromat.
- 21 Q: Okay and who else was with you other than Ryan
- 22 Williams when the laptop was taken to Mr. Anderson's
- 23 house?
- 24 A: Just me and him.
- 25 Q: Alright who was driving?

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1 A: He was.

2 Q: Alright tell us what happened when you got to Mr.
3 Anderson's home.

4 A: Ryan took the laptop out of the backseat whenever we
5 pulled up in the yard and told me to sit in the car,
6 so I sat in the car.

7 Q: Okay.

8 A: And went and knocked on the door, went inside ...

9 Q: Okay, hold up. Slow down. You're talking real fast.
10 That's fine, that's fine, but I need to slow you
11 just a minute. Okay, Ryan tells you to stay in the
12 car?

13 A: Uh-huh.

14 Q: And make sure you say yes or no so the Court
15 Reporter can understand what you're saying okay?

16 A: Yes ma'am.

17 Q: He goes to, he gets out of the car and goes to the
18 house?

19 A: To the door.

20 Q: Alright what type of home was it?

21 A: It was a mobile home.

22 Q: Okay.

23 A: A single wide.

24 Q: Alright. He goes to the door. Who answers the door?

25 A: Lavern Anderson.

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1 Q: Alright tell me what happens after Lavern answers
2 the door?
3 A: He answers, he comes to the door and opens the door
4 and Mr. Williams walks in with the laptop.
5 Q: Okay.
6 A: And I guess they do their exchange and whenever Ryan
7 ...
8 Mr. McKnight: Objection.
9 Ms. Barr: Okay.
10 Mr. McKnight: Speculation Your Honor.
11 The Court: Ms. Barr.
12 Ms. Barr: Judge, I'll direct her the right way.
13 Q: Did you see what happened inside the home between
14 Mr. Williams and Mr. Anderson?
15 A: No ma'am.
16 Q: Okay, alright and let's not talk about what may have
17 happened inside the home. Did you see when Mr.
18 Anderson exited, I mean, I'm sorry, when Mr.
19 Williams exited the mobile home? When he came out?
20 A: Yes.
21 Q: Alright did you see Lavern come out the mobile home
22 when Mr. Williams came out?
23 A: No ma'am.
24 Q: Alright now when Mr. Williams came out of the mobile
25 home, did he have the

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1 computer still with him?

2 A: No.

3 Q: Okay, how many computers were you all charged with
4 shop lifting?

5 A: Two.

6 Q: Okay, how many did Mr. Williams take to Mr.
7 Anderson's house that night?

8 A: Two.

9 Q: Okay, alright. Do you think you would recognize the
10 computer if you saw it again?

11 A: Yes ma'am.

12 Q: Alright I'm going to publish what's been admitted as
13 State's Exhibit Number 2 and can you see that from
14 where you are?

15 A: Yes ma'am.

16 Q: Alright do you recognize what's in that particular
17 exhibit?

18 A: Yes ma'am, that would be one.

19 Q: That would be one of the computers?

20 A: Uh-huh.

21 Q: Yes or no?

22 A: Yes ma'am.

23 Q: Okay. Alright so Mr. Williams comes out of Mr.
24 Anderson's home, he does not have the computer
25 anymore?

1 A: Huh-uh.

2 Q: That's a no?

3 A: No ma'am.

4 Q: Okay, here's what I need to make sure we do. When
5 you testify, make sure you say yes or no as opposed
6 to uh-huh or huh-uh, because that may be troublesome
7 for her to record, okay?

8 A: Yes ma'am.

9 Q: Okay, when he comes, when Mr. Williams comes out of
10 Mr. Anderson's house, you say he does not have the
11 computer anymore?

12 A: No ma'am.

13 Q: Did he bring anything out of the house when he came
14 out of the house?

15 A: Yes ma'am, whenever he came out of the house, he had
16 twenty dollars in his left hand.

17 Q: Okay.

18 A: And he had a bag of cocaine in his left.

19 Q: Alright now, did you see him with any cash or any
20 drugs when he went inside the home?

21 A: No ma'am.

22 Q: Okay. Alright now, you got a visit a couple of days
23 later from some police officers ...

24 Mr. McKnight: Objection. Leading Your Honor.

25 The Court: Objection sustained.

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- 1 Q: Did you get a visit from police officers a couple of
2 days later?
- 3 A: Yes ma'am.
- 4 Q: And you testified earlier that you agreed to show
5 Lt. Tilton where you all took the computers to?
- 6 A: Yes ma'am.
- 7 Q: And did you in fact do that?
- 8 A: Yes ma'am.
- 9 Q: Alright how did Lt. Tilton get to the address where
10 the computers were recovered?
- 11 A: I was in the passenger seat of his unmarked car.
- 12 Q: And did you tell him how to get there, to the home?
- 13 A: Yes ma'am.
- 14 Q: Alright now tell us what happened as you and Lt.
15 Tilton arrived at the address there.
- 16 A: We pulled up on the side of the house, or whatever,
17 directly in front of the white S-10 that he was
18 sitting in.
- 19 Q: Okay.
- 20 A: And then when ...
- 21 Q: You said he was sitting there. Who you talking
22 about, he?
- 23 A: Lavern Anderson.
- 24 Q: Okay.
- 25 A: And then Williamsburg county sheriff pulled in right

1 behind us.

2 Q: Okay.

3 A: And Roger, Mr. Roger Tilton walked up to the car and
4 I identified that that was it and whenever
5 Williamsburg County got out and walked up to the
6 truck.

7 Q: Okay, now do you recall whether the Williamsburg
8 County deputies were in marked vehicles or unmarked
9 vehicles?

10 A: They were in marked vehicles.

11 Q: Okay and let me make sure I understand what you're
12 saying; are you saying that it wasn't until the
13 Williamsburg county deputies pulled up that he ran
14 out?

15 A: Uh-huh.

16 Q: Is that a yes?

17 A: Yes ma'am.

18 Q: Okay, how do you know that Vern was the individual
19 that got out the car and ran? How do you know that?

20 A: I was in the passenger seat of the car.

21 Q: You could see him?

22 A: Yes ma'am.

23 Q: Alright and was that the same individual who you
24 observed open the door to Ryan Williams just a
25 couple of days before?

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1 A: Yes ma'am.

2 Q: At any point in time, the day that you took Mr.

3 Tilton out to the Defendant's home, did you ever see
4 any of the police officers in the case take anything
5 from his vehicle? From Mr. Anderson's vehicle?

6 A: Mr. Roger Tilton did get the laptop or whatever and
7 sat it in the car or whatever until they did their
8 investigation.

9 Q: Okay.

10 A: But I did see the laptop, but anything else, no
11 ma'am.

12 Q: Fair enough. Beg the Court's indulgence. Ms. Perry
13 that's all of the questions that I have for you;
14 please answer any questions the defense may have,
15 okay?

16 The Court: Alright Mr. McKnight.

17 Mr. McKnight: Thank you Your Honor. May it please
18 the Court?

19 The Court: Yes sir.

20 CROSS EXAMINATION OF MS. PERRY BY MR. MCKNIGHT:

21 Q: Can you tell me your last name again?

22 A: Perry.

23 Q: Okay, Ms. Perry. You got arrested for shoplifting,
24 did you not?

25 A: Yes ma'am. Yes sir.

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- 1 Q: Did you, what happened with your charges?
- 2 A: I got, the day that I got arrested at Mr. Williams'
- 3 address, which is a Hemingway address in Georgetown
- 4 county location. I ran and got arrested and we
- 5 went, soon as we left there we went to, I showed him
- 6 where we sold the laptop and then I got carried to
- 7 Lake City. Went in and got my picture taken and
- 8 fingerprints did or whatever and, and then I had to
- 9 wait and talk to somebody at Lake City Police
- 10 Department and after I left there I went home and I
- 11 had, they gave me a court date that I had to come
- 12 back. And I pled guilty to that charge.
- 13 Q: You pled guilty to that charge. What were you
- 14 sentenced to?
- 15 A: Shoplifting.
- 16 Q: No, what were you sentenced to? What was your
- 17 punishment?
- 18 A: I had to pay money.
- 19 Q: You had to pay money?
- 20 A: Uh-huh.
- 21 Q: Okay, alright. You testified that you saw your
- 22 boyfriend go into the house and you saw Ronnie
- 23 Anderson there, is that correct?
- 24 A: Yes sir.
- 25 Q: You, but, do you know who else was in the house?

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- 1 A: No sir.
- 2 Q: It's possible other people were in the house?
- 3 A: It's possible.
- 4 Q: It's possible, okay. Do you use cocaine?
- 5 A: No sir.
- 6 Q: Okay, so your boyfriend just got cocaine for
- 7 himself?
- 8 A: Yes sir.
- 9 Q: You know the difference between crack and cocaine
- 10 don't you?
- 11 A: Yes sir.
- 12 Q: And your boyfriend brought back what?
- 13 A: Cocaine?
- 14 Q: Not crack.
- 15 A: A powder substance.
- 16 Q: Right, because crack is ...
- 17 A: It's hard.
- 18 Q: Correct and cocaine is what?
- 19 A: A soft powder.
- 20 Mr. McKnight: Your witness.
- 21 Ms. Barr: I have no questions Judge.
- 22 The Court: Alright you may step down.
- 23 Ms. Barr: And that's State's case and we rest at
- 24 this time.
- 25 The Court: Alright Ladies and gentlemen you've heard

1 the State's case. We'll take a break now. Please go to
2 your jury room. Please do not discuss the case.

3 (Jury break 11:11)

4 The Court: Any matters of law?

5 Mr. McKnight: Yes Your Honor. At this time the
6 defense moves for a
7 directed verdict. We believe that the Court should
8 dismiss this matter pursuant to the fact that there has
9 been no identification by the chemist that the substance
10 in question was crack cocaine. He was qualified as an
11 expert, he was and we admit that he had been admitted as
12 such, but there was no testimony that I believe that I
13 heard which he indicated that the substance in question,
14 that they alleged to have found from Mr. Anderson was in
15 fact cocaine, based upon his expertise and we move for a
16 directed verdict.

17 The Court: Alright Ms. Barr?

18 Ms. Barr: Your Honor the chemist testified that the
19 result of his analysis was that it was cocaine base, is
20 what he called it, commonly known as crack and it weighed
21 3.5 grams. He clearly testified that the substance that
22 he analyzed was crack cocaine.

23 Mr. McKnight: Your Honor perhaps maybe I was, I
24 heard him identify the weight but I did not hear him say
25 that that substance was cocaine base, or crack cocaine.

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1 The Court: Alright fortunately we have one of the
2 best Court Reporters in the state here.

3 Mr. McKnight: We do.

4 The Court: Let's see what the record shows.
5 (Portion read back)

6 The Court: Alright motion is overruled.

7 Mr. McKnight: Your Honor, the defense doesn't intend
8 to call any witnesses, so we respectfully rest as this
9 time. Unfortunately there is nobody to query.

10 The Court: Motion denied. Which one did I say?

11 Mr. McKnight: You said denied.

12 Court Reporter: You said motion denied.

13 The Court: She said I said motion overruled. But
14 I'll----

15 Court Reporter: Well you said motion overruled,
16 because I did write overruled. Motion overruled.

17 The Court: Okay, he said I said denied, so you're
18 wrong twice Cezar.

19 Mr. McKnight: I knew what you meant.

20 The Court: Alright, she said motion denied. What did
21 you put in your ...

22 Court Reporter: I wrote motion overruled here and
23 then I just put denied there, because I knew you meant he
24 was denied.

25 The Court: I certainly have the best, she cleans up

1 the record. Alright the record is so corrected. Let's
2 see now; now with regard to the jury charges, the
3 indictment says cocaine base, the record says crack
4 cocaine. I don't know what's with regard to, which charge
5 are you all seeking for me to give?

6 Mr. McKnight: Your Honor we'd like for you to give
7 your standard charge with possession with intent, but
8 we'd also like for you to give the charge of just simple
9 possession.

10 The Court: The standard charge as it relates to
11 cocaine base or as it relates to crack? I mean as it
12 relates to powder cocaine or crack?

13 Ms. Barr: Crack cocaine.

14 Mr. McKnight: Crack.

15 The Court: Alright cause crack is more than one gram
16 and cocaine is more than ten grains; that's the
17 presumption for intent. Alright are you all ready to roll
18 on to the closing or?

19 Ms. Barr: Judge, if I could have about ten minutes
20 I'll be ready to roll onto the closing.

21 The Court: Alright, ten minutes.

22 (Court break)

23 Ms. Barr: Charges on actual and constructive
24 possession.

25 The Court: Possession, actual and constructive.

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1 Ms. Barr: Okay.

2 The Court: I'll also charge on absence of Defendant.

3 They changed the statute to make it such that it doesn't
4 matter whether it's crack or powder, but they did change
5 it as to the presumption, so, but the charge is
6 possession with intent to distribute cocaine base, so
7 what do y'all want me to say that the Defendant is
8 charged with the possession with intent to distribute
9 cocaine base parenthesis crack or just possession with
10 intent to distribute cocaine base?

11 Mr. McKnight: I'd prefer cocaine base.

12 The Court: When it comes to, it doesn't matter which
13 one it is, but when it comes to the inference, that's the
14 distinction. Presumption based on the amount and in that
15 portion I have possession of more than one gram of crack
16 is, creates an inference. He gets a simple possession
17 charge based on the ... there is a difference between
18 simple possession of cocaine and simple possession of
19 crack. So ...

20 Ms. Barr: Judge, I think the charge of ...

21 Mr. McKnight: Can we get the simple possession of
22 cocaine, the simple possession of crack, of cocaine base
23 and then the possession with intent to distribute cocaine
24 base charges?

25 The Court: Simple possession of cocaine base. What

1 is cocaine base?

2 Mr. McKnight: Cocaine base and crack are the same
3 thing. They are, it is the
4 combination of crack with any, with baking soda, with
5 baking powder and it forms a hard, rock-like substance.

6 Ms. Barr: And Judge I'm looking at 44-53-375b.

7 The Court: The penalty is the same for simple
8 possession of crack or cocaine.

9 Ms. Barr: Right.

10 The Court: It doesn't matter whether, it just
11 simple possession or simple possession of cocaine base
12 the penalty is the same.

13 Mr. McKnight: Yes sir.

14 Ms. Barr: Yes sir.

15 The Court: Regarding inference I will say possession
16 of more than one gram of crack may infer that there is
17 intent to distribute. Alright. Y'all ready for them?

18 Ms. Barr: Yes sir Your Honor.

19 The Court: Alright let's bring them on.

20 (Jury in 11:50)

21 The Court: Alright you heard the State's case, now
22 it's the defense's turn. Mr. McKnight?

23 Mr. McKnight: Your Honor it's at this time the
24 defense rests.

25 The Court: Ladies and gentlemen the defense has

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1 rested. That means you have heard all of the testimony in
2 the case and it's now time for closing arguments; first
3 by the State and then by the defense.

4 **CLOSING ARGUMENTS BY MS. BARR:**

5 Ms. Barr: Thank you Your Honor. May it please the
6 Court? Mr. McKnight, Mr. Foreman, Ladies and gentlemen of
7 the jury, good morning.

8 Jurors: Good morning.

9 Ms. Barr: I had to check the time to make sure we
10 are still in the morning and we are. This case has gone
11 by relevantly quickly, but folks I would tell you that
12 just because a trial has not lasted very long, I do not
13 want that to minimize the importance of it. You all have
14 an awesome responsibility that you will be called upon to
15 carry out in a few minutes, once all of the lawyers get
16 through talking and I want to thank you in advance for
17 the attention that you've shown to the case. You know,
18 Mr. McKnight and I, we are legal adversaries but I
19 consider him a friend and obviously he's a great trial
20 lawyer and we've had many cases and I think he would
21 probably share my sentiment when I tell you that we
22 noted throughout the trial that you all were an attentive
23 jury and that's important, not just to Mr. Anderson
24 obviously, but to the state. You know when you all were
25 here the other day and we selected a jury in the case,

1 you all will realize that some people whose names were
2 called they were not picked and often times, as lawyers,
3 cause we don't know the jurors personally, we have to
4 make, essentially, a split second decision. When a
5 person's name is called we're trying to find out do I
6 want that particular individual on my jury? And as,
7 whether you're a prosecutor or a defense lawyer or
8 whether it's a criminal case or a civil case, most
9 lawyers will say you know I really, at the end of the
10 day, I just want somebody that will be fair. Somebody who
11 can listen to the evidence with an open mind and make a
12 decision based on the evidence. At the end of the day and
13 I promise you, although me and Mr. McKnight don't agree
14 with what right is in this case, we'll agree that we got
15 a jury that we believe will render justice and do what's
16 right in this case. I thank you all for that. Now the
17 way that our system works, I have to give my closing
18 statement first and when I sit down, Mr. McKnight will
19 give you his closing argument and I sort of hate that the
20 rules are that way, because you know, usually I want to
21 be the last person to give a closing argument; but the
22 rules are what they are and we have to play by them, but
23 essentially, Mr. McKnight has an opportunity to basically
24 hear everything that I have to say and then come behind
25 me and tell you all the reasons why you should disregard

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1 everything I say and believe what he says and because of
2 the fact that the we've been in cases together in trial
3 on opposite sides, I suspect, of course I have no way of
4 knowing, but I suspect I have a little bit of an idea
5 what he might say to you. Lavern Anderson, also known as
6 Ronnie Lavern Anderson is charged with possession with
7 intent to distribute cocaine base; we use to call it
8 crack, in the law they've changed the legal name of it,
9 now it's cocaine base and one of the things that I
10 suspect that most defense attorneys would say is that the
11 State hasn't proved its case and you should find the guy
12 not guilty; he's not guilty of anything, they haven't
13 proven it. They don't have DNA evidence, they
14 don't have fingerprints and all these things that you see
15 on tv that most people think that you got to have. And
16 folks, in cases where you have no suspect involved, if
17 you have a body just laid out on the ground and you have
18 no witnesses, no evidence, DNA, fingerprints are
19 important in cases like that. But here, we know who
20 committed this crime. Mr. McKnight I think would probably
21 tell you well, he's not guilty of anything, but now, but
22 if you got to find him guilty, if you just have to find
23 him guilty of something, find him guilty of the lesser
24 charge of possession of crack cocaine as opposed to
25 possession with intent to distribute. Let me tell you,

1 let me suggest to you why that is wrong; one of the great
2 things about the jury system is that when you come into a
3 courtroom and you listen to a case and you go back and
4 deliberate on
5 a case, you get to take your good old fashioned common
6 sense with you. You don't have to check that at the door;
7 you can take that back in that room and you can ask
8 yourselves and deliberate amongst yourself and say is
9 what I'm being told, does it make sense? Now, let me kind
10 of go through some of the elements of possession with
11 intent to distribute; first of all, the State has to show
12 that the Defendant was in actual possession of the drugs
13 or constructive possession and Judge Newman is going to
14 define for you the difference between the two; actual
15 versus constructive possession. Now, in the law, it
16 doesn't matter whether it's actual or constructive
17 possession. If the jury determines it's either a
18 Defendant is guilty. What I submit to you the
19 Judge will probably tell you about at actual versus
20 constructive possession and I'll give you an analogy. Say
21 for example, somebody has a gun on their hip. It's on
22 your person; that's actual possession. I actually have it
23 on my person. Constructive possession is a little
24 different. Constructive possession is where a person has
25 what we call dominion and control over the items seized

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1 and has knowledge of their presence. Now dominion and
2 control means you have the right to dispose of that
3 particular item. So for example if you were in a vehicle,
4 as was the evidence here and there is drugs in plain
5 view, within arms reach, that would be considered
6 constructive possession. Now, the second part of the law
7 is with the intent to distribute. Now see that's where
8 the rubber is going to meet the road I would submit to
9 you on whether or not this is just a case of somebody had
10 simple possession or somebody's intent to distribute.
11 Now, Mr. McKnight asked Investigator Edwards, now wait a
12 minute now you say that, that you all took a razor and
13 you testified that people often use razors to cut up the
14 drugs to sell it in individual baggies. Well how do you
15 know he didn't just have that for his own personal use,
16 assuming he had it? Now, here's where it's really, really
17 important not to check your common sense at the door.
18 When you look at whether or not a Defendant had a, had
19 possession of drugs with intent to distribute, look at
20 all of the circumstances surrounding the case. I want to
21 specifically have you all remember one, look at how these
22 drugs were packaged, okay? We heard testimony in this
23 case that there were thirteen individual baggies of crack
24 cocaine. Now, ask yourself, if somebody just had a crack
25 habit and they're just smoking crack for their own

1 personal use, why would you need to have it in thirteen
2 baggies? I mean, if you going to smoke it, you going to
3 keep it in one bag. Why would you need it separated? See
4 that's the part where I want you all to remember and use
5 your good old fashioned common sense. Another thing that
6 tells you what the Defendant's intent was; that it wasn't
7 just a case where he had it just for his own personal use
8 of it. How much cash was found in that car that day?
9 Y'all remember hearing that? Four hundred and five
10 dollars in cash and guess where the cash was found? Right
11 next to the drugs. Does that indicate to you that this is
12 something that perhaps the Defendant just happened to
13 have had for his own personal use? No ma'am, no sir. He
14 was selling dope and you know I would urge you all not to
15 compromise your verdict. You know, some people have said
16 that and Dr. Martin Luther King has said that an
17 injustice, half justice is a threat to justice
18 everywhere. You can't give a case justice, which by your
19 oath, by the oath that you took when we started this case
20 you promised you'd give, you can't just say, well I think
21 we'll just cut him a break and we're going to find him
22 guilty of a lesser charge. Ladies and gentlemen you find
23 him guilty of what the evidence shows he's guilty of and
24 that's possession with intent to distribute crack
25 cocaine. Now, when people and folks we all make mistakes,

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1 but when a person decides that he or she wants to sell
2 drugs, that person has already made a decision. They sat
3 down and they thought you know what, I'm going to make a
4 cost benefit analysis. Alright, if I make the decision to
5 sell drugs, I know that's illegal. What are the chances
6 of me getting caught? And if I don't get caught I get to
7 make some easy money, don't have to work a nine to five
8 like a lot of people and I can basically have an easy
9 life, but I recognize that by selling drugs I'm taking
10 the chance that one, I might get caught, two that the
11 police will arrest me and three that some jury will sit
12 one day in judgment in what I did. And I may have to be
13 held accountable for my actions. Lavern Anderson has
14 already made that decision, which I submit to you makes
15 it easier for you to do your jobs, because a lot of
16 times, jurors, I've heard it often said, jurors will say
17 well I don't really feel comfortable judging another
18 person. I don't really feel that that's my role; that's
19 God's job to judge people and that's why I couch my
20 language in terms of a Defendant who chooses to sell
21 drugs has made a cost benefit analysis as to one day a
22 jury coming in and judging what he has done. And I was
23 careful. I didn't say judging him. We're not asking you
24 to judge man; we're asking you to judge man's conduct and
25 that's what this Defendant is on trial for. Now in

1 addition to all the other evidence that you've heard
2 about the way that it was packaged, thirteen baggies.
3 You've heard about the cash that was inside the vehicle.
4 One of the things that I will tell you also that I
5 suspect that the judge is going to tell you. Is that
6 there is an inference that you all as jurors are
7 committed to take in this case. Essentially, the law says
8 that based on the weight of the drugs, it's more than one
9 gram, you as a jury may infer that because of the weight
10 that a person possessed with the intent to distribute the
11 drugs. Now we're not just simply suggesting based soley
12 on the weight that he should be found guilty with
13 possession with intent to distribute. But based on
14 weight, based on everything else, the packaging we would
15 submit that he's certainly guilty of possession with
16 intent to distribute crack cocaine. Now, when you're
17 asking yourselves the question, at the end of the day,
18 one do we have the right person and two, is he guilty. I
19 would answer those two questions with a resounding yes.
20 There's no question that the Defendant was the person
21 inside that vehicle that day. You have three eye witnesse
22 identifications of him being the individual. What makes
23 it most compelling is that the first person who took the
24 case, actually went to school with the Defendant. So you
25 know, this is not an officer who just happened to see a

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1 Defendant who got away from him that night. This is an
2 officer who actually knew the Defendant personally. You
3 can't get a better identification better than that. You
4 simply can't. And folks quite frankly, when Investigator
5 Edwards came out that day, he wasn't looking or expecting
6 to find drugs. He wasn't even expecting to make a case
7 period. He was simply assisting another law enforcement
8 agency. Now second question, did he do it? Let me tell
9 you this, and again, this is the part where common sense
10 comes into play. Put yourself in the place of Lavern
11 Anderson that day for a quick moment, just a moment.
12 You're in the car and I'm playing devil's advocate for
13 just a moment, I'm playing the devil's advocate,
14 reasonable doubt notion. If he Defendant were in fact not
15 guilty, he's in a car that day, there's been testimony
16 that another person was at the scene. If this Defendant
17 did not have those drugs and was not selling drugs, you
18 got, first of all, an unmarked vehicle to pull up behind
19 this home. Now you heard testimony that the Defendant
20 didn't know about the car when the unmarked officer was
21 there, cause see he didn't know who that was. He didn't
22 have any reason to run at that point. It wasn't until he
23 saw the marked Williamsburg county sheriff's vehicle that
24 he jumped and ran. Now if a person doesn't know that
25 there are drugs in the car, why would you run? Now, again

1 I'm playing devil's advocate here for just a minute; at
2 this point, the only thing he has illegal in that car are
3 drugs. That's the only thing he has illegal in the car.
4 He has a computer, but at this point, there's no evidence
5 that he knew the computer was stolen. There was no
6 evidence that he had reason to believe that law
7 enforcement knew the computer was stolen. To this day I
8 don't know that he knew that the computer was stolen. I
9 know that this Ryan Williams kid came to him a couple of
10 days ago, a couple of days before and sold him a
11 computer. Now whether Ryan Williams told him man this is
12 my computer and I don't want it. You know, if you give me
13 some drugs and some money it's yours, but there's no
14 evidence at this point that he ever knew that it was
15 stolen. It's not illegal in and of itself to have
16 something stolen if you don't know it's stolen. So at
17 this point, he's in the car. You got the computer in
18 there, but so far he's not guilty of anything if that's
19 all he has is the computer. Now what in the world would
20 make a person leave out of his vehicle with a brand new
21 computer with his girlfriend's pictures on it, his name
22 on it, some music on it, leave that in there, to leave
23 four hundred and five dollars in cash? Folks that's a lot
24 of money. That's not a little bit of money here. What in
25 the world would possess him to just up and run when the

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1 police come and leave all that in the car? If he's not
2 guilty of anything. Because those drugs were his. And
3 the things that makes me firmly convinced, and I would
4 submit to you that would make you all firmly convinced of
5 his guilt, is the drugs were in plain view. You mean to
6 tell me you in a vehicle and in the console is this much
7 dope and four hundred and five dollars in cash and you
8 don't have any idea it's sitting there? Come on now. Now
9 the person who was there at the scene, he was doing
10 something wrong, which Mr. McKnight might suggest maybe
11 it's his. He stayed. He did not leave, stayed right
12 there with at least three police officers there. Now
13 whether he was there to buy that day, I don't know. That
14 remains to, we may never know the answer to that, but the
15 guilty one is the one who ran. Now, the little girl,
16 Mindy Perry, I don't know how in the world she allowed
17 herself to get mixed up with Ryan Williams, but she did
18 and one of the things that I respect about her is that
19 she did something stupid, she did something foolish, she
20 got up here and said I'm guilty, she went to court and
21 she plead guilty. We all make mistakes, none of us are
22 perfect, myself included, but part of learning from those
23 mistakes, our part of that is to accept personal
24 responsibility for what you did. She did that and it's
25 your turn to hold Lavern Anderson personally responsible

1 for what he did. Folks, the only true and just way to do
2 that is for you all to return a verdict of guilty and I
3 ask you all to do just that. Than you sir, thank you
4 ma'am. My appreciation.

5 The Court: Mr. McKnight?

6 **CLOSING ARGUMENTS BY MR. MCKNIGHT:**

7 Mr. McKnight: Thank you, may it please the court.
8 Ms. Barr? Ladies and gentlemen of the jury, good
9 afternoon. I want to thank Ms. Barr today for being in
10 this whole trial process with me. It may seem we don't
11 get along, but she's a fine lawyer and trust that we are
12 friends, we bounce ideas off of each other. It's like a
13 football game, the player on the other side of the field
14 shake hands, hug and pray together and everything like
15 that. I want to thank you all for being attentive through
16 this whole process. On behalf of my client I know that
17 you could have been doing something else, but watching
18 you all during this whole process and you all were keyed
19 in watching, so I know that you know, since you've seen
20 what we've done in this case. You've heard the evidence
21 in this case and Ms. Barr has given you her version of
22 the facts. But I want you to look at the facts for a
23 moment, just a little bit longer; through my eyes and
24 through what actually happened. Ms. Barr talks about, you
25 know we had the investigator here on the stand and he

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1 told you that he went to SLED school and he knows how to
2 conduct evidence, but we're missing key pieces of
3 evidence. You know, a razor is really thin, really,
4 really thin but that little thin thing can cut deep, it
5 can kill. And in this instance, it may just kill their
6 case. Now they went through this whole process of
7 presenting evidence to you Ladies and gentlemen and told
8 you about how they took such great care to seal it and
9 package it to make sure that it didn't, it didn't get
10 contaminated, it didn't get lost, it didn't get mixed up
11 with anything else. But why don't they have everything?
12 Why do they need particular things that would be related
13 to this case? They leave you here to guess. They leave
14 you here to figure out, they leave you twelve Ladies and
15 gentlemen to clean up their mess. Razor blade could have
16 been there, but we don't know if it chopped up something,
17 but they claim that he was chopping up the crack with it.
18 Wouldn't it have residue on it? Wouldn't you be able to
19 see that? And I want you to think about this too,
20 assuming what they say is true, they find him with this,
21 but they got this and an eye witness who claims she saw
22 him buy cocaine. Do you think they went in the house to
23 look for any of that stuff? No, they don't. They just
24 walk upon a situation, figure it's this way, and work
25 with it that way assuming that it's a certain way and

1 want you to make that same assumption, but that's not
2 what you're supposed to do. Like they got that best kit
3 there, but their best evidence, they are supposed to give
4 you their best kit evidence, not pick through, throw
5 away, leave out, bring in and just do whatever it is they
6 choose to do. They got a computer, yeah, claim there's
7 some pictures on it. You see any pictures? I ain't seen
8 no pictures. All I see is a screen that says Vern.
9 Claimed it said DJ Vern on that. I didn't see that. How
10 do we know that they didn't program the computer? Go
11 under lock screen and put Vern's name in there? It's easy
12 to do. They brought this expert from Columbia with all
13 his credentials, with his degrees and all his learning.
14 They didn't bring nobody about no computer. No, we want
15 you to take our word for it. He's not certified for a
16 computer. Couldn't tell you that. Did they bring the
17 computer? You know what else is telling too? Did you see
18 them working around here with the computer? I saw them.
19 They had it. Tilton, the policeman from Lake City had it.
20 Did they turn it on for you? No. No, they bring you some
21 rinky dink pictures with fingerprints all over that they
22 don't even bother to test. And wants you to assume, you
23 know, it's Vern's. Vern who? Vern who? They, come on now.
24 We all have lived long enough to have experience with the
25 police and we know when they find just a little bit of

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1 something, they go crazy don't they? They call in
2 everybody. They start searching and sniffing and doing
3 every little thing. Why they ain't go in the house? Huh?
4 And we know the police when they know they can do
5 something they don't ask for permission. They go on and
6 they do it. Step out the way. Move. I'm going in here.
7 Didn't do that, no. We've got a brand new, we've got a
8 brand new law enforcement now, it's just, well good, it's
9 here and it's Vern's. No, that's not what it is. Not one
10 person, not one has come to that stand and said that they
11 have seen my client possess anything. Let me ask you this
12 question. What if he's in the car with the crack and they
13 smoking it or sniffing it and the cop come up and he runs
14 off. Wouldn't he run off because of that? If he had
15 bugger sugar all over his nose, wouldn't he run off. The
16 old man couldn't get run and guess what. They didn't
17 bother to talk to him. Do we even know his name? Think
18 again of your experiences with the police. They come up
19 on something crooked they want to know everybody, what
20 your name? Where you live? What you doing here? What you
21 doing with that? Didn't do any of that. Just figured it's
22 Vern's. Let's get Vern. I'm not going to sit here and
23 paint this and make him out to be a wonderful person.
24 Nobody is. We all have sin. We all do stuff we don't have
25 business doing, but in here today, what's required is for

1 them, for these people sitting at this table to prove
2 beyond a reasonable doubt the facts that they allege
3 happened. That has not been done. As I told you all
4 during my opening, the burden of proof is beyond
5 reasonable doubt. The scales are out and they must tip
6 all the way over. I still got some doubt and I think you
7 will too. I have told you about the iron. You're scared
8 to go to church because you left the iron on because you
9 think you might come home to a fire. You have to hesitate
10 on the evidence. You heard Ms. Barr tell you about he's
11 got it individually packaged. You're going to take this
12 back, pardon me ma'am, you're going to
13 take this back with you. When you buy potato chips or
14 something for sale, a little bit in the bag, well there's
15 a little bit in every bag right? It ain't fifty pieces in
16 this bag and a hundred, they are mostly air and a little
17 bit of chips right? There are varying degrees here.
18 Really? And I'll say this, let's say it is his, what if
19 he bought it off of somebody and it's how they sold it to
20 him. You don't know.
21 You would know if you had that razor blade. How does he
22 quantify it? How does he know how much to give? To sell?
23 They didn't, and here it is they tell you it's four
24 hundred dollars. They didn't bother to give you any
25 evidence as to how much it would cost, all that would

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1 cost. No, you're supposed to guess. Like y'all use drugs
2 and already know, you're supposed to already know that.
3 No, they leave that for you to speculate. Now, Judge
4 Newman is going to charge you with possession with intent
5 to distribute. He's also going to charge you with
6 possession, meaning you have it. I possess this hat. You
7 see me? I have it in my possession okay? Now, this
8 belongs to the deputy and if I take it over here and put
9 it over here, I no longer actually possess it, but I've
10 done what? I've demonstrated dominion and control. I've
11 taken it, I'm using it. Sort of like shoplifting. If you
12 don't make it out the store, you're still stealing
13 because you got it on you because you demonstrated
14 control. Have them show you where the intent to
15 distribute is taken place. Why they didn't ask the man
16 why he was there? He's obviously been there for a while.
17 What are you doing here? Uh, I'm over here ---any of
18 these things, but what you're left with, assuming
19 everything they say is true, is possession. Four hundred
20 dollars? They make sure that's a lot of money. It's a
21 lot of money, but when we think of drug dealers, four
22 hundred dollars is not a lot of money. Not unless they
23 selling Goody powder. This is crack supposedly. You know
24 she made it into this big, bad thing, crack. You know,
25 it's got cocaine in it. Four hundred dollars? All that?

1 No. His Honor is going to tell you that my client sits
2 innocent and his innocence will drape about him like a
3 robe and the only people that pull that robe off him are
4 you and until you do that, he's innocent. What I'm asking
5 you all to do, I'm asking you to do what you promised. I
6 want you, when His Honor reads you the law and when His
7 Honor says that you may go back in the room, I want you
8 to go back in the room, I want you to take the pieces of
9 evidence that they have, that they've given us and I want
10 you to go through them bit by bit, piece by piece and I
11 want you to decide whether or not those bits of evidence,
12 those pieces of evidence make sense. Now, here's the
13 other thing that you promised. If one of you or two you,
14 all you guys got to agree. All of you. What we call a
15 unanimous verdict. Whether it be innocence or guilt. If
16 you all don't agree, and you don't feel the way that the
17 majority feels, hold on to your opinion; that's yours.
18 You have that right. Don't be swayed; if you're convinced
19 one way, don't allow yourself to be convinced another,
20 but if you go back there and you live up to your oath,
21 regardless of the outcome, I'm not going to be angry, Ms.
22 Barr's not going to be angry, because that's what, she
23 and I, as officers of the Court, people sworn to defend
24 the Constitution and know it's justice and that's why we
25 live in the greatest nation. Thank you.

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1 The Court: Mr. Foreperson and members of the jury,
2 you have heard everything. The testimony, the evidence
3 and the arguments of the State and the Defendant. I will
4 now explain to you the law that applies to this case.
5 Under the Constitution and laws of South Carolina, you
6 are the finders of facts in this case. I do not have the
7 right to pass upon them or even to express any opinion
8 that I might have as to them, because this is a matter
9 solely for you the jury to determine. As jurors then, it
10 is your duty to determine the effect, the value, the
11 weight and the truth of the evidence presented during
12 this trial. You are also the judges; the sole judges of
13 the credibility, that is the believability of the
14 witnesses who have testified and of the evidence which
15 has been presented during this trial. In passing or
16 applying credibility you may take into consideration many
17 things; such as the demeanor or manner of testifying,
18 whether the witness had reason to be bias or prejudice or
19 whether a witness' testimony was contradicted on the one
20 hand or supported and corroborated on the other hand. All
21 these things you will consider, bearing in mind that you
22 should give the Defendant the benefit of any reasonable
23 doubt. It becomes your duty as jurors to analyze and to
24 evaluate the evidence and determine that evidence which
25 convinces you of its truth. Now I instruct you and

1 emphasize to you that the fact that the Defendant did not
2 testify is not a factor to be considered by you in any
3 way in your deliberations and in your consideration on
4 the question of the guilt or the innocence of the
5 Defendant; it must not be considered by you in any way or
6 any manner whatsoever. The Defendant has the
7 Constitutional right to remain silent and the assertion
8 of this right must not be considered by you in your
9 deliberations. So I repeat, under your oath, you are to
10 draw no conclusions whatsoever from the fact that the
11 Defendant in this case did not testify. The fact that the
12 Defendant did not testify should not even be discussed in
13 the jury room. The burden of proof, as I stated to you,
14 is on the State to prove the Defendant guilty. The
15 Defendant is not required to prove his innocence. The
16 burden of proof remains on the State to prove guilty
17 beyond a reasonable doubt. Now under the laws of this
18 state, a Defendant may be tried even if the Defendant
19 does not attend the trial, but the fact that the
20 Defendant is not present may not be considered against
21 the Defendant in any manner whatsoever. Now as the trial
22 judge, it's my responsibility to preside over this trial
23 and to rule upon the admissibility of the evidence
24 offered during this trial. You are to consider only the
25 testimony which has been presented from this witness.

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1 stand, together with any exhibits which have been made a
2 part of the record. I have the additional duty to charge
3 you the law applicable to this case and as the presiding
4 judge, I am the sole judge of the law of this case. It is
5 your duty as jurors to accept as correct the law as I now
6 state it to you and then reach your verdict. And finally
7 I charge you in this regard that you should not be
8 concerned with what you think the law ought to be, but
9 rather what I charge you that the law is. Now the fact
10 that the Defendant was arrested, charged and indicted in
11 this case is not evidence and cannot be considered as
12 evidence of guilt, nor does it create any presumption or
13 inference of guilt. The indictment is simply the formal,
14 written instrument which contains the charge made against
15 the Defendant. An indictment is a form of document by
16 which the case is brought into court. The Defendant has
17 pled not guilty to the charge in the indictment and that
18 plea puts the burden and places the burden on the State
19 to prove the Defendant guilty. The person charged with
20 committing a criminal offense in South Carolina is never
21 required to prove himself or herself innocent and I
22 charge you that it is an important rule of the law that
23 the Defendant in as of the charge may be, will always be
24 presumed to be not guilty of the crime for which the
25 indictment was issued, unless guilt has been proven by

1 evidence satisfying you of that guilt beyond a reasonable
2 doubt. The presumption of innocence does not end when you
3 begin your deliberations, but accompanies the Defendant
4 throughout the trial, until you reach a verdict of guilty
5 based on evidence satisfying you of that guilt beyond a
6 reasonable doubt. The presumption of innocence is like a
7 robe of righteousness placed about the shoulders of the
8 Defendant, which remains with the Defendant until it has
9 been stripped from the Defendant by evidence satisfying
10 you of the Defendant's guilt beyond a reasonable doubt.
11 Now the presumption of innocence is not just, not mere
12 legal theory; it's not just a
13 legal phrase. It is a substantial right to which every
14 Defendant is entitled unless you are satisfied from the
15 evidence of the Defendant's guilt beyond a reasonable
16 doubt. The State must prove the Defendant guilty beyond a
17 reasonable doubt, so what is a reasonable doubt in the
18 law? A reasonable doubt is a doubt which makes an honest,
19 sincere, conscientious juror in search of the truth to
20 hesitate to act. Proof beyond a reasonable doubt must
21 therefore be proof of such a convincing character that a
22 reasonable person would not hesitate to rely and act upon
23 it in the most important of his or her own affairs. Proof
24 beyond a reasonable doubt can also be described as proof
25 that leaves you thoroughly convinced of the Defendant's

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1 guilt. Now there are very few things in this world that
2 we know with absolute certainty and in criminal cases,
3 the law does not require proof that overcomes every
4 possible doubt. If based on your consideration of the
5 evidence you are firmly convinced that the Defendant is
6 guilty, then you must find him guilty. If, on the other
7 hand, you think there is a real possibility that he is
8 not guilty, you must then give him the benefit of the
9 doubt and find him not guilty. Now the Defendant is
10 charged with possession with intent to distribute cocaine
11 base. The State must prove beyond a reasonable doubt that
12 the Defendant possessed cocaine base with the intent to
13 distribute it. To prove possession, the State must prove
14 beyond a reasonable doubt that the Defendant had both the
15 power and the intent to control the disposition or use of
16 the cocaine base. The possession may be either actual or
17 constructive; actual possession means that the cocaine
18 base was in the actual, physical custody of the
19 Defendant. Constructive possession means that the
20 Defendant had dominion and control or the right to
21 exercise dominion and control over either the cocaine
22 base itself or the property on which the cocaine base was
23 found. Now mere presence at the scene where the drugs
24 were found is not enough to prove possession. Actual
25 knowledge of the presence of the cocaine base is strong

1 evidence of the Defendant's intent to control its
2 disposition or use. The Defendant's knowledge and
3 possession may be inferred. When a substance is found on
4 the property under the Defendant's control, however this
5 inference is simply an evidentiary fact to be taken into
6 consideration by you along with the other evidence in
7 this case and to be given the weight you decide it should
8 be given. Distribute means to deliver other than by
9 administering or dispensing a drug. Intent may be shown
10 by acts and conduct of the Defendant and other
11 circumstances which you may naturally and reasonably
12 infer intent. In determining whether the Defendant had
13 the intent to distribute the cocaine base, you may
14 consider the circumstances surrounding the Defendant's
15 alleged possession. You may consider the amount of the
16 substance alleged to have been possessed, the manner in
17 which it was allegedly possessed, the place where it was
18 allegedly possessed and other factors which you consider
19 to be important. You must find that the Defendant did not
20 intend to have the cocaine base solely for his own use.
21 Now possession of more than one gram of cocaine base that
22 is crack cocaine creates an inference that the Defendant
23 possessed the cocaine base with intent to distribute it.
24 This inference does not relieve the State from proving
25 beyond a reasonable doubt that the Defendant had the

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1 intent to distribute. It is simply an evidentiary fact to
2 be taken into consideration by you along with the other
3 evidence in the case and to be given the weight you
4 decide it should have. Now if you find that the State has
5 failed to prove beyond a reasonable doubt the Defendant
6 is guilty of possession with intent to distribute cocaine
7 base, you may consider whether the State has proven
8 beyond reasonable doubt that the Defendant is guilty of
9 simple possession of cocaine base. Simple possession does
10 not require an intent to distribute the cocaine base. The
11 State must prove beyond reasonable doubt that the
12 Defendant knowingly or intentionally possessed cocaine
13 base. Knowingly means with knowledge, conscientiously,
14 not accidentally and intentionally means willfully,
15 intended the result that actually occurs, not
16 accidentally or involuntarily. Intent may be shown by
17 acts of conduct of the Defendant or other circumstances
18 that you may naturally and reasonably infer intent. To
19 prove possession the State must prove beyond reasonable
20 doubt that the Defendant had the power and intent to
21 control the disposition or use of the cocaine base. As I
22 stated, possession may be either actual or constructive.
23 Now Mr. Foreman and members of the jury, I'm required to
24 charge you the law as I have done through these
25 instructions. Now being given to help guide you to a just

1 and lawful verdict. Whether some of these instructions
2 will apply will depend on what you find to be the facts.
3 The fact that I have instructed you on the various
4 subjects on this case must not be taken as indicating an
5 opinion of this court as to what you should find to be
6 the facts or what your verdict should be. In conclusion,
7 you have been selected by State and the Defendant to be
8 fair and impartial jurors, it is your duty then in your
9 joint deliberations to determine the truth in this case,
10 giving the Defendant the benefit of every reasonable
11 doubt on the charge and from the facts which you
12 determine to be true you take and apply the law, which I
13 have just given you and thus arrive at a verdict which
14 speaks the truth in this case. I told you the standards
15 you to apply to the charge of possession with intent to
16 distribute cocaine base. I will give you a copy of these
17 instruction in written form; during your deliberations
18 you may refer to the instructions to guide your decision
19 making. You must consider the instructions as a whole and
20 not follow some and ignore others. You've heard the
21 evidence and now you have heard the law. Whatever your
22 verdict as to the charge Mr. Foreperson, you will
23 indicate it by writing on this verdict form right here.
24 The verdict form says we the jury, by unanimous consent
25 find as to the offense of possession with intent to

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1 distribute cocaine base and you have a block to check.
2 Either the Defendant is not guilty, the Defendant is
3 guilty of simple possession of cocaine base or the
4 Defendant is guilty of possession with intent to
5 distribute cocaine base and whichever one you find to be
6 the case, you check that box, sign and date the verdict
7 form. Now although the foreperson is the only person who
8 writes the verdict, it is not his alone. The verdict has
9 to be a unanimous verdict Mr. Foreman you are not
10 authorized to write the verdict until all of you have
11 agreed as to what the verdict should be. Now Ladies and
12 gentlemen I am going to send you to the jury room, all of
13 you except the last juror selected, but do not begin to
14 discuss the case until you have received a copy of this
15 jury charge, the verdict form and the exhibits. Once you
16 receive the jury charge,
17 the verdict form and any exhibits, that will be your
18 signal to begin your deliberations. Once you begin your
19 deliberations, you are to deliberate until you have
20 reached a verdict at which time you will knock on the
21 door, advise the Bailiff and we will bring you out to
22 receive your verdict. It's pushing lunch time; if you're
23 already hungry and want us to order some lunch just let
24 us know and we'll do that. If you'll all go to the jury
25 room, everyone except the thirteenth juror selected and

1 wait for instructions. And the last juror selected stays.
2 Alright Ms. Presley, we picked thirteen so that if
3 something happens to one, then the last person will
4 become the twelfth juror. Since all of them made it you
5 won't be able to participate in the jury deliberations.
6 What's, what's the message for the other jury? Are they
7 through?

8 Ms. Barr: Judge I think the message is to call back
9 after six.

10 The Court: Goodness. So you'll be able to call back
11 after six and find out if you need to come and be on
12 another case tomorrow or whether or not you're through
13 for the week. If you don't have to come back we certainly
14 thank you for your jury service. Have you decided whether
15 he's guilty or not guilty? Just say yes or no.

16 A: No, I haven't.

17 The Court: Okay, good. Alright, you have to
18 deliberate first right?

19 Ms. Barr: I think that's the right answer, Judge.

20 The Court: That's a perfect answer. Well any
21 additions or exceptions to the charge?

22 Ms. Barr: Not on behalf of the State Your Honor.

23 Mr. McKnight: Not on behalf of the defense.

24 The Court: Alright if y'all will pass the verdict
25 form and exhibits they can start deliberating..

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1 Court Reporter: Judge I've got twelve forty that
2 deliberations begin.

3 The Court: Twelve forty.

4 (Deliberations begin 12:40)

5 The Court: Alright Ms. Barr I understand we have a
6 verdict. We're trying to pinpoint where Mr. McKnight has
7 gone.

8 Ms. Barr: Judge, when we broke for deliberations he
9 mentioned that he was going to go across the street and
10 try to pick up something to eat right quick, so we called
11 him and texted him.

12 The Court: We also sent the Clerk to go get you all
13 something to eat right quick. When he had notice of a
14 verdict we stopped her in her tracks. Now we have to find
15 Mr. McKnight.

16 {Break}

17 The Court: Alright Mr. Foreman if you'll stand at
18 this time. Have you reached a verdict?

19 A: Yes sir, we have.

20 The Court: Is it unanimous?

21 A: Yes sir.

22 The Court: Alright I'll ask you to pass it up and
23 you can be seated. Madam Clerk you may publish the
24 verdict.

25 Clerk: In the State versus Lavern Anderson,

1 2012-GS-45-82 we the jury by unanimous consent find as to
2 the offense of possession with the intent to distribute
3 cocaine base the Defendant is guilty of possession with
4 intent to distribute cocaine base. Ladies and gentlemen
5 of the jury is this your verdict? Please let it be known
6 by raising your hand.

7 (Jurors comply)

8 The Court: Alright thank you very much. Any
9 additional polling of the jury Mr. McKnight?

10 Mr. McKnight: None from the defense.

11 The Court: Alright any post trial motions, Mr.
12 McKnight?

13 Mr. McKnight: Your Honor at this time we put in a
14 motion to set aside the verdict of the jury based upon
15 the testimony in the trial, we believe that the facts
16 should be a verdict other than the one we received today.

17 The Court: Alright I respectfully deny the motion.
18 That's a matter for the jury to determine. They listened
19 intently, deliberated and decided the case. It appears
20 this Defendant is guilty and had been found guilty by a
21 jury. Ladies and gentlemen when a person doesn't show up
22 for court I sentence him and issue a sealed sentence and
23 then he is picked up and locked up and then brought back
24 before me or who, whichever judge is presiding at the
25 time and the sealed sentence is opened and that's when

LAVERN ANDERSON VS. STATE OF SOUTH CAROLINA

142

1 he's, when he gets the sentence. I can tell you this
2 Defendant was here, what month is that we lifted his
3 bench warrant?

4 Ms. Barr: I believe it was in December Your Honor.

5 The Court: He was picked up on a bench warrant and
6 came here in December and gave me all kinds of reasons
7 why he didn't appear and let him out on a bench warrant
8 and he was going to be good and all that and as you can
9 see, he got out and then he disappeared so or has not
10 shown up for court. The Defendants doesn't control the
11 court system. They have the right to be present but when
12 they are not present, unless it's a capital offense they
13 can be tried in absence and that's what's taken place in
14 this case and so I will sentence him in a few minutes
15 after reviewing his criminal history. Ms. Barr.

16 Ms. Barr: Your Honor the Defendant currently has two
17 separate charges pending with the Solicitor's office. He
18 was arrested recently for distribution of crack cocaine.
19 He has a bench warrant for trafficking crack cocaine on
20 an unrelated. He was convicted in 2005 with failure to
21 stop for a blue light and siren. He was convicted later
22 in 2005 of possession of crack cocaine. He also at the
23 same time was convicted of drug paraphernalia. It looks
24 like he was placed on probation for a period of time and
25 I don't believe he successfully completed that probation.

1 He had a simple possession of marijuana charge in
2 Florence in 2008 and that's his record.

3 The Court: And this will pass as a second offense of
4 possession with intent to distribute cocaine base and the
5 penalty is five to thirty years isn't it?

6 Ms. Barr: Yes sir.

7 The Court: I'll decide his sentence and then seal it
8 and he'll be picked up at some point.

9 Ms. Barr: Yes sir.

10 The Court: We'll have Deborah Collins, we'll put out
11 a man hunt for him and get him in here and he'll face
12 justice.

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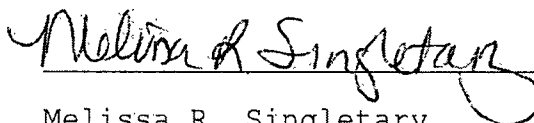
25

CERTIFICATE

This is to certify that the transcript in Lavern Anderson vs. The State of South Carolina, consisting of One Hundred and Forty-Three (143) is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this ^{30th}~~24th~~ day of December, 2013.



Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

State of South Carolina)
)
County of Williamsburg)
)

The State of South Carolina,
Plaintiffs

Sealed Sentence
2012-GS-45-00082

vs.

Lavern Anderson,
Defendant

March 3, 2013
Kingstree, S.C.

Before the Honorable Clifton Newman, Judge.

A-P-P-E-A-R-A-N-C-E-S

Ms. Kimberly Barr,
Assistant Solicitor for the State

Mr. Cesar McKnight,
Attorney for the Defendant

Margaret T. Sullivan
Court Reporter

1 MS. BARR: Lavern Anderson. Your Honor,
2 this is 2012-GS-45-82. It is the State versus
3 Ronnie Lavern Anderson. Your Honor, this was an
4 indictment for possession with intent to
5 distribute crack cocaine second or subsequent
6 offense.

7 Mr. Anderson is here with his attorney,
8 Mr. Cesar McKnight. Your Honor, a trial was held
9 on January 31st, 2013, a trial in absence. The
10 defendant was convicted. And, Your Honor, sealed
11 the sentence pending the time in which he was
12 picked up in connection with the bench warrant. I
13 believe he may have been picked up about 2 weeks
14 ago, and he has been in the Williamsburg County
15 detention center since that time.

16 And, Judge, of course, again he is here
17 with his lawyer, and they are prepared for
18 sentencing.

19 THE COURT: Madam Clerk, Ms. Staggars, I
20 will you the honors of unsealing and giving him
21 his sentence.

22 THE CLERK: Okay.

23 THE COURT: If you would read off the
24 sentence please.

25 THE CLERK: The State versus Ronnie Lavern

1 Anderson 2012-GS-45-82. The sentence is 7 years,
2 and the defendant is given credit for time served.

3 THE COURT: Thank you. Ms. Barr, anything
4 further?

5 MS. BARR: No, Your Honor.

6 THE COURT: Mr. McKnight.

7 MR. MCKNIGHT: Your Honor, just a motion
8 again to just set aside the verdict. We believe
9 that the finding of the jury does not support the
10 or the facts don't support the finding of the
11 jury.

12 THE COURT: Which offense was this he was
13 convicted of?

14 MS. BARR: Second.

15 MR. MCKNIGHT: Second offense, Your Honor.

16 THE COURT: He was facing 5 to 30?

17 MS. BARR: Yes, sir.

18 THE COURT: Mr. Anderson, is there
19 anything you would like to say?

20 THE DEFENDANT: And you say I sentenced to
21 7 years?

22 THE COURT: Yes.

23 THE DEFENDANT: Yes, sir. I would just
24 like to apologize for what I have done.

25 THE COURT: I deny the motion to set aside

1 the jury verdict. It was a good trial. It was a
2 highly contested trial. Mr. McKnight did the best
3 he can with one arm tied behind his back; not
4 having the benefit of Mr. Anderson showing up for
5 his trial after being notified that he should be
6 here, and should have been here and didn't come.

7 So the jury found him guilty. And you
8 were facing 30 years in prison, and I give you 7
9 years. It is a fair sentence under the
10 circumstances.

11 MR. MCKNIGHT: Thank you, Your Honor.

12 --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 General Sessions Court on
March 3, 2013, in Williamsburg County, Kingstree, South
Carolina.

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

5.30.13

DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 9/7/21

151

WITNESSES

Inv. Alex Edwards
Williamsburg County Sheriff's Office

ARREST WARRANT NUMBER

M-686683 M-686682

ACTION OF GRAND JURY

True Bill
M. D. J. Smith
Foreperson of Grand Jury
Date: 5/3/12

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-45-0082

The State of South Carolina

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

MAY TERM 2012

THE STATE

vs.

LEVERN ANDERSON

Indictment for

**Possession With Intent to Distribute
Cocaine Base (Crack)**

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

FILED
2012 MAY -3 AM 11:46
CAROLYN E. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

INDICTMENT FOR
**Possession With Intent to Distribute Cocaine
Base (Crack) and PWID Near School or Park**

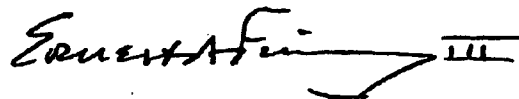
At a Court of General Sessions, convened on May 3, 2012 the Grand Jurors of
WILLIAMSBURG County present upon their oath:

**COUNT ONE - POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE BASE (CRACK)**

That the defendant, Levern Anderson, did in Williamsburg County on or about November 22, 2011, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense or deliver a quantity of Cocaine Base, a controlled substance under the provisions of Section 44-53-110, et seq., Code of Laws of South Carolina, 1976, as amended, such distribution not having been authorized by law, and being in violation of Section 44-53-375(B), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.

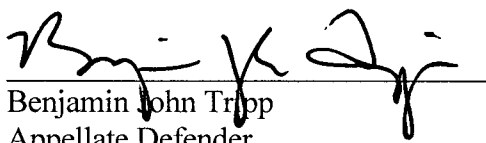
Solicitor



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

June 5, 2014


Benjamin John Tripp
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Williamsburg County

Clifton Newman, Circuit Court Judge

RECEIVED

JUN 05 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

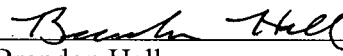
LAVERN ANDERSON,

APPELLANT

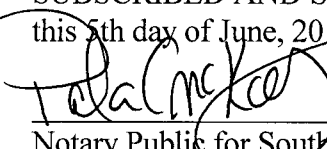
APPELLATE CASE NO. 2013-000561

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 5th day of June, 2014.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 5th day of June, 2014.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.