

10425

STATE OF SOUTH CAROLINA

ORIGINAL

In The Court of Appeals

APPEAL FROM PICKENS COUNTY

G Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V

ANTHONY GRACELY

APPELLANT

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

+

STATE OF SOUTH CAROLINA

ROBERT ANTHONY GRACELY,

DEFENDANT

2008-GS-47-0011

JUNE 28, 2010

TRANSCRIPT OF RECORD

BEFORE

THE HONORABLE G EDWARD WELMAKER, JUDGE

APPEARANCES

SUSAN PORTER, ESQUIRE
JOHN CROUT, ESQUIRE
ATTORNEYS FOR THE STATE

MICHAEL COULTER, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DANETTE P HANKS
CIRCUIT COURT REPORTER

1 care of today, plus getting things in order for this
2 case to start tomorrow, I have some schedules that we
3 have the first thing in the morning for some motions
4 that have to be heard and so forth So it won't be
5 until ten-thirty that we can start this trial tomorrow
6 As I said, we normally like to start at nine, but I'm
7 going to have to take care of those other matters first
8 thing before your presence are needed We'll be ready
9 to start at ten-thirty, hopefully promptly at that time
10 If you'll be in your jury room then, at ten-thirty
11 tomorrow morning, we'll be ready to begin the trial of
12 this case

13 If you'll go now with Mr Teal, he'll show you
14 where to report back tomorrow, where you need to be
15 operating from I look forward to seeing you tomorrow,
16 ladies and gentlemen

17 (WHEREUPON, the jury exited the open court at
18 approximately 11 30 a m)

19 THE COURT All right Mr Crout or Ms
20 Porter or Mr Coulter ---

21 MR COULTER Judge, before we break on this
22 case, I do have some discovery matters that we've
23 mentioned briefly at the bench, if this is the time
24 you'd like to hear that

25 THE COURT I'd be glad to hear from that Is

1 there any -- you haven't given him the things that he
2 needs?

3 MR CROUT Well, Your Honor, I believe he
4 wants the rap sheets for the individuals who will be
5 testifying There were no -- there's no polygraph
6 information And what else did you request?

7 MR COULTER Well, I'll be happy to tell you,
8 Judge, I sent them a something, a supplemental request
9 back in April when it was first coming up for trial, and
10 requested not only any polygraph results or any
11 polygraph, but any summary of any statements that we've
12 received, where they may have supplemented since the
13 original statements provided

14 And now that I've been given a list of the
15 potential witnesses, I'd point out Patrick Bridges, we
16 were not provided any type of a statement from him
17 Maybe none exists, I don't know But if there is one,
18 then I certainly think I'd be entitled to that As you
19 heard, this is a purely historical case and obviously
20 the credibility of witnesses is key So if there is a
21 statement from Mr Bridges, I'd certainly request that,
22 as well as his criminal history, which I still have not
23 received yet

24 Ernest Craft, I was given a statement, a summary
25 dated June 11, 2008 I don't know if there's any actual

1 written, signed statements or any supplemental
2 statements, but if there is, other than June 11, 2008,
3 I've got nothing else, nor his criminal history as
4 requested back in April

5 Rainer Koch, I do have a statement dated July 31st
6 -- a summary dated July 31st, 2008 If there are any
7 written, recorded statements, any supplemental ones,
8 then I'd certainly request that Again, I don't have a
9 criminal history for him, either

10 Frank Posey, I have a statement that is a summary
11 of a statement dated May 29th, 2008 I'm requesting
12 anything subsequent to that And I have not been given
13 a criminal history in that

14 Brian Stegall, I was provided with no statement or
15 no criminal history

16 And then Kim Taylor, I do have a statement dated
17 July 23rd, 2008 If there's anything else, then I'd
18 certainly request that, as well as the history

19 MR CROUT Your Honor, with regard to the rap
20 sheets, the criminal record, we can provide those to Mr
21 Coulter here momentarily We ran new ones and brought
22 them with us today for that purpose

23 With regard to any supplemental statements or
24 anything of that nature, I'm going to let Ms Porter
25 handle that part of the argument

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1 THE COURT Ms Porter, do you have any
2 supplemental reports?

3 MS PORTER No, Your Honor They've not been
4 debriefed by law enforcement Now, since they've
5 decided to cooperate, myself and Mr Crout spoke with
6 them about trial preparation, but I'm not aware of Rule
7 5, Brady, Gidley, or any case that requires me to turn
8 over trial preparation to Mr Coulter

9 THE COURT So her answer is that there has
10 not been any other statements given

11 MR COULTER If that's the answer, that's the
12 answer, that's fine

13 THE COURT And there's no polygraph reports?
14 And they're going to give you the rap sheets

15 MR CROUT Right Well, we'll give the rap
16 sheets, but no polygraph

17 THE COURT So they'll get those to you
18 pronto, I'm sure

19 MR COULTER Okay Thank you, Judge

20 THE COURT We'll be ready to start at ---

21 MS PORTER As soon as we can make copies of
22 them

23 THE COURT Yeah

24 MS PORTER Okay

25 THE COURT So you can hang around, and maybe

1 -- I don't know if they're going to make the copies here
2 or they can forward them to you ---

3 MR COULTER Well, I mean, yeah, I do want to
4 do a little bit of work on this So if they could email
5 them to me by this afternoon, that would be great I
6 mean, I'd ---

7 THE COURT Are they emailable?

8 MS PORTER No, sir I mean, technically,
9 he's not entitled to them until the witness takes the
10 stand And I'll be happy to make a copy for him, but
11 it's going to take us a little bit to do it

12 MR COULTER Judge, I'm at your disposal
13 I'll sit and wait around for them to do that

14 THE COURT Well, have you got someone, a
15 courier that come over, you know, early this afternoon
16 to pick them up?

17 MR COULTER No

18 THE COURT Okay

19 MR COULTER I'll just wait

20 THE COURT Or maybe Mr Eppes can -- he's
21 here Maybe he can take them back for you if they get
22 them ready pretty soon

23 MR EPPES Judge, if they get them ready and
24 Mr Coulter has to go, I'd be happy to deliver them to
25 his office

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1 THE COURT How long do you think it'll take
2 you to get them copied?

3 MS PORTER If we can borrow a copy machine,
4 probably ten or fifteen minutes

5 THE COURT The one downstairs will probably
6 do a lot faster work than the one up here

7 MS PORTER That's fine, Judge

8 THE COURT Okay They'll get them to you
9 We'll be ready to start at ten-thirty in the morning,
10 Mr Coulter

11 MS PORTER Your Honor?

12 THE COURT Yes, ma'am

13 MS PORTER May we request a bench warrant
14 for Anthony Gracely?

15 THE COURT Has Mr Coulter gone, yet?

16 MS PORTER No, sir

17 THE COURT I guess he ---

18 MS PORTER I think it would aid us in
19 apprehending him if we can get him in NCIC

20 THE COURT Mr Coulter?

21 MR COULTER Yes, sir

22 THE COURT They're talking about your client

--- -- 23 ~~and I just thought you might need to be a part of it~~ --- --

24 They're asking for a bench warrant

25 MS PORTER We're requesting a bench warrant

1 THE COURT So I just wanted you to be aware
2 that they'd asked for that

3 MR COULTER Okay

4 THE COURT I mean, I'll -- based upon the
5 conversations that we've had with you, it might be in
6 order to issue it and see what we can do in the next
7 twenty-four hours

8 MR COULTER I understand

9 THE COURT Well, we're down to twenty-two
10 hours now or twenty-three

11 MR COULTER Right I'm trying to do my best
12 here, too

13 THE COURT I know you are

14 MR COULTER Yeah

15 THE COURT I know you are

16 MR COULTER Thank you

17 THE COURT All right I'll be glad to issue
18 one

19 MS PORTER Thank you

20 (WHEREUPON, the court stood at recess for the day)

21 JUNE 29, 2010

22 (WHEREUPON, court convened with all parties present
23 and the following proceedings were had)

24 THE COURT All right This is on the Gracely

25 case now Mr Coulter, I understand you have some

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1 motions and the State has some motions as well I'll be
2 glad to hear from you

3 MR COULTER Yes, sir The first motion that
4 the defense would make is to move for a continuance As
5 you know, I've been attempting to contact my client to
6 no avail I have been called to Court on this matter, I
7 would say somewhere in the neighborhood of five to six
8 times Every single time that we've been called to
9 Court my client has presented I have talked to my
10 client about this and he is -- I received notice I did
11 tell him about this But, again, he's not here I've
12 attempted to do what I could last night to find him and
13 I haven't been able to find him

14 If Your Honor is unwilling to allow for a
15 continuance, we have issued a bench warrant for him, or
16 the Court has, as I understand, and we can go through
17 this trial in absence, of course, as we've already
18 picked a jury But it would seem to me, potentially, a
19 more prudent use of time is -- he's going to be found,
20 I'm confident of that He always has been and the case
21 can be resolved And, again, if it was a past history
22 of conduct where he just didn't appear every time I'd
23 ask him to appear, other than this morning, you know, it
24 would be a different story And he hasn't been gone for
25 but, what I understand, a day He's actually talked to

1 people on Sunday And I think -- I understand what his
2 fine says I understand the circumstances of the Court
3 But, again, I think the fact that he is not here is
4 arguably a violation of his due process rights and is
5 overly prejudicial And I honestly do not believe that
6 -- and it's just simply my opinion, but I think the use
7 of the Court time for this probably could be better
8 spent once we find him and see if a resolution couldn't
9 be made So that's my first motion in regards to the
10 continuance

11 THE COURT All right What's the State's
12 position on the continuance, Ms Porter?

13 MS PORTER Your Honor, we would object We
14 have already spent a tremendous amount of money to
15 transport witnesses from SCDC, federal custody, here to
16 testify against Mr Gracely

17 In addition, this is the trial This is it
18 Everyone else has been resolved or has absconded and
19 we're looking for them So if you continue this today,
20 then we'll have to come back at another day, another
21 time if we find him, for a trial Because this is it
22 This wraps up the case, effectively, except for two
23 sentences in probably August

24 In addition, I think we -- the clerk, the State
25 Grand Jury Clerk of Court sent notice on June 3rd, 2010,

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1 not only to Mr Coulter, but to the bondsman as well as
2 the Defendant's last known address So he clearly had
3 notice This is the first time we've called him for
4 trial The other appearances were for other matters but
5 not the resolution of his case The fact that he hasn't
6 shown up for the resolution of his case, I think, is
7 indicative of his intent not to come And he clearly
8 signed a bond sheet Directly above his signature is
9 the language that if he fails to appear, a trial will
10 continue in his absence

11 THE COURT Yes, sir, Mr Coulter

12 MR COULTER I just want to say one thing in
13 follow-up to that This isn't the first time this case
14 has been actually noticed for trial I was given notice
15 of this back in, I want to say, April At that time, he
16 was in custody up in North Carolina I know
17 logistically it was difficulty, but he was available and
18 ready to be down here As a matter of fact, I talked to
19 him through his wife while he was there, willing to come
20 down and do what needed to be done So it's not the
21 first time It is the second time, in fact

22 MS PORTER But the first time he was in
23 custody He couldn't run, Your Honor

24 THE COURT Well, ---

25 MR COULTER But he was available

1 THE COURT Mr Clerk, the notice was properly
2 sent?

3 MR PARKS Yes, Your Honor

4 THE COURT I don't know if the State wishes to
5 make that -- we might need to make that a Court Exhibit,
6 that the notice was sent and a copy of the bond paper
7 would probably be good to make a part of the Court
8 record as well, to show that the was notified both ways

9 There's no question that he knew this I
10 understand from talking with the attorneys that even
11 last week he was aware of this court date Isn't that
12 correct, that he knew today he was supposed to be here?

13 MR COULTER Well, as an officer of the
14 Court, I think that I would tell the Court that that is,
15 in fact, the case

16 THE COURT Right

17 MR COULTER I did talk to him That's true

18 THE COURT At least for the record, I think
19 those would be good to make Court Exhibits If you
20 could get me copies of those I reviewed them earlier,
21 but I think that would be good to show the notification
22 as well

23 (WHEREUPON, Court Exhibit Numbers 1 and 2 were
24 marked for identification)

25 THE COURT Mr Coulter, do you have other

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1 motions?

2 MR COULTER Yes, sir

3 THE COURT That motion is denied

4 MR COULTER Yes, sir One of them was to
5 move for some plea agreements that were involved in
6 this I believe I've been given those so I'll skip
7 through that

8 The next motion I have, though, Judge is a request
9 for potentially exculpatory information And in
10 particular I'm looking for various things that I think
11 that arguably would be exculpatory This has obviously
12 been an on-going investigation for at least two years
13 now My client's name has been around and about now for
14 two years now, and I haven't been provided with any --
15 and this may be because it doesn't exist, but I need to
16 know whether or not that there is any type of
17 surveillance that was ever attempted on my client I
18 think if there was surveillance, that I'd be entitled to
19 see it If none was attempted, then I think I need to
20 know that Whether or not there's been any attempted
21 some sort of videoing of my client at any time Whether
22 or not that there was any attempts by SLED operatives,
23 which they've used throughout this investigation, to
24 make any type of purchases from my client And if they
25 did and they failed, then I think I'd be certainly

1 entitled to see that Any attempts to actually sell to
2 my client If they did, and they failed, then I think
3 I'd be entitled to see that as well

4 So as far as exculpatory information, I would
5 request those If they don't exist, fine

6 MS PORTER They do not exist

7 THE COURT The State has no such evidence

8 MR COULTER Fine

9 THE COURT All right, sir

10 MR COULTER And the only last thing I have,
11 Judge, is in regards to instruction that the Court may
12 give to the jury I would ask the Court possibly to
13 consider in talking with the jury at the beginning of
14 the case, if you -- and I know you will certainly at
15 some point, but I would ask that you admonish the jury
16 as we begin that the fact that my client is not here is
17 not something that should be used against him

18 THE COURT I'll certainly do that, Mr
19 Coulter In fact, I thought about it yesterday, but
20 then I didn't want them in any way to be prejudiced if
21 he did show up today In fact, I'm going to call them
22 back with that now to make sure that if anybody feels
23 like that because a person is not here, that he would
24 automatically be guilty We've got another panel
25 available and I want to make sure these jurors

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1 understand that, that a person has a right to not be
2 present at a trial And that if any of them has any
3 reservations -- in fact, I need to call downstairs to
4 the jury -- the full panel is coming back at eleven-
5 thirty And if this panel is in anyway disqualified,
6 we'll start the case at one-thirty this afternoon But
7 I'll certainly grant that

8 MR COULTER Thank you

9 THE COURT Anything else?

10 MR COULTER That's all I have

11 THE COURT How about the State?

12 MS PORTER Yes, Your Honor In doing trial
13 preparation last night, and speaking to some co-
14 defendants, three more names popped up who are all
15 cooperating with the State We'd like an opportunity to
16 add them to the witness list I know this is an unusual
17 request I've looked at the criminal rules of
18 procedure, and there's no rule that addresses it The
19 only case I'm aware of regarding witness lists is *State*
20 *v Holloway*, but it doesn't address this either I'm
21 sorry Excuse me *State v Powers*, 331 SC 37 It's
22 from 1998 It doesn't address this issue, either
23 I've not extensively researched this, but due to
24 the fact that the jury has not been sworn, we would ask
25 the Court to allow us to call three individuals, co-

1 conspirators, Stacy Anderson, Joel Hall, and Lance
2 Holloway Their plea agreements and rap sheets have
3 been provided to the Defendant

4 In addition, you know, Anthony Gracely was charged
5 in Count Two, trafficking methamphetamine by conspiracy
6 All of these individuals were listed as co-conspirators
7 in the indictment So Mr Coulter has had their names
8 and knowledge of their involvement in this particular
9 conspiracy from the beginning, so we don't believe it's
10 a surprise that they would -- that they could

11 potentially be called We would just like to add them
12 to the witness list We'd be happy to ask the jury if
13 they know on the -- deal with that if they do

14 THE COURT Well, certainly -- I would
15 certainly do that

16 MS PORTER Yes, sir

17 THE COURT But any objections to these
18 additional witnesses, Mr Coulter?

19 MR COULTER Absolutely, Judge

20 THE COURT And what's your objection?

21 MR COULTER Well, my objection is, in one
22 sense they said that they had given the Defendant rap
23 sheets, that I've been asking for since April on this
24 case, by the way Which I think I should have gotten
25 before I just got them about ten minutes ago, fifteen

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1 minutes ago I'm still trying to go through them right
2 now

3 THE COURT Uh-huh (affirmative)

4 MR COULTER And so I have a problem with
5 them coming up -- I understand that they were part of a
6 conspiracy They've been listed as a conspiracy since
7 2008 And how, all of a sudden, they find out after, at
8 night that while these people may have some information
9 against Anthony Gracely, although we've already
10 presented to the Court a list of witnesses, plus
11 provided to me, at your direction, a list of these
12 criminal histories yesterday afternoon so that I could
13 prepare for the case today, and now they come up with
14 more over the night seems -- it's shocking to me that
15 that's something that they don't know and yet come in
16 this morning and claim they did They had my cell phone
17 number They had my office number I heard nothing
18 from them about any of this until this morning when I
19 came in at ten o'clock

20 And so I do have a problem with it I have an
21 objection with it I think, again, it's prejudicial I
22 understand they were a part of the conspiracy
23 indictment, but I have an obligation to my client to be
24 fully prepared and I believe that the jury's been
25 empaneled I know they haven't been sworn, but I think

1 that this is just a prejudicial aspect of the case and
2 prejudicial request by the State to proceed with
3 additional witnesses at this time

4 THE COURT How much time would you need to
5 review the rap sheets on these three additional
6 witnesses?

7 MR COULTER Probably -- I don't know, Judge
8 Not long Okay?

9 THE COURT Okay Are those going to be some
10 of the first witnesses called or ---

11 MS PORTER I'll be happy to put them at the
12 end, Your Honor But, again, I'm not aware of any rule
13 that requires the State to provide them with rap sheets
14 or plea agreements until the time the witness takes the
15 stand

16 THE COURT Well, ---

17 MS PORTER So I think we have more than
18 complied with our duty And I somewhat resent the tone
19 of Mr Coulter's comments there

20 THE COURT Okay And I understand That's a
21 longstanding rule, been in existence a long time, but
22 for purposes of -- you're going to give them to him
23 anyhow

24 MS PORTER Yeah, and we gave a majority of
25 them to him yesterday

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1 THE COURT Well, let's think this through
2 If you wait until they get to the stand, you give them
3 those copies, he says, I need some time to review that
4 So we're going to send the jury out We're going to
5 take a forty-five minute break each time the witness
6 comes up So you're right technically that you've
7 complied with the rule But there's no reason not to
8 give him that information early and you've done that, so
9 ---

10 MS PORTER Right Which is why we did The
11 tone is what ---

12 THE COURT Well, I understand the rule and I
13 understand how things need to work, but we'll take
14 whatever time we need for him to review that So we
15 will What I want to do now is bring the jury in and
16 voir dire them on the additional witnesses I'll
17 certainly give you enough time to review the information
18 you need on Stacy Anderson, Joel Hall and Lance
19 Holloway, Mr Coulter I'll find out if any of the
20 jurors know any of those I'll ask them about if they
21 have any prejudice towards an absent Defendant If any
22 of them do and there's more than one that does, and we
23 lose our jury, then I'll notify the clerk to have the
24 other jurors when they come in, we'll select another
25 jury at one o'clock or so, whenever we get them all

(1 here Barring that, then we'll be ready to swear the
2 jury and proceed with the case

3 What I might do -- I don't know how y'all are on a
4 break I need to talk to the jury soon because the
5 message is going to be coming on Would y'all mind
6 making your opening statements and then take a break
7 before the first witness is called? Or would y'all want
8 a break -- I can bring the jury out and then we can have
9 another break before we even start

10 MR COULTER That's fine with the Defense

11 THE COURT Would that be all right? Make
12 your opening statements and then we'll let you get your
13 witnesses lined up

(14 MS PORTER Sure

15 THE COURT Okay Have our jury come in, Mr
16 Teal

17 (WHEREUPON, the jury entered the open court at
18 approximately 10 47 a m)

19 THE COURT Good morning, ladies and
20 gentlemen Thank you for your patience with us We're
21 ready to begin the trial of the case I need to ask you
22 a few other questions before we actually start

23 I listed a number of witnesses who may be called
24 upon to testify in this case yesterday to make sure
25 that you didn't know any of them I have left some

1 names off that I need to verify If any of you
2 recognize these names when I call them, would you please
3 just lift your hand The additional witnesses that may
4 be called upon to testify would be a gentleman named
5 Stacy Anderson, Joel Hall, Lance Holloway Is there any
6 member of the panel who has a relationship, related by
7 blood or marriage or has a close business, social or a
8 personal relationship with any of these potential
9 witnesses If so, would you please raise your hand?

10 (No response)

11 THE COURT Let the record reflect that
12 there's no response

13 Ladies and gentlemen, the Defendant in this case is
14 Mr Anthony Gracely, and the law of South Carolina says
15 that an individual can be tried in his absence Mr
16 Gracely is not present right now in the trial, but even
17 though he doesn't attend, he can choose not to be
18 present for a trial It's not required that he be here
19 And the fact that he's not here certainly cannot be
20 considered as any admission of guilt Is there any
21 member of the jury panel that would have a feeling that
22 because an individual is not here that that would
23 automatically mean that he's guilty of something If
24 you have that feeling, would you please raise your hand?

25 (No response)

1 THE COURT Thank you Again, there's no
2 response Thank you very much, ladies and gentlemen
3 We're now ready to proceed with the trial of the case

4 At this time, I'm going to ask Mr Parks, if he
5 would, to administer an oath to you, after which we'll
6 then have the opening statements of the attorneys

7 MR PARKS Ladies and gentlemen of the jury,
8 please stand and be sworn in Raise your right hand
9 And at the end, please respond by I will You shall
10 well and truly try and a true deliverance make between
11 the State of South Carolina and the Defendant at bar,
12 and you shall a true verdict give according to the law
13 and the evidence, so help you God?

14 (WHEREUPON, they jury was duly sworn)

15 THE COURT Ladies and gentlemen, let me just
16 make a few preliminary remarks to you I touched on
17 some of this yesterday, but we're going to be proceeding
18 with the trial now and, obviously, cases take place in
19 stages In a few moments, the attorneys are going to
20 make an opening statement to you What the lawyers say
21 to you is not evidence The evidence will come from
22 sworn testimony, from any tangible evidence or documents
23 that are presented I still urge you to listen
24 carefully as these attorneys address you They can
25 certainly give you some valuable insights, I'm

1 confident, of what you need to be alerted to as the case
2 takes place

3 After their opening statements, then the witnesses
4 will be called and there'll be questions asked and
5 questions of both attorneys There might be some other
6 evidence presented

7 We each have different duties You're going to be
8 judges of the facts As I've told you yesterday, you're
9 going to be judges in this case I wear the black robe
10 I'm referred to as the Judge, but you're ever bit as
11 much a judge as I am because you're going to be judging
12 the facts, determining what the facts are You may have
13 some apprehension about that title I've just placed upon
14 you of being a judge, and think to yourself, well, I've
15 never had any experience doing this I've never been a
16 juror I've never been in the courthouse, never been in
17 a courtroom for sure I've never had any legal ed
18 courses through school or online How can I be a
19 judge?

20 Let me assure you, ladies and gentlemen, you bring
21 into this courtroom every skill you need to be a judge
22 of the facts because you bring into this courtroom the
23 good common sense with you with which you've been
24 blessed The everyday experiences that you enjoy in the
25 workplace, in the home, and social activities, whatever

1 you may do So you are well qualified, I assure you, to
2 be judges of the facts in this case

3 Part of my job, of course, is to rule on the
4 admissibility of evidence that takes place during the
5 course of the trial and sometimes objections are made
6 The lawyers have been trained to, under the law, the
7 rules of evidence, the rules of procedure and sometimes
8 trials take place without any objections, but sometimes
9 there are objections made My job is to rule on those
10 objections to determine whether they should be sustained
11 or overruled Often, I can do that pretty easily here
12 from the bench and just say those words and we move on
13 to the next question Sometimes, and you might have
14 already seen where I'll confer with the attorneys and
15 we'll whisper up here at the bench and resolve a legal
16 matter Sometimes it occurs that a lawyer makes an
17 objection or there's a time in the trial for which I
18 need to rule upon a legal matter Sometimes that
19 requires you to go back to your jury room while I
20 resolve that legal matter It might be hearing
21 testimony that wouldn't even be properly presented
22 before you It might be studying law books or hearing
23 arguments from the lawyers about that

24 I want to make the very best decision I possibly
25 can as the Judge of the law I want to make sure that I

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1 hear everything I need to and study everything I need
2 to And sometimes that would not involve you for me to
3 make that decision

4 It's very similar to the decision you'll be making
5 when all the evidence is in, and I've instructed you on
6 the law, the closing statements have been made and
7 you're back in jury room deliberating and deciding what
8 the facts are I won't be back there with you, even
9 though I'm a judge like you are, because that's your
10 prerogative to determine what the facts are, not mine

11 The law requires you to make that decision and prevents
12 me from making decisions about the facts So I hope you
13 understand if there are occasions when you have to be
14 removed from the courtroom, it's the fact that we have
15 legal matters and periodically in a trial those come up

16 After all the evidence is in, then I will instruct
17 you on the law and the attorneys will again have a
18 chance to address you in closing And then the case
19 will be yours to decide I told you yesterday, it's
20 improper for you to start that deliberation process or
21 deciding the case any time until all of the evidence is
22 in and until I've instructed you on the law That you
23 refrain from talking with anyone about the case

24 We have a relatively small courthouse, and as you
25 come and go at lunch and otherwise, you may see the

1 attorneys around on an elevator or in the hallway coming
2 and going or at a restaurant If they seem a little
3 distant to you and unfriendly, you shouldn't hold that
4 against them They have been trained to avoid any
5 appearance of any impropriety and if they see a juror
6 coming along or at a table next to them in a restaurant,
7 they might seem like they're not being very friendly
8 toward you, but that's the way they should act and the
9 way that they've been trained to act So you certainly
10 shouldn't hold that against them because they high hat
11 you or don't seem to be as friendly as you think they
12 ought to be That's their training I hope you
13 understand that

14 You've made a commitment to the State of South
15 Carolina and to Mr Gracely to be fair and impartial, to
16 make a decision on the law and the evidence and that
17 alone And I'm honored to have an opportunity to be
18 working with you, ladies and gentlemen, and that's a
19 high honor indeed that you have It makes me proud that
20 you've accepted this responsibility You've made a
21 commitment to both sides to be fair and impartial

22 At this time, I'll ask the attorneys if they have
23 any objections to the preliminary remarks Anything
24 from the State?

25 MR CROUT Nothing from the State, Your

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Opening Statement of Mr Crout

1 Honor

2 MR COULTER Nothing from the Defense

3 THE COURT All right You may make your

4 opening statement Mr Crout

5 **OPENING STATEMENT**

6 **BY MR CROUT**

7 Ladies and gentlemen, good morning Thank you for
8 being here I want to give you a little bit of
9 information about the case that you're going to be
10 sitting on today I'm going to talk to you a little bit
11 about some of the things that I want you to be aware of,
12 be looking out for And then I'm going to talk to you a
13 little bit about -- before that, a little bit about what
14 type of case this is

15 This is a conspiracy case And what that basically
16 means is that it involved a group of individuals, not
17 just one individual, not just one incident, not
18 something that occurs at one time or at one moment in
19 time It involves a series of activities between
20 individuals working together, some of who know each
21 other, some of who don't know each other, but all of
22 whom are important as far as making the conspiracy
23 itself function, for lack of a better term

24 Now, a conspiracy in the context that we're
25 discussing, it involves a group of people coming

1 together to do something illegal, do an illegal act, and
2 in this case it's a drug conspiracy Now, if the act is
3 legal, if somebody comes together and does a legal act,
4 that's just production, that's just synergy That's
5 just individuals doing things in a group to make things
6 work For example, if you get your automobile and you
7 get in in the morning and you look at it and you see it
8 has all of these components and parts And it's made up
9 of a bunch of different pieces of metal and materials,
10 it's got tires things like that on it One person
11 didn't put all of that together It took a lot of
12 people acting in concert with one another to put your
13 final product together, put that automobile together to
14 a point where you could operate it, drive it around, it
15 be your car and make it function

16 Now, it's not illegal to build a car Nothing
17 wrong with that, nothing working together to build an
18 automobile But if what is being done is an illegal,
19 then that involves the conspiracy And that's why this
20 case involves a drug conspiracy It is a group of
21 individuals coming together, some of whom know each
22 other, some of whom don't, working in a way that
23 produces or that promotes the distribution of
24 methamphetamine

25 This case is code named by the South Carolina Law

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1 Enforcement Division Vanilla Ice You may hear that
2 term, Vanilla Ice That's just the case code name
3 That code name is used to designate the case and for
4 individuals who are working on the case to basically
5 make it easier access What case are we working? What
6 file is this on? Vanilla Ice file So if you hear that
7 term sometime during the course of this investigation,
8 they're just talking about the name of the case And
9 the case agent may refer to it as that at some time I
10 just want you to be aware of that

11 In this particular instance, Mr Anthony Gracely
12 is charged with being a part of this conspiracy Mr
13 Gracely is charged, along with other individuals whom
14 you will hear about, some of whom will be testifying for
15 being part of the conspiracy of trafficking more than
16 four hundred grams of methamphetamine Not all of the
17 individuals in the conspiracy did the same thing Not
18 all of the individuals in the conspiracy had the same
19 amount of contact with law enforcement Not all of the
20 evidence of the individuals in the conspiracy is the
21 same

22 This particular case is what is referred to as a
23 historical conspiracy What that means is that the
24 evidence that's going to be presented to you about Mr
25 Gracely as a participant in the conspiracy, is going to

1 come from the witness stand It's going to come from
2 individuals who testified to you about their knowledge
3 of Mr Gracely, about their involvement with Mr
4 Gracely, about the things they may have seen Mr Gracely
5 do or the things they may have heard Mr Gracely say
6 There will not be a lot of forensic evidence in this
7 case For example, while there were drug purchases that
8 were made, while there were search warrants that were
9 conducted, while there were drugs that were seized
10 incident to arrest, although all of those things did
11 occur, the evidence in this case against Mr Gracely
12 involves, as I indicated to you, just testimony about
13 that Some of the other individuals who testify may
14 have had direct contact with law enforcement They may
15 have made sales of methamphetamine to law enforcement or
16 purchased methamphetamine They may have been arrested
17 by law enforcement and methamphetamine was recovered
18 Nonetheless, nonetheless, the mere fact that the
19 testimony about Mr Gracely or the evidence against Mr
20 Gracely is testimonial does not take away in any
21 instance, in any effect whatsoever from his
22 participation in the conspiracy
23 There's another thing that I would like to talk to
24 y'all about and I'm going to use a piece of
25 demonstrative evidence because I think it will be very

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1 helpful for you all in listening to the evidence and
2 making the final determination of what the evidence
3 shows This is a weight conversion chart Now, I'll
4 walk slowly in front of y'all so y'all can see it
5 During the course of the testimony, you may hear
6 individuals talk about buying an ounce, an eighth of an
7 ounce, an eight ball, or a pound Keep in mind that Mr
8 Gracely is charged with trafficking in methamphetamine
9 greater than four hundred grams So as you listen to
10 the testimony, remember these amounts as far as the
11 grams are concerned Because that will be a very
12 important part of you making your decision in this
13 particular case This piece of demonstrative evidence
14 will, I believe, be available to you if you request it
15 in order to make any kind of clarifications with respect
16 to your calculations based upon the testimony But I
17 just want you to be cognizant of the terms an ounce, an
18 eighth, eight ball, pound, and you may also hear about a
19 quarter ounce But just keep in mind what the
20 equivalent rates are on the metric table Because the
21 methamphetamine is generally divided up and sold amongst
22 individuals in metric quantities
23 Another thing that I want you to be aware of when
24 you listen to the testimony that comes from this witness
25 stand, the individuals who are involved in this

1 conspiracy, some of whom have pled guilty, some of whom
2 may have been convicted, are also methamphetamine
3 users Many of them have the effects, as you may see
4 on their faces and from the way they testify, from
5 their physical presence, of long-term methamphetamine
6 use It is simply, anti-climatic almost that these
7 would be the type of people that would be testifying
8 These are the type of people who would be in the
9 conspiracy It would be nice, for example, if you could
10 have someone's high school teacher, their minister,
11 maybe their doctor to come, but when they're involved in
12 a methamphetamine conspiracy, they probably don't
13 involve those individuals They involve other
14 individuals that perhaps have the same characteristics,
15 same qualities, same type of lifestyle and it has the
16 same effects and the same results on them Do not let
17 that, I would ask you, take away from any of the
18 information that they provide These individuals would
19 be the ones that would have the information These
20 types of individuals would be the ones that would know
21 what was going on, and that's why we're calling them to
22 testify before you today

23 I would ask that you give the State your full
24 attention, that you listen to the evidence that's
25 presented, weigh it fairly I would also ask that you

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Opening Statement of Mr Coulter

1 give the Defendant your full attention Listen to the
2 evidence that's presented and weigh it fairly in this
3 particular case

4 Ladies and Gentlemen, my name is John Crout I'm
5 an Assistant Attorney General here in the State of South
6 Carolina Prosecuting the case with me is Ms Susan
7 Porter She is the Chief of Prosecution for the South
8 Carolina Attorney General's Office Thank you for your
9 time and attention We look forward to presenting this
10 case to you

11 THE COURT Mr Coulter

12 MR COULTER May it please the Court

13 **OPENING STATEMENT**

14 **BY MR COULTER**

15 Ladies and gentlemen of the jury, good morning
16 Again, my name's Mike Coulter and I'm privileged to
17 represent Anthony Gracely in this case

18 And people will ask me, you know, when you try a
19 case, what's the most difficult part of the case And
20 in many respects, this is the most difficult part of the
21 case Because what you've just heard from the
22 government is what a bad person Anthony Gracely is
23 He's told you about all of these people, these users of
24 Meth who are going to come up here and testify and say,
25 oh, Anthony Gracely is bad because he's done all of

1 these things about Meth And my job right now is so
2 hard because I've got to ask you to step back for a
3 second I need you to step back and recognize what the
4 Judge had told y'all, I believe, yesterday And that
5 is, at this point in time in the trial, Anthony Gracely
6 is presumed innocent He is That's not just a nice
7 saying to throw out there, presumed innocent It is an
8 aspect of the law that is critical to people in our
9 country Until they come up here and present evidence
10 from this stand that he did all of those horrible things
11 he did, beyond a reasonable doubt, which we'll talk
12 about later, he is presumed innocent And that's one of
13 the aspects of the law as a fact finder that you've got
14 to find, okay? So keep that in mind

15 Now, what is Anthony charged with? Well, this is a
16 well worn copy of the indictment here, and there's some
17 forty-six counts against people in this Vanilla Ice case
18 that you've heard about, okay? And Anthony Gracely is
19 listed once in count two, claiming that the had
20 conspired with sixteen other people It's what it is
21 And then it goes on to have another forty-one counts,
22 forty-five counts, against a bunch of other people
23 It's a conspiracy charge, that he somehow conspired with
24 people to do something illegal in betterment of each of
25 them or all of them together That's what the charge

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1 is

2 Now, I think I heard the prosecutor say that there
3 won't be a whole lot of forensic evidence shown from the
4 stand I don't think you're going to see any forensic
5 evidence You're not going to see any drugs come in
6 here allegedly sold by Anthony Gracely You're not
7 going to see or hear an audio tape where he made a deal
8 You're not going to get a video tape where he makes some
9 sort of sale You're not going to get any of that,
10 because this is what they call a historical case

11 Historical case, that sounds pretty good, doesn't it? A
12 historical case It sounds professional, sounds good

13 What is a historical case? Well, what they do is
14 they get the people involved that they've caught in a
15 Vanilla Ice case, people selling on video or audio,
16 people who are selling to undercover agents, people who
17 are giving confessions and they're facing dozens and
18 dozens and dozens of years And what do they say, hey,
19 if you want to save your skin, you come up here and
20 testify against some people So what do they do? They
21 say, well, I'm a user Why don't I pick out some other
22 users and get them, point the finger at them, to save my
23 skin? You're going to see people, again, dozens and
24 dozens of dozens of years they're facing who'll come up
25 here and say, yeah, Anthony Gracely, yeah, oh, yeah, we

(1 did a whole bunch of dealing And then you're going to
2 hear the deal they cut The deal they cut to save their
3 skin to try to point out that somebody else is worse
4 than them You'll see what the State puts up here and
5 you see if that kind of case appeals to you, whether it
6 really appeals to you Is this what we want? I can
7 tell you -- I prosecuted for years I want Meth off the
8 street like everybody else Horrible, horrible drug,
9 okay? But there's a way to do that and they did it with
10 some people But Anthony Gracely, you're not going to
11 see any of that You're not going to see that evidence
12 You're going to hear from people who are facing time,
(13 and time and time Oh, yeah, he's the one who did it
14 That's the case that they're building on That's
15 the foundation of their case The only evidence you're
16 going to see, the only evidence And when you build a
17 house, you want it in a nice firm foundation, not
18 something like you're going to see
19 So, again, they have the burden of proof They've
20 got to prove to you the evidence they present right
21 here, not what he says They've got to prove to you
22 from right here, beyond a reasonable doubt that he did
23 this thing, this conspiracy That's why they get to sit

24 so close to you You remember last time, they were
(25 sitting over here Now they've moved over here

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1 There's a reason because they have the burden of proof
2 They got to go first because they have the burden of
3 proof, try to make that first impression on you to make
4 you think immediately out of the box how bad this person
5 is

6 Step back, look at what they've got, I know you
7 will Analyze what they have Is that something that
8 appeals to you, the evidence they present Consider
9 that Because I will tell you and submit to you Anthony
10 was a user, but he wasn't a trafficker Thank you

11 MR CROUT Your Honor, I don't believe we
12 need a break

13 THE COURT Okay Call your first witness

14 MR CROUT All right Your Honor, at this
15 time the State would call Special Agent Constance
16 Sonnefeld of the South Carolina law enforcement
17 division

18 MR PARKS Please step forward to be sworn
19 in Place your left hand on the bible and raise your
20 right hand Do you solemnly swear to tell the truth,
21 the whole truth and nothing but the truth, so help you
22 God?

23 MS SONNEFELD Yes, sir

24 MR PARKS Please be seated and after you're
25 seated, please state your name for the record

1 MS SONNEFELD My name is Constance

2 Sonnefeld, but everybody calls me Connie

3 CONSTANCE SONNEFELD,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

5 DIRECT EXAMINATION

6 BY MR CROUT

7 Q Agent Sonnefeld, where are you employed?

8 A I work for the South Carolina State Law Enforcement

9 Division, also known as SLED

10 Q How long have you been in that position?

11 A Nine and a half years

12 Q And what is your job title?

13 A I'm called a Special Agent

14 Q As far as being a Special Agent, what are your
15 duties as a Special Agent? Do you have any experience
16 in conducting State Grand Jury Investigation?

17 A Yes, sir, I do

18 Q How many State Grand Jury cases have you been
19 involved in?

20 A Fifteen Twelve, fifteen

21 Q And does this -- excuse me Basically how, when we
22 talk about a State Grand Jury case, explain to the jury
23 a little bit how a State Grand Jury case is conducted?

24 A A State Grand Jury case is conducted basically like
25 any other narcotics investigation, any other drug

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1 investigation We attempt to make undercover controlled
2 buys We attempt to do surveillance, execute search
3 warrants, approach people, interview It's basically
4 just like any other narcotics investigation, but a lot
5 of times a Grand Jury case involves a conspiracy or a
6 historical case where the events take place over a
7 period of time

8 Q And does this particular Grand Jury case have a
9 name?

10 A Yes, sir It's Vanilla Ice

11 Q What is the purpose of giving a State Grand Jury
12 case a name?

13 A Usually, there are multiple Grand Jury cases that
14 are going on at one time, and it just makes it easier to
15 be able to differentiate between one case and another

16 Q Now, digressing a little bit to some of the
17 information that you've provided, would you basically
18 kind of described for the jury what you're referencing
19 when you say a controlled buy?

20 A A controlled buy is something that we in law
21 enforcement, a term that we buy drugs under When we
22 try to control buying the drugs, usually we'll use a
23 confidential informant, a person that's cooperating in
24 our investigation That person will meet with us and
25 we'll kind of discuss the plans or what we can do They

1 may tell us who they can buy some drugs from And that
2 person will be searched If they drive a car, then that
3 car will be searched They're fitted with audio
4 equipment and/or video equipment if we can, if it's a
5 possibility They are provided with documented funds,
6 so you write down serial numbers so that when they leave
7 us we know what money they took with them They will
8 make undercover phone calls sometimes We attempt to
9 record those if we can get the conversation That
10 person will go and meet with the individual they're
11 going to buy drugs from or attempt to buy drugs from
12 They'll be surveilled or watched as they go meet this
13 person After they meet with that person and receive
14 drugs, then they'll come back and meet with us Again,
15 they're surveilled Once they come back and meet with
16 us, they'll turn over that evidence, the drugs, any
17 money that might be left over And then themselves as
18 well as their car will be searched again and we'll
19 retrieve the equipment

20 Q With regard to -- I believe you also used the term
21 approaches or interviews Explain that process

22 A An approach or interview is just when we go and
23 talk to someone We ask them if they want to cooperate
24 in our investigation And throughout our investigation
25 we'll develop new leads or we'll develop persons of

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1 interest, persons that we want to go talk to If we
2 think they might have information about our
3 investigation, we'll go talk to them I'll tell them
4 who I am and what I'm doing, that I'm investigating a
5 drug organization within the community that I believe
6 they're involved with I'll read them their *Miranda*
7 Rights and ask them if they want to talk to me

8 Q Well, briefly describe to the jury how this State
9 Grand Jury Case began, if you will

10 A This Grand Jury Case began in the beginning of
11 2008 A lady by the name of Brittany Duncan approached
12 law enforcement in Pickens County, Lieutenant Jeff
13 Brooks of the Pickens County Sheriff's Office and wanted
14 to cooperate and provide information about people within
15 a community that were selling methamphetamine
16 Lieutenant Brooks interviewed her And then after that,
17 the Easley Police Department was also involved and
18 through the information they got from the interview with
19 Ms Duncan, they conducted what's called a trash pull
20 from an individual Trevor Kay's residence After
21 pulling trash from that residence, they were able to
22 gather enough evidence to present to a judge They
23 obtained a search warrant to execute at Trevor Kay's
24 residence, which is actually located -- was located at
25 [REDACTED] Street in Easley After they executed that

1 search warrant, Trevor Kay was there He was approached
2 by law enforcement and agreed to cooperate and provided
3 information

4 Q And at that point, was the Grand Jury Case
5 underway?

6 A Yes, sir

7 Q And, of course, during the course of this
8 investigation was Anthony Gracely developed as a
9 suspect?

10 A He was

11 Q How did that occur?

12 A Through interviews of the people that were involved
13 in the group that were telling us about themselves as
14 well as other persons involved in the organization

15 Q Do you have an estimate of the total amount of
16 methamphetamine that was purchased pursuant to
17 controlled purchases in this investigation?

18 A Yes, sir

19 MR COULTER Judge, I'm going to object to
20 that

21 THE COURT What's your objection?

22 MR COULTER The investigation has absolutely
23 nothing to do necessarily with the specific -- in
24 regards to my client, Anthony Gracely So to put up an
25 amount in connection with an investigation, I think,

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1 would be -- have a prejudicial effect on what may be
2 bias to my client I don't think that has any relevance
3 to what happens with Mr Gracely unless they can tie
4 together some specific amount

5 MR CROUT Your Honor, with respect to the
6 terminology of an investigation, in this particular
7 count of the indictment, I will rephrase my statement to
8 ---

9 THE COURT If you would, rephrase your
10 question

11 MR CROUT All right

12 Q Agent Sonnefeld, if you would, with respect to the
13 count on the indictment under which Mr Gracely was
14 charged, how much methamphetamine was recovered pursuant
15 to the controlled purchases?

16 MR COULTER Judge, I object again He's
17 asking the same question He's saying that there was
18 something involved with controlled purchases and it came
19 to X amount And I don't believe that that, in fact,
20 applies It shouldn't even apply

21 THE COURT Well, as to this count, I
22 understand the question now is as to this count on the
23 indictment

24 MR COULTER I understand that Judge I hate
25 to ask, could we go

1 THE COURT Yeah Ladies and gentlemen, we
2 have a legal matter we need to take care of at this
3 time I'll ask if you would go back to your jury room
4 Don't discuss the case We'll call you back in just a
5 few moments

6 (WHEREUPON, the jury exited the open court at
7 approximately 11 19 a m)

8 THE COURT All right, Mr Coulter

9 MR COULTER Judge, I'm sorry I apologize
10 for having to ask for this, but my point is this
11 Obviously, a critical element of the conspiracy charge
12 is the four hundred grams or more There's no question
13 that's a critical element And for them to attempt to
14 say that the four hundred grams that may have been
15 bought or sold or whatever in the course of this
16 investigation involving forty-six people, of which many
17 aren't even alleged to be a conspirator with my client,
18 then you're telling the jury four hundred, and somehow
19 that applies to my client They have to show not only
20 four hundred, but that my client specifically was
21 involved with that four hundred grams I just don't see
22 how they could sit there and say, well, we had an
23 investigation We called it Vanilla Ice Since we got
24 four hundred grams, everybody indicted under Vanilla Ice
25 can be charged as a conspirator They were about to

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1 talk about some purchases made that may or may not have
2 anything to do with my client Nothing I don't know
3 But before they start testifying to that, I think that's
4 important

5 THE COURT All right Well, Mr Crout, I'll
6 be glad to hear from you Where does the witness intend
7 to go with the ---

8 MR CROUT Your Honor, I think with respect
9 to the testimony, what she's gong to indicate is that
10 she -- in the course of the investigation of this
11 particular conspiracy, the individuals they bought from,
12 they recovered a certain amount of drugs I think that
13 clearly, pursuant to *State v Adams*, this is a case that
14 I'm going to be referencing in my argument, acts in
15 furtherance of the conspiracy include all incidental and
16 consequential facts growing out of a general design
17 Once the individuals testify that -- excuse me Once
18 Agent Sonnefeld testifies that as a part of this
19 investigation into this conspiracy, that they purchased
20 a certain amount of methamphetamine from co-
21 conspirators, it's going to be clear -- that he'll have
22 plenty of opportunity to show that none of it was
23 purchased from Anthony Gracely And, no, we're not
24 trying to allege that it is But what we are trying to
25 demonstrate is, is within these individuals named in

(— 1 this conspiracy that there was methamphetamine purchased
2 out of and from members of the group and from members
3 who would also provide information about Anthony
4 Gracely

5 THE COURT Yes, sir, Mr Coulter

6 MR COULTER Well, I'm confused, Judge,
7 because it would seem to me that before they can start
8 saying, we got this amount in a conspiracy, that they'd
9 have to do something more than indict a person for
10 conspiracy They haven't even presented any evidence
11 that a conspiracy existed They're just trying to say
12 in Vanilla Ice, we got X amount I don't think -- you
13 know, maybe at some point it might be proper, though I'm
14 not quite sure I'd have to hear the evidence But to
15 allow her to say that there are four hundred or more
16 grams that were purchased pursuant to Vanilla Ice, and
17 that somehow was relevant to my client without having
18 established anything in that regard to this point, I
19 think it is certainly not a timely portion of the
20 testimony I mean, you haven't had anybody to say a
21 conspirator You don't have any drugs whatsoever that
22 is going to be presented, as I understand, and yet she
23 can just testify there was four hundred and somehow that . . .
24 applies to my client Because if doesn't, then it's
25 irrelevant and obviously prejudicial And that's kind

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1 of what I heard here

2 MR CROUT Well, Your Honor, to begin with,
3 we're not -- we're talking about -- as a lawyer we
4 rephrased the question, just the particular count on
5 which he's charged If, and I think where Mr Coulter
6 is going is -- and this becomes difficult in conspiracy
7 cases is, if and when and how we progress through
8 proving the conspiracy When is the Court satisfied
9 that the conspiracy itself has been proven? An
10 alternative remedy to this, which we might suggest would
11 be that Agent Sonnefeld be allowed to be recalled to
12 testify

13 THE COURT That was the idea I had

14 MR COURT After ---

15 THE COURT Put it in on the back-end if the
16 other testimony is there

17 MR CROUT All right

18 THE COURT I'll just allow her to be recalled
19 for that purpose only, to talk about amount Anything
20 else, you need to get from her now, and I'll allow you
21 to go through

22 MR CROUT Okay I can do that

23 THE COURT All right While the jury's out,
24 let's take about a ten minute break Don't discuss your
25 testimony

(1 (WHEREUPON, the court stood at recess for a short
2 break)

3 THE COURT Thank you Please be seated

4 MR CROUT Very briefly, Your Honor

5 THE COURT Yes, sir

6 Q Agent Sonnefeld -- well, I'm sorry, Your Honor

7 THE COURT Wait You want to get the jury
8 back

9 MR CROUT I'm sorry I just want to ask
10 very briefly, Your Honor

11 THE COURT Okay

(12 MR CROUT The next witness, Frank Posey, who
13 we're going to call, his testimony will be that Anthony
14 Gracely approached him He needed money for an
15 attorney, that he provided Anthony Gracely with money to
16 get an attorney I believe Mr Coulter has an objection
17 to that line of questioning And we wanted to have that
18 matter heard before Mr Posey took the stand in front of
19 the jury

20 THE COURT What's your objection?

21 MR COULTER Judge, I think it's pretty
22 clear I mean, if the testimony's going to be that he
23 gave money to my client to hire an attorney, as a matter
24 of fact his -- the statement by this agent, that
25 summarization was because if he got that kind of money

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1 he'd stay out of jail, to his attorney Obviously, it
2 has an extremely prejudicial effect in an attempt to
3 bring in the potential of a jury believing there's some
4 sort of other charge or other conviction out there that
5 the jury wouldn't otherwise be entitled to hear

6 THE COURT What's the relevance of giving him
7 money to get an attorney?

8 MR COURT Your Honor, he pays him back The
9 testimony is that he ultimately pays Mr Posey back with
10 methamphetamine And that part of the transactions that
11 take place between Mr Posey and Mr Gracely are based
12 upon this repayment of this money that was given to the
13 attorney

14 MR COULTER And, Judge, I don't have a
15 problem with that And that's what I was talking with
16 Mr Crout about during the break, is I don't have a
17 problem with him saying that they gave him money And
18 then if he believes that they can get in that, you know,
19 that in exchange for that he got some drugs back I
20 don't want the fact that he was talking about getting
21 the money for an attorney I mean, I understand there's
22 other implications that could be brought out there But
23 I think -- and I've looked at it -- thought about it for
24 quite a while I think the fact that he's talking about
25 getting an attorney is the problem Because I think

1 that then in turn the jury can interpret that
2 incorrectly

3 THE COURT That's on Mr Posey's testimony?

4 MR CROUT Yes, Your Honor, that is ---

5 THE COURT All right I sustain the
6 objection You can talk about him needing money for a
7 purpose, but I don't see any relevance that it would be
8 to getting an attorney And then for that giving of the
9 money then he can certainly testify that he received
10 some methamphetamine back

11 MR CROUT All right Well, Your Honor, Mr
12 Posey's in the courtroom We have not sequestered
13 witnesses My understanding is we have not

14 THE COURT You understand you won't talk
15 about the purpose for which the money was given, just
16 that he needed money and you obliged him

17 MR POSEY Yes, sir

18 MR COULTER All right

19 THE COURT All right Let's have our jury
20 come back

21 MR COULTER Judge, I'm sorry

22 THE COURT What?

23 MR COULTER I'm sorry I apologize

24 THE COURT Hang on just a minute We don't
25 need the jury back

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1 MR COULTER Well, I'm just -- I'm making a
2 sequestration motion at this point I didn't realize
3 there were defendants in the courtroom

4 MR PORTER We would object at this time,
5 Your Honor He's already heard -- I mean ---

6 THE COURT Okay

7 (WHEREUPON, the jury entered the open court at
8 approximately 11 47 a m)

9 THE COURT Thank you, ladies and gentlemen
10 If I could see the attorneys just for a moment up here
11 before we start back

12 (WHEREUPON, Mr Crout, Ms Porter and Mr Coulter
13 approached the Bar)

14 THE COURT You may continue your examination
15 of the witness, Mr Crout

16 Q Agent Sonnefeld, very briefly and I apologize if I
17 overlap a little bit because it's so great, but I'm not
18 sure if I asked you, but I'm going to ask you again,
19 during the course of this investigation, was Anthony
20 Gracely developed as a suspect?

21 A Yes, sir

22 Q Okay And how was he developed as a suspect in
23 this case?

24 A Through the individual interviews of persons
25 involved in the organization and the group

1 Q And just so we're clear, were there ever any
2 controlled buys of methamphetamine made directly from
3 Anthony Gracely?

4 A No, sir Not from Anthony Gracely

5 Q Agent Sonnefeld, I do not have any other questions
6 Please answer questions that Mr Coulter may have

7 A Yes, sir

8 **CROSS EXAMINATION**

9 **BY MR COULTER**

10 Q Agent, I think it's been already determined that
11 Count Two that we're dealing with regarding my client,
12 Anthony Gracely, that was a total of seventeen co-
13 conspirators is how you had -- the State has put it in
14 terms of the conspiracy charge for over four hundred
15 grams, correct?

16 A Yes, sir

17 Q Okay And in the course of your investigation
18 during the Vanilla Ice operation, as you've mentioned,
19 you have got the ability to go ahead and wire different
20 CIs to go out and make buys from people, correct?

21 A Yes, sir, we do

22 Q You mentioned as a matter of fact, Trevor Kay is
23 somebody who you approached at some point and decided he
24 would cooperate

25 A That's correct

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1 Q Okay And you put a MIC on him and sent him in and
2 he would make different purchases for you?

3 A That's correct

4 Q Okay And there was a number of people involved in
5 this forty-six count indictment, listing all of these
6 forty something people, that he was able or other CIs
7 were able to actually make controlled buys from?

8 A Yes, sir That's correct

9 Q Okay And, in fact, not only did you not make a
10 controlled buy from Anthony Gracely, y'all didn't even
11 try to make a controlled buy from Anthony Gracely?

12 A The individuals that were cooperating in this
13 investigation were not able to make controlled purchases
14 from Anthony Gracely

15 Q You didn't even try to make a controlled buy, did
16 you?

17 A If I could

18 Q If you could try?

19 A If I could have, we would have

20 Q Okay But bottom line is you didn't attempt to
21 wire anybody, use any video, anything to go in to
22 Anthony Gracely?

23 A The individuals that were cooperating in this
24 investigation, they were making controlled purchases,
25 could not buy from Anthony Gracely

1 Q Okay All right And we're talking about all of
2 your people listed in this indictment, all of these
3 seventeen co-conspirators?

4 A No

5 Q Including various people that you mentioned, did
6 you try with -- I'm sorry -- your witness list here
7 Did you try with Stacy Anderson?

8 A Stacy Anderson was not a cooperating individual

9 Q Well, what -- did you try with Stacy Anderson?

10 A He was not cooperating with us So, no, sir

11 Q So you didn't try?

12 A No, sir

13 Q Okay Did you try with Patrick Bridges?

14 A No, sir

15 Q Okay Did you try with Ernest Craft?

16 A No, sir

17 Q That's a cooperating individual, right?

18 A He was incarcerated at the time

19 Q Well, you did take statements from him, correct?

20 A Correct He was incarcerated

21 Q All right Joel Hall, did you try with him?

22 A He was incarcerated and he was cooperating

23 Q All right Did you try with Lance Holloway?

24 A He was incarcerated

25 Q Okay Did you try with Mr Koch, Rainer Koch?

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- 1 A No, sir
- 2 Q He wasn't incarcerated?
- 3 A He was not
- 4 Q Okay Did you try with Frank Posey?
- 5 A No, sir
- 6 Q Kim Taylor?
- 7 A No, sir
- 8 Q Brian Stegall?
- 9 A No, sir He was not cooperating with us
- 10 Q Okay Obviously, you have that capability, though,
- 11 to use not only wires but video tape as well?
- 12 A Yes, sir We do
- 13 Q Okay And you also had the opportunity to -- when
- 14 you're talking about a conspiracy, you've had an
- 15 opportunity in the past to subpoena phone records from
- 16 individuals, correct?
- 17 A Yes, sir, sometimes we can
- 18 Q Okay Did you try to get any phone records from
- 19 Anthony Gracely?
- 20 A No, sir, I did not
- 21 Q Okay Because in a conspiracy one good way to find
- 22 out about that is to see if you can't find phone calls
- 23 made between individuals, right?
- 24 A Sometimes, yes, sir
- 25 Q As a matter of fact, you did that in this case,

1 didn't you?

2 A On some of them, yes, sir

3 Q But you never tried with Anthony Gracely, did you?

4 A I didn't have a phone number that I would call for
5 Anthony Gracely

6 Q You didn't?

7 A Not that I recall

8 Q Did you look for one?

9 A I asked for one

10 Q Well, wait a second Are you telling me that at
11 SLED you don't have the capability of finding an
12 individual's phone number?

13 A A cell phone, no, sir

14 Q Okay But you're saying you never had a phone
15 number from him that you can recall?

16 A Not that I recall, no, sir

17 Q How about Tabitha Norton, do you remember her?

18 A Yes, sir

19 Q Okay Tabitha Norton isn't involved in the
20 conspiracy, right?

21 A That's correct

22 Q Okay Did he have a nickname to people that you
23 told me, Anthony Gracely?

24 A Yes, sir It was Tony G

25 Q Tony G?

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1 A Yes, sir

2 Q Okay This is a cell phone record that was
3 provided to me that lists Tony G down here

4 A Uh-huh (affirmative)

5 Q Do you see that?

6 A Yes, sir

7 Q And that was June of 2008?

8 A Yes, sir

9 Q Okay So you had the ability to do it, you just
10 didn't do it?

11 A Correct

12 Q Now, you mentioned that you approached different
13 individuals who you thought were involved in the drug
14 conspiracy?

15 A Yes, sir

16 Q Okay And, in fact, when you approached the people
17 who were involved in the drug conspiracy that you
18 thought, you just didn't say, hey, do you want to help,
19 right?

20 A I don't understand the question

21 Q When you approached them, didn't you tell them,
22 look, you've got some serious problems here You face
23 an awful lot of time, don't you? Do you want to
24 cooperate and help yourself?

25 A I tell them that I believe they're involved in a

1 drug organization And I ask them if they want to

2 cooperate, yes, sir

3 Q Okay And what does the meaning of cooperate mean?

4 I mean, you tell them they can help themselves by

5 cooperating, don't you?

6 A I do, yes, sir

7 Q Okay All right And when you take and meet with

8 the different individuals, one of the things I notice is

9 your name is typically on the top of the summary of your

10 discussions, correct?

11 A Yes, sir

12 Q All right And you were very careful in listening

13 to the individuals as to who they made or told you in

14 terms of names That was the key, right?

15 A Yes, sir

16 Q Okay And did you record any of these

17 conversations with these people?

18 A No, sir, I did not

19 Q So all we have are your notes?

20 A Yes, sir

21 Q Listing different individuals?

22 A Yes, sir

23 Q Okay But you didn't think it important to tape

24 record what was being said?

25 A I was writing down what they were telling me

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Constance Sonnefeld - Cross Examination by Mr Coulter

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1 Q I understand that But you know what a tape
2 recorder is?

3 A Yes, sir

4 Q You didn't use one?

5 A No, sir

6 Q You know what a video tape is?

7 A Yes, sir

8 Q You didn't use one of those?

9 A That's correct

10 Q You had -- they were available to you, right?

11 A They're available

12 Q As a matter of fact when you say that you told they
13 could cooperate, what you also did was, by the way, I'm
14 going to read you your *Miranda* Rights first?

15 A Yes, sir

16 Q Okay And *Miranda* Rights, that's when a person is
17 under arrest, correct?

18 A Not all the time

19 Q Okay Well, that's the purpose of *Miranda* is that
20 when you're under arrest, you have to be aware of these
21 rights

22 A True

23 Q Okay And when you approached these people, you
24 already had them for some type of offense?

25 A I had mentioned they were involved in the group,

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1 yes, sir, but not necessarily

2 Q Okay Thank you

3 THE COURT Any redirect?

4 **REDIRECT EXAMINATION**

5 **BY MR CROUT**

6 Q Agent Sonnefeld, when you are conducting a Grand
7 Jury investigation, do you make a controlled purchase
8 from every single person in the investigation?

9 A No, sir

10 Q The individuals who you listed as incarcerated,
11 would that basically prevent them from being able to
12 participate in any activities with respect to the
13 investigation?

14 A Any active, yes, sir

15 Q And with respect to the issue of surveillance, is
16 it possible to conduct surveillance of every single
17 person involved in the investigation?

18 A No, sir

19 Q And then with respect to *Miranda* Rights, the
20 reading of those *Miranda* rights, why do you do that as
21 far as interviews that you conduct?

22 A I do that when I believe they might implicate
23 themselves, when they might give information about

24 themselves that tells about them committing a crime

25 Q And that's not done to be threatening or anything?

1 A No, sir It's to protect them

2 Q And then with respect to the phone numbers or the
3 phone tolls as they sometimes are referred to, is it
4 possible to always get phone tolls on the individuals if
5 you have a phone number?

6 A No, sir Sometimes they are pre-paid phones that
7 can be disposed of, different types of phones you can
8 buy that you can't get some of the records

9 Q All right Thank you

10 MR CROUT No further questions

11 THE COURT Brief?

12 MR COULTER Briefly

13 THE COURT Briefly

14 **RECROSS EXAMINATION**

15 **BY MR COULTER**

16 Q Was that number I showed you, was that pre-paid?

17 A I don't recall

18 Q Don't know because you didn't check, right?

19 A No, sir, I did not

20 Q Okay. And you're saying that you can't put every
21 -- you can't put people under surveillance? I missed
22 that part. Are you saying you can't -- did he ask you
23 if you can't put everybody under surveillance?

24 A I think, yeah, something like that

25 Q There was nothing to prevent you from putting

1 Anthony Gracely under surveillance?

2 A We didn't do any surveillance on Anthony Gracely

3 Q Right Okay Thank you

4 THE COURT Thank you, ma'am You may step
5 down You may call your next witness

6 MR CROUT Your Honor, at this time the State
7 calls Frank Posey

8 MR PARKS Please step forward to be sworn
9 in Place your left hand on the bible and raise your
10 right hand Do you solemnly swear to tell the truth,
11 the whole truth and nothing but the truth, so help you
12 God?

13 MR POSEY I will

14 MR PARKS Please be seated and please state
15 your name for the record

16 MR POSEY Frank Posey

17 **FRANK POSEY,**

18 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS**

19 **DIRECT EXAMINATION**

20 **BY MR CROUT**

21 Q Mr Posey, how old are you?

22 A I'm twenty-nine I mean thirty-nine

23 Q And were you charged in this particular case?

24 A Yes, sir, I am

25 Q And did you plead guilty in this case?

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1 A Yes, sir, I did

2 Q Did you, at the time you pled guilty, did you sign
3 a plea agreement?

4 A Yes, I did

5 Q All right I'm going to show you a copy of your
6 plea agreement in this case and just ask if you can
7 identify that?

8 A Yeah That's it

9 Q All right Do you recall what you were charged
10 with in this case?

11 A Conspiracy to traffic four hundred

12 Q And what did you plead to?

13 A Two counts of trafficking ten to twenty-eight

14 Q And did you receive a sentence in this case?

15 A Yes, sir

16 Q Has the State agreed to recommend a sentence in
17 this case?

18 A Yes

19 Q All right And what sentence is that?

20 A Five years

21 Q And that is a decrease in the original sentence or
22 the original charge, is that correct?

23 A Yes, sir, it is

24 Q Did the State ask you to do anything other than to
25 testify truthfully in this case?

1 A No, sir, they haven't

2 Q All right And is that your intentions now?

3 A Yes, sir

4 Q Now, with respect to your prior record You have a
5 prior criminal record, don't you?

6 A Yes, sir, I do

7 Q Okay I'd like to go through that with you Mr
8 Coulter may go through it in a little more detail, but
9 in any event, you're not at all trying to indicate to
10 this jury that you've had no arrests or convictions
11 before Is that correct?

12 A No, sir

13 Q All right If you could, without me going through
14 it line-by-line and myself and perhaps even Mr Coulter
15 might point out where you may have some issues with
16 memory, tell the jury if you could what your prior
17 record consists of?

18 A Unlawful possession of a firearm

19 Q And when did that occur, do you recall?

20 A That was in mid '90s

21 Q All right What -- and was that unlawful carrying
22 or unlawful possession?

23 A Unlawful possession

24 Q Okay What other charges?

25 A Possession of marijuana, possession with intent to

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1 distribute cocaine, possession with intent to distribute
2 methamphetamine, possession of methamphetamine with
3 intent to distribute within a half a mile of a school
4 zone And now conspiracy

5 Q Okay And that's your record as best that you can
6 recall?

7 A Yes

8 Q I'm looking at your record I don't think you've
9 missed anything, but ---

10 A Well, I had -- I've been charged with manufacturing
11 and trafficking meth, but it was dismissed That was
12 also one of my charges

13 Q And you don't disagree that you may have charges on
14 here that you weren't convicted of What you were
15 telling the jury is what you were convicted of?

16 A Sure

17 Q Okay When did you start using methamphetamines?

18 A 1998

19 Q How did that happen?

20 A I was an active cocaine user and I sold it to keep
21 my habit going and met a group of individuals and they
22 turned me on to it And it was off to the race from
23 there

24 Q And you've been using pretty regularly ever since?

25 A Yes, sir, I have

1 Q Is part of your criminal record the result of your
2 methamphetamine use?

3 A Yes, sir, it is

4 Q Would you be willing to say that perhaps all of it
5 is?

6 A Yes

7 Q Do you know an individual by the name of Anthony
8 Gracely?

9 A Yes, I do

10 Q And how do you know him?

11 A I've known him for a long time I met at the age
12 of sixteen

13 Q Did you all go to high school together?

14 A No We just hung out together, local hang-out
15 spots

16 Q I want you to go back to approximately June of
17 2007 I want your testimony to basically cover from
18 June of 2007 up until October of 2008 That's the time
19 frame I'm asking you about During that time period,
20 did you have any dealings with Anthony Gracely?

21 A Yes, I did

22 Q All right Describe to the jury what those
23 dealings were?

24 A Upon release of doing time, me and Mr Gracely met
25 at my girlfriend's house and made agreements to -- he

1 was going to sell a half pound of ice

2 MR COULTER Object I'm sorry Do you mind

3 -- could we get him to put the microphone down I can't

4 hear

5 THE COURT Yes Pull the MIC a little bit

6 closer there or pull your chair up just a little bit and

7 make sure everyone can hear you, Mr Posey

8 A Well, me and Mr Gracely, we made arrangements, he

9 was going to sell a half a pound of ice for me And at

10 that time, he took it into his possession

11 Q And when you say a half a pound, can you convert

12 that to grams?

13 A It's two hundred and twenty-four grams

14 Q And when did that occur?

15 A At a home in Easley at -- I'm trying to remember

16 the name of the housing project It's behind Danfoss

17 I can't remember the name of the housing project there

18 Q How was that meeting arranged?

19 A By phone

20 Q Who contacted who?

21 A We had a mutual friend, Lance Holloway

22 Q And did Lance call you or did Lance call Mr

23 Gracely? How did that work?

24 A Lance and Mr Gracely were hanging out and I had

25 been dealing with Lance anyway And then Mr Gracely

1 and Lance came to the residence

2 Q And the -- I believe you testified the half-pound
3 of methamphetamine that you gave to Mr Gracely, how did
4 he pay for that?

5 A It was -- he said he was going to pay me back in
6 cash, but come to find out, he didn't intend to pay me
7 back

8 Q How much -- in terms of him paying you back in
9 cash, is there a name for that type of transaction,
10 where you give somebody ---

11 A Well, I fronted it to him

12 Q All right And if you would, describe to the jury
13 what fronting is?

14 A That's where an individual is pretty -- they're
15 good for their word I took it on good faith that he
16 was going to do what he said he was going to do And he
17 was getting ready to do some time and ---

18 MR COULTER Judge, I object And I have a
19 motion

20 THE COURT All right Ladies and gentlemen,
21 I'll ask you if you would to go back to your jury room
22 Don't discuss the case at this time I'll call you back
23 in just a few moments

24 (WHEREUPON, the jury exited the open court at
25 approximately 12 08 a m)

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1 THE COURT Yes, sir, Mr Coulter

2 MR COULTER Judge, I thought -- I was under
3 the impression that we'd just had a discussion about the
4 admissibility of time, somebody doing time and attorneys
5 and Mr Posey was in the courtroom and I understood that
6 he was to be instructed that that type of discussion
7 wasn't supposed to be had Obviously, that is
8 prejudicial It's improper and I have no choice, I have
9 to move for a mistrial based on his comment that my
10 client was about to do some time

11 THE COURT Mr Crout

12 MR CROUT Your Honor, my understanding was
13 that the instructions were with reference to him getting
14 an attorney His statement about he was fixing to do
15 some time, you know, maybe it does bleed into that and
16 maybe there is some elements to it there Not to be
17 flippant, but I mean, in terms of the defense of the
18 case is that none of these witnesses are believable
19 anyhow That doesn't mean you take away from the
20 statement that he made But I don't think that -- my
21 understanding was that the instructions were, and we can
22 look at them, but the instructions were about getting
23 money for an attorney -- - - -

24 MR COULTER Judge, I ---

25 THE COURT Well, that's not the same

1 transaction we're talking about now, is it?

2 MR CROUT I don't believe so

3 THE COURT Because this is where he's --

4 there's no money taking place This is a different

5 matter than the other matter, I gather

6 MR COULTER I don't know Here's what I'll

7 tell you, Judge, without my client here, it's difficult

8 But I'm going to withdraw my motion for a mistrial and

9 ask that they just be given a curative instruction not
10 to consider what had just been said

11 THE COURT All right Mr Posey, we just
12 need to make sure that the information you give the jury
13 is related to this case, this conspiracy Not any other
14 matters that might have been going on in Mr Gracely's
15 life at the time Do you understand that?

16 MR POSEY Yes, sir I do

17 THE COURT All right Motion's withdrawn
18 then Have our jury come back

19 (WHEREUPON, the jury entered the open court at
20 approximately 12 11 a m)

21 THE COURT Thank you, ladies and gentlemen,
22 very much Just for the record, I've asked Mr Bishop
23 to assume the foreperson's chair What the foreman does
24 is sometimes when you're back in the jury room you may
25 need some contact with the Court You may need to

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1 contact the clerk's office about the temperature in your
2 room or snacks or whatever it may be Your foreperson
3 will be the one who will be the liaison with the Court
4 if you have a special need One of you may need to call
5 to make sure a child's picked up Whatever it may be,
6 the foreperson will be the one who will communicate with
7 the Bailiffs and on to the Court and the Clerk if need
8 be while you're back in your jury room Sometimes
9 exhibits are offered into evidence And when that
10 happens, sometimes the lawyers want to pass them around
11 to the jury They'd show it to the foreperson to pass
12 around to the fellow jurors Ultimately, the role of
13 the foreperson, of course, is when all of the evidence
14 is in, the case is conclude, you're ready for your
15 deliberation, the foreperson will make sure that
16 everybody has their say, make sure the discussion -- to
17 facilitate that discussion one with another Being the
18 foreperson doesn't mean you have more votes than anyone
19 else, it's just the person we need to have a contact
20 with the Court when you're back there and to make sure
21 all of your needs are met while you're back in the jury
22 room He'll always occupy that seat that's been
23 designated for him Of course, the alternate will
24 occupy the seat that he's in now The rest of you as
25 you come and go, you may get attached to one seat and

1 want to have that one If you want to sit on the back
2 row or the front row, wherever you prefer, that will be
3 fine as well

4 When we broke, ladies and gentlemen, there was some
5 reference to doing time That's irrelevant to this
6 case You should disregard that in its entirety It is
7 deleted from the record We're here to try a case
8 that's been charged against Mr Gracely and that alone
9 So disregard that response, non-responsive to the
10 question, and just put that from your minds

11 All right You may continue your examination of
12 the witness, Mr Crout

13 Q Mr Posey, the discussions that you had or
14 statements that you were making in regard to money that
15 you provided to Mr Gracely, that money that you
16 provided to him, where did that money come from?

17 A It was drug money

18 Q And how was it generated?

19 A From selling and purchasing drugs

20 Q Did there ever come a time when you approached Mr
21 Gracely for -- to get that money paid back?

22 A Yes, sir

23 Q All right When did that occur?

24 A That was around January of '08

25 Q And what discussions did you have with Mr Gracely

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Frank Posey Direct Examination by Mr Crout

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1 about that?

2 A Well, I expected payment for what he had received
3 from me And he made arrangements to compensate me in
4 installments

5 Q And how was he repaying you?

6 A He repaid me in drugs

7 Q How would you determine what the amount of the
8 money or the value of the drugs that he was paying you
9 back? How would you make that determination?

10 A It's based on the street value of the drugs He
11 would give me an eight ball That's two hundred and
12 fifty dollars If he would give me two eight balls,
13 that's five hundred dollars

14 Q About how many times did you have meetings so that
15 he could pay you back?

16 A I met with him between five and eight times

17 Q All right Would he ever also try to sell you
18 methamphetamine?

19 A Yes He would try to sell He would try to pay me
20 what he owed me and then try to get me to purchase from
21 his other supplier

22 Q And did he indicate who his other supplier was?

23 A He said Joey DeFresco at times

24 Q And then with respect to the meetings that you had,
25 were y'all ever able to determine exactly what a total

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Frank Posey Cross Examination by Mr Coulter

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1 amount was that was repaid?

2 A He paid me back fifteen hundred dollars

3 Q Was that everything that he owed you?

4 A No

5 Q Did you have any other dealings or transactions
6 with Mr Gracely?

7 A No

8 Q And then with respect to the fifteen hundred
9 dollars, that was not cash Is that correct?

10 A No That was all in drugs

11 Q And then would you convert those drugs into cash?

12 A Yes

13 Q All right, Mr Posey, that's all the questions that
14 I have Please answer any questions that Mr Coulter
15 may have

16 A Yes, sir

17 **CROSS EXAMINATION**

18 **BY MR COULTER**

19 Q Mr Posey, I want to make sure that we do have a
20 correct understanding in terms of your criminal history
21 Do you agree that you were convicted of possession of
22 methamphetamine back in March of 2004 Does that sound
23 right?

24 A Yes, sir

25 Q So that was your first drug offense?

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Frank Posey Cross Examination by Mr Coulter

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1 A No

2 Q Okay You had one before that?

3 A Yeah A cocaine charge

4 Q A cocaine charge before 2004? And that one would
5 have been your second one

6 A (Affirmative nod)

7 Q That's right? You also -- we didn't mention this
8 but anyways, convicted of assault on an officer while
9 resisting arrest?

10 A Yes, that's true

11 Q Okay All right And then so were you also
12 convicted at around that same time, in '04, with
13 possession of marijuana?

14 A Yes

15 Q Okay So that's your third drug offense You'd
16 agree with that?

17 A Yeah

18 Q Okay And then in September of 2005 you're
19 convicted of distribution of methamphetamine Is that
20 correct?

21 A Yeah

22 Q So that's your fourth drug offense?

23 A Yeah

24 Q And that's the one where you were also convicted of
25 selling within a half mile of a school?

1 A Yes, sir

2 Q Okay Now, in this particular case, your time line
3 is that you actually presented on May 29th of 2008 You
4 went to the home of Shannon Smith?

5 A Correct

6 Q That's how you got involved in this operation?

7 A Yes, sir

8 Q You went to the home on May of 2008, you went to
9 Shannon Smith's home and you were looking for who?

10 A Anthony Gracely

11 Q Looking for Anthony Gracely And you would
12 actually after showing up, they were executing a search
13 warrant, SLED was?

14 A True

15 Q Okay And when you came up, they said, you want to
16 talk to us? Right?

17 A Uh-huh (affirmative)

18 Q Is that a yes?

19 A Yes, sir

20 Q Okay Because we think you're involved in a drug
21 conspiracy?

22 A Yes, sir

23 Q And you could help yourself by talking to us,
24 right?

25 A No, they never said I could help myself

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Frank Posey - Cross Examination by Mr Coulter

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1 Q Never said that Okay So when you go and talk to
2 them on May 29th of 2008, you told them at that time
3 that Tony owed you -- that you had lent Tony five
4 thousand two hundred dollars?

5 A True

6 Q Is that right?

7 A Yes, sir

8 Q But just a second ago, you said he was paying you
9 back with some drugs?

10 A Right

11 Q Okay But on May 29th of 2008 you said he still --
12 he'd paid you eight hundred dollars, but that he still
13 owed you four thousand six hundred dollars?

14 A True

15 Q Okay So he didn't pay you back with any drugs
16 You still considered him to owe you forty-six hundred
17 dollars?

18 A True

19 Q And then you go on to say -- mind you, this guy
20 owes you a pretty good amount of money, right?

21 A Yeah

22 Q I mean, five grand Were you upset with him?

23 A Yes

24 Q You were mad about the fact that he owed you five
25 thousand dollars?

1 A Yes, sir

2 Q And they said, hey, we think y'all are involved in
3 a conspiracy And your response was, Tony, right, the
4 guy you're mad at?

5 A No, not necessarily

6 Q Well, didn't you just say you were mad at him?

7 A Yes

8 Q That's why you were looking for him?

9 A True

10 Q Okay All right And at that time you say to law
11 enforcement that you'd bought ten to fifteen times from
12 Tony, purchases of between two hundred dollars and three
13 hundred and fifty dollars?

14 A True

15 Q Okay This is the same guy you say owes you five
16 thousand bucks, that you're mad at And instead of just
17 getting free, you actually tell them you're purchasing
18 it, even though he owes you money?

19 A True

20 Q And you go on to provide a bunch of different names
21 back in 2008 about people involved, correct?

22 A True

23 Q And then what we find out is you've already pled
24 guilty to trafficking in methamphetamine ten to twenty-
25 eight grams, right?

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Frank Posey Cross Examination by Mr Coulter

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1 A Sure

2 Q But you weren't charged with that, were you?

3 A No

4 Q No You were charged with trafficking in
5 methamphetamine, four hundred grams and over?

6 A Uh-huh (affirmative)

7 Q That's a yes?

8 A Yes, sir

9 Q And, as a matter of fact, trafficking in
10 methamphetamine, four hundred grams and over, carries a
11 minimum of twenty-five years and up to thirty years,
12 isn't it?

13 A True

14 Q And they came up to you and told you that when they
15 wanted you to cooperate You face a minimum of twenty-
16 five years and up to thirty years And you want to help
17 yourself

18 MR CROUT Your Honor, I object to the
19 questioning about the time period that he was exposed
20 to I think ---

21 MS PORTER May we approach?

22 THE COURT Yes, ma'am

23 (WHEREUPON, Mr Crout, Ms Porter and Mr Coulter
24 approached the bar)

25 Q All right I was just asking you about what you

1 had been charged with and what law enforcement came to
2 you, and on that charge you faced between twenty-five
3 and thirty years, correct?

4 MS PORTER Your Honor, objection

5 Q I'm sorry Up to thirty years? Is that -- okay?

6 THE COURT Sustained

7 Q You also didn't just face once count, you faced
8 two, correct?

9 A Correct

10 Q And on that one you faced up to thirty years?

11 A That's correct

12 Q Okay And on each of those that you pled guilty
13 to, we just talked a minute ago, you were actually -- it
14 was your fourth drug offense at least, right?

15 A True

16 Q Maybe five?

17 A Four

18 Q Four, okay But they had you plead to trafficking
19 in methamphetamine ten to twenty-eight grams, first
20 offense, right?

21 A Yes, sir

22 Q Okay When it was actually your fourth offense?

23 A True

24 Q And one of these conspiracies, you're charged with
25 Anthony for four hundred, but they let plead to the ones

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Frank Posey Redirect Examination by Mr Crout

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1 between ten and twenty-eight?

2 A True

3 Q And they did that twice Because the other one
4 says, methamphetamine, which was originally four
5 hundred, but instead they let you plead to between ten
6 and twenty-eight grams on a first offense?

7 A That's correct

8 Q So in the course of your discussion about a guy who
9 owed you five thousand dollars, you were facing up to
10 sixty years in jail, correct?

11 A Correct

12 Q And received a deal on a first offense, twenty
13 grams to forty-eight for five?

14 A True

15 Q Five Okay Thank you

16 **REDIRECT EXAMINATION**

17 **BY MR CROUT**

18 Q Mr Posey, with respect to the deal that Mr
19 Coulter referred to, that is a recommendation from the
20 State Is that correct?

21 A Yes, sir, it is

22 Q All right You haven't been guaranteed that
23 sentence, have you?

24 A No, I haven't

25 Q All right And you understand that the Judge can

1 sentence you anywhere in that range that Mr Coulter
2 discussed with you, correct?

3 A Yes, I do Can I say something?

4 THE COURT No, sir You can answer anything
5 he asks you

6 Q No, you just answer the questions

7 A Okay

8 Q And with respect to the line of questioning that
9 Mr Coulter pursued regarding the money that was owed
10 between you and Mr Gracely, in these transactions that
11 you were discussing, would it be common for the amounts
12 that are owed to change over periods of time?

13 A Yes

14 Q Well, did you sometimes owe him or did he sometimes
15 owe you more?

16 A At times, yes

17 Q And was it common to pay back debts or obligations
18 with methamphetamine?

19 A Yes

20 MR CROUT No further questions

21 MR COULTER Just a few follow-ups

22 THE COURT Yes, sir

23 MR COULTER Okay

24 **RECROSS EXAMINATION**

25 **BY MR COULTER**

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1 Q You mentioned that it's a recommendation The fact
2 of the matter is the first offense methamphetamine
3 charge that you're being allowed to plead guilty to
4 carries a maximum of ten years Isn't that true?

5 A True

6 Q As opposed to the thirty years on each?

7 A Correct

8 Q Okay

9 THE COURT All right Thank you, sir You
10 may step down You may call your next witness

11 MS PORTER Your Honor, at this time, the
12 State calls Brian Stegall to the stand

13 MR PARKS Please step forward to be sworn
14 in Place your left hand on the bible and raise your
15 right hand Do you solemnly swear to tell the truth,
16 the whole truth and nothing but the truth, so help you
17 God?

18 MR STEGALL Yes, sir

19 MR PARKS Please be seated and after you're
20 seated, please state your name for the record

21 MR STEGALL Brian Stegall

22 MS PORTER May it please the Court?

23 THE COURT Yes, ma'am

24 BRIAN STEGALL,

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

2 BY MS PORTER

25 conspiracy, you've been in trouble before that, correct?

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1 A Yes, ma'am, I have

2 Q All right I'm going to go over your prior record
3 with you real quick, all right?

4 A Yes, ma'am

5 Q In 2003 did you get caught with some drugs?

6 A Yes, ma'am, I did

7 Q What drugs were those?

8 A Meth

9 Q Okay. Did you also get caught selling some drugs
10 in 2003?

11 A No, ma'am

12 Q No?

13 A No, ma'am

14 Q All right Hang on just one second Let me just
15 -- let's make sure we get this right

16 A I did have a possession with intent

17 Q Okay

18 A Yes, ma'am

19 Q Tell me about that

20 A I had a quantity of methamphetamines, an eight
21 ball, white is three, three point five grams and thirty-
22 two hundred dollars cash on me I got pulled over at a
23 traffic stop in Easley, South Carolina And I went to
24 jail on a warrant that they had on me And that's when
25 they found the money and the dope in my pocket

1 Q All right In 2007 did you get caught stealing
2 some stuff?

3 A Yes, ma'am

4 Q All right So you pled guilty to grand larceny
5 then?

6 A Yes, ma'am

7 Q All right And then down in -- now, all of that
8 was in South Carolina Is that right?

9 A Yes, ma'am

10 Q All right Now, down in Georgia, did you get
11 caught with more drugs down there in 2002?

12 A Yes, ma'am

13 Q All right Tell us about that

14 A I was in Cobb County, Atlanta I was missing a
15 sticker off the back of my tag of a Honda Accord and I
16 got pulled over I had one ecstasy pill on me, scales
17 and a couple of, you know, a couple of other things,
18 just bags You know, nothing, no kind of other drugs or
19 anything I went to jail then, also

20 Q Did you plead guilty to those charges as well?

21 A Yes, ma'am I did

22 Q Now, with respect to this case, to this conspiracy
23 case, did you plead guilty to trafficking

24 methamphetamine ten to twenty-eight grams by conspiracy,
25 first offense?

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1 A Yes, ma'am

2 Q All right Now, that was reduced from a
3 trafficking by conspiracy, methamphetamines more than
4 four hundred grams Is that true?

5 A Yes, ma'am

6 Q All right And did you also plead to a
7 distribution of methamphetamines?

8 A Yes, ma'am

9 Q And was that reduced to a first offense as well?

10 A Yes, ma'am It was

11 Q All right So initially, you were looking at sixty
12 years in jail Is that right?

13 A Yes, ma'am That's correct

14 Q All right And have you been sentenced on those
15 charges?

16 A Yes, ma'am

17 Q All right And what did you get?

18 A Fifteen years

19 Q And what did the State recommend that you get?

20 A Fifteen

21 Q All right And for a reduction from an exposure of
22 sixty years down to recommending fifteen years, what
23 have you agreed to do? --- - - - -

24 A Testify on anybody that was in this indictment that
25 I know of and that, you know, that I dealt with and --

1 from the street

2 Q All right So you've agreed to cooperate by
3 testifying Is that true?

4 A Yes, ma'am

5 Q Correct Did you agree -- were you approached
6 before you were arrested on these charges and asked to
7 cooperate?

8 A Yes, ma'am

9 Q And did you agree to cooperate at that time?

10 A No, ma'am, I didn't

11 Q When did you agree to cooperate?

12 A After I caught my time

13 Q After you got your sentence?

14 A Yes, ma'am

15 Q All right Now, we've gotten all that out of the
16 way

17 A Yes, ma'am

18 Q Is there a motion to reconsider your sentence
19 pending?

20 A Yes Yes, ma'am, it is It's pending

21 Q Okay And who's going to re-sentence you?

22 A The Judge

23 Q Judge Welmaker?

24 A Yes Yes, ma'am

25 Q Okay And what is the State going to recommend at

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1 that re-sentencing hearing?

2 A Fifteen

3 Q So have you been offered anything, promised
4 anything for your testimony here today?

5 A No, ma'am, I haven't

6 Q Okay And what has the State asked you to do when
7 testifying?

8 A Tell the truth, nothing but the truth so help me
9 God

10 Q Mr Stegall, when did you start using drugs?

11 A 1999

12 Q And how old were you in 1999?

13 A Sixteen years old

14 Q Have you used drugs ever since?

15 A Yes, ma'am Up until, up until maybe November of
16 '09, maybe October, November of '09

17 Q So for the last ten years?

18 A Yes, ma'am

19 Q How would you characterize yourself?

20 A A user

21 Q An addict?

22 A Yeah, absolutely Yes, ma'am

23 Q Have you been to prison before the sentence you're
24 serving today?

25 A Yes, ma'am

1 Q And when was that?

2 A That was in 2003 I got three years, sixty-five
3 percent, and I served eight to ten months and got out on
4 parole

5 MR COULTER Judge, I'm going to object I
6 don't know what the relevance of all that is,
7 whatsoever

8 THE COURT All right I agree with you as
9 far as ---

10 MS PORTER I'll move on

11 THE COURT -- you can certainly testify as to
12 what you received as a sentence

13 Q At some point after you were released from prison,
14 did you get clean and stop using drugs?

15 A Yes, ma'am, for about five months

16 Q For about five months And while you were doing
17 that, did you try to start up a business?

18 A That was in the middle of '06, yes, ma'am

19 Q And what did you try to do?

20 A I cut grass for a living and residential
21 landscaping

22 Q And did you slip back into using methamphetamines?

23 A Yes, ma'am, I did

24 Q All right I'm going to ask you -- let's focus on
25 the summer of 2007, from June of 2007 forward, okay?

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1 A Yes, ma'am

2 Q Do you know an individual by the name of Anthony
3 Gracely?

4 A Very well

5 Q Does he have a nickname?

6 A Tony G

7 Q How -- don't say how you met him or anything like
8 that, but how long have you known Tony G?

9 A From 1999

10 Q Okay In the summer of '07, were you using
11 methamphetamines?

12 A Yes, ma'am

13 Q Were you selling methamphetamines?

14 A Yes, ma'am, to stay high, absolutely

15 Q All right Explain that to the jury if you will
16 What do you mean by you were selling methamphetamines to
17 stay high?

18 A That means that -- I mean, I would do whatever --
19 anybody that wanted methamphetamines if, you know, if
20 they would give me the money or if, you know, if I could
21 get in on front from someone, to get me some to stay
22 high on, that's what I would do, you know As far as a
23 profit situation, no, ma'am I would sell

24 methamphetamines I would get it for whoever to just
25 stay high, yes, ma'am

1 Q So in other words, you used your profit from the
2 sales of the methamphetamines to buy methamphetamines
3 for your personal use?

4 A Yes, ma'am

5 Q Okay Who would you buy methamphetamines from,
6 from June of '07 forward? Who were your sources?

7 A Tony Gracely, Kim Ruston, and Dean Knecht

8 Q Okay Let's talk about Anthony Gracely or Tony G
9 How much would you purchase from him? Well, let's start
10 simpler How would you get in touch with him?

11 A I would call him or go over to his house and
12 whatever

13 Q And at this time, you'd known him for roughly how
14 long?

15 A Eight, eight, nine years

16 Q Okay And when you got to his house, what would
17 y'all discuss?

18 A We would get high He'd usually be selling
19 methamphetamines, whatever We'd play with the Play
20 Station, you know

21 Q Well, when you would go to purchase from him, how
22 much would you get?

23 A At least a half a gram at a time, you know, four
24 times -- a quarter to a half a gram, four times a week,
25 at least

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Brian Stegall - Direct Examination by Ms Porter

- 1 Q How much would he charge you for a quarter gram?
- 2 A A quarter gram? Twenty-five
- 3 Q Twenty-five dollars?
- 4 A Yes, ma'am
- 5 Q All right How about for a half a gram?
- 6 A Fifty bucks
- 7 Q Okay And when you said on the front, would you
- 8 get more than that from time to time to sell from Tony
- 9 G?
- 10 A Yeah Of course, if he would, if he would give me
- 11 dope on front that I asked for, which normally he did
- 12 We were friends He would give me usually whatever I
- 13 asked for I'd take it, get mine out of it and bring
- 14 his money back
- 15 Q How long would you have to bring the money?
- 16 A Usually a day
- 17 Q And who would you sell to to get the money to take
- 18 it back to Tony G?
- 19 A You want me to name names?
- 20 Q Yes
- 21 A Oh, okay Jamı Dixon, my cousin I've got it for
- 22 Dean Knecht Myself many times Monica, a female
- 23 Miranda Woods, Miranda Harris
- 24 Q Did you ever get any or -- do you know an
- 25 individual by the name of Ernie Craft?

1 A Absolutely

2 Q How do you know him?

3 A From, just from the street He had a house on
4 Turner Hill, Turner Hill Road That's where you go get
5 high, you know If you wanted methamphetamines you
6 could get it there, too

7 Q Did you ever see Tony G over there?

8 A No I've seen Ernie over at Tony's And I've seen
9 them two together at Kim Rushton's

10 Q A moment ago you had mentioned you would take
11 anybody to Tony G Explain to the jury what you mean by
12 that?

13 A If they wouldn't let me ride with their money and
14 they wanted methamphetamines, so I could get high, yeah,
15 I would take them to meet him to purchase meth And
16 then I would get mine, I would get mine after that took
17 place

18 Q Can you give the jury an example of someone you
19 took to meet Tony G in order to purchase
20 methamphetamines?

21 A Joel Hall

22 Q Anybody else?

23 A Dean Knecht

24 Q Well, let's go back to Joel Hall The time that
25 you took him to meet Tony G, where did that take place?

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1 A At a house off of East North Street in Greenville,
2 South Carolina and some apartments in Taylors I can't
3 think of the name right now I can't remember the name

4 Q So those are two occasions that you took Joel Hall
5 to meet Tony G?

6 A Yeah About four or five occasions, you know, at
7 the same -- them spots

8 Q Those two spots?

9 A Yeah Where he lived at

10 Q Okay How much would Joel Hall purchase from Tony
11 G on those four to five occasions?

12 A A quarter ounce to a half an ounce

13 Q A quarter ounce to a half ounce And how much
14 would you get for taking him over there?

15 A Anywhere from a gram to a half eight, if the sale
16 was big like that, you know If not, a quarter gram,
17 half a gram

18 Q Do you know what -- so you were kind of the middle
19 man for Tony G?

20 A Yeah

21 Q All right Do you know an individual by the name
22 of Stacy Anderson?

23 A Yes, ma'am, I do.

24 Q How do you know Stacy Anderson?

25 A I met him at Court I heard his name and that he

1 had dope or whatever I had been clean I met him when
2 I went to trial or when I went to a roll call in '07 for
3 the grand larceny I seen him there and got to talking
4 with him You know, he knew me I knew him I wanted
5 to get high, you know, and I asked him did he have
6 anything and he said, yeah Then he gave me his number
7 And after we left roll call, whatever, we got up I
8 went by his house in Greenville and got high And I've
9 met him over at, seen him over at Tony's once or twice
10 at some apartments in Mauldin bringing Tony dope I
11 took him to North Carolina to purchase dope

12 Q Well, let me stop you there Do you know who Stacy
13 Anderson's source was?

14 A Yes, ma'am

15 Q Who is that?

16 A It's a Mexican in North Carolina

17 Q Where in North Carolina?

18 A In a trailer park in Hendersonville

19 Q Let me back you up What was the relationship that
20 you observed between Stacy Anderson and Tony G?

21 A Well, Stacy was his supplier

22 Q So it went Tony G, Stacy Anderson, the Mexican in
23 Hendersonville, North Carolina Is that correct?

24 A Right

25 Q All right Do you know the Mexican in North

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1 Carolina's name?

2 A Not right off I didn't get to go in I had to
3 sit out in the car

4 Q Let's back up to the Mauldin apartments You'd
5 mentioned Stacy Anderson bringing some dope to Tony G
6 and to the Mauldin apartments

7 A Yes, ma'am

8 Q What did you observe that day? Well, one, do you
9 remember when that was?

10 A I want to say it was '07 '07 or '08, I'm not -- I
11 can't remember

12 Q The end of '07, beginning of '08, somewhere in that
13 time frame?

14 A Yes, ma'am

15 Q Was it cold outside?

16 A Yes

17 MR COULTER Judge, I object That's
18 leading

19 THE COURT I sustain the objection Just
20 rephrase your question

21 Q What was the temperature outside?

22 A It was cool I had on pants, long shirt

23 ~~Q. Who else was there at the apartments if you~~
24 remember?

25 A It was me, Stacy, Tony, Tony G, his girlfriend

1 Whitney, Lance, Lance Holloway was there, and Whitney's
2 youngest son Or oldest son, I'm sorry

3 Q And did you observe a drug transaction?

4 A Yes, ma'am

5 Q What did you observe?

6 A Stacy handed him two ounces of methamphetamines in
7 a bag, on front, you know That means you don't pay no
8 money You know, you pay it after you sell it And he
9 left

10 Q How do you know it was two ounces?

11 A I seen it on scales

12 Q Who weighed it out?

13 A I actually handed Tony the scales from underneath
14 the couch cushion And Tony put the scales, put the
15 scales down in front of him I was sitting beside him
16 He put the dope on there It was sixty-one grams a bag

17 Q Sixty-one grams in the bag?

18 A It would be with the bag

19 Q With the bag?

20 A Yes

21 Q All right And did he divide that up at that point
22 or that's when he sold to -- or is that what he sold to

23 Tony G?

24 A No, ma'am That's -- yeah, when Tony got handed
25 the bag, he put it on the scales Tony put it on the

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1 scales

2 Q Okay

3 A And after the transactions was over, you know, he
4 weighed it to make sure it was two ounces Stacy left
5 and I got -- you know, we rolled -- we got high We
6 smoked And then I left

7 Q All right Well, let me ask you this, if it's
8 sixty-one grams with the bag, how many grams are in an
9 ounce?

10 A Twenty-eight to thirty

11 Q You mentioned Lance Holloway being there?

12 A Yes, ma'am

13 Q What -- are you aware if Lance Holloway had a
14 relationship with Tony G?

15 A Yeah They were friends

16 Q All right Did they have a business together?

17 A Yes, ma'am

18 Q What type of business were they in?

19 A Selling meth

20 Q And how do you know that?

21 A I've seen it I've seen it take place many times

22 Q Did you ever purchase from Lance Holloway?

23 A No, ma'am

24 Q Did you ever sell to Lance Holloway?

25 A No, ma'am

1 Q So you just observed Lance and Tony G?

2 A Yes, ma'am I was Tony's friend You know, we
3 were close and they were close So, therefore, we might
4 all get high together, do business in front of each
5 other at one time or another, you know Didn't really
6 go into separate rooms or anything like that

7 Q What was y'all's goal?

8 A I guess it would be to get high And I guess they
9 wanted, you know, they wanted to get money I would
10 have liked to got money, you know, but I was -- I had a
11 bad problem So I would have rather got high, and
12 they'd take my money

13 Q Other than Stacy Anderson, did Tony G have other
14 sources?

15 A Yes, ma'am

16 Q And how do you know?

17 A I've been with him when he purchased

18 Q Okay And who did you see Tony G purchase from?

19 A Kim Rushton, Warren Chastain, Joey DeFresco, and
20 that's about -- the main ones that I seen him deal with
21 between '07 , in that time frame

22 Q Now, did you have other sources outside of Tony G
23 as well?

24 A Yes, ma'am

25 Q From June of '07 until October of '08,

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1 approximately how much methamphetamines did you purchase
2 from Tony G?

3 A At least a half a gram I mean, it varied You
4 know, for myself, just for myself alone, you know, I
5 would buy a half a gram three to four times a week, just
6 for myself That's not counting what I might get for
7 other people that might want something

8 Q All right Well, how much -- let me rephrase In
9 that time frame, how much meth do you think you helped,
10 either by purchasing from Tony G or bringing other
11 people to Tony G, that you helped him sell?

12 A Between the both of them?

13 Q Uh-huh (affirmative)

14 A A half a pound, if not more

15 MS PORTER I beg the Court's indulgence

16 Q Please answer any questions Mr Coulter may have

17 A Yes, ma'am

18 THE COURT Cross examination

19 CROSS EXAMINATION

20 BY MR COULTER

21 Q So, as I ---

22 MR COULTER I'm sorry, Judge

23 THE COURT You may cross examine the witness

24 MR COULTER Thank you, Judge

25 Q So as I understand it, you're saying that you

1 received some methamphetamine from Anthony Gracely and
2 then would either use it or sell it yourself?

3 A Yes, ma'am Yes, sir I'm sorry

4 Q Okay But you weren't charged with conspiring with
5 Anthony Gracely, were you?

6 A No, sir

7 Q Okay You were charged with conspiring with
8 sixteen, seventeen other people, right?

9 A Well, I think we were all in on the conspiracy

10 Q Okay

11 A The other twenty-eight people I'm not sure

12 Q Because you were charged with that one conspiracy
13 dealing with over four hundred grams, right, that didn't
14 involve Anthony Gracely?

15 A The first offense, no, sir

16 Q Well, let me back up Maybe -- that wasn't a great
17 question I apologize You were charged with
18 conspiracy of over four hundred grams with other
19 individuals, correct?

20 A Yes, sir, twenty-eight others

21 Q But the government has never charged you with what
22 we're talking about as Count Two?

23 A No, sir. No, sir

24 Q Count Two, which is dealing with Anthony Gracely?

25 A Correct

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1 Q Okay And you said that you provided them with
2 that information, right?

3 A Correct

4 Q And you know from Count One, that you face up to
5 thirty years on that?

6 A Correct

7 Q And if they'd chosen to charge you on Count Two,
8 that would be up to another thirty years, right?

9 A That's correct

10 Q Now, you said, I think, on direct examination that
11 you decided to cooperate when you were sentenced Is
12 that right?

13 A After I was sentenced

14 Q After you were sentenced you ---

15 A I signed a paper -- I signed a plea agreement to
16 testify in court That was part of my -- yeah

17 Q Well, when was that? Was that before you were
18 sentenced or after you were sentenced?

19 A That was when I was sentenced

20 Q Right You signed a plea agreement that says if
21 you cooperate then we'll make a recommendation of
22 fifteen years, right?

23 A. -- Correct

24 Q Okay And if you didn't cooperate, you faced
25 forty-five years, right?

1 A The plea stood ---

2 Q At least -- I understand that But before signing
3 this plea agreement to cooperate -- and that's --
4 remember you said that you didn't cooperate before
5 signing this plea agreement?

6 A I didn't

7 Q Didn't cooperate, weren't going to do it, until
8 they told you if you did cooperate, you'd get fifteen
9 years?

10 A Yeah

11 Q Concurrent, meaning whatever sentence you got would
12 run at the same time?

13 A Correct

14 Q All right So now we know you could have been
15 charged with conspiracy Count Two, which was thirty
16 years You were charged with conspiracy, Count One, up
17 to thirty years And you were also with a distribution,
18 right?

19 A Correct

20 Q Okay Now, the distribution actually carried up to
21 thirty years too, didn't it?

22 A Twenty-five or thirty years

23 Q Yeah Okay Because in going through your prior ---
24 record -- well, going back to the plea agreement I
25 just want to make sure You were told you had to

1 cooperate in order to get that sentence?

2 A Correct

3 Q Okay And as a matter of fact it says you have to

4 continue to cooperate, even though you've already got

5 that sentence, right?

6 A Correct

7 Q I mean, if you don't cooperate, the plea agreement

8 says they can nullify what you already received, right?

9 A I believe that's what it says

10 Q Well, let's look at it You've read this, right?

11 A Yes, sir

12 Q You signed it You went through it with your

13 attorney, right?

14 A Right

15 Q Okay And it says here that if you fail to

16 cooperate at any stage, the obligations under the

17 agreement by the State is null and void, right?

18 A Correct

19 Q That you will not be permitted to withdraw your

20 guilty plea And that the State may argue for the

21 maximum sentence on all of those offenses, correct?

22 A Correct

23 Q Okay Now, as far as your prior record goes, 2002

24 you were charged in Georgia with the drugs of some sort

25 What was that again?

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Brian Stegall - Cross Examination by Mr Coulter

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1 A An ecstasy pill

2 Q Ecstasy So that's your first drug offense, right?

3 A Right

4 Q Okay In 2004, I think it's not right on your

5 record It says distribution, but you say it's

6 possession of methamphetamine with intent to distribute,

7 right?

8 A Yeah I pled down

9 Q Okay So it was first distribution and then you

10 pled down to possession with intent?

11 A Right

12 Q So that's your second drug offense, right?

13 A Right

14 Q Okay And then in July of 2004, you had a

15 possession of methamphetamine, correct?

16 A July of 2004?

17 Q Yeah With Greenville County?

18 A Yes That's correct

19 Q Does that sound right?

20 A Yeah

21 Q Okay So that would be your third drug offense at

22 least, right?

23 A - That's right - - - - -

24 Q Okay And then you talked about you had some grand

25 larceny and things like that But as far as drug

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Brian Stegall Cross Examination by Mr Coulter

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1 offenses, at least three, right?

2 A Yes Yes, sir

3 Q And so going back to this plea agreement, instead
4 of the four hundred grams, they let you plead to ten to
5 twenty-eight grams?

6 A Correct

7 Q And as a first drug offense?

8 A Correct

9 Q Which isn't true, because you actually have three
10 prior drug offenses, right?

11 A Right

12 Q Okay And under a first offense, you'd only face
13 up to ten years on that, right?

14 A Right

15 Q Okay Instead of the thirty?

16 A Uh-huh (affirmative)

17 Q And then you did have a distribution of
18 methamphetamine And that's where in this Vanilla Ice,
19 this whole thing, they sent someone in to buy from you,
20 right?

21 A Correct

22 Q And they sent a CI in, Miranda Wood?

23 A Right

24 Q Yeah, Miranda Wood They sent her in with the wire
25 on to come in and make the purchase from you, right?

1 A Yes, sir

2 Q Just a minute ago you said you liked to get the
3 money is what you said You were a user but you liked
4 to get the money But, in fact, you did sell?

5 A Right I admitted that

6 Q Yeah In pretty good amounts As a matter of
7 fact, on the time that you sold to Miranda Woods, it was
8 three hundred bucks worth, right?

9 A Yeah Three grams

10 Q Three grams And you understand that under
11 distribution of methamphetamine if it's third offense or
12 above, you would face actually thirty years on that?

13 A Yes, sir

14 Q Okay So instead of the ninety years you were
15 facing, they gave you a deal of fifteen years and I
16 understand you've actually filed a motion to reconsider
17 because you want it to be even lower?

18 A That's right

19 Q Now, in cooperating you were, as the plea agreement
20 called for, you were asked to be fully debriefed on the
21 information you had in order to get that fifteen year
22 sentence, right?

23 A Excuse me now?

24 Q In order to get the fifteen year sentence, you had
25 to agree to be fully debriefed about what you know about

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Brian Stegall Cross Examination by Mr Coulter

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1 other people using drugs?

2 A I wasn't aware of that, I was debriefed

3 Q Okay

4 A I mean, I testified on what I know, but I wasn't
5 aware of debriefing, no

6 Q Well, let's just ---

7 A I agreed myself to be debriefed after I was
8 sentenced

9 Q All right But anyways you talked to them?

10 A Right Yes, sir, I did

11 Q Yeah, right And at some point you told them that
12 the ways that you would reach Tony, Anthony, was by
13 making phone calls to him?

14 A Yes

15 Q Did you give them whatever phone numbers you had?

16 A Yes, sir

17 Q You did?

18 A Yes, sir

19 Q All right Now, Anthony was using pretty heavily,
20 wasn't he?

21 A Yes, sir We all was

22 Q Okay Now, when you talked about this two ounces,
23 who did you say -- I was confused Did you say that was
24 given by Stacy Anderson to Anthony Gracely?

25 A Correct

1 Q Okay All right So when you first were
2 questioned on direct examination you said you couldn't
3 quite remember whether it was 2007 or 2008, but you know
4 we were wearing pants and it was cool out?

5 A Correct

6 Q Is that right?

7 A Correct

8 Q So that could have been even sometime in winter,
9 January, February, March of 2007?

10 A I mean, I can tell you about exactly when it was
11 His door got kicked in by SLED two or three weeks after
12 that And if you can go back ---

13 Q Well, wait a second

14 A -- and get that exact date

15 Q Wait a second My question is, could that,
16 whatever you're talking about, whatever allegation
17 you're making, couldn't that have been in the winter
18 months of 2007?

19 A Yes, sir

20 MR COULTER Thank you, Judge That's all I
21 have Thank you

22 THE COURT Any redirect? Anything in
23 redirect?

24 MS PORTER I beg the Court's indulgence,
25 Your Honor

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47-0011)
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1 THE COURT Yes, ma'am

2 MS PORTER No No further questions, Your
3 Honor

4 THE COURT All right Thank you, Mr
5 Stegall, you may step down from the witness stand

6 MS PORTER - Your Honor, we'd ask that he be
7 excused and returned to SCDC if that's all right with
8 Mr Coulter?

9 THE COURT Any objection?

10 MR COULTER Not at all

11 THE COURT Without objection

12 Mr Foreman, ladies and gentlemen, this is probably
13 a good time for us to take a lunch break I'll ask you
14 while you're out to lunch, remind you, again, not to
15 discuss the case with each other, with anyone else
16 Remember the oath that you've taken to well and truly
17 try the case and that'll depend upon all of the evidence
18 being in and the law that I give you Don't let anyone
19 discuss the matter with you either We'll be ready to
20 start back at two-fifteen If you'll be back in your
21 jury room at two-fifteen, we'll begin with the next
22 witness then Have a good lunch, ladies and gentlemen

23 ~~(WHEREUPON, the jury exited the open court at~~

24 approximately 1 02 p m)

25 THE COURT Yes, sir, Mr Coulter

1 MR COULTER Judge, I just have an issue
2 about the ruling at the bench about being able to cross-
3 examine on minimum/maximum We can do that when we get
4 back if you'd rather

5 THE COURT I'll be glad to hear from you now
6 In other words, my ruling, for the benefit of the
7 record, the ruling I made was that you could talk about
8 maximums but not minimums I'll be glad to hear from
9 you and I'll be glad to hear from the State on that

10 MR COULTER Well, Judge, I -- you know, when
11 a person is -- this is a historical case Obviously,
12 you know that Credibility of the witnesses are
13 critical Each one of these people who will testify and
14 will continue to testify without question was told if
15 they continue not to cooperate, they face a minimum of
16 twenty-five years in jail And that is why, in my
17 opinion, to a large degree, we have these people turning
18 now to give testimony This is not discretionary, where
19 we can just -- where you'd be able to just say it's a
20 suspended sentence at some point It's not misleading
21 the jury It is, in fact, the case They were facing a
22 minimum of twenty-five years and that's critical in
23 being able to present it to the jury, the credibility of
24 these witnesses hinge on the fact that they knew they
25 would go to jail for twenty-five years at eighty-five

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1 percent And I certainly believe that that's an effect
2 that a jury can consider in determining their
3 credibility It's critical

4 THE COURT All right Ms Porter or Mr
5 Crout, I'll be glad to hear from you on your objection
6 to that

7 MS PORTER Briefly, Your Honor, there is no
8 purpose in putting in mandatory minimums, except to let
9 this jury know that his client is facing a mandatory
10 minimum of twenty-five years And that if they can get
11 to him, they're going to be putting a man in jail for
12 twenty-five years There's no other purpose He can
13 talk all day long about them facing thirty, sixty,
14 ninety years in jail That is completely appropriate to
15 say, you were looking at a life time in jail It is
16 inappropriate and -- well, it's overly prejudicial to
17 the State when it's out of our hands Sentencing is for
18 you, Your Honor It's for the Judge It's once we get
19 a conviction It definitely goes to credibility and
20 believability of how much time they were looking at and
21 what we have reduced it to and to how we have reduced
22 their exposure, which can be adequately done by you were
23 facing a maximum of this, and this is what the State -- --
24 represented -- or recommended But it's overly
25 prejudicial and is appealing to the emotions of the

1 jury It's just not appropriate And the State
2 deserves a fair trial just as much as the Defense does

3 THE COURT Yes, sir

4 MR COULTER Well, Judge, I mean, with all
5 due respect to Ms Porter, there is another reason why I
6 want to present The reason isn't to show what my
7 client could get It's what they're avoiding And
8 that's the key

9 THE COURT But isn't the same evidence going
10 to be presented to the jury, that the offense that you
11 are cross examining these witnesses on is the same
12 offense to which your client is facing trial?

13 MR COULTER Well, as they just said, it's
14 out of their hands Okay? It's a minimum mandatory
15 It's out of the Court's hand if they convict Okay? It
16 is what it is And the bottom line is there's no
17 question that if it was from zero to thirty, that would
18 have a different effect on credibility than someone
19 where you're going to get twenty-five years to thirty
20 minimum No question about it And so there isn't -- I
21 don't care about what my client potentially faces I
22 mean, that is a huge issue of credibility for the jury
23 I don't think I can properly and fully cross examine any
24 of these witnesses without them knowing that that's what
25 they would get They would get the minimum twenty-five

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1 as opposed to the minimum three that they're being given
2 now I can't believe that a jury wouldn't look at that
3 and say, well, that has -- that affects my belief of
4 that witness

5 MS PORTER All right If we're going to go
6 down that road, then I think it's fully admissible that
7 his client was offered a similar deal and turned it
8 down Because that's -- we're talking about everybody,
9 all twenty-eight defendants were offered a deal And if
10 we're going to get into mandatory minimum, they're
11 facing twenty-five years, then in all fairness to this
12 jury, they need to understand that his client was
13 offered to get underneath that twenty-five year
14 mandatory minimum as well and turned it down If we
15 want to go down that road, I'll be happy to do it that
16 way

17 MR COULTER Judge, that's a completely
18 different issue that has been settled since day one,
19 that settlement discussions regarding a person on trial
20 is not something to be brought up in front of a jury I
21 mean, we know that from getting out of school So
22 that's not the issue The issue is the credibility of
23 the witnesses taking the stand

24 THE COURT Well, I believe that, Mr Coulter,
25 with your skills that you'll be able to cross examine

1 these witnesses sufficiently, showing the amount of time
2 they could get I believe to bring up a minimum
3 sentence, even though your intent is to impeach this
4 witness, the ripple effect is that it's going to, I
5 think, prejudice the State because of what the jury is
6 going to now have in their mind, that if we convict this
7 person, it's going to be a twenty-five year You
8 understand the ramification of your examination, and I
9 understand your need -- your desire to show the minimum,
10 but I believe through all the evidence that's going to
11 be presented through their testimony and your
12 examination of many more witnesses relating to this, I
13 believe the jury will understand that there has been
14 negotiations going on I just believe that for that to
15 go back to the jury that if we find guilt, there's going
16 to be a twenty-five year sentence is overly prejudicial
17 And I'm weighing the prejudice to your client as well,
18 and I believe in all sincerity that you'll have plenty
19 of -- more than ample opportunity to impeach these
20 witnesses with the amount of time they could receive
21 So your objection is certainly noted for the
22 record, but I just don't believe that by going down the
23 route of the minimum sentence that that's going to
24 overcome what the jury is going to obviously weigh in
25 their deliberations

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Brian Stegall - Cross Examination by Mr Coulter

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1 MR COULTER I appreciate that, Judge And
2 just to make sure the record's clear and just -- I've
3 got to make sure I -- we do full the record I
4 apologize

5 THE COURT Yes, sir

6 MR COULTER That also, if we look at
7 distribution of methamphetamine, third offense and above
8 carries a minimum fifteen and up to thirty My client's
9 not even facing that, so it would have absolutely no
10 effect on a different type of charge, if I was to go
11 into that as well So I understand what the Court is
12 saying in regards to the conspiracy

13 THE COURT You're talking about his
14 possession with intent?

15 MR COULTER No, distribution

16 THE COURT Yeah, the distribution

17 MR COULTER A bunch of these people are
18 charged with distribution

19 THE COURT Right

20 MR COULTER They've gone all the way down to
21 giving them like ten years, when they faced a minimum of
22 fifteen on third offense and above And there's not a
23 soul that's gone up in front of this Court yet, or in
24 front of this jury that didn't face, you know, at least
25 a third offense drug offense And some of them are

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Brian Stegall Cross Examination by Mr Coulter

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1 charged with distribution, not with what my client's

2 charged with

3 THE COURT Well, as far as the reduction when

4 the State has reduced sentences, you certainly can talk

5 about what the maximum was on what they would be facing

6 It's the same argument really and Was Mr Stegall

7 charged with a PWID?

8 MR COULTER He was charged with

9 distribution Which he would have faced between a

10 minimum of fifteen years and up to thirty Instead it

11 was reduced ---

12 MS PORTER It's zero to thirty on a third on

13 meth

14 MR COULTER Not -- my understanding it was

15 minimum fifteen up to thirty I may be wrong I

16 apologize if I am

17 THE COURT Well, you might want to look that

18 over, Mr Coulter, as far as the minimum for

19 distribution Were you talking about for third or for a

20 second or ---

21 MR COULTER Third and above

22 THE COURT What about that, Ms Porter or Mr

23 Crout? Do you believe that he ought to have the

24 opportunity to cross examine on the distribution?

25 MS PORTER I apologize, Your Honor He is

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Brian Stegall Cross Examination by Mr Coulter

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1 correct It is fifteen to thirty But, no, it's the
2 same argument It's the same argument He can go to
3 the maximums He can talk about the reductions

4 THE COURT How does that affect the Defendant
5 in this case? If they say that he was facing a minimum
6 of ---

7 MS PORTER The problem is in the jury -- I
8 mean, trafficking encompasses distribution What
9 triggers the trafficking title is the amount of drugs
10 we're talking about But this conspiracy is the sale of
11 methamphetamines I mean, that's the whole point of
12 this trial is that his -- the client was selling
13 methamphetamine to all of these people or with all of
14 these people, buying and selling the meth So you're
15 talking about a distribution, and you're talking about
16 the distribution in the aggregate amount of more than
17 four hundred grams, but it's the same It's the same
18 And it's overly prejudicial to the State It's just not
19 warranted to bring out a bias I mean, he has
20 adequately done that by talking about how much time they
21 were facing and what the reductions were

22 THE COURT I'll study that one I think that
23 has more merit, Mr Coulter, with -- on the distribution
24 with the minimum Are we going to face this issue with
25 other witnesses?

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Brian Stegall Cross Examination by Mr Coulter

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1 MR COULTER Oh, yes

2 MS PORTER All of them

3 THE COURT All of them have third on
4 distribution?

5 MR CROUT Yes, sir

6 THE COURT I know you would assumed that I
7 just wanted to make sure that they would

8 MS PORTER I believe Joel Hall only has --
9 no, he has two priors so it's at least a third Ernest
10 Craft is at least a third Lance Holloway is at least
11 a third Kim Taylor, I believe is at least -- yeah
12 Yes

13 THE COURT I'll study over that over lunch
14 We'll revisit that But certainly on the twenty-five to
15 thirty, you can talk about thirty And you're protected
16 on all of -- your objection is noted for the record on
17 all of the witnesses, but I'll let you know before the
18 -- after the break whether I'll allow the distribution
19 minimum

20 MR COULTER Thank you, Judge

21 THE COURT All right Y'all have a good
22 lunch

23 ~~(WHEREUPON, the court stood at recess for a lunch~~
24 ~~break)~~

25 THE COURT Ms Porter

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Brian Stegall - Cross Examination by Mr Coulter

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1 MS PORTER I did a little research of my
2 own And I believe the standard should be -- the
3 appropriate question for the Court is under the
4 confrontation clause analysis whether there's been any
5 interference with the Defendant's opportunity for an
6 effective cross examination at trial

7 Now, the Judge has discretion to impose reasonable
8 limits on that cross examination based on numerous
9 concerns Some of those concerns that have been
10 mentioned by the Supreme Court of our State are
11 harassment, prejudice, confusion of the issues, et
12 cetera And there are -- I have found three Supreme
13 Court Cases in our State on this issue The first is
14 *State vs Sherard*, S-H-E-R-A-R-D, which is at 399 SE2d
15 595 That's from 1991 That's the oldest and I think
16 it's been limited by *State vs Mozelle*, which is a 2002
17 case, which is 563 SE2d 315, as well as *State v*
18 *Gillian* I have the cite for the Court of Appeals case
19 from 2004, but the Supreme Court addressed it in 2007,
20 but didn't really address the issues of cross
21 examination the way the Court of Appeals did They did
22 not overrule the Court of Appeals They modified their
23 opinion, but not in respect to the cross examination
24 That cite is 602 SE2d 62

25 Now, *Mozelle* and *Gillian* are close to on point In

1 State vs Gillian, there it was determined that the
2 limitation imposed by the Judge affected the Defendant's
3 ability to cross examine regarding bias And the facts
4 there are distinguishable from ours And they were
5 distinguishable for this reason The Judge permitted
6 the Defense attorney simply to ask the State's witness,
7 you know, was he facing a lot of time and was he facing
8 serious time What he had been facing was a burglary
9 first degree charge, which is fifteen years to life, but
10 it was also suspendable So it's a similar situation to
11 what we're dealing with here, except that the Judge
12 limited it much more than we have today here in this
13 case Then if you go to *State versus Mozelle*, there
14 it's more on point because in that situation the
15 defendant and the cooperating co-defendants were charged
16 with the exact same crimes And the concern of the
17 Court was exactly what we discussed here, that the jury
18 would equate that the Defense -- the defendant would be
19 charged and sentenced the same way as the co-defendants
20 Now, the distinction there was when the co-defendants
21 pled -- I mean, testified, they had not pled guilty and
22 there was no formal plea agreement So the issue there
23 ~~was, well to really fully cross examine on bias, they~~
24 should have been allowed to go more into their potential
25 sentences Here it's different Here they've all pled

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Brian Stegall - Cross Examination by Mr Coulter

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1 guilty They've all got recommendations by the State
2 You have allowed the Defense to go into the maximum
3 they're facing, and showing what we've recommended to
4 show the difference between the two and what could
5 constitute or encourage these individuals to be biased
6 and to be untruthful

7 So I would rely on the Supreme Court's test
8 question and say that your limiting in this
9 circumstance is appropriate and that he has been able to
10 effectively cross examination on behalf of the -- cross
11 examine the witnesses as to their bias on behalf of the
12 Defendant

13 THE COURT Mr Coulter?

14 MR COULTER Well, Judge, I'm confused I
15 understood that you've ruled on the issue about the
16 trafficking and conspiracy and the minimum/maximum on
17 that And I understand your position and I've made the
18 record The issue that I thought we were still dealing
19 with was whether or not distribution, a separate crime
20 that my client has not been charged with, that carries a
21 sentence that is not suspendable that requires a fifteen
22 year minimum mandatory if, in fact, they are convicted,
23 whether or not that would be proper for cross
24 examination I don't think I understand these cases I
25 agree it's within the Court's discretion, but, of

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Brian Stegall - Cross Examination by Mr Coulter

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1 course, as well the question is whether or not I can
2 effectively cross examine these people and show the bias
3 and lack of credibility they have to this jury And my
4 argument is that without the ability to do that, I
5 can't And that goes to the trafficking as well, but I
6 understand you've ruled on it

7 THE COURT I'm going to allow you to cross
8 examine on the minimum on the distribution charges So
9 you can address those with the witnesses, but not on the
10 trafficking

11 MS PORTER Thank you, Your Honor

12 MR COULTER Yes, sir

13 THE COURT All right Anything else before
14 the jury comes back?

15 MR COULTER Not from the Defense

16 (WHEREUPON, the jury entered the open court at
17 approximately 2 28 p m)

18 THE COURT Let me remind the attorneys to
19 make sure you speak loudly and clearly for the jury to
20 hear you, your questions, and I'll make sure the
21 witnesses do the same

22 You may call your next witness, Mr Crout

23 ~~MR. CROUT. Your Honor, at this time the State~~

24 calls Ms Kimberly Taylor I believe they're bringing
25 her now

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Kimberly Taylor - Direct Examination by Mr Crout

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1 MR PARKS Please step forward to be sworn
2 in Place your left hand on the bible and raise your
3 right hand Do you solemnly swear to tell the truth,
4 the whole truth and nothing but the truth, so help you
5 God?

6 MS TAYLOR I do

7 MR PARKS Please be seated and after you're
8 seated, please state your name for the record

9 MS TAYLOR Kimberly Taylor

10 KIMBERLY TAYLOR,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

12 DIRECT EXAMINATION

13 BY MR CROUT

14 Q Good afternoon, Ms Taylor Ms Taylor, where are
15 you currently residing?

16 A 4450 Broad River Road, at Kirkland Correctional
17 Institution

18 Q And how old are you?

19 A Thirty-eight

20 Q When did you start using methamphetamine?

21 A Probably when I was around seventeen

22 Q Were you indicted in this case?

23 A Yes, sir

24 Q Did you plead guilty pursuant to a plea agreement
25 in this case?

1 A Yes, sir

2 Q All right Tell the jury a little bit about what
3 happened with your guilty plea, if you recall?

4 A What happened? I got twenty years non-violent

5 Q All right And I'd like for you to take a look at
6 it, if you would And with respect to the first
7 paragraph, if you could read beginning right here, and
8 starting with the lesser included offense

9 A Here?

10 Q Yes, ma'am

11 A Do I need to read it?

12 Q Yes, read it out loud

13 A A lesser included of that alleged and superseding
14 indictment number 2008-GS-47-11, count three which
15 carries a sentence in a range from seven years to thirty
16 years

17 Q All right And what did you plead to?

18 A Twenty years

19 MR COULTER Judge, can we approach just a
20 second?

21 THE COURT Yes, sir

22 MR CROUT Your Honor, I know exactly what
23 he's going to ---

24 THE COURT Well, let me hear from him

25 MR CROUT Okay All right

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Kimberly Taylor Direct Examination by Mr Crout

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1 (WHEREUPON, Mr Crout, Ms Porter and Mr Coulter
2 approached the bar)

3 Q In any event, Ms Taylor, with respect to these
4 charges, you're serving a twenty year sentence Is that
5 right?

6 A Yes, sir

7 Q And as far as your criminal record is concerned,
8 I'm going to read it off to you And you tell me if I'm
9 missing anything I'm sure Mr Coulter will go over it
10 with you as well You've got a charge for possession of
11 twenty-eight grams or less of marijuana in 2006?

12 A (Affirmative nod)

13 Q All right Possession of drug paraphernalia in
14 2006?

15 A (Affirmative nod)

16 Q Possession of crack cocaine or ice in 2006?

17 A (Affirmative nod)

18 MR COULTER Judge, I'm sorry Just for the
19 record, could she respond out loud

20 A I'm sorry Yes, sir

21 THE COURT Yeah, you need to speak

22 A Yes, sir

23 THE COURT And Mr Crout, you need to elevate
24 your voice, please, sir

25 MR CROUT Okay

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Kimberly Taylor Direct Examination by Mr Crout

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1 THE COURT So make sure she can hear you

2 MR CROUT Okay

3 THE COURT And you need to speak up, ma'am

4 MR CROUT Yes, sir

5 Q And then you have this charge, which you were
6 convicted on in, let's see, 2010, correct?

7 A Yes, sir

8 Q Anything I'm missing that you're aware of?

9 A No, sir

10 Q All right And this criminal record of yours, is
11 it basically the result of methamphetamine?

12 A Yes, sir

13 Q And you agreed to cooperate in this case?

14 A Yes, sir

15 Q All right And you agreed to testify?

16 A Yes, sir

17 Q All right Do you know an individual by the name
18 of Anthony Gracely?

19 A Yes, sir

20 Q All right Could you tell us how you met him?

21 A I met him through a guy named Lance Holloway

22 Q And where were you all at when you met him?

23 A. - On Old Veteran's School Road at Lance's room -- he -----
24 had a roommate by the name of Bruce, on 123 between
25 Pickens and Greenville

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Kimberly Taylor Direct Examination by Mr Crout

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1 Q All right About what time was this?

2 A Probably three-thirty in the day

3 Q All right But it wasn't -- I mean,

4 chronologically, what month?

5 A Oh, I'm sorry I'm sorry

6 Q Yeah

7 A In June

8 Q June of when?

9 A 2007

10 Q Okay Did anything happen at that meeting when you
11 met Anthony Gracely and Lance Holloway?

12 A Yeah, we -- well, they done a drug deal

13 Q All right Tell us about that drug deal?

14 A I went over to -- I'm sorry I went over to see
15 Lance and I gave him sixteen hundred dollars to produce
16 me an ounce of methamphetamines And at that time,
17 there was a few other people there that went in to get
18 them some And me and Lance walked downstairs There
19 was two guys gave me -- and one being Tony Gracely I
20 don't know the other guy, but they done the deal, and
21 then they left

22 Q And when you say they done the deal, what do you
23 mean? --

24 A I'm sorry Anthony presented the product, which
25 was methamphetamines, and it was two ounces for thirty-

1 two hundred dollars And we counted out the money and
2 paid for it I helped count out the money, but Lance is
3 the one that actually handed the money over to Tony

4 Q And how did you know it was two ounces?

5 A Because I purchased one of the ounces, which was
6 twenty-eight grams And then the other was a buy with
7 the people in the other house and I sit there, and we
8 weighed it before we

9 Q Well, let me ask you this, did you use all of that
10 or did you sell some of it?

11 A No I sold some of it

12 Q Would that be very common for you to buy more than
13 you need so you could sell some?

14 A Can you ---

15 Q Well, in terms of -- did you usually buy just user
16 amounts or did you buy enough to use and sell?

17 A I bought enough to use and sell

18 Q And at this time, were you actually using
19 methamphetamines?

20 A Yes, sir

21 Q Is that the only time you ever met Anthony Gracely?

22 A No, sir

23 Q ~~Had you met him on any other occasions?~~

24 A Yeah I met him probably in the beginning of July
25 at my ex-boyfriend, John Ham's shop, in Travelers Rest

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Kimberly Taylor Direct Examination by Mr Crout

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1 Q All right Tell us a little bit about John Ham's
2 shop

3 A John had a shop, and he is my ex and that's where
4 all the drug dealing went down That's where all -- we
5 done all of our dealings Me and John both were dealing
6 a pretty good bit And unfortunately I have a family
7 and I didn't do it -- tried not to do it around my kids
8 So we did it at the shop And that's where everybody
9 would come and do their drugs We would sell it there
10 and they came there at night, or Lance and Tony came
11 there that day, I was actually sitting there with my
12 boyfriend and they come up, made John a proposition to
13 buy some stuff and Tony told him that it would be the
14 best stuff he ever done And later that evening they
15 came -- Lance came back to the shop by his self and
16 picked John up And then they -- I didn't see him I
17 never seen Tony again, but I know that they talked in
18 the shop They were going to go meet him in Anderson,
19 you know, purchase at least an ounce John was trying
20 to buy more I mean, he took plenty of money to buy
21 more because he liked to buy a lot of quantity so we
22 could make money and have some to do

23 - Q- Now, was a search John Ham's shop? -

24 A Yes, sir

25 Q All right And were you -- did you give any

1 information for that search warrant to be executed?

2 A Yes, sir

3 Q And as a result of that, was that -- the search
4 warrant, that incident, was that part of this case?

5 A I don't understand

6 Q Well, was John Ham charged with some of that
7 methamphetamine when it was found ---

8 A Yes

9 Q --- as a result ---

10 A Yes

11 Q --- of the search warrant?

12 A Yes

13 Q And as far as you know, has he pled guilty?

14 A Yes, sir

15 Q All right And as far as the time when you saw
16 Anthony Gracely at the shop, and you saw him -- you said
17 you saw Anthony Gracely before that, I believe at Lance
18 Holloway's house?

19 A Uh-huh (affirmative)

20 Q All right How did you know Lance Holloway?

21 A I met Lance through Joel Hall

22 Q And then the -- I may have missed this On the

23 ~~second transaction at John Ham's shop, what were the~~
24 terms of that transaction? When Anthony was there ---

25 A John and Tony and Lance, they were talking and Tony

State of South Carolina -vs- Robert Anthony Gracely (2008-GS-47 0011)
Kimberly Taylor Direct Examination by Mr Crout

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1 told John that he was going to charge him sixteen
2 hundred dollars for an ounce of dope, but it would be
3 the best stuff we ever done Is that what you're
4 asking?

5 Q Right Right

6 A Okay And after they went and got the dope, John
7 took like several thousands of dollars with him because
8 he wanted to buy a quarter pound And he ended up
9 coming back and paying sixteen hundred dollars for an
10 ounce, was going to try it So when -- I mean, it was
11 -- again, I'm not going to lie about We done some of
12 it It was really good But he didn't go back and get
13 anymore and I never seen Tony anymore after that night

14 Q So only those two occasions were the two times that
15 you've seen him?

16 A Yes, sir

17 Q All right Did you ever just seen him around?

18 A Yeah I mean, I seen him around in crowds, but I
19 didn't, you know ---

20 Q You didn't have any dealings with him?

21 A Right

22 Q Okay I don't have any other questions of you If
23 you would, answer any of the questions that Mr Coulter
24 might have

25 THE COURT You may cross examine the witness,

1 Mr Coulter

2 MR COULTER Thank you, Judge

3 CROSS EXAMINATION

4 BY MR COULTER

5 Q Yes, ma'am I'm going back just to make sure we
6 understand In 2006 you said you had a marijuana
7 conviction, which would be your first offense, right?

8 Does that sound right?

9 A Yes, sir I'm sorry, yes, sir

10 Q You've got to speak up just a little bit

11 A Yes, sir

12 Q Thank you All right And then in 2006, I think
13 there was a methamphetamine charge that you had with the
14 Central P D Does that sound right?

15 A Yes, sir

16 Q Okay So that would be your second one?

17 A Yes, sir

18 Q Okay And then I think there's another
19 methamphetamine charge that you had later on after that
20 Does that sound right?

21 A Yes, sir

22 Q Okay So any -- and that's actually in 2007 So
23 any of these current charges would have been at least
24 your fourth offense?

25 A Yes, sir

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Kimberly Taylor Direct Examination by Mr Coulter

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1 Q All right And what happened was in regards to
2 this charge, the Vanilla Ice operation, they actually,
3 as you learned later on, they sent in a CI to buy drugs
4 from you?

5 A Yes, sir

6 Q On May 19th of 2008, you sold two hundred dollars
7 worth of drugs?

8 A Yes, sir

9 Q And they had wires on the CI and they had -- you've
10 heard those and they had you, right?

11 A Yes, sir

12 Q They also got another distribution from you in June
13 2nd of 2008, same thing, right?

14 A Yes, sir

15 Q Okay Miranda Woods, right?

16 A No, sir

17 Q It wasn't? Who was it, Trevor Kay?

18 A Nancy Heyward

19 Q Nancy Heyward Okay All right So they go in
20 and they wire this third person, come in and they make
21 this purchase from you And you heard that, right?

22 A Yes, sir

23 Q Okay Now, on October 7th of 2008, you were also
24 charged, I think in Easley, with possession of meth, as
25 well?

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Kimberly Taylor Direct Examination by Mr Coulter

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1 A Yes, sir

2 Q Did you ever get charged with that?

3 A I haven't -- I mean, I haven't been convicted

4 Q Still pending?

5 A I guess I haven't been tried for it

6 Q Did they even give you a warrant?

7 A Did they give me a warrant?

8 Q Yeah

9 A Yeah, I guess so

10 Q Is that something that's going to be resolved along
11 with all of this? Do you know?

12 A I hope so

13 Q Okay All right So at some point then, June 11th
14 as a matter of fact, they approached you And they told
15 you that we've got you on these distributions, right?

16 A On June 11th, what year?

17 Q 2008

18 A Yes

19 Q And the reason I say that, and I'll show it to you,
20 you met with Agent Sonnefeld?

21 A Uh-huh (affirmative)

22 Q And what I'm showing is that the first time you met

23 with her -- let me get my records here -- was June 11th

24 of 2008 And let me show you this just to make sure

25 This is a summary of a conversation, Ms Taylor, do you

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Kimberly Taylor - Direct Examination by Mr Coulter

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1 see that?

2 A Yes, sir

3 Q Okay And you agree that you spoke with the agent
4 from SLED on June 11th of 2008?

5 A Yes, sir

6 Q Okay And when they talked to you, they read you
7 your rights, correct?

8 A No, sir

9 Q You don't remember that Okay

10 A Well, I ---

11 Q They didn't?

12 A Not when I met with Connie, she didn't read me my
13 rights

14 Q Okay But they told you that -- even though it
15 says Taylor was read your *Miranda* rights Anyways, they
16 told you you were charged with distribution?

17 A Yes, sir

18 Q You knew you faced a lot of time on that?

19 A Yes, sir

20 Q Okay And at that time, they said in order for you
21 to be able to help yourself, we want you to turn and
22 finger other people, right? Essentially?

23 A Yes, sir.

24 Q Right And on June 11th of 2008, looking at this
25 summary, and you can read through this Have you seen

1 this recently?

2 A No

3 Q They've not showed this to you?

4 A I haven't seen it I mean I've seen it before, but
5 I haven't seen it

6 Q You've seen it before, though?

7 A I mean, no, I don't know I haven't looked at it

8 Q Go ahead and take a look at it

9 A Okay

10 Q All right You looked at the second page?

11 A Okay

12 Q Okay So would you agree that when they came to
13 you and told you that -- as a matter of fact, as we just
14 established, you were facing distribution at least
15 fourth offense at this time, right?

16 A Yes, sir

17 Q Okay And they told you at that time that you
18 actually faced just on one count a minimum of fifteen
19 years in jail and up to thirty, correct?

20 A At that time, we actually hadn't discussed it, what
21 I was facing

22 Q Did you at some time learn that you faced between
23 fifteen and thirty years on the distributions?

24 A I mean, I knew -- I mean, I knew I was facing some
25 serious charges, but they never told me and I never had

State of South Carolina -vs- Robert Anthony Gracely (2008 GS-47 0011)
Kimberly Taylor - Direct Examination by Mr Coulter

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1 a conversation and they look at me and say you're
2 looking at thirty years or anything like that, I just
3 knew that I was ---

4 Q You know that?

5 A Yes, sir

6 Q Okay But you knew you faced a lot of time when
7 they came to talk to you?

8 A Yes

9 Q Okay And when you talked to them on June 11th,
10 you told them about John Ham?

11 A Can I say something? I -- I'm sorry

12 Q Let me finish the question

13 A Okay I'm sorry

14 Q You told them about John Ham?

15 A Uh-huh (affirmative)

16 Q Right?

17 A Yes, sir

18 Q You told them about Joel Hall?

19 A Yes, sir

20 Q You told them about Lance Holloway?

21 A Yes, sir

22 Q You told them about a fellow named Dwayne, whose

23 ~~last name you didn't know?~~

24 A Yes, sir

25 Q Okay And you never mentioned anybody by the name

State of South Carolina -vs- Robert Anthony Gracely (2008-GS 47 0011)
Kimberly Taylor Direct Examination by Mr Coulter

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1 of Anthony Gracely on June 11, 2008, did you?

2 A No, sir

3 Q Okay And then they actually came to you again
4 about a month later, right?

5 A Yes, sir

6 Q July 23rd of 2008 Is that right?

7 A Yes, sir

8 Q Okay Do you want to look through this one?

9 A Please

10 Q Okay Go right ahead, look Tell me when you're
11 ready

12 A Okay

13 Q All right Now, on July 23rd, if you look at the
14 summary of that statement on that date, when they asked
15 you to cooperate, and that was before you were
16 sentenced, correct?

17 A Yes, sir

18 Q Okay That was before they gave you a deal, right?

19 A Yes, sir

20 Q Excuse me?

21 A I mean, yes, sir

22 Q Okay On that date you identified John Ham?

23 A Uh-huh (affirmative)

24 Q Yes?

25 A Yes, sir

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)
Kimberly Taylor Direct Examination by Mr Coulter

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- 1 Q Jeremy Dixon?
- 2 A Yes, sir
- 3 Q Lance Holloway?
- 4 A Yes, sir
- 5 Q Pat Bridges?
- 6 A Yes, sir
- 7 Q Candy?
- 8 A Yes, sir
- 9 Q Last name unknown Stacy, last name unknown,
- 10 right?
- 11 A Yes, sir
- 12 Q April Powell?
- 13 A Yes, sir
- 14 Q Keith, last name unknown?
- 15 A Yes, sir
- 16 Q Debbie Young?
- 17 A Yes, sir
- 18 Q Ruth, last name unknown?
- 19 A Yes, sir
- 20 Q David Nix?
- 21 A Yes, sir
- 22 Q David Nix, is that -- Debbie Young, actually that
- 23 -- Debbie Young is your -- is that your sister-in-law?
- 24 A Yes My sister
- 25 Q Sister So you identified your sister?

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)
Kimberly Taylor Direct Examination by Mr Coulter

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1 A Yes, sir

2 Q Okay Nikki McKinney?

3 A Yes, sir

4 Q Eddie, last name unknown? Sandy Galloway?

5 A Yes, sir

6 Q Terry, last name unknown and Michael, last name
7 unknown And these are all people that were around and
8 about methamphetamine, using and selling and in the
9 business, right?

10 A Yes, sir

11 Q Including your sister that you identified?

12 A Yes, sir

13 Q Okay And nowhere in there did you identify
14 Anthony Gracely, did you?

15 A No, sir

16 Q No Not until you came up and were given a deal on
17 what you faced, right? Because you faced -- first of
18 all, you're not charged with conspiracy with Anthony
19 Gracely, are you?

20 A No, sir

21 Q No You're charged with conspiracy, Count One,
22 with seventeen or eighteen other people They didn't

23 charge you with Anthony Gracely, right?

24 A Right

25 Q Okay So if you had been charged with conspiracy

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Kimberly Taylor - Direct Examination by Mr Coulter

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1 with Anthony Gracely, you understand you could have

2 received up to thirty years on that?

3 A Yes, sir

4 Q But they didn't charge you with that?

5 A No, sir

6 Q But they did charge you with one count of

7 conspiracy that did carry thirty?

8 A Yes, sir

9 Q And then we've already talked about the two
10 distributions which carry between fifteen and thirty
11 So you knew that if you didn't cooperate you were facing
12 a minimum of thirty years and up to ninety years on
13 these charges?

14 A Yes, sir

15 Q And what they let you do is plead to the twenty
16 years on a second offense, when we know that it's
17 actually at least a fourth offense?

18 A Yes, sir

19 Q And it's after you sign this plea agreement that
20 you identify Anthony Gracely, even though you had two
21 opportunities before to do that, right?

22 A Yes, sir

23 Q And you specifically mentioned on these two-----
24 previous occasions, Lance Holloway?

25 A Yes, sir

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47-0011)
Kimberly Taylor Redirect Examination by Mr Crout

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1 Q Right?

2 A Yes, sir

3 Q And what your testimony was just a minute ago, the
4 reason you ever knew Anthony Gracely was because of
5 Lance Holloway, right?

6 A Yes, sir

7 Q In fact, they were together for some reason, right?

8 A Yes, sir

9 Q But today, or at least recently, was when you
10 identify Anthony Gracely as opposed to the last two
11 times you had the opportunity to debrief and give a
12 debriefing to the government, right?

13 A Yes, sir

14 Q Okay Thank you

15 THE COURT Any redirect?

16 MR CROUT Very briefly

17 **REDIRECT EXAMINATION**

18 **BY MR CROUT**

19 Q What were Anthony Gracely and Lance Holloway doing
20 each time you saw them?

21 A Doing a drug deal

22 MR CROUT No further questions

-23 THE COURT All right Thank you, ma'am You
24 may step down

25 MS PORTER Your Honor, we would ask that Ms

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)

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Joel Hall Direct Examination by Ms Porter

1 Taylor be released from her subpoena and sent back to
2 the Department of Corrections

3 THE COURT Without objection, she may

4 You may call your next witness

5 MS PORTER Thank you, Your Honor The State
6 calls Joel Hall

7 MR PARKS Please step forward to be sworn
8 in, sir Place your left hand on the bible and raise
9 your right hand Do you solemnly swear to tell the
10 truth, the whole truth and nothing but the truth, so
11 help you God?

12 MR HALL I do

13 MR PARKS Please be seated After you're
14 seated, please state your name for the record Speak
15 into the microphone

16 MR HALL Joel Hall

17 JOEL HALL,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

19 DIRECT EXAMINATION

20 BY MS PORTER

21 Q Good afternoon How old are you, Mr Hall?

22 A Thirty-eight

23 Q And what type of education do you have?

24 A I graduated from high school with vocational
25 training

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)
Joel Hall - Direct Examination by Ms Porter

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1 Q Where are you currently residing?

2 A Ft Dix, New Jersey, Federal Correctional
3 Institution

4 Q You're in Federal prison?

5 A Yes, ma'am

6 Q And what are you doing in Federal prison?

7 A Going through a residential drug abuse treatment
8 program

9 Q Are you a drug addict?

10 A Yes, ma'am

11 Q How long have you been a drug addict?

12 A Ever since around age fourteen

13 Q What's your drug of choice?

14 A I would say methamphetamine

15 Q Have you done more than just meth?

16 A Yes, ma'am

17 Q What type of drugs have you done in the past?

18 A Cocaine, prescription medications, alcohol,
19 marijuana

20 Q I want to talk a little bit about your prior
21 history It's pretty extensive, wouldn't you say?

22 A Yes, ma'am

23 Q Let's start in 2001. Were you convicted of
24 obtaining controlled substances by fraud?

25 A Yes, ma'am

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Joel Hall Direct Examination by Ms Porter

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1 Q Possession of marijuana?

2 A Yes, ma'am

3 Q Driving under the influence?

4 A Yes, ma'am

5 Q Forgery?

6 A Yes, ma'am

7 Q Another obtaining controlled substance under fraud

8 -- by fraud?

9 A Yes, ma'am

10 Q Attempting to obtain controlled substances by

11 fraud?

12 A Yes, ma'am

13 Q And habitual traffic offender What is that?

14 A Three times driving under suspension More than

15 three Fourth or above, I think

16 Q So if you violate -- did you lose your license for

17 the DUI?

18 A Yes, for that one and prescription violations,

19 also

20 Q So you drove without a license on at least three

21 occasions and got caught?

22 A Yes, ma'am

23 Q All right -- So in 2001 we've got three -- four drug

24 offenses, is that right?

25 A Yes, ma'am

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Joel Hall - Direct Examination by Ms Porter

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1 Q And in 2002, were you convicted of grand larceny?

2 A Yes, ma'am

3 Q How many times?

4 A I'm not sure It's three or four Three or more,

5 I know

6 Q Okay Another obtain goods under fraud -- by

7 fraud Excuse me Obtaining controlled substances by

8 fraud?

9 A Yes, ma'am

10 Q And then in '03, 2003, were you convicted of

11 burglary third degree?

12 A Yes, ma'am

13 Q Another driving under the influence?

14 A Yes, ma'am

15 Q Another grand larceny?

16 A That sounds about right, yes, ma'am

17 Q Another drug charge?

18 A It sounds about right, yeah I'm not particularly

19 certain on all of it But, I mean, yeah, the record

20 sounds correct

21 Q Another tools of a crime?

22 A Yes, ma'am I remember that

- 23- Q - That's possessing tools of a crime, correct? - - -

24 A Yes, ma'am

25 Q All right And another habitual traffic offender?

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Joel Hall - Direct Examination by Ms Porter

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1 A That sounds

2 Q And then in 2004, maybe another grand larceny?

3 A Somewhere around in all that, it was all

4 consolidated, but I had acquired a lot of those charges

5 As far as the number on them, I'm not sure But I know

6 it's many I can't particularly remember all, but I

7 think you're about right

8 Q And did you go to prison after that for some length

9 of time?

10 A Yes, ma'am I went in in 2003 and came out in

11 2007

12 Q Okay Now, with respect to your testimony here

13 today, were you given a deal to come here and cooperate?

14 A My understanding was -- I don't think anybody told

15 me that straight right

16 Q Well, did you sign a plea agreement when you ---

17 A I did sign a plea agreement saying that I would

18 cooperate with the Solicitor's office in whatever way,

19 so I guess that could be, yeah, construed as my

20 testimony

21 Q Okay And based upon your cooperation and your

22 testimony, we agreed to reduce a number of your charges,

23 is that correct? ---

24 A Yes, ma'am

25 Q And we agreed to recommend that you serve a ten

1 year sentence on all of your charges, concurrent with
2 your federal prison sentence Is that correct?

3 A Yes, ma'am

4 Q All right So we took a third or subsequent
5 offense You had at least three priors?

6 A Yes, ma'am

7 Q Reduced them all to first offenses, is that
8 correct?

9 A Yes, ma'am

10 Q And you pled guilty to trafficking
11 methamphetamines, ten to twenty-eight grams by
12 conspiracy Is that correct?

13 A Yes, ma'am

14 Q And we agreed to reduce that from trafficking
15 methamphetamines more than four hundred grams by
16 conspiracy Is that right?

17 A Yes, ma'am

18 Q All right And you also pled to an actual
19 trafficking charge of ten to twenty-eight grams Is
20 that correct?

21 A Yes, ma'am I think that was the conspiracy charge
22 reduced to a lesser charge, maybe

23 Q Okay Well, you had two conspiracy charges. You
24 were in count two and count three, correct?

25 A Yes, ma'am

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Joel Hall Direct Examination by Ms Porter

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1 Q So you were in two different conspiracies?

2 A Yes, ma'am

3 Q And both of those conspiracies were charged at more
4 than four hundred grams, but reduce to ten to twenty-
5 eight grams, first offense Is that correct?

6 A Yes, ma'am

7 Q All right And then you were also indicted on
8 three different distribution of meth charges, is that
9 correct?

10 A Yes, ma'am

11 Q And so at a third offense, we've reduced that to a
12 first offense, is that correct?

13 A Yes, ma'am

14 Q All right And we've recommended that you serve
15 ten years on all of that concurrent with your federal
16 sentence?

17 A That's correct

18 Q Okay Now, if we hadn't done that, you would have
19 been looking at a hundred and fifty years, is that
20 correct?

21 A That sounds about right

22 Q So you went from a hundred and fifty years to ten
23 years? - - - - -

24 A Yes, ma'am

25 Q All right What has the State asked you to do in

1 exchange for that reduction in your charges?

2 A Offer my cooperation

3 Q Okay And by cooperation, what do you mean?

4 What's your understanding of what your cooperation
5 entails?

6 A To be truthful in whatever I'm asked

7 Q And when did you decide to cooperate with the
8 State?

9 A Friday, I think it was

10 Q Last Friday?

11 A Actually, I'd made letters to Mr Crout before
12 this

13 Q Okay

14 A With reference to that But Friday I actually
15 spoke to y'all about it

16 Q And signed your plea agreement?

17 A Yes, ma'am

18 Q Okay In June of -- I'm concerned about the time
19 frame of June of 2007 forward Were you out of prison
20 in June of 2007?

21 A Yes, ma'am

22 Q How long had you been out of prison?

23 A I got out March 30th

24 Q Okay A few months Between the time you got out
25 and June of 2007, did you get back into the

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1 methamphetamine world?

2 A I think it was right around July, actually

3 Q Okay July?

4 A Yes, ma'am

5 Q All right How did you get back in to using
6 methamphetamines?

7 A I actually ran into some old friends, drank a
8 little bit and from there it lead to, eventually, within
9 a matter of a week or so, I started doing meth again

10 Q Okay And how much were you doing at that time?

11 A At that time, maybe -- I think I did maybe a
12 quarter gram, half gram the first time I'd done it and I
13 didn't do it again for maybe a week or so And then the
14 second time I went to do it, I got spun, I guess, for a
15 lack of a better way to explain it And I couldn't tell
16 you -- it was a daily occurrence then -- the amount

17 Q So mid-July of 2007 you were using methamphetamines
18 on a daily basis?

19 A Yes, ma'am

20 Q All right How could you afford to do that?

21 A I had moved in with a friend, a girl that I had
22 met, and she had a supply of it and I was getting it
23 from her.

24 Q What was her name?

25 A Kim Taylor

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1 Q Okay Were you also working at this time?

2 A At this time, no, ma'am

3 Q Did you get a job shortly thereafter moving in with
4 Ms Taylor?

5 A Sometime around September or October I did I got
6 a job at a body shop

7 Q All right And whose body shop was that?

8 A John Ham

9 Q All right And at some point in this time frame,
10 did you begin to sell methamphetamines?

11 A Yes, ma'am

12 Q Okay And eventually did you lose -- well, who was
13 your source at that time for methamphetamines?

14 A It was John

15 Q Okay And did you lose that source with John?

16 A Yes

17 Q Why? How did you lose it?

18 A Me and Kim had a falling out over an incident that
19 had occurred I moved out and John ended up moving in
20 with her Him and her hooked up So with the animosity
21 she and I had with each other, he started taking her to
22 the body shop and so, therefore, I stopped going to the
23 shop and stopped associating altogether

24 Q Well, where did you go?

25 A Actually, I moved in to another friend girl's

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1 house, a girl named Jen and stayed there for a very
2 short period of time, and then to Ernest Craft's
3 residence

4 Q All right Now, approximate what time, when --
5 time frame wise, when did you go to Ernie Craft's
6 residence?

7 A This was some time around January

8 Q 2008?

9 A Yes, ma'am

10 Q All right Well, did Ernie -- where was the
11 residence?

12 A Turner Hill Road

13 Q And what county is that in?

14 A Easley, I think

15 Q So Pickens County?

16 A Yes, ma'am

17 Q All right Did that particular house have a
18 nickname?

19 A That I can recall, I don't remember, but I'm sure
20 it did

21 Q Have you ever heard it called a track house?

22 A I haven't

23 Q -- Okay What were you doing when you would go to --
24 Ernie's house on Turner Hill Road?

25 A Actually, I went there in hopes of finding somebody

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Joel Hall Direct Examination by Ms Porter

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1 that had any, because I wasn't able to get it through

2 John

3 Q How did you know to go to Ernie Craft's house?

4 A From peoples' conversations, other people that I

5 knew that was doing drugs

6 Q While you were at Ernie Craft's house, who did you

7 see?

8 A A lot of people

9 Q Well, do you know an individual by the name of

10 Anthony Gracely?

11 A Yeah I know Anthony Gracely

12 Q Does he have a nickname?

13 A Tony G

14 Q Okay Did you ever see Tony G at Ernie Craft's

15 house?

16 A Me, I don't think I did

17 Q Okay

18 A No, ma'am

19 Q Well, who did you see at Ernie Craft's house?

20 A Brian Stegall I mean, there was numerous,

21 numerous people that I saw there Do you want me to

22 just name off the people, ---

23 Q- Yes, please - - - - -

24 A -- the people I knew?

25 Q Yeah

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Joel Hall Direct Examination by Ms Porter

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1 A A guy named Chris There was a Chris, Doug, J

2 Doug I could sit here and probably name off forty or

3 fifty people that I would see in and out of there

4 Q Well, when you went to Ernie Craft's house, did you
5 get methamphetamines?

6 A Yes, ma'am

7 Q Okay And did you buy enough to sell
8 methamphetamines?

9 A Yes, ma'am

10 Q And why did you sell some of the methamphetamines?

11 A To keep my daily habit up because that was how I
12 was surviving, was getting high

13 Q So you sold to support your own habit?

14 A Yes, ma'am

15 Q What amounts were you purchasing?

16 A Eight ball or a quarter ounce usually once or twice
17 a week

18 Q How much would an eight ball cost you?

19 A Somewhere in the range of two or two fifty

20 Q All right And a quarter ounce?

21 A In the range of four to four fifty

22 Q Okay You mentioned that you know Tony G or

23 Anthony Gracely How do you know him? - - - - -

24 A I met him in ---

25 Q No, let me stop you right there How long have you

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Joel Hall - Direct Examination by Ms Porter

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1 known him?

2 A Since around 2003

3 Q Okay Did you run into him again in the beginning
4 of 2008?

5 A Yes, ma'am

6 Q All right Where did you run into him?

7 A Actually, the first time I seen him was at a motel
8 room

9 Q And what were you doing at that motel room?

10 A I had -- was going to sell a four-wheeler to a guy
11 named Brian that was there And that's where I saw him
12 I saw him there at the time

13 Q Where was the motel room?

14 A His motel room was in downtown Greenville, right
15 off Heyward Road Well, not downtown Off of Heyward
16 Road

17 Q Were there any drugs there that day?

18 A That day, I'm not sure

19 Q Okay

20 A I didn't see anything

21 Q When you bumped into him, what type of conversation
22 did y'all have?

23 --A- Just, hey What's up - I haven't seen you, dah,
24 dah, dah, dah You know, how you doing? That type of
25

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Joel Hall Direct Examination by Ms Porter

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1 Q Did y'all exchange phone numbers or any contact
2 information?

3 A Actually, I think I did get one of his numbers at
4 that time I gave him my number

5 Q Do you remember what that number was?

6 A At that time -- No I can't recollect it

7 Q Okay When was the next time you ran into Tony G?

8 A There was a guy named Adam had made a phone call
9 and he was going to meet Tony and I called him back on
10 Adam's phone and talked to him, and I went down and met
11 him then

12 Q What's Adam's last name?

13 A I think Scott

14 Q Okay And where were y'all?

15 A At that time, we were in Greenville

16 Q Approximately when was this?

17 A June 2008

18 Q Okay And you said you ran down and met him What
19 do you mean?

20 A Adam was going to see him so I asked him ---

21 Q Who is him?

22 A Adam was going to see Tony, Tony G, and I'd asked

23 him, I said, did you talk to him? He said, yeah. I -

24 said, well, let me use your phone Can I call him back?

25 He said, yeah So I called him back on Tony's phone and

1 asked him could I come talk to him He said, yeah He
2 said he didn't have a problem with that He said, put
3 Adam on the phone So when he talked to Adam and then
4 he and I both rode down to the motel where he was
5 staying in Greenville

6 Q Okay And this was the motel off of Heyward Road?

7 A No, this was another one Exactly where, I'm not
8 sure

9 Q But it was somewhere in Greenville

10 A Somewhere in Greenville County

11 Q All right Approximately what time of day is this?

12 A This is probably late evening, eight-thirty, nine
13 o'clock

14 Q Okay And did you meet with Tony G that night?

15 A Yes, ma'am

16 Q And what happened when you and Adam met with Tony
17 G?

18 A At that time, I bought the half ounce of meth off
19 Tony

20 Q How much did he charge you for it?

21 A I gave him six hundred dollars And I owed him
22 two

23 Q. - How did you owe him two hundred dollars? - - - -

24 A It was eight hundred dollars

25 Q Okay I'm sorry Did you say that was a half

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Joel Hall Direct Examination by Ms Porter

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1 ounce or a quarter ounce?

2 A Half

3 Q Well, how were you -- when were you supposed to pay
4 him the rest?

5 A He just told me to get with him maybe in a week or
6 so, just whenever I got it I mean, you know, it was a
7 general understanding I mean, he never actually said
8 get with me in a week or so I told him I would yell at
9 him when I had the money

10 Q All right Well, what did you do with that half
11 ounce?

12 A I used the vast majority of it, but then I sold it
13 I sold, I think I sold maybe an eight ball out of it and
14 used the rest

15 Q How much did you charge for the eight ball?

16 A Two fifty

17 Q All right And when you called him to say you had
18 the -- well, let me back up Who else was present when
19 this deal went down in Greenville County?

20 A Me, Adam, some other guy named Dee, and other guy,
21 but I don't know his name

22 Q All right Did y'all hang out and get high or did
23 you get your stuff and leave, what happened? --

24 A At that time, I tried it You know we did roll the
25 bowl, so to speak, smoked some meth And we was there

1 not long and then we left, maybe twenty minutes at the
2 most

3 Q You and Adam left?

4 A Yes

5 Q When was the next time you saw Tony G?

6 A He came to a guy named Bruce, the last name I'm not
7 sure He stayed off of Hard Drive He came over there
8 one time and I seen him there maybe once or twice after
9 that

10 Q Okay Did you pay his two hundred dollars?

11 A Before all of that, I sent the money by somebody
12 else

13 Q Who did you send it by?

14 A Somebody named Dee, Dwayne is what they call him

15 Q Dwayne is what they called him? How many times in
16 2008, in this time frame, did you buy drugs from Tony G?

17 A That was the only time I ever actually bought drugs
18 from Tony

19 Q Okay How many times did you go with someone else
20 to buy drugs from Tony G?

21 A That was the only time I actually went with anybody
22 else to get drugs

23 Q. All right --Do you know an individual by the name --
24 of Lance Holloway?

25 A Yeah, I know Lance

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Joel Hall Direct Examination by Ms Porter

1 Q How do you know Lance?

2 A I've known him for years

3 Q Okay Do you know if Lance and Tony G had a
4 relationship?

5 A Yes

6 Q What type of relationship did they have?

7 A My understanding they were friends at one time

8 Q Were they also in business together?

9 A I mean, to my knowledge, I mean, hearsay, yeah, you
10 could say that I don't know it first-hand

11 MR COULTER I'm going to object to that,
12 Judge

13 THE COURT I sustain the objection

14 Q Well, let me ask you this Did you ever deal with
15 Lance Holloway for the purpose of getting drugs?

16 MR COULTER Judge, I'm going to object to
17 that as well This trial has to do with Anthony
18 Gracely, and what he did or didn't do with Lance
19 Holloway is not relevant to this case

20 THE COURT What's the relevance?

21 MS PORTER Well, Lance Holloway is a self-
22 admitted co-conspirator in this count The act of Lance
23 Holloway is attributable to each and every co-
24 conspirator, Your Honor

25 THE COURT I'm going to overrule your

1 objection, Mr Coulter

2 MR COULTER That's, of course -- just for
3 the record, that's under her theory of the case and I
4 just say that I think that's irrelevant

5 THE COURT Well, I understand Mr Holloway's
6 going to be testifying

7 MR COULTER Okay

8 THE COURT Overruled

9 Q Did you ever purchase methamphetamines from Lance
10 Holloway?

11 A No, ma'am As far as money transactions, no,
12 ma'am I did drugs with him, but no purchases from him

13 Q So you used drugs with him?

14 A Yes, ma'am

15 Q How many -- approximately how many times?

16 A Oh, numerous times

17 Q Why didn't you deal with Tony G more than the one
18 time?

19 A He made you, what you would call, jump through too
20 many hoops I would say

21 Q Can you explain what that means to the jury?

22 A It was hard to get him to -- I mean, from my
23 experience with him, it was hard to ever get him to meet
24 you anywhere or anything like that

25 Q Why?

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1 A Just being real cautious For that, I can't, I
2 mean, I can't say He was just real cautious with who
3 he dealt with, who he talked to, from my understanding
4 It wasn't really worth my hassle to try to talk to Tony,
5 I guess is a better way to put it When I wanted to get
6 high, I wanted to get high right then I didn't want to
7 have to wait

8 Q This Dwayne individual that you mentioned, that you
9 gave the money to take back to Tony G, did you ever
10 purchase drugs from Dwayne?

11 A I have, yeah I've sent money with Dwayne to get
12 drugs before

13 Q Do you know who Dwayne got the drugs from?

14 A I don't know for a fact I suspect maybe it might
15 have been Tony G

16 MR COULTER Judge, I'm going to object

17 THE COURT All right I sustain the
18 objection

19 Q But you did purchase from Dwayne, as well?

20 A Yes, ma'am

21 MR COULTER Judge, what's the -- I don't
22 know of a co-conspirator named Dwayne that I'm aware of
23 ~~I don't know what the relevance of that is, as well~~ - - -

24 THE COURT What is the relevance of Dwayne?

25 Are we going to identify Dwayne?

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Joel Hall Direct Examination by Ms Porter

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1 MS PORTER Well, Your Honor, he's not an
2 indicted co-conspirator, but I believe Mr Hall's
3 testimony is that he gave money to Dwayne to give to
4 Tony G for drugs purchased I'm just trying to develop
5 the relationship

6 THE COURT Well, I'll allow you to ask
7 questions I'll allow you to develop that Rephrase
8 your question if you would, Ms Porter

9 MS PORTER He said that he bought drugs from
10 Dwayne I was just trying to ask how much and what was
11 the cost

12 THE COURT I'll allow the question
13 Overruled

14 A I have sent two hundred dollars with Dwayne on a
15 couple of occasions to go get an eight ball, when he was
16 going to get his

17 Q And did Dwayne tell you where he was going to get
18 it?

19 A No, ma'am, not right off

20 Q Do you know an individual by the name of Brian
21 Stegall?

22 A Yes, ma'am

23 Q -- And how do you know Brian Stegall? --

24 A I met him after I moved in to Shannon Smith's
25 residence

State of South Carolina -vs- Robert Anthony Gracely (2008-GS 47 0011)
Joel Hall Direct Examination by Ms Porter

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1 Q When was that? When did you move into Shannon
2 Smith's residence?

3 A Around January 2008, January, February February
4 of 2008

5 Q Have you ever dealt with Brian Stegall?

6 A Yes, ma'am

7 Q So you've purchased drugs from him Have you sold
8 drugs to him?

9 A We've done a lot of drugs together and I purchased
10 an eight ball from him before, yes, ma'am

11 Q Okay Do you know -- and I'm just asking if -- do
12 you know who his source was?

13 A I'd heard it was Tony G

14 Q Did Brian tell you that?

15 MR COULTER Judge, I would object again

16 THE COURT I sustain the objection Just
17 state what you know from your own knowledge, please,
18 sir I sustain the objection

19 MR COULTER And if I could have a curative
20 instructive

21 MS PORTER Your Honor May we approach
22 briefly?

23 THE COURT -- Yes -- Yes, ma'am --

24 (WHEREUPON, Ms Porter, Mr Crout and Mr Coulter
25 approached the bar)

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Joel Hall - Cross Examination by Mr Coulter

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1 THE COURT Your objection is noted

2 Q When you were setting up these deals with Brian
3 Stegall, did y'all discuss prices and amounts?

4 A At certain times, yes

5 Q Okay Did you discuss where he was going to get
6 the drugs, how long it would take to get them, where
7 y'all would meet, things of that nature?

8 A Yes

9 Q All right Did Brian Stegall ever tell you in
10 setting up these deals between y'all who he was getting
11 his drugs from?

12 A I'm going to say, yes I mean, I knew he was
13 getting them -- I'm going to say, no I mean, I knew
14 from what I'd heard that he was ---

15 Q Either he told you or he did He didn't?

16 A No, ma'am

17 Q Okay Please answer any questions Mr Coulter has
18 for you

19 CROSS EXAMINATION

20 BY MR COULTER

21 Q So as I understand then, your testimony is that
22 some time in 2007 you may have gotten -- was it one half
23 of an ounce or a quarter of an ounce that you and
24 Anthony had?

25 A It was 2008

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47-0011)
Joel Hall Cross Examination by Mr Coulter

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1 Q 2008?

2 A A half ounce

3 Q A half ounce And you smoked some of that?

4 A Yes

5 Q All right And he smoked, right? Obviously, he
6 used?

7 A Yes

8 Q So during that time where you're an admitted co-
9 conspirator as the State has said, as the government is
10 claiming, you co-conspired to deal with one-half of an
11 ounce of methamphetamine Isn't that your testimony?

12 A I bought a half ounce of meth from Tony Gracely
13 If that's what you're asking, yes

14 Q Yeah And that's it, right?

15 A Yes

16 Q Okay And your federal charge that you're -- what
17 was that? I missed that I'm sorry I really didn't
18 hear

19 A A felony possession of a firearm

20 Q And what did you get on that?

21 A Fifty-three months

22 Q Fifty-three months, okay All right And so I'm
23 not going to go through your criminal history I think
24 they missed a burglary You've been convicted of that
25 in the past as well, right?

1 A Yes, sir

2 Q All right You've had a criminal history since age
3 eighteen, basically?

4 A Pretty much, yes, sir

5 Q And we know that in going through this you've had
6 at least five previous drug convictions before this?

7 A Yes

8 Q Okay And one of the -- not only did they give you
9 -- well, first of all, on the trafficking that you got,
10 conspiracy, you knew you faced up to thirty years on
11 that?

12 A Yes

13 Q And you had two of those, so you had sixty?

14 A Yes

15 Q All right And the math that the prosecutor said
16 was right With the three distributions, particularly
17 if they treat it as third offense, you faced a minimum
18 of fifteen years on those and up to thirty?

19 A Right

20 Q Okay So in exchange for your cooperation, as you
21 put it, you were able to get out of the possibility of a
22 minimum of forty-five years and up to a hundred and
23 ~~fifty years.~~

24 A Yes

25 MS PORTER Your Honor, I'm going to object

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Joel Hall Cross Examination by Mr Coulter

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1 to that characterization The minimum would be fifteen
2 years not forty-five

3 MR COULTER There's three counts of
4 distribution, Judge, if I'm not mistaken, from the plea
5 agreement

6 THE COURT All right

7 MS PORTER Right And the minimum would be
8 fifteen years He'd have to serve fifteen years, not
9 forty-five

10 MR COULTER On each charge

11 THE COURT I think he's referring to each
12 charge being consecutive

13 MS PORTER Well, let's say consecutive

14 THE COURT All right

15 MS PORTER Because the minimum is fifteen,
16 not forty-five

17 THE COURT All right All right Just
18 rephrase your question if you would, please, sir

19 Q If you were convicted of a distribution, any
20 distribution charge, considering how many priors you
21 had, distribution of methamphetamine, on each charge you
22 know you faced the minimum of fifteen years and up to
23 thirty? - - - - -

24 A Yes

25 Q Okay All right So if we added that up, you had

1 three distributions of meth They sent a CI in to buy
2 from you, right?

3 A Correct Yes, sir

4 Q They wired somebody up, had them go in and make a
5 purchase from you?

6 A Yes, sir

7 Q Was that Miranda Woods?

8 A My understand, yes, sir, it was

9 Q Okay All right And so they sent that in and you
10 got to listen to the tapes or at least were told about
11 them, right?

12 A Yes

13 Q All right So you knew there were tapes involved
14 and surveillance and that sort of thing But not only
15 that, not only were you facing up to a hundred and fifty
16 years, plus the minimum, but they treated each one of
17 these as a first offense, right?

18 A Yes

19 Q And then gave you a sentence of ten years, right?

20 A Yes, sir

21 Q In order for you to cooperate?

22 A Yes, sir

23 Q And then, not only that, they said they'll run it
24 concurrent with your federal time, right?

25 A Yes, sir

State of South Carolina vs- Robert Anthony Gracely (2008 GS-47 0011)
Joel Hall Cross Examination by Mr Coulter

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1 Q If you cooperate?

2 A Yes, sir

3 Q And what does concurrent mean?

4 A It runs right along with the federal sentence, I
5 believe

6 Q So you're not getting any extra time on that
7 You're serving it at the same time as the federal time
8 that you already had, right?

9 A Yes, sir

10 Q Okay And you know that if you were to -- just
11 like all the others -- if you were not to cooperate,
12 they could withdraw whatever they've already given you,
13 that ten years?

14 A Yes, sir

15 Q And you wouldn't even be able to withdraw your
16 guilty plea They could argue for the maximum hundred
17 and fifty years if you didn't cooperate, correct?

18 MS PORTER Objection, Your Honor, that's not
19 accurate

20 MR COULTER Okay I'm sorry

21 Q Let's see I'll rephrase it Do you see here the
22 State may argue for a maximum sentence for the offenses
23 ~~to which the Defendant has pled guilty if you don't~~
24 cooperate?

25 A Yes, sir

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Joel Hall Cross Examination by Mr Coulter

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1 Q Okay And I'm sorry The maximum you could face
2 is a hundred and fifty years on all your charges?

3 MS PORTER May we approach?

4 THE COURT Yes Yes, ma'am

5 (WHEREUPON, Ms Porter, Mr Crout and Mr Coulter
6 approached the bar)

7 Q This was my mistake I'm sorry, Mr Hall My
8 mistake is that they can't take away what you've already
9 pled to Did you know that? They've had you plead not
10 to the four hundred grams, like you were originally
11 charged with, which carried up to thirty years So if
12 you weren't willing to cooperate, you would actually
13 face only the methamphetamine between ten and twenty-
14 eight grams, which they reduced all the way down to
15 first offense as opposed to sixth offense Do you see
16 that?

17 A Yes, sir

18 Q And that's if you didn't cooperate So actually,
19 you're still -- let me look at something here

20 MR COULTER Excuse me just one second,
21 Judge

22 Q Well, it appears that conspiracy to traffic between
23 ~~ten and twenty-eight grams, if it's your third offense,~~
24 that's right, it's up to thirty, but you've got the
25 first offense agreement instead of that All right

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47-0011)
Joel Hall - Redirect Examination by Ms Porter

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1 And so in actuality, since they gave you that, you would
2 face, let's see, ten, ten, twenty, a hundred and ten
3 No, that's not right It's fifteen because they reduced
4 it there So it's fifteen years, thirty, forty-five,
5 sixty-five Does that sound right now? I don't know
6 I may have it wrong Does that sound about right?

7 A That sounds about right

8 Q Nonetheless, if you didn't cooperate, you would be
9 facing significantly more than the ten that you were
10 already were given as far as a sentence?

11 A Yes, sir

12 Q Okay Thank you

13 THE COURT Any redirect?

14 MS PORTER Very briefly

15 **REDIRECT EXAMINATION**

16 **BY MS PORTER**

17 Q That's just a recommendation by the State, right?

18 A Yes, ma'am

19 Q Who's going to sentence you?

20 A Judge Welmaker's sentencing me

21 Q And if he wants to, he can sentence you to sixty-
22 five years, can't he?

23 A Up or down He doesn't have to go by the
24 recommendation

25 Q And in this conspiracy, you conspired to purchase

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47 0011)
Joel Hall Recross Examination by Mr Coulter

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1 and sell methamphetamines, didn't you?

2 A Yes, ma'am

3 Q And you've pled guilty to that, right?

4 A Yes, ma'am

5 Q In two different conspiracies, right?

6 A Yes, ma'am

7 MS PORTER No further questions

8 MR COULTER Just one follow-up on that,

9 Judge

10 THE COURT Yes, sir

11 **RECROSS EXAMINATION**

12 **BY MR COULTER**

13 Q You already pled guilty though, right?

14 A Yes, sir

15 Q In this Court?

16 A Yes, sir

17 Q And you've already received that ten year sentence

18 ---

19 A Yes, sir

20 Q -- that was recommended?

21 A Yes, sir

22 Q Okay

23 THE COURT All right-- Thank you, sir-- You --

24 may step down, Mr Hall

25 MS PORTER Your Honor, I'd ask that Mr Hall

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Stacy Anderson - Direct Examination by Mr Crout

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1 be released from his subpoena

2 THE COURT Without objection

3 MS PORTER Thank you

4 THE COURT He may be excused

5 MR CROUT Your Honor, at this time, the

6 State calls Stacy Anderson

7 MR PARKS Please step forward to be sworn

8 in, sir If you would, please, raise your right hand to

9 be sworn in Do you solemnly swear to tell the truth,

10 the whole truth and nothing but the truth, so help you

11 God?

12 MR ANDERSON Yes

13 MR PARKS Please be seated State your name

14 after you're seated and speak into the microphone

15 MR ANDERSON Stacy Anderson

16 **STACY ANDERSON,**

17 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS**

18 **DIRECT EXAMINATION**

19 **BY MR CROUT**

20 Q Mr Anderson, how old are you?

21 A Thirty-seven

22 Q And where do you currently reside?

23 A I am incarcerated

24 Q What center are you in? What detention facility

25 are you in?

1 A LEC

2 Q All right Have you been assigned a place with the
3 Department of Corrections yet?

4 A No, sir I'm a federal inmate

5 Q All right And explain to the jury what that means
6 in terms of you being a federal inmate and not a SCDC
7 inmate?

8 A I'm under federal -- I guess I'm the property of
9 the federal government

10 Q All right

11 A Until I finish my sentence

12 Q And you're serving a federal sentence right now?

13 A Not as of right now

14 Q All right You're awaiting sentencing?

15 A Yes, I am

16 Q Okay I'm going to go through a routine with you
17 that we've gone through with all the witnesses so for
18 So the jury is very familiar with this The first thing
19 I want to do is ask you about your prior record Tell
20 me about your prior record?

21 A I've got some failure to registers and indecent
22 liberties

~~23 Q Tell the jury what a failure to register means?~~

24 A It means I didn't notify them of a change of
25 address or something I've got to register on the sex

State of South Carolina vs Robert Anthony Gracely (2008 GS 47-0011)
Stacy Anderson Direct Examination by Mr Crout

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1 offender list

2 Q All right Are you a registered sex offender?

3 A Yes

4 Q All right What are your charges that resulted in
5 you being an alleged sex offender?

6 A Indecent liberties

7 Q All right Do you have a second degree sexual
8 offense? Is that your indecent liberties offense?

9 A Yeah

10 Q All right Any other offenses? You've got a
11 misdemeanor and an assault on a female?

12 A I'm not sure

13 Q All right If I showed it to you, would you agree
14 that you had one?

15 A Yeah

16 Q Okay Take a look at that second charge Does
17 that say a misdemeanor assault on a female?

18 A Yeah

19 Q Okay Let me ask you about your drug charges
20 What drug charges do you have?

21 A I've got just a misdemeanor, possession of weed, a
22 possession with intent to distribute, and I'm facing
23 some trafficking -

24 Q All right The indecent liberties with a child,
25 how many of those? Do you have one or two of those

1 charges?

2 A One

3 Q Just one conviction? Okay And what county was it
4 that you failed to register in?

5 A Hendersonville and Greenville

6 Q Okay And that's Hendersonville in North Carolina?

7 A Yes

8 Q Okay Now, Mr Coulter may have some more
9 questions to you about your criminal history, okay? I
10 just want to make sure we go through it and that you
11 acknowledge to this jury that you have one And I think
12 you would agree it's a very serious criminal history,
13 wouldn't you?

14 A Yeah, I mean

15 Q Well, you have to register as a sex offender, don't
16 you?

17 A Yeah

18 Q That's pretty serious Now, your plea agreement
19 where you pled guilty in this case ---

20 MR CROUT Do you mind if I lead him a little
21 bit

22 MR COULTER Let me see what you're asking

23 ~~MR. CROUT. Just the plea agreement~~

24 MR COULTER Oh, yeah Sure

25 MR CROUT I'm just going to lead him

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47-0011)
Stacy Anderson - Direct Examination by Mr Crout

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1 MR COULTER Okay

2 MR CROUT All right

3 Q You pled to trafficking meth, twenty-eight to a
4 hundred grams, correct?

5 A Yeah

6 Q And there's going to be a recommendation of a
7 fifteen year sentence Is that what you understand?

8 A Yes

9 Q All right And then also ---

10 A To be run concurrent with my federal sentence

11 Q With your federal sentence All right And then
12 distribution of methamphetamine, there's a
13 recommendation of a fifteen year sentence there,
14 correct?

15 A Yes

16 Q All right And that's going to run concurrent with
17 your federal sentence?

18 A Yes

19 Q And then trafficking in methamphetamines twenty-
20 eight to a hundred grams, there's going to be a
21 recommendation of fifteen years there too, right?

22 A Yes

23 Q And that's going to run concurrent with your
24 federal sentence, right?

25 A Yeah

1 Q And both of those trafficking in meth charges or at
2 least the first one was originally for greater than four
3 hundred grams, right?

4 A Yes

5 Q Okay So we reduced that for you ---

6 A Yes

7 Q -- as part of your plea agreement? All right And
8 you're appearing here and you're testifying today
9 pursuant to that agreement, correct?

10 A Yes

11 Q Okay I want to ask you specifically about an
12 individual by the name of Anthony Gracely Are you
13 familiar with that individual?

14 A Yes

15 Q All right How did you meet him?

16 A He called my phone one day

17 Q Do you know how he got your phone number?

18 A Through Christopher Latham, I'm assuming

19 Q Why do you say that's what you're assuming?

20 A Because he gave my phone number out to a lot of
21 people

22 Q Chris Latham did?

23 A Yes

24 Q All right Would that be common for him -- for you
25 to get a phone call from someone you didn't know?

State of South Carolina -vs- Robert Anthony Gracely (2008 GS-47-0011)
Stacy Anderson Direct Examination by Mr Crout

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1 A Yeah

2 Q Why would Chris Latham give somebody your phone
3 number?

4 A Because he knew I sold drugs

5 Q Where did you get the drugs you sold from?

6 A From a source in North Carolina

7 Q All right And what kind of drugs did you have?

8 A Methamphetamines

9 Q So how did you know that it was Anthony Gracely
10 that was calling you?

11 A He told me he was Tony G I mean, I didn't -- I
12 checked around and I found out his name

13 Q When you say you checked around, what do you mean
14 by that?

15 A Called a few people

16 Q Would that be common for you to do, to call people
17 once you've heard somebody's name ---

18 A Yeah

19 Q -- or try to find out who somebody was?

20 A Yeah

21 Q And why would you do that?

22 A So I would know about them

23 Q After you found out who he was, what did you do
24 then?

25 A Went on my way

1 Q Did you ever have any contact with him after that?

2 A Yeah It was a while later that I had contact with
3 him

4 Q What happened then?

5 A We'd get together every once in a while and smoke

6 Q Where would you -- well, let me ask you this

7 Prior to that, did you ever set up a meeting with

8 Anthony Gracely at a McDonald's up on East North Street?

9 A Yeah That's when he called me

10 Q All right

11 A And we met there

12 Q All right What did you discuss there?

13 A He wanted to get some dope, some meth

14 Q Did you have any discussion about how you would
15 arrange that to happen?

16 A Not really I quoted him some prices and -- but
17 nothing ever came out of that then

18 Q Did you ever -- do you recall the prices that you
19 quoted, roughly what you were selling meth for at that
20 time?

21 A Fourteen fifty, seven fifty and four fifty

22 Q All right And what was fourteen fifty for?

23 A An ounce

24 Q And what was seven fifty for?

25 A A half ounce

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Stacy Anderson - Direct Examination by Mr Crout

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1 Q And what was four fifty for?

2 A A quarter ounce

3 Q All right And was that standard what you would
4 sell meth for at that time?

5 A Pretty much

6 Q And at that meeting, did you all smoke any meth?

7 A Yes

8 Q Did you have any other transactions besides just
9 smoking any meth?

10 A No

11 Q When was the next time you saw Anthony Gracely
12 after that meeting?

13 A A couple of months later

14 Q And what happened then?

15 A His -- I think his apartment had just got raided
16 and he stopped by my house

17 MR COULTER Judge, I'm going to object to
18 that

19 THE COURT I sustain the objection Just
20 disregard that Just talk about the meeting if you
21 would, please, sir Disregard that I ask the jury to
22 disregard the response

23 Q -- Just tell me about what happened when you met him --
24 the second time

25 A He came to my house and told me his girlfriend was

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)
Stacy Anderson - Direct Examination by Mr Crout

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1 in jail and asked me if I could help him

2 Q And what did you do then?

3 A I gave him some dope

4 Q And what did you give him the dope for?

5 A To get ---

6 Q I mean, how was the dope going to get his
7 girlfriend out of jail?

8 A Yeah I guess he'd go and sell it

9 Q Did he ever pay you back for that?

10 A I didn't ask to be reimbursed for it

11 Q How much did you give him?

12 A It was under a quarter

13 Q And how much do you think that was worth at that
14 time?

15 A The quantity, depending on how you sold it, you
16 could get from three hundred to five hundred and fifty
17 dollars

18 Q Did you ever see him at any time after that?

19 A Yeah Pretty regularly

20 Q And where would those meetings occur?

21 A He'd just -- he'd call and, you know, he'd tell me
22 -- we'd talk most of the time But every once in a

~~23 while we'd meet up~~

24 Q What would you do when you'd meet up?

25 A Smoke some meth You know, he'd want to get

State of South Carolina -vs- Robert Anthony Gracely (2008 GS-47-0011)
Stacy Anderson Cross Examination by Mr Coulter

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1 something, always under a quarter ounce

2 Q And when you say that he would always get under a
3 quarter ounce, are you saying that y'all would smoke
4 some and then you would sell him some too?

5 A Yeah

6 Q Did he ever sell you any methamphetamine?

7 A No, sir

8 Q All right Does Anthony Gracely owe you any money
9 right now?

10 A Yes, he does

11 Q How much does he owe you?

12 A Seventy-three hundred dollars

13 Q All right And what's that for?

14 A Methamphetamines

15 Q Is your testimony today because he owes you money?

16 A No, it's not

17 Q I do not have any more questions Please answer
18 any questions that Mr Coulter may have for you

19 **CROSS EXAMINATION**

20 **BY MR COULTER**

21 Q Mr Anderson, do I understand from your testimony
22 that of whatever amount it was that you claim that you
23 gave to Anthony, you never got anything in return for

24 it?

25 A No

1 Q So there was no benefit that you received from
2 anything that Anthony may have done with whatever you
3 gave him, right? He hasn't paid you any money, right?

4 A Not for that initial one, no

5 Q Okay Now, one question you were asked was did
6 Anthony sell you anything, right?

7 A Yeah

8 Q Your answer was no?

9 A No

10 Q You didn't need Anthony to sell you anything, did
11 you?

12 A No, I did

13 Q No You had a connection up in North Carolina,
14 right?

15 A Yeah

16 Q And you would bring it down pounds of
17 methamphetamine, weren't you?

18 A No, I wasn't

19 Q Okay How much on average would you bring down a
20 week from North Carolina?

21 A I'd bring down ten ounces every day

22 Q Every day Okay Ten ounces every day Seven
23 days a week? - - - - -

24 A Sometimes

25 Q For how long, a couple of years?

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47 0011)
Stacy Anderson - Cross Examination by Mr Coulter

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- 1 A No
- 2 Q How long?
- 3 A Not even a year
- 4 Q Not even a year All right So, if it was three
- 5 hundred days, that's three thousand grams you would have
- 6 brought down each -- during that span of time, ten a
- 7 day, that you got rid of and smoked, right?
- 8 A In ten months time?
- 9 Q Yeah
- 10 A It'd be more than three thousand grams
- 11 Q Okay How much was it? I don't know
- 12 A Ten ounces a day is all I know
- 13 Q Okay Whatever that is You're right You think
- 14 it was more than three thousand grams?
- 15 A I'd assume so
- 16 Q Okay All right And I'm sure that one of the
- 17 people that you dealt with was Ernest Craft, right?
- 18 A Yeah
- 19 Q Yeah And you would -- Ernest Craft would buy --
- 20 would he buy as much as a quarter to a half ounce from
- 21 you every day?
- 22 A No
- 23 Q --- Every-other day?
- 24 A No Probably every three days, four days
- 25 Q Okay Somewhere in the neighborhood of twenty-

1 eight hundred dollars a week, maybe?

2 A No

3 Q Not that much?

4 A No

5 Q Two?

6 A That would be like two ounces, no

7 Q How much do you think, a week?

8 A Ernest a week?

9 Q Yeah

10 A Probably six hundred dollars

11 Q Okay All right But you were moving a lot to a
12 lot of people?

13 A Yes

14 Q And you've told the Attorney General's Office all
15 about that, right, because you were debriefed in order
16 to come here and give your testimony?

17 A I talked with them, yes

18 Q Well, you told them about all the methamphetamine
19 that you had moved in that year's time period, right?

20 A No I told them exactly what I told you I
21 brought down ten ounces every day

22 Q Well, did you tell them about anybody else, other
23 than Anthony?

24 A I answered whatever questions they asked

25 Q Did they even ask you about anybody else other than

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47 0011)
Stacy Anderson - Cross Examination by Mr Coulter

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1 Anthony?

2 A Yeah

3 Q Okay Who did they ask you about?

4 A Ernie My friend Desiree

5 Q Okay

6 A Just the ones still waiting to go to trial

7 Q I got you The ones that are waiting to go to
8 trial Did they even care about other people that you
9 knew?

10 A No

11 Q Well, wait a second You were getting all this
12 meth from somebody up in Mexico Did you ever take them
13 up there?

14 A Not Mexico, no

15 Q I'm sorry, North Carolina The fellow up in North
16 Carolina Did you ever take them up there?

17 A Who?

18 Q The government?

19 A No

20 Q Did they ask?

21 A No

22 Q All right So in their offer of cooperation to
23 get, in part, Anthony who you did drugs -- some --
24 methamphetamine with, right?

25 A Uh-huh (affirmative)

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Stacy Anderson - Cross Examination by Mr Coulter

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1 Q Who used, did he not?

2 A Uh-huh (affirmative)

3 Q You observed him do that?

4 A Yeah

5 Q You don't know what he did with whatever else you
6 gave him, did you?

7 A No

8 Q No He could have used every single ounce that you
9 gave him, couldn't he?

10 A He could have I don't see how

11 Q Don't know Can you say that for certain?

12 A Yeah

13 Q You can Okay All right So in return for that,
14 we've already talked about this four You were actually
15 charged with distributing to somebody, right, in this
16 particular Vanilla Ice?

17 A Yeah

18 Q And they did a search on your home, right?

19 A Yeah

20 Q And that's when they found you trafficking, found a
21 pretty good amount of meth then, right?

22 A No I was arrested in Travelers Rest, not at my
23 home.

24 Q Well, they did search your home?

25 A Yeah When I got picked up on this

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47-0011)
Stacy Anderson - Cross Examination by Mr Coulter

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1 Q I got you So they had charged you with
2 trafficking for having whatever meth was in your home?

3 A No

4 Q They didn't?

5 A No

6 Q Okay All right Well, did they charge you with
7 the individual offense of trafficking, not conspiracy,
8 but ---

9 A Yes It was a charge -- they didn't charge me with
10 it Greenville County charged me with it

11 Q Oh, I'm sorry Was that part of the -- was it a
12 traffic stop or was it at your home?

13 A It was a traffic stop

14 Q I got you

15 A I've never had an arrest at my home, other than the
16 indictment

17 Q Okay All right So there was this trafficking
18 charge from a traffic stop that you had?

19 A Yes

20 Q And we've already established -- how many previous
21 drug convictions have you had?

22 A One for a half a gram

23 Q -- One. Okay - Now, we've talked about the charges up
24 in North Carolina, the indecent liberties with a child
25 Were you also charged with some grand larcenies there as

1 well?

2 A No

3 Q No thefts?

4 A No I don't steal

5 Q You don't? Okay I mean, I don't -- let's look at

6 this just for a second If you could look at that,

7 Stacy It's a 1992 larceny

8 A That would be a check charge

9 MR COURT Your Honor, objection

10 Q So that's a check charge?

11 A Yeah

12 Q Okay

13 THE COURT Sustained

14 A In '92 is not in North Carolina

15 Q Well, where was that?

16 A It states Colorado on it

17 Q Okay

18 A '92 is over ten years ago

19 Q All right So the jury can understand, in

20 cooperation for you testimony today, you're being given

21 the fifteen year sentence and that is going to be

22 concurrent with whatever federal charge you get?

23 A Yes

24 Q Have you pled to that already?

25 A Pled to what?

State of South Carolina vs- Robert Anthony Gracely (2008-GS 47 0011)
Stacy Anderson - Cross Examination by Mr Coulter

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1 Q These charges here?

2 A Yes

3 Q You've already gone in front of the Court?

4 A Yes

5 Q And you've already received the fifteen year
6 sentence?

7 A No

8 Q You have not?

9 A I'll come back

10 Q You'll come back Okay So you still have to
11 cooperate in order to get that recommendation?

12 A Yes

13 Q okay And that includes concurrent time which
14 meaning running the same time with whatever you get on
15 the federal charges?

16 A Yes

17 Q And what were the federal charges?

18 A It's gun charges

19 Q And what type of time did you get on that?

20 A I'm getting ninety-two to a hundred and fifteen
21 months

22 Q Okay Thank you

23 ~~MR. CROUT. Your Honor, the State has no~~

24 further questions it needs to ask

25 THE COURT All right

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Stacy Anderson Cross Examination by Mr Coulter

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1 MR CROUT We would ask that he be excused

2 THE COURT You may step down You may be
3 excused

4 Mr Foreman, ladies and gentlemen, this might be a
5 good time for us to take a short break Let me remind
6 you, as I have and I need to, you shouldn't be
7 discussing the case with anyone or among yourselves
8 All the evidence is not in yet I haven't instructed
9 you on the law So it's -- we'll take a short break
10 Sort of get some logistics planned about how much longer
11 we'll be going today We'll call you back in just a few
12 minutes

13 Make sure the hallway is clear before they go out,
14 if you would, please, sir

15 (WHEREUPON, the jury exited the open court at
16 approximately 3 47 p m)

17 THE BAILIFF The jury's secure

18 THE COURT Okay All right And we'll take
19 a short break

20 (WHEREUPON, the court stood at recess for a short
21 break)

22 THE COURT Ready to proceed?

23 ~~MR. COULTER -- Yes, sir -- Judge? --~~

24 THE COURT Yes, sir

25 MR COULTER Excuse me I apologize Before

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47 0011)
Stacy Anderson Cross Examination by Mr Coulter

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1 -- I don't know if this will be an issue or not, it
2 doesn't seem to be, but in reviewing Ernest Craft's
3 statement, there is some reference to my client being in
4 prison I'm assuming they're not going to attempt to
5 bring that out, but if so, I just want to make sure that
6 that just doesn't slip out like it has so many times
7 before

8 THE COURT Well, Ms Porter deftly went
9 around on the last witness I trust that they've
10 briefed their witnesses about what to say and what not
11 to say about those kind of things We'll hope for the
12 best

13 All right Let's have our jury come in

14 Mr Crout, is there any more need for the jury this
15 week? We need to leave a message on the machine

16 MR CROUT I don't believe that we have any
17 other things remaining

18 THE COURT We can have them call back, but
19 ---

20 MR CROUT No, I think if we'll finish all
21 witnesses today and I guess if you want to close in the
22 morning

23 ~~THE COURT - Well, I just wanted to let the~~
24 clerk's office know that

25 (WHEREUPON, the jury entered the open court at

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 approximately 4 29 p m)

2 THE COURT You may call your next witness

3 MS PORTER The State calls Ernest Craft to
4 the stand, Your Honor

5 MR PARKS Mr Craft, please step over here
6 to be sworn in Place your left hand on the bible and
7 raise your right hand Do you solemnly swear to tell
8 the truth, the whole truth and nothing but the truth, so
9 help you God?

10 MR CRAFT I do

11 MR PARKS Please be seated After you're
12 seated, please state your name for the record

13 MR CRAFT My name is Ernest Craft

14 ERNEST CRAFT,

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

16 DIRECT EXAMINATION

17 BY MS PORTER

18 Q How old are you, Mr Craft?

19 A I'm twenty-five

20 Q What type of education do you have?

21 A I have a GED

22 Q And where are you currently living?

23 A Pickens County LEC

24 Q And are you headed to the South Carolina Department
25 of Corrections?

State of South Carolina vs- Robert Anthony Gracely (2008-GS 47-0011)
Ernest Craft Direct Examination by Ms Porter

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1 A Yes, ma'am, I am

2 Q All right Let's talk about your prior record In

3 2003 were you convicted of possessing methamphetamines?

4 A Yes, ma'am, I was

5 Q Were you convicted of two counts of that, two

6 times?

7 A Yes, ma'am

8 Q Okay In 2005 were you convicted of possessing

9 methamphetamines?

10 A Yes, ma'am

11 Q So that was the third time you got caught with

12 drugs Is that right?

13 A Yes, ma'am

14 Q And in 2007 were you caught a fourth time with

15 possessing methamphetamine? 2007?

16 A Yes, ma'am

17 Q Okay How about a shoplifting, did you get caught

18 shoplifting?

19 A Yes, ma'am

20 Q And burglary second degree and grand larceny?

21 A Yes, ma'am

22 Q Okay How about in 2008, did you get caught with

23 meth again, possessing methamphetamines?

24 A Yes

25 Q All right

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 A I guess so

2 Q All right Did you also sell some weapons
3 unlawfully that year?

4 A No, ma'am I possessed a stolen firearm

5 Q Oh, I'm sorry The NCIC wasn't clear I
6 apologize You possessed a stolen weapon?

7 A A stolen pistol, yes, ma'am

8 Q All right How about driving under suspension or
9 without a license and no insurance on your vehicle Did
10 you get caught doing that?

11 A Yes, ma'am It was all one incident

12 Q All one incident?

13 A All one incident

14 Q All right The drug paraphernalia as well, that
15 same incident?

16 A Yes, ma'am, it was

17 Q All right How about the burglary second degree
18 and grand larceny, was that the same? That was
19 different?

20 A That was -- I pled to it again that year because it
21 was a probation violation

22 Q Okay

23 A ~~So that's the same~~

24 Q All right So that's from 2007?

25 A It's the same with the meth charges There's only

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft - Direct Examination by Ms Porter

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1 two meth charges

2 Q Only two meth charges? All right So then comes
3 our charges and you pled guilty to our charges for this
4 conspiracy, right?

5 A Yes, ma'am

6 Q Okay And you were initially charged in this
7 conspiracy with trafficking more than four hundred
8 grams, is that correct?

9 A Yes, ma'am

10 Q And you were looking at thirty years in jail for
11 that charge alone, correct?

12 A Yes, ma'am

13 Q And then you also were charged with distribution of
14 methamphetamines And based on your prior record, that
15 would have been a third offense, is that correct?

16 A Yes, ma'am

17 Q So you were looking at thirty years on that as
18 well?

19 A Yes, ma'am

20 Q So you were looking at a total of sixty years?

21 A Yes, ma'am

22 Q All right And in exchange for your cooperation,

23 we reduced these sentences to ten to twenty-eight grams,

24 first offense and distribution first offense and

25 recommended fifteen years, is that correct?

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 A Yes, ma'am

2 Q Have you been sentenced on those charges?

3 A No, ma'am

4 Q Okay Who's going to sentence you?

5 A Judge Welmaker

6 Q All right And, again, what are we recommending?

7 A Fifteen years I suppose

8 Q Okay And is he bound by that recommendation?

9 A No, he's not

10 Q So he can go below it or above it, is that correct?

11 A He can go below it, the maximum is charged

12 Q All right But if ran those charges consecutive,
13 in other words you have to finish one before you run --
14 start serving the other?

15 A Then, yes, I suppose it could be much worse

16 Q So you could be looking at twenty-five years You
17 are looking at twenty-five years now, is that right?

18 A Yes, ma'am

19 Q All right And when did you decide to agree to
20 cooperate with law enforcement?

21 A When you told me that I was going to get them two
22 consecutive if I didn't do it

----- 23 - Q - ~~Please -- what did I tell you?~~ -----

24 A That you would ask for those two charges
25 consecutive if I did not cooperate

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47-0011)
Ernest Craft Direct Examination by Ms Porter

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1 Q Okay All right And, again, that would just be a
2 recommendation Is that correct?

3 A Yes, but -- yes, ma'am

4 Q All right What else did I ask you to do in
5 cooperating?

6 A I don't understand

7 Q Did I ask you to tell the truth or ---

8 A Yes, ma'am The whole truth

9 Q All right And did I give you any qualification
10 about the truth? I asked you for the whole truth
11 whether it hurt or helped the State's case, correct?

12 A Yes, ma'am

13 Q All right What is the only thing I've asked you
14 to do?

15 A You've asked me to testify in this trial and tell
16 the truth

17 Q Okay And when did I talk -- when were you
18 debriefed about this case, about this conspiracy?

19 A Last night

20 Q All right So you didn't agree to cooperate until
21 you pled guilty Is that true?

22 A My lawyer told me that I would be -- told me to

23 ~~talk and cooperate~~ --- - - - -

24 Q All right But you didn't agree to do that until
25 you pled guilty, correct?

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Ernest Craft - Direct Examination by Ms Porter

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1 A (No verbal response)

2 Q Well, let me ask you this When did you sign this
3 plea agreement?

4 A I signed the plea agreement and then I ---

5 Q What's the date on the plea agreement?

6 A 6/28

7 Q 2010?

8 A Yes, ma'am

9 Q So that was yesterday?

10 A Yes, ma'am

11 Q All right So you agreed to cooperate yesterday?

12 A Yes, ma'am

13 Q All right Is it fair to say that you have a drug
14 problem?

15 A Yes, ma'am, it is

16 Q Okay When did your drug problem begin?

17 A When I was actually a young child When I was
18 about nine years old I began smoking marijuana But I
19 became a casual user of methamphetamines when I was
20 about sixteen years old And I started intravenously
21 injecting that when I was about seventeen on a daily
22 basis

23 Q ~~Is it fair to say, except for your stint in prison~~
24 for these other charges, that you -- if you're out,
25 you're using meth?

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47-0011)
Ernest Craft - Direct Examination by Ms Porter

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1 A Yes, ma'am

2 Q All right Where do you -- when you're out of
3 prison where do you live? Or where did you live?

4 A I reside at [REDACTED] [REDACTED] [REDACTED] Road, but usually I
5 lived out of a backpack

6 Q Okay But the residence you just listed ---

7 A I just listed [REDACTED] [REDACTED] [REDACTED] Road

8 Q Was that a house, or an apartment or ---

9 A It's a mobile home

10 Q It's a mobile home?

11 A Yeah

12 Q And did you or your family own it?

13 A Yeah My mother owns it

14 Q Okay How did you pay your bills?

15 A Well, I sold a little meth or my mother paid them

16 Q Your mother paid them?

17 A I sold meth or my mother paid them

18 Q All right Have you ever held down a job?

19 A Not for any reasonable length of time, no, ma'am, I
20 have not

21 Q And did you allow other individuals to come to your
22 house for the purpose of using, selling or receiving

23 methamphetamines? - - - - -

24 A Yes, ma'am, I did

25 Q Approximately how many people?

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft - Direct Examination by Ms Porter

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1 A I could not give you a number

2 Q Five?

3 A More than five

4 Q Ten?

5 A More than ten

6 Q Twenty?

7 A Approximately Maybe twenty-five, thirty

8 Q All right Twenty-five to thirty All right Was
9 your house -- did they refer to your house as anything
10 in particular?

11 A Some people called it a trap house

12 Q And what did they mean by that?

13 A A place where you could go and get high You know,
14 everybody came -- sooner or later, you know, dope's
15 going to be there So people would come Some people
16 might stay two or three days Some people might stay
17 two or three hours But sooner or later, you know,
18 eventually you're going to get high if you came to my
19 house

20 Q Do you know an individual by the name of Anthony
21 Gracely?

22 A Yes, ma'am, I met ---

~~23 Q Well, let me ask the questions, all-right? Just -~~
24 answer the questions I'm asking Does he have a
25 nickname?

State of South Carolina -vs- Robert Anthony Gracely (2008-GS 47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 A Tony

2 Q How long have you known him?

3 A Since 2004

4 Q Okay Did you run into him again at the end of
5 2007?

6 A Yes, ma'am Our release dates are the same

7 MR COULTER Judge, I'm ---

8 THE COURT I sustain the objection Just
9 answer the question as the question is asked, please,
10 Mr Craft

11 A Yes, ma'am I did

12 Q All right In the end of 2007 when you ran into
13 him again, were you using methamphetamines?

14 A Yes, ma'am, I was

15 Q Okay Did you begin buying or purchasing
16 methamphetamines from Tony G at the end of 2007?

17 A No, ma'am, I did not

18 Q Okay Well, let me ask you this Do you know an
19 individual by the name of Dwayne Mitchell?

20 A Yes, ma'am, I do

21 Q How do you know him?

22 A Dwayne was my next door neighbor and a friend of
23 mine.

24 Q All right Were you purchasing methamphetamines
25 from Dwayne at the end of 2007?

State of South Carolina vs- Robert Anthony Gracely (2008 GS-47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 A Yes, ma'am, I was

2 MR COULTER Judge, I'm going to have to
3 object I don't have anybody by the name of Dwayne
4 Mitchell that I see on this indictment Maybe I'm
5 wrong And I'm very concerned about where this might be
6 headed in terms of relevance

7 MS PORTER Well, ---

8 THE COURT What's the relevance

9 MR COULTER And if -- I hate -- if we could
10 approach

11 MS PORTER May we approach?

12 THE COURT Yes, if you could, please, sir
13 (WHEREUPON, Ms Porter, Mr Crout and Mr Coulter
14 approached the bar)

15 Q All right At the end of 2007, were you aware if
16 Dwayne knew Tony G?

17 A Yes, ma'am, I believe he did

18 Q Why do you believe that they knew each other?

19 A He told me so

20 Q Who told you what?

21 A Dwayne told me ---

22 MR COULTER Judge, then I am going to have
23 to object

24 THE COURT Sustain the objection

25 Q All right

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 MR COULTER And I hate to ask this, but I

2 guess I need a curative instruction on the hearsay

3 THE COURT All right Ladies and gentlemen,

4 witnesses can testify to what they know of their own

5 knowledge and any hearsay matter is not competent

6 evidence, so you should disregard any hearsay that is

7 objected to and for which I sustain the objection

8 MS PORTER All right I'm just trying to

9 formulate the right question, Your Honor

10 Q In the end of 2007 when you reacquainted yourself

11 with Tony G, did y'all use drugs together?

12 A Yes, ma'am, he came to the house one night and we

13 used some methamphetamines together

14 Q Who else was there present at your house that

15 night?

16 A I'm not really sure, but it -- I remember Dwayne

17 and I remember there was some girls there I believe

18 Erica Jackson, Gerri Lee -- I don't remember her last

19 name Those I'm sure of I don't remember There were

20 a few other people in and out, but I'm not, I'm not

21 really clear

22 Q All right And that night, where did you get the

23 methamphetamines that y'all smoked?

24 A Tony had them on him

25 Q Tony brought them to the house?

1 A Yeah, Tony had them on him

2 Q All right And so Dwayne was there and some girls
3 and y'all all smoked together? And y'all all smoked
4 Tony G's drugs?

5 A Yes, ma'am

6 Q All right When was the next time you saw Tony G?

7 A One time when Dwayne -- I was riding with Dwayne
8 He told me he needed to stop and give Tony some ---

9 MR COULTER Judge, I'm going to object
10 again

11 THE COURT All right I sustain the
12 objection Just testify as to what you know, not what
13 someone else told you All right, sir

14 A Well, we stopped at a motel and it was off
15 Pleasantburg We went into the motel and Dwayne gave
16 Tony some money and we left

17 Q Did Dwayne and Tony G have any discussions in front
18 of you at that time?

19 A I was mainly ---

20 Q Answer my question Did Dwayne and Tony G have any
21 discussions that you overheard at that time?

22 A It was a nice motel room It had multi-rooms I
23 ~~stayed and talked with a couple of other people~~ They
24 had their talking in privacy

25 Q All right When y'all left, what, if anything, did

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 Dwayne have with him?

2 A I believe he got a half a ounce that day and I seen
3 in the motel about an ounce on the table

4 Q So there was an ounce of methamphetamines when
5 y'all went to the hotel?

6 A Yes

7 Q And Dwayne paid Tony G money?

8 A Yes, he did

9 Q And he left with a half an ounce?

10 A Yes, ma'am

11 Q Okay Did you get some of that meth?

12 A I purchased an eight ball of that meth from Dwayne

13 Q Why didn't you deal directly with Tony G?

14 A Well, we're friends and Tony has a way about him
15 and I preferred not to deal with him

16 Q Why not?

17 A Because Tony will put your dope in a Burger King
18 cup and hide it outside in the bushes and make you wait
19 three or four hours before you can go get it And I
20 just don't -- I don't do that

21 Q Why would he put it in Burger King cup and make you
22 wait?

23 A -- Because he gets high and he gets paranoid --

24 Q Didn't want to get caught?

25 A Exactly

State of South Carolina -vs Robert Anthony Gracely (2008-GS-47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 Q All right Do you know -- did you ever talk to
2 Tony G about how much an eight ball or so would cost?

3 A Well, Dwayne charged me two hundred and fifty
4 dollars for one

5 Q How much did Tony G charge you?

6 A I don't know To the best of my knowledge, Dwayne
7 paid fourteen hundred or he paid six or seven for a
8 half

9 Q For half an ounce?

10 A Yes, ma'am

11 Q Where would these deals go down?

12 A What do you mean?

13 Q I mean you talked about one at the motel there in
14 Greenville County Is that right?

15 A Yes, ma'am

16 Q Were there any other deals that you observed with
17 Tony G?

18 A Let me think In 2007 and '08?

19 Q Yes, sir

20 A Just there

21 Q Do you know where Tony G was getting his meth from?
22 It's a yes or no answer

23 A. - Yes, for a period of time - - - - -

24 Q How do you know?

25 A Because I was -- another of my co-conspirators I

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Direct Examination by Ms Porter

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1 was getting methamphetamine from, Tony was buying

2 methamphetamine from us

3 Q All right Who was that?

4 A Stacy Anderson

5 Q All right So Stacy was selling to you and to Tony

6 G?

7 A For a period of time, yes

8 Q All right Let me back up and -- I'm sorry This

9 deal at the motel, was that the Pleasantburg Motel?

10 A I don't recall the name, but it was off of

11 Pleasantburg Highway

12 Q Okay Other than Tony G and Dwayne being there,

13 was someone else there?

14 A Brian Stegall was there There was several people

15 there There was five or six people there But the

16 only other one that I recall knowing was Brian

17 Q How do you know Brian?

18 A Well, I've known Brian for maybe ten years

19 Q And in 2007 and 2008, were you selling or buying

20 methamphetamines from Brian?

21 A No

22 Q Were y'all smoking it and getting high together?

23 A Yes, we had a couple of times

24 Q Where?

25 A At that motel Brian came to my house a few times

1 We also met at a fellow named Jerry Cuddy's house

2 That's all I recall

3 Q Is it fair to say in this conspiracy that y'all
4 bought and sold to one another at different times
5 throughout the summer of '07 through '08?

6 A Some of us, yeah

7 Q Some of us? All right

8 MS PORTER I beg the Court's indulgence

9 Q Do you also know an individual by the name of
10 Warren Chastain?

11 A Yes, ma'am, I'm acquainted with Warren Chastain

12 Q And how do you know Warren?

13 A We've been friends for several years

14 Q All right From June of '07 through '08, what was
15 his role? Or was he involved in this conspiracy?

16 A Warren sold methamphetamine and I bought
17 methamphetamine and sometimes he might have gotten me --
18 he lived with a friend of mine named Samantha

19 Q Did you ever see Tony G over there?

20 A At Samantha's?

21 Q Yeah

22 A No, I didn't

23 Q Okay Did you ever see Tony G and Warren at the
24 same time?

25 A No I've got -- there's a picture in my house

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Cross Examination by Mr Coulter

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1 actually of them both standing somewhere together

2 Other than that, no, I wasn't present when they were

3 together, no

4 Q Okay

5 MS PORTER I beg the Court's indulgence

6 Q Please answer any questions Mr Coulter may have

7 CROSS EXAMINATION

8 BY MR COULTER

9 Q Mr Craft, good afternoon I'm Anthony Gracely's
10 attorney

11 A Yes, sir

12 Q Okay And I'm not going to go through all of your
13 criminal history We've already done that I
14 appreciate your honesty about it

15 A Yes, sir

16 Q Would you agree -- is it safe to say that prior to
17 coming in here on these charges, though, that you did
18 have at least somewhere between four and five previous
19 drug convictions?

20 A Yes, sir

21 Q Okay All right So if you -- when being
22 convicted on these charges that would have been

23 technically more than third, at least fifth offense,
24 correct?

25 A Yes, sir

1 Q Okay Now, the reason they actually approached
2 you, they being the government, was because back in May
3 16th of 2008, you had sold some methamphetamine for two
4 hundred and twenty dollars to somebody at a Pumper's
5 parking lot, right? That was basically the distribution
6 charge you had Does that sound about right?

7 A That was not methamphetamines

8 Q Then what was it?

9 A I portrayed it as methamphetamines so I could get
10 their money, but it was actually rock salt

11 Q Oh, okay All right So you sold something fake
12 just to get their money?

13 A Yes, sir I'm a drug addict

14 Q I understand That's fine Okay But then they
15 charged you with distribution of methamphetamine Is
16 that right?

17 A Yes, sir

18 Q Even though it was rock salt?

19 A No, sir, not in that one In the Pumper's parking
20 lot, they actually -- I'm not charged with that I'm
21 charged with distribution on June the 5th

22 Q June the 5th?

23 A Yes --

24 Q Anyways, you sold to some CI?

25 A Yes, sir, I did

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Cross Examination by Mr Coulter

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1 Q All right And then they approach you, they being
2 the government, and told you we've got you charged with
3 distribution and it's over third offense, right?

4 A And then some

5 Q And then some That's what they did yesterday,
6 right? They came to you and said, look, you face an
7 awful lot of time here, right? Did they count it up for
8 you, how much time you faced?

9 A Yes, sir, they did

10 Q And they said that you could get a maximum of
11 thirty, thirty, at least -- could get sixty years?

12 A Yes, sir

13 Q That's what they told you But if you help and
14 cooperate and sign this, then we'll give you something
15 different We'll give you the fifteen, right?

16 A That's correct, sir

17 Q Okay But back, actually before yesterday, law
18 enforcement, the government did come and talk to you
19 back in July 11th of 2008, didn't they? Do you remember
20 talking with this particular agent?

21 A No Oh, yes, sir

22 Q You do?

23 A I'm sorry I didn't understand.

24 Q That's okay

25 A Yes, sir

1 Q And she took notes as they were talking They
2 didn't put down -- did they tell you they were recording
3 it or anything?

4 A No, sir, they didn't tell me

5 Q So you don't know Did they put it on videotape?

6 A No, sir, not to my knowledge

7 Q You don't know? Were they taking some notes?

8 A They took notes, sir

9 Q Okay And back then they wanted you to basically
10 identify the people involved, right?

11 A Yes, sir, they did

12 Q Users up to the big dealers, right?

13 A Yes

14 Q Anybody?

15 A Anybody

16 Q Okay Now, back then you mention a Tony G And
17 right here it says you hadn't purchase from ---

18 A I met him in prison

19 Q All right What did I put right here? Right here

20 A I did not purchase dope

21 Q You did not purchase anything from him?

22 A No, sir, I did not

23 Q Okay. Now, what you did tell them, though, is that
24 you were dealing with Stacy Anderson primarily?

25 A Yes, sir

State of South Carolina vs Robert Anthony Gracely (2008 GS-47 0011)
Ernest Craft - Cross Examination by Mr Coulter

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1 Q Stacy Anderson, you were getting from him as much
2 as a quarter ounce to a half ounce and you were dealing
3 with him on a daily basis?

4 A Usually less than that, but, yes, sir

5 Q Okay A pretty good -- a pretty decent amount?

6 A They asked me how much I could get

7 Q I see

8 A Yeah

9 Q Okay Because they put down here -- just let me
10 make sure we have it straight Okay It says -- okay
11 -- typically you deal with him on a daily basis,
12 Anderson, that's right?

13 A Yes

14 Q Purchase a quarter -- usually purchases a quarter
15 to a half ounce But you don't agree that's right?

16 A Well, I wanted to make myself seem like a valid
17 witness

18 Q I got you

19 A But yes, I could -- they asked me how much I could
20 and that's how they phrased it But usually I purchased
21 a half an eight, an eight ball A half ounce being the
22 biggest purchase that I had done

23 Q Right And the reason you wanted to be a valid-
24 witness, so you could get a deal?

25 A Yes, sir

State of South Carolina vs Robert Anthony Gracely (2008 GS-47 0011)
Ernest Craft - Redirect Examination by Ms Porter

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1 MR COULTER That's all I've got

2 MS PORTER Very briefly, Your Honor

3 THE COURT Yes, ma'am

4 **REDIRECT EXAMINATION**

5 **BY MS PORTER**

6 Q When you were debriefed by Special Agent Connie
7 Sonnefeld on June 11th, 2008, did she add up how much
8 time you were facing?

9 A She didn't personally But there was an ATF agent
10 who informed me how much time I could be facing

11 Q I'm asking you about Special Agent Connie
12 Sonnefeld?

13 A No No, ma'am

14 Q All right And did they threaten you in any way?

15 A No, ma'am

16 Q Did they coerce you in any way?

17 A No, ma'am

18 Q Did they make any specific promises as to what they
19 would do for you if you cooperated?

20 A Told me I didn't have to go to jail

21 Q That day or ever?

22 A They just told me I didn't have to go to jail

23 ~~Q - That day or ever? Did they specify ---~~

24 MR COULTER Judge, I'm sorry That's been
25 asked and answered, I believe

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)
Ernest Craft Recross Examination by Mr Coulter

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1 THE COURT I'll allow the question

2 Overruled

3 A They didn't specify

4 Q Okay And in that interview, did you also mention

5 Dwayne Mitchell?

6 A Yes, I did

7 Q And Kim and John Ham?

8 A Yes, I did

9 Q All right And when you were being -- when you
10 agreed to cooperate last night or yesterday, and talked
11 to me, did I ask you about a specific person?

12 A Yes, you did

13 Q Okay

14 MS PORTER No further questions

15 THE COURT Yes, sir

16 MR COULTER If I could have one follow-up on
17 that

18 THE COURT All right, sir

19 **RECROSS EXAMINATION**

20 **BY MR COULTER**

21 Q The ATF agent that was present, that's Alcohol,
22 Tobacco and Firearms of the Federal Government, right?

23 A Yes, it is

24 Q What did they tell you? How much time did they say
25 you were looking at?

1 A They told me I was looking at -- see, I had got
2 arrested for a gun charge in Travelers Rest, by
3 Travelers Rest City, and they were talking about those
4 charges as well

5 Q While they were ---

6 A I was actually not informed of this conspiracy
7 charge at that time

8 Q So they were trying -- let me make sure I
9 understand you So SLED was involved with an operation
10 with ATF?

11 A Yes, sir, they are It's on top of the

12 Q Okay And the ATF people told you that there was a
13 charge against you, a potential charge against you?

14 A Yes, sir, they did

15 Q Did the federal ever come to you about a federal
16 charge?

17 A They also questioned me about an incident where a
18 guy had burned a car and it was on my property

19 Q Okay

20 A That's why ATF questioned me

21 Q I've got you Mr Craft, did you ever get charged
22 with ATF, even though they said they could charge you?

23 A No, sir, I was not -----

24 Q That's because you cooperated?

25 A I believe so, sir

State of South Carolina vs Robert Anthony Gracely (2008-GS-47 0011)
Lance Holloway - Direct Examination by Ms Porter

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1 THE COURT Well, thank you, sir You may

2 step down, Mr Craft

3 You may call your next witness

4 MS PORTER Lance Holloway, Your Honor

5 MR PARKS Please step over here to be sworn

6 in, sir Place your left hand on the bible and raise

7 your right hand Do you solemnly swear to tell the

8 truth, the whole truth and nothing but the truth, so

9 help you God?

10 MR HOLLOWAY I do

11 MR PARKS Please be seated After you're

12 seated, please speak into the microphone and state your

13 name for the record

14 MR HOLLOWAY Lance Holloway

15 LANCE HOLLOWAY,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

17 DIRECT EXAMINATION

18 BY MS PORTER

19 Q How old are you, Mr Holloway?

20 A Thirty-four

21 Q And where are you currently residing?

22 A Tiger River Correctional Institution

23 Q Okay Let's talk about your prior record It's

24 pretty long It starts in the '90's and goes all the

25 way through 2008, is that correct?

1 A Yes, ma'am

2 Q Well, let's stick with the 2000s In 2002, were
3 you charged with manufacturing or possessing with intent
4 to distribute a drug?

5 A Yes, ma'am

6 Q Did you plead guilty to that?

7 A Yes, I did

8 Q What was the drug?

9 A Cocaine

10 Q Was that the first time you've been convicted of
11 drug offenses?

12 A I don't think so

13 Q At least the third time, right, ---

14 A Yes

15 Q -- from the '90's?

16 A Yes, ma'am

17 Q You had two priors in the '90's?

18 A Yes, ma'am

19 Q All right Did you also in 2008 get a
20 paraphernalia charge and a possession of twenty-eight
21 grams or less of marijuana?

22 A Yes

23 Q -- Did you plead to those? - - - - -

24 A Yes, I did

25 Q All right So that's at least four charges Did

State of South Carolina -vs- Robert Anthony Gracely (2008 GS 47 0011)
Lance Holloway Direct Examination by Ms Porter

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1 you also have a lynching from 1997?

2 A Yes, I did

3 Q What's lynching?

4 A It was acting as a mob

5 Q Okay

6 A Jumping on somebody when there's more than two or
7 three people

8 Q Okay And you pled guilty to that?

9 A Yes

10 Q All right And with regards to this conspiracy,
11 have you entered into a plea agreement with the State of
12 South Carolina?

13 A Yes, I have

14 Q All right And you were initially charged in this
15 indictment, in this conspiracy, for trafficking more
16 than four hundred grams by conspiracy, is that correct?

17 A Yes

18 Q And you were allowed to plead to trafficking by
19 conspiracy, twenty-eight to a hundred grams, first
20 offense, is that correct?

21 A Yes, ma'am

22 Q All right And you are looking at thirty years on
23 that charge?

24 A Yes, ma'am

25 Q And then you also pled to trafficking, twenty-eight

1 to a hundred grams, and that was reduced to a first
2 offense, is that correct?

3 A Yes, ma'am

4 Q All right And you were looking at thirty years on
5 that charge?

6 A Yes, ma'am

7 Q And then you finally pled to a distribution of
8 methamphetamines and that was reduced down to a first
9 offense, is that correct?

10 A Yes, ma'am

11 Q All right And you were looking at fifteen years
12 on that after the reduction, is that correct?

13 A Yes, ma'am

14 Q So you were looking at forty-five years total when
15 you agreed to cooperate?

16 A Yes, I was

17 Q And what was the State going to recommend if you
18 cooperated?

19 A Twelve years

20 Q All right Have you been sentenced?

21 A Yes, I have

22 Q And what were you sentenced to?

23 A. Twelve years.

24 Q All right And when did you agree to cooperate
25 with the State? Or when did you enter into this plea

State of South Carolina vs Robert Anthony Gracely (2008 GS 47-0011)
Lance Holloway Direct Examination by Ms Porter

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1 agreement?

2 A April the 9th

3 Q Of this year?

4 A Yes, ma'am

5 Q 2010?

6 A Yes, it was

7 Q And you've met with my office on two occasions,

8 correct?

9 A Yes, ma'am

10 Q Including today?

11 A Yes, ma'am

12 Q Okay And before your deal you were looking at an

13 additional fifteen years, is that right? So instead of

14 up to forty-five years, it could have been up to sixty

15 years Is that -- no, I'm sorry Ninety years Is

16 that correct?

17 A Yes, ma'am

18 Q So without the deal you were looking at ninety

19 years With the deal you were looking at seventy-five

20 years, is that correct?

21 A Yes, ma'am

22 Q Thirty, thirty, and fifteen Is my math correct?

23 A Yes, it is.

24 Q And we recommended twelve based upon your

25 cooperation When we asked you to cooperate, what did

1 we ask you to do?

2 A To testify, to tell you exactly what happened or
3 what my part was in this conspiracy

4 Q Did we ask you to testify truthfully?

5 A Yes, ma'am

6 Q Okay How long have you been involved in the drug
7 business?

8 THE COURT Let's take a short break I think
9 one of the jurors needs a short break I'll ask you to
10 go back to your jury room, ladies and gentlemen Don't
11 discuss the case right now We'll call you back in just
12 a minute

13 (WHEREUPON, the jury exited the open court at
14 approximately 5 05 p m

15 THE COURT Just let me know when they're
16 ready, Jack One of the jurors, I think, the alternate,
17 needed a bathroom break They'll be ready in a minute
18 or two Let me know when they might be ready, Mr Teal

19 THE BAILIFF Sir?

20 THE COURT Just let me know when the jury's
21 going to be ready and we'll wait for them here just for
22 a minute or two

23 Thank you One of the jurors needs to make a call-
24 to let her family know they'll be late So I'll let the
25 bailiff get the cell phone to them I don't know how

State of South Carolina -vs Robert Anthony Gracely (2008 GS-47-0011)
Lance Holloway Direct Examination by Ms Porter

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1 much later we'll be, but if you'd just -- whoever needs
2 to make a call about family, tell them they can get the
3 phone and make the call, okay?

4 THE BAILIFF Yes, sir

5 (WHEREUPON, the jury entered the open court at
6 approximately 5 13 p m)

7 THE COURT You may continue your examination
8 of the witness

9 Q I forgot where we are, so I'm just going to start
10 with, when did you start doing methamphetamines?

11 A I would say probably ten or more years ago

12 Q And how would you characterize yourself, as a user,
13 an addict, a dealer? How would you characterize
14 yourself?

15 A All three

16 Q Okay And when did you start selling
17 methamphetamines?

18 A Right after I started using, ten or more years ago

19 Q We're concerned here with the time period of June
20 '07 forward into the year 2008, okay? What were you
21 doing in June of 2007?

22 A Running around, pretty much selling drugs, trying

23 ~~to live from day-to-day --Running around with Tony a~~ - - - - -

24 good bit

25 Q Okay Now, who is Tony?

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Lance Holloway - Direct Examination by Ms Porter

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1 A Tony Gracely was a friend of mine

2 Q Do you know his full name?

3 A Anthony Gracely

4 Q Okay Did he have a nickname?

5 A Tony G

6 Q Okay And how long had you known him?

7 A Fifteen years

8 Q All right And in June of 2007, y'all were running
9 around together every day, every other day?

10 A Every day

11 Q Every day And what would y'all do each and every
12 day?

13 A Nothing to speak of, you go around and sell drugs
14 to, you know, whoever If he needed to go out --
15 whenever he needed to go out, because he didn't have a
16 license, I'd drive him around in my car and we'd pretty
17 much meet people and sell drugs to people and make
18 money, get high

19 Q Okay What would you get, if anything, for driving
20 him around?

21 A A good deal on drugs or, you know, money Actually
22 whatever I needed pretty much

23 Q So you bought from Tony G at this time? - - -

24 A Yes

25 Q You've had other sources in the past?

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Lance Holloway - Direct Examination by Ms Porter

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1 A Yeah

2 Q Did you have other sources at that same time?

3 A Yeah In that same time, but it was just

4 convenient

5 Q Okay Did you enjoy his company?

6 A Yeah We've known each for a while We got along

7 We had the same agenda, I guess you could say

8 Q Okay

9 A Try to make money

10 Q All right How much meth would you buy at a time

11 from Tony G?

12 A A quarter ounce You know, if I -- a quarter

13 ounce, sometimes if I could get that much Sometimes

14 maybe a half a ball I mean, excuse me, half an ounce

15 Q All right So somewhere between a quarter ounce

16 and a half ounce?

17 A Yeah

18 Q How much would he charge you for a quarter ounce?

19 A Usually around two-fifty to three hundred

20 Q Okay How much would he charge you for a half

21 ounce

22 A Five

23 Q Five hundred dollars?

24 A Yeah

25 Q Okay And you drove him around?

1 A I did

2 Q All right Do you know from driving him around and
3 from y'all's relationship where he got his
4 methamphetamines?

5 A Yeah He got them from Joey DeFresco and Stacy
6 Anderson

7 Q Okay And were you present at these deals?

8 A A couple of them, yeah

9 Q Okay Where would they go down? Where would the
10 deals go down?

11 A Usually at the house as far as like if we were at
12 Joey's We'd go to Joey's house Or sometimes Joey
13 would come to the house, his apartment or Stacy would
14 come to his apartment

15 Q All right Whose apartment?

16 A To Tony's apartment

17 Q All right Where was Tony's apartment?

18 A In Taylors At the time it was in Taylors

19 Q Okay And you said sometimes you would go to
20 Joey's?

21 A Yeah

22 Q Where did Joey DeFresco live?

23 A In Berea, the Greenville area -- Berea --

24 Q Okay Approximately -- well, when did you stop --
25 did you and Tony G have a falling-out?

1 A Yeah To where we weren't -- we wouldn't deal with
2 everybody -- each other everyday, you know, it was -- we
3 talked once maybe a week or a couple of times a week or
4 something like that We weren't running around together
5 day-in-and-day-out

6 Q All right So you were running around together
7 day-in-and-day-out from June of '07 until this falling-
8 out When was the falling-out?

9 A I'd say it would have to be in February

10 Q 2008?

11 A Yeah, 2008, February

12 Q All right All right How much -- let's just take
13 it per week Between June of '07 to February of '08,
14 how much per week were you and Tony moving? How much
15 methamphetamines were y'all selling per week?

16 A At least two ounces I'd have to say at least two
17 ounces You know, an ounce and a half to two ounces at
18 least a week That I could, I could account for

19 Q Okay And how much money were you making, profit,
20 off of that?

21 A Let's see I would have to say, depending on what
22 I bought, I would guess I would say anywhere from two-
23 fifty to five hundred profit myself off everything I -
24 spent, I would get at least -- get that back Plus,
25 what I had in -- you know, what I didn't use

1 Q What would you do with the meth that you didn't
2 use?

3 A That I didn't use, I would sell it

4 Q And who would you sell it to?

5 A Pretty much people that I ran around with, that
6 I've always sold to Just friends of mine that were,
7 you know, because that's what they wanted Like who, an
8 individual who purchased?

9 Q Yeah

10 A Robin I'm sorry I can't even actually think
11 Johnny-on-the-spot

12 Q Kim Taylor?

13 A Oh, yeah Kim Taylor, Joel Hall, Ernest Craft

14 Q Brian Stegall?

15 A Really not so much Brian Stegall, maybe once or
16 twice, but not much A good bit of people

17 Q You mentioned Ernie Craft Do you know where he
18 lived?

19 A Yeah He lived not far from here I can't think
20 of the name of the road I used to know it, but I can't
21 think of it right now It's been a while

22 Q Where would you go when you sold him
23 methamphetamines?

24 A To his trailer

25 Q And what would you find when you got there?

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Lance Holloway Direct Examination by Ms Porter

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1 A People around I mean, it'd be a good bit of

2 people sitting around his apartment, his trailer

3 Q And what were they doing?

4 A Smoking dope, shooting dope I mean, that was

5 their thing

6 Q Did y'all have a nickname for his trailer?

7 A I really didn't -- I went over there a few times

8 I really didn't hang out over there It wasn't my

9 place I didn't accompany myself with people that shot

10 dope I didn't really care for that lifestyle of, you

11 know, I guess you could say I was kind of ---

12 Q Well, let me ask you this question How do you use

13 methamphetamines?

14 A Sniffing, smoking Do you mean myself or ---

15 Q Well, no Just in general I mean, you're a meth

16 addict, right?

17 A Yeah

18 Q Based on your experience how do you use

19 methamphetamines?

20 A How I used it, I smoked it or I sniffed it

21 Q Okay And what have you observed other people do?

22 A Shoot it up, smoke it, sniff it, the same thing

23 Chasing a dragon, smoking it out of foil I mean, just - - -

24 still smoking it There's different kinds of ways of

25 smoking it, but I mean, any kind of way I guess they

1 could ingest it, I guess you would say

2 Q Okay Did the different ways have different
3 effects on your body?

4 A I would say yes

5 Q All right Well, tell the jury How does smoking
6 it affect your body?

7 A Smoking affects your -- I mean, it doesn't -- I
8 guess it really depends on your -- I'm not a scientist
9 or anything, but it would just depend on the person that
10 you are It causes some people to pick, or you know, do
11 whatever As far as like in your body, it draws you up,
12 makes you skinny Makes you lose weight Smoking-wise,
13 as far as, you know, I know I've gained almost seventy
14 pounds since I've been in prison

15 Q Did you ever shoot it?

16 A No, never

17 Q Okay

18 A Never

19 Q But people over at Ernie's house did?

20 A Yeah

21 Q Well, let's talk about Kim Taylor Did you also
22 know John Ham?

23 A Yes, I do know John Ham. -- -- --

24 Q And did you sell to the two of them?

25 A Yes, I have

1 Q Okay Where?

2 A At his shop At Kim's trailer At other peoples
3 houses A few different places I've met them here and
4 there You know, sometimes at a gas station, you know,
5 wherever it's convenient But nine times out of ten, if
6 I wasn't at her trailer or at the garage or another
7 meeting place, another garage right there on the White
8 Horse Road or John Ham's place, or Pat Regis' house

9 Q Okay Was Tony G ever present with you when you
10 dealt with John and Kim?

11 A No, he wasn't, not that I know of

12 Q Okay

13 A I mean, I can't -- I don't recall him ever being
14 with me at that time I don't

15 Q Okay At the time that you were selling to Kim and
16 John, where were you getting your meth to sell to them?

17 A From Joey, Tony That was pretty much it, Joey and
18 Tony

19 Q Did you ever sell to Kim at your house or where you
20 were staying?

21 A Yeah

22 Q Okay Was Tony with you or did he supply the drugs
23 that you sold to her at that time?

24 A Probably I mean, I might have got them from him
25 I'm not exactly sure that I got them from him directly

1 It's a possibility, but I'm not really sure I don't
2 remember him ever being there when I was selling to her
3 No, I don't remember that

4 Q Okay How much would you sell to Kim and John on
5 average?

6 A Quarter ounce to half ounce and sometimes John
7 himself would try to get me to buy an ounce or sell him
8 an ounce or something like that

9 Q Did you ever sell him an ounce or anything like
10 that?

11 A I think I have sold him one

12 Q Okay And you mentioned Ernie Craft How much
13 would you sell Ernie?

14 A Small amounts, ball, half ball, something like
15 that Nothing really big

16 Q Okay And do you know Brian Stegall?

17 A Yes, I do know him

18 Q All right How much would you sell to Brian?

19 A Not much I mean, it wasn't really -- maybe a ball
20 or something like that

21 Q Was Tony G ever around when you sold to Brian
22 Stegall?

23 A ~~I'm pretty sure he was. I think we were at his~~
24 house one time, maybe I believe so I think so,
25 yeah

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1 Q Did you ever observe Brian and Tony G deal
2 together?

3 A Yeah

4 Q Approximately how many times?

5 A Three or four times, I guess

6 Q Did you ever observe Joey DeFresco and Tony G
7 together?

8 A Yeah A good bit of times I mean more than a
9 handful I couldn't count that many times

10 Q Okay You stated -- well, do you know an
11 individual by the name of Stacy Anderson?

12 A Yes, I do know him

13 Q How do you know Stacy Anderson?

14 A Because that was pretty much where he was bring all
15 the dope down here

16 Q You said, bringing all the dope down -- we're still
17 talking about June '07 into 2008?

18 A Yeah He was the one that pretty much a lot of
19 people were getting dope from

20 Q All right Were you getting dope from him?

21 A No

22 Q Who was getting dope from him?

23 ~~A. Tony and Joey~~

24 Q Okay And when you say he was bring dope down,
25 what do you mean?

1 A He was hooking up, going and buying the dope,
2 coping the dope I mean, I don't know exactly how you'd
3 say it He was the one that was bringing it and he
4 would go wherever and go get the dope and bring it back

5 Q Okay And did you observe these deals?

6 A No

7 Q Between Tony and Stacy?

8 A Not -- well, actually I did I remember seeing a
9 couple of times, yeah, when they came to the house, you
10 know, and I knew what they were going into the room to
11 go do It wasn't like it was just out on the table, you
12 know But they would go off in a room or, you know, I
13 would leave before they'd come to the house or something
14 of that nature, but I've been there once or twice when
15 they came in and they did what they had to do

16 Q And when you say, did what they had to do, what
17 does that mean?

18 A Selling dope, buying dope

19 Q And when you sell and buy dope in quantities, do
20 you weigh it out, package it, cut it, what do you do?

21 A Whatever you want to buy -- I mean if you want to
22 buy an ounce, you're going to buy an ounce And then
23 you've got to weigh out an ounce or so If there's more
24 than an ounce there, you're going to have to cut it from
25 that, whatever pound, quarter pound or whatever you want

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1 to say it is, you know I don't really know, but they
2 would cut out say an ounce or two for twenty-eight
3 grams, you know, one or two ounces, sometimes three or
4 four

5 Q And do you -- well, how much is the most you've
6 seen Tony G with?

7 A A couple of ounces, two or three at the most

8 Q Okay At one time, correct?

9 A (Affirmative nod)

10 Q The two of you were dealing at least two ounces per
11 week and you're riding around everyday together, is that
12 correct?

13 A Yeah

14 Q Okay And then y'all had a falling-out in January
15 or February of '08, is that correct?

16 A Yeah

17 Q What did y'all have a falling-out over?

18 A Pretty much just like over being able to get dope
19 from the dope man, pretty much, or, you know, or just
20 the money situation or thinking that I was trying to
21 mess around maybe with his girl or something of that
22 nature, you know, just always paranoid

23 Q Who was paranoid?

24 A Tony would be paranoid

25 Q All right And when you say messing up the money,

1 did y'all put money together to go get dope?

2 A Yeah

3 Q How many times?

4 A I couldn't count I really don't know

5 Q Five

6 A More than five I mean, five or ten times, you

7 know, sometimes I would have money And if I needed

8 anything and he was going to get something, I'd give

9 him, and go in with him because he would go straight to

10 the person he would need to get dope from

11 Q And while y'all were riding around all day together

12 and dealing with each other all day together, were y'all

13 getting high everyday too?

14 A Yeah

15 MS PORTER I beg the Court's indulgence

16 Q Do you know Frank Posey?

17 A Yeah, I know Frank Posey

18 Q How do you know Frank Posey?

19 A I met him through Tony

20 Q You met him through Tony G? Did you ever deal with

21 Frank Posey?

22 A Yeah, I did

23 Q How much did you deal with him? - - - - -

24 A A good bit I dealt with him a good bit of the

25 time

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Lance Holloway Cross Examination by Mr Coulter

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1 Q All right Did you sell to him or did he sell to
2 you or both?

3 A Both I sold, I sold to him, but I bought from him
4 before I ever sold to him, because I used to get dope
5 from him

6 Q All right And the dope that you sold to him,
7 where did you get that?

8 A To him?

9 Q To Frank Posey?

10 A Probably from, probably from Joey or Tony or --
11 would be the only person I could have got it from at the
12 time Probably from Joey

13 MS PORTER I beg the Court's indulgence
14 Please answer any questions Mr Coulter has for you

15 THE COURT You may cross examine

16 CROSS EXAMINATION

17 BY MR COULTER

18 Q Mr Holloway, my name's Mike Coulter Good
19 afternoon I represent Anthony You said you've been
20 doing meth for quite some time, right?

21 A Yes, sir

22 Q And it has a pretty adverse effect on you

23 physically?

24 A Yes, it does

25 Q And would you also agree mentally it can have a

1 pretty adverse effect on you?

2 A Sure

3 Q Are you clear now that you've not been dealing with
4 methamphetamine?

5 A I'm pretty clear I mean, I'm pretty sure it
6 dumbbed me down some, but I mean

7 Q And methamphetamine you can have a lot of problems
8 with all sorts of aspects of -- you mentioned paranoia,
9 correct?

10 A Yes

11 Q That's a yes?

12 A Yes

13 Q I just want to make sure everybody hears, okay?

14 A Yeah

15 Q It can have effect on your memory as well?

16 A Yes, it can

17 Q And so you're looking back on something you're
18 saying occurred back in 2007, correct?

19 A Yes, sir

20 Q And specifically, the indictment that you were
21 charged on talks about beginning June 1st of 2007, okay?

22 A Yes, sir

23 Q. And then you said that you had a falling-out -- and --

24 I want to make sure I've got this right -- February of
25 2008?

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1 A Around about February, I said

2 Q So from that point on you really didn't work
3 together doing things every day?

4 A Not every day

5 Q Okay When the government was going through the
6 questioning about your prior record -- and I'm not going
7 to go through it all again -- but would you agree that
8 you have somewhere in the neighborhood of six previous
9 drug convictions?

10 A Yes, sir

11 Q There's also giving false information at some point
12 that you have?

13 A Yeah

14 Q All right And some burglaries and so forth But
15 when you came in here on these charges, you knew that
16 you were facing about your seventh offense for drugs?

17 A Yes, sir

18 Q For trafficking in over four hundred grams of
19 drugs?

20 A Yes, sir

21 Q And you were told by somebody when they wanted to
22 talk with you, that that would carry up to thirty years
23 in jail, correct? - - - - -

24 A Yes, sir

25 Q And what happened is they approached you or tried

1 to approach you back in August of 2008, after you were
2 caught selling to somebody, distribution, right?

3 A Yes, sir

4 Q Because you -- actually, Kim Taylor came and bought
5 from you, right?

6 A Yes, she did

7 Q She did All right And so you knew then -- did
8 they confront you about that?

9 A No, they didn't

10 Q They didn't at that time?

11 A No, they did not

12 Q All right But in April when you dealt with this
13 particular plea agreement that you signed ---

14 A Yes, sir

15 Q -- when they talked to you about giving
16 cooperation, right?

17 A Yes, sir

18 Q That's what they wanted you to do, cooperate?

19 A Yes

20 Q And cooperate meant they wanted you to basically
21 point your finger at anybody else who was involved?

22 A Yes, sir

23 Q And they specifically asked you about Anthony,
24 right?

25 A Not until today

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1 Q They didn't the other day?

2 A I don't think so, because I don't remember them

3 asking me anything about it

4 Q Okay All right But at that time they told you

5 that since you hadn't pled yet, you faced a distribution

6 charge which carried a minimum of fifteen and up to

7 thirty?

8 A Yes, sir

9 Q And then the other trafficking, that carried up to

10 thirty, right?

11 A Yes, sir

12 Q And instead of giving you that deal where you would

13 at least get the minimum of fifteen, you got a twelve-

14 year deal on a first offense?

15 A Yes, sir

16 Q All to run concurrent, right?

17 A Yes, sir

18 Q Meaning you're just going to serve that one

19 sentence and that's it?

20 A Yes, sir

21 Q And you've already been sentenced and everything

22 else?

23 A Yes, I have

24 Q So as far as your knowledge of day-to-day activity,

25 would you agree that was limited to the June -- that

1 area in June, June 1st of 2007 to that February part?

2 A Yes, sir

3 Q So as far as his day-to-day activities after that,
4 you don't know?

5 A No, I do not

6 Q All right That's fine Thank you I appreciate
7 it

8 THE COURT Any redirect?

9 MS PORTER No, Your Honor

10 THE COURT All right Thank you, Mr
11 Holloway You may step down

12 Mr Foreman, ladies and gentlemen, rather than
13 calling more witnesses tonight, I think you've worked
14 hard today We're going to take our evening break

15 Let me remind you again not to discuss the case
16 with anyone, not to let anyone discuss it with you
17 I've told you before, you'll have an opportunity to
18 share with your loved ones and friends your experience
19 of serving on this jury, but while the case is going on
20 is not the time to do that I don't know whether there
21 will be any media coverage of this case or not, but if
22 there were to be any news articles or television or
23 radio, please refrain from listening or reading any of
24 that information

25 Again, your family can record or clip any news

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1 articles and you can certainly review those for accuracy
2 or otherwise after you finish this case I believe you
3 will -- certainly it'll be to you tomorrow sometime, so
4 you don't have that much longer to wait Thank you for
5 your patience with us today I'll excuse you until
6 nine-thirty in the morning We've got some matters we
7 need to take care of this afternoon on other cases and
8 the first thing in the morning So if you'll be back in
9 your jury room at nine-thirty, we'll be ready to proceed
10 then Have a good evening, ladies and gentlemen

11 (WHEREUPON, the jury exited the open court at
12 approximately 5 35 p m)

13 THE COURT All right As far as this case,
14 we'll be at ease until nine-thirty in the morning Get
15 ready to start back then

16 (WHEREUPON, the court stood at recess for the day)

17 **JUNE 30, 2010**

18 (WHEREUPON, court convened with all parties present
19 and the following proceedings were had)

20 MS PORTER Your Honor?

21 THE COURT Yes, ma'am

22 MS PORTER Before we get -- I don't know if
23 you want to do this now or--- I just have-a-very small
24 preliminary matter before closing statements I don't
25 know if you want to take it up now or after the

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1 testimony or what I don't know

2 THE COURT Well, is now the time to ---

3 MS PORTER It's my understanding ---

4 THE COURT Do more things have to develop
5 before we can act upon whatever this matter is or ---

6 MS PORTER No, sir I'm really doing it
7 preemptively I don't like objecting during closing
8 arguments, but something Mr Coulter alluded to in
9 opening argument on numerous occasions, I believe if --
10 was one, improper, but two, if it was said in a closing
11 argument would appeal to the sympathy and prejudice of
12 the jury and that's -- he went into, you know,
13 individuals facing dozens and dozens of years and
14 cutting deals, which I think is all proper But he took
15 it a step further by saying, does this case appeal to
16 you? And he said it said numerous times And then at
17 the very end of his opening statement he said, I want
18 you to step back I want you to analyze this and I want
19 you to say, is this the case you want I think that's
20 improper He can argue about the facts, the lack of
21 evidence, the bias and prejudice of the witnesses, but
22 to say that this type of investigation, does it appeal
23 to you, does nothing, in my opinion, except appeal to
24 the sympathy and really the prejudices of this jury in
25 their real-life experiences And I think it would be

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1 improper

2 I don't want to object during a closing argument

3 I really don't like to do that, so I just wanted to

4 bring it to the Court's attention and to Mr Coulter's

5 attention or whatever

6 THE COURT All right Mr Coulter, you'll,

7 I'm sure, stay within the rules and argue the facts and

8 the law Well, I'll instruct them on the law

9 MR COULTER And I appreciate that, and I

10 certainly will I've been trying to do that ---

11 THE COURT I just don't -- I know you do, but

12 we don't want to, you know, get too far into the, you

13 know, the jury's idea of it happening to you and, you

14 know, that kind of thing

15 MR COULTER Oh, gosh, no, no, certainly not

16 But I don't think anything that she's alluded to is

17 something that is not proper to argue

18 THE COURT Right

19 MR COULTER It's simply the lack of

20 evidence And I understand that

21 THE COURT You'll do ---

22 MR COULTER Yeah

23 THE COURT. I'm confident that you'll take - - -

24 care of that

25 All right Now, I understand the last witness is

1 just to -- for the limited purpose of mathematics,
2 basically Is that right?

3 MR CROUT Your Honor, to some extent, yes
4 She's going to just testify about some of the things
5 that occurred in the case, purchases, things of that
6 nature

7 MS PORTER With regards to this case

8 MR COULTER Can I address that?

9 THE COURT What ---

10 MR COULTER Because I thought there was a
11 specific instruction at the beginning of this case that
12 she would be recalled for limited purpose, the
13 mathematics trying to put that together They've
14 already had an opportunity to bring her to the stand
15 once I could have swore that you had ruled that it
16 would be for that limited purpose

17 THE COURT Well, what other things does she
18 need to testify to?

19 MR CROUT I can -- I guess for the benefit
20 of the Court, if you wanted me to go through the
21 questioning I mean, it's eight questions in total
22 What I'm going to ask her is how many controlled
23 purchases were made? What's the purposes of making - - -
24 them? Who were they made from? How much
25 methamphetamine was recovered? How much methamphetamine

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1 was recovered as a result of arrest Were any
2 controlled purchases made from Anthony Gracely? How
3 much money was spent on controlled purchases? And going
4 back to the Anthony Gracely question, you know, were
5 there any controlled purchases made from Anthony
6 Gracely? Why not? And then what is the nature of the
7 evidence against Anthony Gracely And that's pretty
8 much the mathematics of the case And I think that Mr
9 Coulter would -- you know, I don't think there's any
10 doubt that there were no controlled purchases made from
11 Anthony Gracely, and the nature of the case against him
12 is historical

13 THE COURT What questions do you have
14 problems with?

15 MR COULTER Anything that has to do with
16 anything, other than what amounts they claim were a part
17 of this conspiracy I mean, why weren't controlled
18 substances made or were there controlled substances
19 made? Which controlled substances were made? They've
20 had that opportunity I mean, how many bites do they
21 get

22 THE COURT So you don't want them to say that
23 Mr Gracely didn't have any controlled substance sales?

24 MR COULTER Well, I think where they're
25 going with that is maybe why Okay I'm sure it's not

(1 going to be limited to just -- if that's it Oh, you
2 didn't make any controlled buys from Anthony Gracely,
3 fine But if that's followed up with why and they start
4 saying, oh because he's this or he's that or whatever
5 That's my concern I mean, I ---

6 THE COURT Of course, we have to be concerned
7 about cross examination too, but I'll -- you object
8 whenever you see a need to on that

9 MR CROUT Well, we may be able to clear it
10 up now I think the objection to the question would be
11 that it's -- there's speculation, speculative as to why
12 they wouldn't make them Would ---

C 13 MR COULTER I'll tell you what, Judge I'm
14 going to make -- I've made my objection That's all I
15 need to do He can go into it, and if I have a problem,
16 then I'll object

17 THE COURT Well, you make objections as the
18 questions are asked

19 MR COULTER Right That's right

20 THE COURT He might rearrange his order or
21 have different questions

22 MR CROUT All right Thank you, Your Honor

23 THE COURT And then that will be the end of
24 the State's case?

C 25 MR CROUT Yes, Your Honor

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1 THE COURT All right We'll cover the
2 questions, charge and motions and those kind of things
3 We'll just bring them out and send them back rather than
4 trying to do that now, put you under that burden Have
5 our jury come in

6 (WHEREUPON, the jury entered the open court at
7 approximately 9 45 a m)

8 THE COURT The State may call its next
9 witness Good morning, ladies and gentlemen
10 MR CROUT May it please the Court At this
11 time, Your Honor, the State calls SLED Agent Connie
12 Sonnefeld

13 THE COURT Let me remind you, Agent
14 Sonnefeld, you're still under oath

15 MS SONNEFELD Yes, sir, Your Honor

16 **CONSTANCE SONNEFELD,**

17 **HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS**

18 **DIRECT EXAMINATION**

19 **BY MR CROUT**

20 Q Agent Sonnefeld, during the course of your
21 investigation into this conspiracy, how many controlled
22 purchases of methamphetamine were made?

23 A In this conspiracy there was twenty-one undercover
24 buys made

25 Q All right And what is the purpose of making

1 controlled purchases when you're investigating a
2 conspiracy like this?

3 A When we're making undercover purchases, we're
4 trying to corroborate what witnesses or what individuals
5 have told us

6 Q And in this conspiracy, who, of the individuals
7 charged, did you actually end up making controlled
8 purchases from?

9 A We made them from Stacy Anderson, Trevor Kay, Ernie
10 Craft, Patrick Bridges, Candace Duncan, Eddie Shipman,
11 Belinda Cutty, Lance Holloway, Jana Smith, Joel Hall,
12 Frank Posey, and Chris Latham

13 Q And how much methamphetamine was recovered as a
14 result of these purchases?

15 MR COULTER Again, Judge, I'm going to
16 object to that

17 THE COURT I overrule your objection

18 MR COULTER And if I could, a lot of these
19 names weren't even part of any conspiracy with this
20 particular individual, so

21 MR CROUT Well, Your Honor, they were the
22 names charged in the count in the indictment

23 MR COULTER Okay

24 MR CROUT There are -- can we approach for a
25 second?

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1 THE COURT Yes, sir

2 MR CROUT All right

3 (WHEREUPON, Ms Porter, Mr Crout and Mr Coulter
4 approached the bar)

5 THE COURT All right Your objection is
6 overruled

7 Q And then how much methamphetamine was recovered
8 from controlled purchases?

9 A Approximately eighty grams

10 Q And how much money was spent by law enforcement in
11 making these purchases?

12 A We spent six thousand four hundred dollars

13 Q How much -- stepping away from the controlled
14 purchases from arrests, how much methamphetamine was
15 recovered as a result of arrest?

16 A Approximately fifty grams

17 Q Okay Were there any controlled purchases made
18 from Anthony Gracely?

19 A No, sir

20 Q All right I guess in terms of when he was
21 arrested, was there any methamphetamine recovered from
22 him when he was arrested?

23 A No, sir Not that I'm aware of

24 Q All right Do you have any indication of why you
25 would -- or do you have any reason as to why you were

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1 not able to make a controlled purchase from him?

2 MR COULTER Judge, I object to that

3 THE COURT What's your objection?

4 MR COULTER This is exactly what I was
5 addressing prior to us going into this I mean, I need
6 -- I understand the question is why weren't you able to
7 make a controlled purchase

8 THE COURT All right Ladies and gentlemen,
9 let me ask you to go out just for a moment We'll take
10 care of this matter of law in the short term and call
11 you right back Don't discuss the case while you're
12 out

13 (WHEREUPON, the jury exited the open court at
14 approximately 9 50 a m)

15 THE BAILIFF The door's closed

16 THE COURT All right And what is your
17 objection?

18 MR COULTER Judge, if I understood the
19 question correctly, maybe I'm wrong, but what I heard
20 was why weren't you able to, why weren't you able to
21 make a controlled buy from this individual Am I
22 correct about that?

23 MR CROUT That's correct

24 MR COULTER That's correct And those were
25 -- remember, he just went through eight questions he

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1 asked about and I specifically said, I'll bet the next
2 one is going to be why And they didn't say, oh, that's
3 right We're going to ask that question And that's
4 exactly what they just asked Why weren't you able to
5 make this controlled buy?

6 THE COURT I heard him propose that question
7 earlier

8 MR CROUT Yeah Right And we talked about
9 it in terms of the objection

10 THE COURT You've made your objections, but
11 he posed that question as one of his eight

12 MR COULTER Okay All right Maybe I
13 misunderstood Because I heard it before and then I
14 said it ---

15 THE COURT What's your objection that
16 question?

17 MR COULTER My objection to that question
18 is, one, as he points out, that's speculation

19 THE COURT Well, wait a minute Why is that?
20 Why -- I don't know what the answer is yet, ---

21 MR COULTER Okay Well ---

22 THE COURT -- but why is that automatically a
23 speculative answer? I haven't heard the answer, but I
24 will soon

25 MR COULTER Okay Well, one thing we know

1 is they never tried We've already established that,
2 one Second is, to say why couldn't I do this, why
3 wouldn't this person sell to somebody? How can you get
4 into that person's mind and say, oh, yeah, that must be
5 why

6 THE COURT Well, I haven't heard the answer
7 yet

8 MR COULTER Well, I certainly didn't want it
9 to come out in front of the jury, Judge

10 THE COURT I mean, there might be a
11 legitimate reason that, you know, we were -- the economy
12 had -- we lost four people and we didn't have time I
13 don't know what her answer is But you made a timely
14 objection

15 MR COULTER Yeah, I'm trying to ---

16 THE COURT Yes, sir

17 MR CROUT Here, Your Honor, here is, I
18 think, might be the better way to go through this
19 process and that is, did you attempt to make any
20 controlled purchases from Anthony Gracely? Why not?

21 THE COURT Ask your questions now, anything
22 that you want to ask before the jury

23 MR CROUT All right

24 IN-CAMERA EXAMINATION

25 BY MR CROUT

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1 Q Why were you not able to make a controlled purchase
2 from Anthony Gracely?

3 A Because the individuals that were cooperating with
4 us at that time, that were not in jail, could not make
5 undercover buys from Anthony Gracely

6 Q Why not?

7 A (No verbal response)

8 Q Who were the individuals who you thought could make
9 a controlled buy?

10 A Joel Hall, Lance Holloway, Ernie Craft, at that
11 time that's what we thought

12 Q Why couldn't they have made one?

13 A (No verbal response)

14 Q Were they in jail?

15 A Yes, sir

16 Q All right

17 MR CROUT And that's basically the line of
18 questioning

19 THE COURT Are you objecting to that?

20 MR COULTER Yeah I'm definitely objecting
21 to that Not only because it's so speculative, they
22 didn't even attempt to do it In addition to that, this
23 whole line of questioning was made during the initial
24 examination They had an opportunity to redirect,
25 didn't do it Have been sitting down here for the past

1 twenty hours, twenty-four hours and now they get to call
2 them up and make that explanation after they had an
3 opportunity to say, maybe that's an issue we ought to
4 address? I think that's a problem

5 MR CROUT Well, I'd like to address that

6 THE COURT Yes, sir

7 MR CROUT To begin with, Your Honor, the
8 reason for the recall of Agent Sonnefeld was for the
9 purposes of having her testify after the conspiracy
10 itself was established And I don't recall there being
11 any limit on what we attempted to have her testify to
12 What we called her for was for the purposes of basically
13 being the case agent and giving the jury the nature and
14 the type of the case it was We limited her testimony
15 to that until such time as the conspiracy was
16 established And so we've reserved the right to recall
17 her And I do understand in terms of the issue about
18 mathematics, things of that nature But in terms of her
19 being able to testify to everything that she's
20 testifying to now, I don't think that there was ever any
21 limit on her being able to do that

22 THE COURT Maybe I misunderstood her
23 response

24 MR CROUT Well, Mr Coulter and I were
25 discussing ---

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1 THE COURT The reason that you could not do
2 this, according to what you just said is, some were in
3 jail And those who were out of jail weren't able to do
4 it?

5 AGENT SONNEFELD That's correct

6 THE COURT It wasn't that everybody was in
7 jail?

8 AGENT SONNEFELD That's correct

9 THE COURT Maybe it was because he didn't
10 sell drugs, who knows I don't know You were
11 objecting to those questions, is that correct?

12 MR COULTER Yes, sir, I am

13 THE COURT And your basis for the objection
14 is that it goes beyond the restriction imposed on the
15 recalling this witness, or do you have other objections?

16 MR COULTER One Plus, I think any question
17 about why they couldn't do it, when they didn't try, is
18 speculation

19 THE COURT Why is that speculation? I mean,
20 I'm having a hard time understanding your argument, Mr
21 Coulter How is that speculation that the people could
22 never buy from him? I mean, is that speculative?

23 MR COULTER I guess if they never tried,
24 then how do they know that they couldn't? I mean,
25 Judge, maybe my logic is flawed I apologize I just

1 ---

2 THE COURT Well, I'm trying to understand how
3 that is a speculative answer Now, if you feel she said
4 that we didn't try before, you can certainly cross
5 examine her on that about inconsistent statements

6 MR COULTER Okay

7 THE COURT But I just don't understand how
8 that's speculative

9 MR COULTER Okay

10 THE COURT And maybe I'm missing something
11 I'm trying

12 MR COULTER No I respect the ruling

13 THE COURT I'll allow the questions

14 MR CROUT All right And just so we're
15 cleared on the way that the questions will progress
16 They will be, were there any controlled purchases of
17 methamphetamine made from Anthony Gracely? And then the
18 next question is, why not? Is that what we've agreed

19 THE COURT That's what I'm allowing

20 MR COULTER You're right Do I need to
21 renew my objection as it's being asked

22 THE COURT Your objection is noted The same
23 questions that were just asked in-camera will be asked

24 again Your objection is noted on the record

25 All right And then we'll have your opportunity to

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1 cross examine the witness And then we'll send the jury
2 out again Let's have them come in if they're ready,
3 Mr Teal?

4 (WHEREUPON, the jury entered the open court at
5 approximately 9 58 a m)

6 THE COURT Thank you, ladies and gentlemen
7 You may proceed with your question, Mr Crout

8 Q Agent Sonnefeld, I believe you had testified about
9 how much methamphetamine was recovered as a result of
10 arrest My next question was, were there any controlled
11 purchases of methamphetamine made from Anthony Gracely?

12 A No, sir

13 Q And why not?

14 A Because the individuals that were cooperating with
15 us during this investigation, the ones that were not in
16 jail, could not buy from Anthony Gracely?

17 Q And in a nutshell what is the nature of the
18 evidence against Mr Gracely in this case?

19 A Information that was provided by persons within the
20 organization that dealt with him

21 MR CROUT Your Honor, I have no further
22 questions

23 Q Please answer any questions that Mr Coulter might
24 have

25 A Yes, sir

1 THE COURT Mr Coulter, you may cross examine
2 the witness

3 MR COULTER Thank you

4 CROSS EXAMINATION

5 BY MR COULTER

6 Q Agent, you said you made twenty-one controlled buys
7 in this operation?

8 A Yes, sir

9 Q Okay And there was a number of times that you
10 attempted to make buys and were never successful from
11 various individuals, right?

12 A Yes, sir

13 Q And you have times where you sent somebody in with
14 a wire and you said, let's go in, let's try to make this
15 purchase and let's see what happens Right?

16 A Sometimes, yes, sir

17 Q That's right And you would have the wires on him
18 and you actually have the transcribed recording down of
19 when they went in there, said, hey, listen, I want to
20 buy this drug from you And the result was, no

21 A Sometimes, yes, sir

22 Q That's right Okay So let's see, you have

23 sixteen different co-conspirators in this case with

24 Anthony Gracely, right?

25 A Yes, sir

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1 Q Okay Of those sixteen co-conspirators, how many
2 of them did you put a wire on? And you have a bunch of
3 wires with SLED, right?

4 A Yes, sir

5 Q That's something very simple, right?

6 A Yes, sir

7 Q How many of those people did you just say, you go
8 try to make that purchase?

9 A We did not send anybody over to Anthony Gracely's

10 Q Zero, correct?

11 A Correct, yes, sir

12 Q None?

13 A That's correct

14 Q And the other reason why it may be that you
15 couldn't make a buy from him is because he may not have
16 sold Isn't that true?

17 A That's not my belief, no, sir

18 Q That's not your belief But bottom line is you
19 didn't even try to put a wire on anybody You didn't
20 even try to check phone records to see if he even made a
21 call to somebody like Trevor Kay or Candace Duncan or
22 Patrick Bridges or Desiree Hopkins You didn't even
23 check their phone records, did you?

24 A The persons that were involved in our investigation
25 that were cooperating and not in jail, could not buy

1 from Anthony Gracely

2 Q I'm sorry You missed my question

3 A That was the first part of your question

4 Q No, no, no My question is, you didn't even try to

5 get the phone records to see if Trevor Kay ever talked

6 with Anthony Gracely on the phone I mean, you can do

7 that You can actually look at a phone record and say,

8 look, Trevor Kay called Anthony Gracely They do know

9 each other Right?

10 A Sometimes you can, yes, sir And I did not No,

11 sir, I did not

12 Q You do that quite a bit?

13 A Sometimes

14 Q Well, you've done it in this case?

15 A I did it on some, yes, sir

16 Q You did it on some of them, but you didn't bother

17 to do it on Anthony Gracely?

18 A I did not do it on Anthony Gracely That's

19 correct

20 Q Because you have sixteen different people, all of

21 whom signed some cooperation agreement of some sort

22 Maybe not all of them, but most of them, right?

23 A At some point

24 Q And all you had to do was say, what's your phone

25 number? And you could have done a record check and

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1 crossed it, couldn't you?

2 A I could have

3 Q And that would have told you, these people do know
4 each other?

5 A It could have May not

6 Q It would have corroborated that, right?

7 A If you could get phone records

8 Q If?

9 A Yes, sir

10 Q And there was nothing to stop you from doing that?

11 A I did not do it That's correct

12 MR COULTER Thank you

13 THE COURT Any redirect?

14 MR CROUT Nothing, Your Honor

15 THE COURT All right Thank you You may
16 step down, Ms Sonnefeld You may call your next
17 witness

18 MR CROUT Your Honor, the State rests

19 THE COURT Mr Foreman, ladies and gentlemen,
20 we've now reached a stage in the trial where I need to
21 take care of some legal matters I'm again going to ask
22 you to go back to your jury room I don't know how long
23 this may take I certainly won't keep you there too
24 long while we resolve some of the legal issues that we
25 have to at this stage in the case Let me remind you it

1 would be improper for you to discuss the case in any
2 way We'll call you back just as quick as we can If
3 you'll go back to your jury room at this time

4 (WHEREUPON, the jury exited the open court at
5 approximately 10 03 a m)

6 THE BAILIFF The door's closed

7 THE COURT Any motions?

8 MR CROUT Your Honor, the State has no
9 motions?

10 THE COURT All right

11 MR COULTER Your Honor, the Defense would
12 move for a directed verdict on the count of conspiracy
13 over four hundred grams as the evidence is insufficient
14 to support a finding beyond a reasonable doubt that
15 Anthony Gracely was involved in this civil conspiracy

16 I further move for a directed verdict on the basis
17 that the facts presented are insufficient to show that
18 the amounts of methamphetamine involved that are somehow
19 associated with Anthony Gracely, actually equate to four
20 hundred grams and over

21 I would further move for a directed verdict on the
22 basis that I don't believe the evidence shows that this
23 alleged conspiracy in the amount of what they're

24 claiming of four hundred grams or more, actually
25 occurred within the areas listed in the indictment of

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1 Greenville, Pickens and I believe Oconee I believe
2 that, quite frankly, a lot of the testimony was we
3 smoked or we drove around And there's no issue about
4 where that is It could be Anderson I don't know
5 But it is insufficient and clearly a significant and
6 critical element of proving their case must be
7 establishing that within those particular boundaries
8 these crimes were committed, and I believe that was
9 insufficient as well

10 And would move for a directed verdict on the basis
11 of all those

12 THE COURT I'll be glad to hear from you, Mr
13 Crout, on those motions

14 MR CROUT Yes, sir Your Honor, I'll work
15 backwards to forwards so we can deal with them I think
16 from the jurisdictional standpoint, the State is not
17 required to prove, even though a State Grand Jury Case
18 has to have a multi-county impact, that is not -- that
19 is an element of the jurisdiction in terms of the Grand
20 Jury itself It is not an element of the crime as
21 charged against the individual defendants in the
22 particular case There's no doubt that this Court has
23 jurisdiction over this matter based upon it being a

24 General Sessions Court and this being a charge that is
25 brought in General Sessions Court

1 Multi-county impact is the basis for the State
2 Grand Jury investigation The basis for the General
3 Sessions Court jurisdiction is its ability to hear the
4 particular case And in this instance, this Court has
5 the ability to hear this particular case There's no
6 doubt about that

7 Secondly, with respect to the amounts, there has
8 been testimony about amounts that taken in the aggregate
9 would exceed four hundred grams There's testimonies
10 from the various individuals involved that would
11 indicate not only from the controlled purchases, the
12 actual methamphetamine recovered from arrests and from
13 corresponding controlled purchases, but also from
14 individuals testifying about amounts bought and sold
15 It is not necessary for us to actually bring four
16 hundred grams of methamphetamine into the courtroom to
17 prove this case

18 And then, lastly, as far as the -- and I may have
19 gotten those backwards But as far as evidence that a
20 conspiracy itself occurred, I think there's been
21 testimony that showed undoubtably that there were
22 transactions taking place where Mr Gracely was
23 involved, wherein those who testified were involved and

24 where other individuals who were testified about were
25 involved I think there's no doubt that the element of

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1 conspiracy has been shown in this case to cross the
2 threshold of a directed verdict

3 THE COURT Yes, sir, Mr Coulter

4 MR COULTER Yes, Judge, the only thing I
5 would say in response to that, I'm quoting a case, the
6 Barroso case -- I think it's pronounced A 1996 case, a
7 Statewide Grand Jury Case It's talking about
8 conspiracy and it states that -- and this is something I
9 request to be charged That it's not enough that a
10 group of people separately intended to distribute drugs
11 in a single area, but that activities will occasionally
12 or sporadically place them in contact with each other,
13 but there must be proof that they intended to act
14 together their shared mutual benefit within a conspiracy
15 charge

16 And I just -- I guess my position is I fail to see
17 how there was -- even if there had been some use between
18 people, there was no mutual benefit presented to --
19 within the scope and so forth of this conspiracy That
20 they were somehow benefitting from one another by their
21 shared activities And it was more -- that it was more
22 sporadic contact

23 THE COURT Well, I obviously must view all

24 the evidence in the light most favorable to the non-
25 moving party and in spite of the jurisdictional question

1 that the State addressed, I think there was ample
2 evidence in addition to go where things were taking
3 place certainly in Greenville and Pickens County and
4 Marietta, Greenville motels, Pickens County, as well
5 While there may be some dispute in the evidence, I
6 can't weight the credibility of the witness as to
7 amounts That's certainly a jury issue there The same
8 on the conspiracy I think there's certainly sufficient
9 and credible evidence to go to the jury on whether or
10 not there was a conspiracy and whether or not Mr
11 Gracely was part of it

12 I respectfully deny your motions, Mr Coulter

13 Do you intend to put up any evidence?

14 MR COULTER No, sir

15 THE COURT All Right How about requests to
16 charge and -- I've got verdict forms prepared, but is
17 there a -- on the State's, have you gone through the
18 State's requests to charge, Mr Coulter?

19 MR COULTER I have

20 MS PORTER Your Honor, one of the requests
21 to charge that I accidentally forgot to take out, I had
22 prepared these when I thought Desiree Hopkins and
23 Anthony Gracely potentially were going to be tried at

24 the same time

25 THE COURT Is there one or two?

1 MS PORTER I think it is one That two
2 Defendants are named in this indictment
3 THE COURT How about the one behind it?
4 MR COULTER That's page two, page two
5 MS PORTER I'm sorry Page two
6 THE COURT Yeah Page two, right Okay
7 That one's out I thought there was another one that
8 sort of went to that as well, but maybe not All right
9 Two is out How about number three, is that -- or page
10 three?

11 MS PORTER I'll withdraw that one That's
12 fine

13 THE COURT What other ones do you object to,
14 Mr Coulter, if any?

15 MR COULTER Well, I would say looking at
16 page seven, eight, nine, and ten, I don't believe that
17 that's a -- that may be Your Honor's standard charge on
18 a conspiracy I don't know But I don't believe that
19 that's a complete charge on conspiracy and would object
20 to this and would defer to Your Honor's standard charge
21 as opposed to that

22 Again, I think it's missing some elements,
23 specifically what I've mentioned just a minute ago in my

24 directed verdict motion regarding the language of the
25 Barroso case Barroso, I want to make sure I've got

1 that right B-A-R-R-O-S-O case

2 In addition ---

3 MS PORTER It does have the language on the
4 bottom of page eight It must have the intent to
5 advance the common goal of the agreement The persons
6 involved are not acting in concert but are instead
7 acting separately and individually, then you may
8 rightfully conclude that they are not involved in a
9 conspiracy

10 MR COULTER Again, you know, that's fine
11 that she says that I'm just saying the language from
12 this particular case is different

13 THE COURT Have you got the language in the
14 case that you want me to charge? I'll be glad to look
15 at it

16 MR COULTER If I could approach?

17 THE COURT Yes, sir

18 MR COULTER This is the whole case, Judge
19 It's actually this page I'm sorry, I didn't ---

20 THE COURT Okay Any other objections to the
21 -- I'll study your language and I'll let you know I'll
22 study it quick

23 MR COULTER Okay

24 THE COURT Your language and their request to
25 charge, page seven, compared to my charge, I believe

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1 that my charge is probably going to cover everything in
2 less words than your charges, your proposed charges, but
3 I'll look those over Any other ---

4 MR COULTER Yeah, just the last the one,
5 page eleven, the definition of reasonable doubt I know
6 there's a number of different definitions floating out
7 there I don't know what the Court uses, if you use
8 some sort of combination of some, but I'm requesting --
9 I'm sure the Court's aware of the case and -- for the
10 life of me it escapes me, but the case it discusses, a
11 person -- a reasonable doubt is that which a reasonable
12 person might hesitate to act

13 THE COURT I'll do both Any other -- many
14 of the State's would be covered in my normal charge
15 All right Anything else from either side as far as the
16 charges?

17 MR COULTER Not from the Defense

18 THE COURT I'll charge -- for your benefit
19 and your argument, I'll certainly charge that, you know,
20 an arrest or an indictment is not evidence I'll charge
21 the absent defendant as I did earlier I'll recharge
22 that Presumption of innocence, of course, I'll give
23 them that, and reasonable doubt Direct and
24 circumstantial evidence Credibility of witnesses, I'll
25 talk about that with them This being a conspiracy,

1 I'll talk about the -- go through the conspiracy, but as
2 far as the statute on the trafficking, I'll probably not
3 give the definitions that I sometimes do as far as what
4 a delivery is, what manufacturing is, what possession
5 is, those really aren't -- unless for some reason y'all
6 feel like those are needed, that I tell them what a
7 delivery is and what possession is Does anybody
8 particularly want those additional charges?

9 MS PORTER Well, Your Honor

10 THE COURT Constructive possession?

11 MS PORTER I would ask that they be put in
12 because the conspiracy is that they trafficked in
13 methamphetamine I mean, that's what they did

14 THE COURT Okay

15 MS PORTER So I would ask that you define
16 what trafficking is so that they can adequately decide
17 if these people combined to do it

18 THE COURT Well, I'll -- is there any
19 evidence of manufacturing? I'll charge manufacturing,
20 delivery and distribution and possession then

21 MS PORTER I don't object to you leaving out
22 manufacturing, Your Honor

23 THE COURT Okay Mr Coulter?

24 MR COULTER Judge, the last thing I would
25 say is that -- or request is lesser included offenses,

1 that it is possible for the jury to have believed some
2 of these witnesses and not others, obviously And it's
3 very possible that a jury could conclude that even if my
4 client was involved in a conspiracy, that the conspiracy
5 amount involved was less than four hundred grams, that
6 it could be ten to twenty-eight, twenty-eight to a
7 hundred I believe that different people testified to
8 different amounts Some said -- as I recall Frank Posey
9 said he got maybe a quarter ounce on six, seven
10 occasions, which could come to the ten to twenty-eight
11 range It could be that you add that to what Joel Hall
12 said, a quarter ounce and so you put it in the ten to
13 twenty-eight So I guess what I'm saying is I certainly
14 think there's evidence where if the jury viewed this,
15 disregarded some, accepted the testimony of others, that
16 could make it come below the threshold of the amount
17 that's being alleged in the indictment

18 So I would request that all three lesser included
19 offenses be charged And I'm also, since I'm going to
20 put it on the record, even requesting simply a
21 possession of methamphetamine charge Because they
22 could disregard everything everybody said and maybe even
23 agree with Joel Hall that at one time he had one quarter
24 of an ounce So I think all of those are proper to be
25 presented to the jury

1 THE COURT Ms Porter?

2 MS PORTER We don't object to the lesser
3 included to trafficking But if we're going to put in
4 possession, then I also think you need to put in
5 distribution because they may believe that he sold one
6 time less than ten grams I mean, it's kind of a
7 slippery slope, but we certainly -- I do agree with the
8 lesser included of trafficking if we haven't met the
9 four hundred gram threshold But I believe we have far
10 exceeded that, but I could see where a jury may believe
11 one witness versus another I think he's entitled to
12 the lesser included of trafficking

13 THE COURT I'll charge the lesser trafficking
14 offenses I don't believe the evidence that I heard
15 would lend itself to possession or even of possession
16 with intent to distribute Alternatives, I'll have one
17 with four hundred or greater and go down the line on
18 that or under twenty-eight -- well, or twenty-eight or
19 more Under twenty-eight includes possession

20 All right Let's take a short break I'll get the
21 verdict forms up for you and let you know what I'm going
22 to say about conspiracy Then when we come back, Mr
23 Coulter, I'll let you rest on the record before the
24 jury I'll call upon you You can rest Your motions
25 obviously are noted And then we'll be ready to go

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1 right into the argument

2 MR COULTER Yes, sir

3 THE COURT But I'll let y'all see the verdict
4 forms beforehand

5 MS PORTER Thank you, Your Honor

6 THE COURT Okay

7 (WHEREUPON, the court stood at recess for a short
8 break)

9 THE COURT All right Any other matters on
10 the instructions? I'll charge my instruction on
11 conspiracy I'm not criticizing the law that you've
12 both given me I think my instruction will adequately
13 cover both points from the Defense and from the State
14 Most of the State's other charges, I think, we've cover
15 I'll hit upon the number twelve, and possibly number
16 one, if necessary Y'all have had a chance to look over
17 the verdict forms Is that correct?

18 MS PORTER Yes, sir

19 MR COULTER Yes, sir

20 THE COURT And they're satisfactory to both
21 sides?

22 MR COULTER Yes, sir

23 THE COURT All right Are we ready to
24 proceed?

25 MR COULTER Yes, sir

1 MS PORTER Yes, sir

2 THE COURT Again, I'll call upon you to
3 present your case You can rest And then I'll tell
4 the jury it's time for closing statements You're going
5 to be making the argument?

6 MS PORTER Yes, sir

7 THE COURT Please have the jury come in, Mr
8 Teal

9 (WHEREUPON, the jury entered the open court at
10 approximately 11 07 a m)

11 THE COURT Thank you very much for being
12 patient with us, ladies and gentlemen We're now ready
13 to proceed

14 Mr Coulter, you may call -- present your defense

15 MR COULTER The Defense rest, Judge

16 THE COURT Mr Foreman, ladies and gentlemen,
17 all of the evidence is in the case now We're at that
18 point now where the attorneys will have a chance to make
19 closing statements to you I've told you earlier that
20 what the lawyers have to say to you is not evidence
21 You've heard all the evidence in the case and that's
22 what you'll be deciding the case on, that evidence
23 While what they may have to say to you in their closing
24 statements is not evidence, I urge you to listen
25 carefully to them I am confident that each of them can

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1 give you some valuable insights into at least their view
2 of the evidence to perhaps help you in your
3 deliberations to follow shortly

4 After the attorneys have had a chance to talk to
5 you in their closing statements, I'll then instruct you
6 on the law After that, the case will be yours to
7 decide Ms Porter, you may address the jury

8 MS PORTER Thank you, Your Honor May it
9 please the Court

10 **CLOSING STATEMENT**

11 **BY MS PORTER**

12 First and foremost, let me tell you how
13 appreciative we are that y'all are here No one signs
14 up for this No one puts their business card in a bowl
15 and says, pick me, pick me, and we understand that
16 This is a very, very important service that y'all
17 provide and we appreciate your time and your attention

18 We're at the time where we put everything in your
19 hands Our role as the State is to present the evidence
20 to you Your role is to decide what the facts are, what
21 evidence to believe and to take those facts as you find
22 them and apply it to the law as the Judge tells you it
23 is His role, he's the expert on the law

24 Now, I am going to talk to you for a little while
25 about my take on the facts and then Mr Coulter is going

1 to stand up and he's going to talk to you about his take
2 on the facts If we say something and your memory is
3 different, rely on your memory Y'all are the experts
4 on the facts, not us

5 I'm going to talk a little bit about the law The
6 Judge, after myself and Mr Coulter address you, is
7 going to instruct you on the law He is the expert on
8 the law If I say something different from the Judge,
9 you listen to the Judge He's the expert Okay?

10 Let's talk about the law You're here today and
11 you were here yesterday because of the statute
12 trafficking methamphetamines The trafficking statute
13 is triggered by the amount of the illegal drug, okay?
14 So it's a little tricky It encompasses all of these
15 things It's not the act, it's the weight of the drugs
16 that trigger the trafficking statute So you can have
17 sold it, made it, cultivated it, delivered it, purchased
18 it, brought it into the State of South Carolina You
19 could have provided financial assistance to someone who
20 did all -- one or all of those things, or otherwise
21 aided them, abetted them, or attempted to conspire to do
22 any of those things All right To trigger the
23 trafficking statute, we have to have at least ten grams
24 of methamphetamine All right So if we don't have ten
25 grams, we don't get into this statute All right So

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1 that's the bare minimum we've got to prove, is that
2 there were ten grams of methamphetamine in this
3 conspiracy, okay? And this conspiracy can be to do any
4 of these things, to sell, deliver, purchase, bring into
5 the State, actually or constructively possess the meth,
6 or attempt to actively or constructively possess the
7 meth, okay? So it has to be at least ten grams and we
8 have to have done one of these things

9 I will submit to you today, ladies and gentlemen,
10 that the evidence you heard yesterday and this morning,
11 that we have not only met our burden for ten grams, but
12 we have far surpassed it

13 Now, what the Defendant Anthony Gracely has been
14 charged with is being a part of a conspiracy to traffic
15 methamphetamines So let's talk a little bit about what
16 a conspiracy is because it's a little different We're
17 not talking about one single event We're talking about
18 a business We're talking about two or more people who
19 have gotten together for the purpose of accomplishing an
20 unlawful object or a lawful object by unlawful means
21 What does that mean? It means two or more people got
22 together and decided to commit a crime And the crime
23 is trafficking methamphetamines

24 In this count, in this indictment, 2008-GS-47-11,
25 count two, we are alleging that from June 1st, 2007

1 through October of 2008, sixteen people got together for
2 the purpose of trafficking methamphetamines It's the
3 agreement that is the crime of conspiracy And this is
4 an important concept Ladies and gentlemen, it is
5 because two people can do more than one Four people
6 can do more than two Sixteen can do more than four

7 In opening statements, Mr Crout analogized this to
8 building a car Four thousand nine hundred people work
9 at the BMW plant in Greenville It takes four thousand
10 nine hundred people to build a car They are conspiring
11 to produce a lawful product, a car You've got an
12 engineer who designs it You've got a welder who puts
13 the frame together You've got a steel manufacturer who
14 makes the materials and delivers them to the plant
15 You've got a sewer who sews the seats together You've
16 got a fellow who put the axle on and another guy who
17 puts in the stereo equipment and the speakers If you
18 ask that stereo equipment fellow to put the axle on,
19 he's not going to know how to do it And that's
20 important to understand Because every person on that
21 assembly line and involved in the building of that BMW
22 is essential and critical to the process They don't
23 know every other player and they don't know every other
24 player's role You don't have to You just have to
25 know, I'm a part of a group of people that's building

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1 this car And when I see a BMW on the street, I know
2 that I was a part of that group of people that built
3 that car So that's what conspiracy is

4 Now, another important part of the conspiracy is,
5 with BMW, you've got an employment contract and it's
6 spelled out the duties, you know All right And there
7 are a lot of lawyers that figure out how to phrase it
8 In a trafficking, methamphetamine conspiracy, there are
9 no contracts, nothing is written out I wish they
10 would It would make my job a lot easier, but they
11 don't do that And the law doesn't require us to prove
12 that The agreement does not have to be formal or
13 expressed It can be tacit In other words, unspoken
14 or implied

15 Also, in a trafficking methamphetamine conspiracy,
16 it's not one deal It's numerous So the weight
17 concerned in the threshold amount of trafficking, it can
18 come from adding up all of the deals together Okay?
19 It doesn't have to be one deal I do not have to prove
20 that Anthony Gracely or Tony G possessed at one time or
21 sold at one time or brought into this State at one time
22 more than four hundred grams I have to prove that he
23 was a part of a conspiracy that possessed, throughout
24 this time period from June 1st, 2007 through October of
25 2008, more than four hundred grams

1 In addition, each act of a co-conspirator is
2 attributable to the other co-conspirators So everybody
3 in the conspiracy is responsible for what the other one
4 is doing That's the law

5 Let's talk about the facts Now that I've talked
6 about the law, let's talk about the facts In this
7 particular case we had testimonial evidence to present
8 to you Now, the Judge is going to tell you this I
9 want to tell this to you too As your role as jurors,
10 it's very important that you judge each witness that
11 came here and took that stand and talked to you You
12 are to judge their credibility, their believability
13 And you should consider, did they have an interest in
14 the outcome in this case? Did they have a motive to
15 embellish or exaggerate or lie? Or did they have a bias
16 against the Defendant, Anthony Gracely? Did they have a
17 reason to mislead you? That's very important

18 Now, you're going to hear the Defense attorney get
19 up here -- this is my last chance to talk to you and
20 you're going to hear him after me And I imagine that
21 he's going to say some things to the effect of, you
22 can't believe anything they say because they lied to get
23 out of trouble They got out of life sentences and got
24 five years, ten years, twelve years, twenty years They
25 got out of a life sentence and are only going to prison

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1 for five years

2 Well, ladies and gentlemen, I don't know where
3 y'all are from, but I'm from an area where five years is
4 a long time Think about it In five years a child can
5 be born, learn to hold his head up, learn to sit up,
6 learn to crawl, learn to eat solid food, learn to talk,
7 run, jump, go to school, in five years In twenty
8 years, they've completed school They're living on
9 their own, paying their own bills, maybe still in
10 college A long time Yeah, these witnesses did
11 cooperate And, yeah, they did avoid a life sentence
12 That, in and of itself, does not mean they lied You
13 judge that Were there inconsistencies? Yeah I have
14 a four year old son, and his favorite game -- he just
15 learned to play it about a month ago, but his favorite
16 game at the daycare is that they sit in a circle and
17 they play the telephone game And first of all, four
18 year olds, they can't whisper anyway But they manage
19 to take, you know, an animal or a simple sentence and
20 they whisper it around the circle and it's never the
21 same and he dies laughing He thinks that's hysterical
22 But it's life Nobody is going to tell the exact same
23 story

24 If all of those defendants got on the stand and
25 said the same thing, I would submit to you that you

(1 shouldn't believe any of them because they've all gotten
2 together Or they've all gotten with me and I've told
3 them what to say No one goes and sees a movie and
4 recounts it the same way Credibility, believability
5 Listen to what they said You judge

6 And before -- I want to talk just briefly about
7 each witness and what they said and what was consistent
8 and what I believe the facts are and how they apply to
9 the law But very briefly before we get started with
10 that If these guys were really trying to embellish and
11 bolster and lie to y'all about Anthony Gracely, don't
12 you think they'd at least put more than four hundred
13 grams in his hand at least once? Not one of them did
14 If they're really telling me just what I want to hear to
15 get their deal, don't you think they would have said,
16 heck yeah, man, I dealt a pound to him on numerous
17 occasions They didn't say that, ladies and gentlemen
18 I submit they told you the truth I'd also submit that
19 each and every one of them is a meth addict and
20 testified truthfully to their memory

21 So let's talk about them Frank Posey, the first
22 witness you heard from, pled guilty to two trafficking
23 methamphetamines by conspiracy, ten to twenty-eight
24 grams, first offense He is an admitted co-defendant
25 and co-conspirator of Anthony Gracely We recommended

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1 five years Five years A long time He was
2 approached by SLED when they executed a search warrant
3 and he agreed to cooperate right then, and he did He
4 admitted using and selling meth since 1998 He told you
5 that he's known Tony G for twenty years I think the
6 way he said was, I'm thirty-nine years olds, and he said
7 he's known him since he was nineteen He admitted to
8 dealing from several people, including Tony G He
9 admitted that Lance Holloway was his mutual friend and
10 that he had also been purchasing from him, another co-
11 conspirator That both Lance and Tony G have been to
12 the house to deal with Frank He admitted to fronting a
13 half pound of ice to Tony G and talked to you honestly
14 about the fact that he never paid for it, and that he
15 still owes him money We didn't hid that from y'all
16 He also loaned Tony G money, five thousand dollars And
17 that Tony G paid him back in installments of
18 methamphetamine He said he met somewhere between five
19 and eight times He couldn't remember specifically how
20 many times and that each time he got an eight ball or
21 two, at two hundred and fifty to five hundred dollars a
22 pop, or that they were worth that much And he said he
23 only paid him back fifteen hundred dollars Aside from -- --
24 that, he said he bought from Tony G another ten to
25 fifteen times

1 Brian Stegall pled guilty to trafficking
2 methamphetamines, ten to twenty-eight grams, first
3 offense Distribution of methamphetamines, first
4 offense We recommended fifteen years Admitted co-
5 defendant and co-conspirator of Anthony Gracely
6 Admitted meth addict Started selling when he was
7 seventeen years old He's known Tony G since 1999 The
8 summer of 2007 he started buying from Tony G, buying
9 just enough to pay his bills and have enough left over
10 to get high Admitted being the middle man, bringing
11 people to Tony G to get his fix Talked about Lance
12 Holloway and how often he was with Tony G Talked about
13 Dwayne Mitchell and how he dealt with Dwayne And he
14 saw on one occasion Stacy Anderson deliver two ounces of
15 meth to Tony G This was in -- he says, it was cold
16 outside, the winter of 2008 And it was at the Mauldin
17 Apartments in Greenville He also talked about Ernie
18 Craft and Ernie Craft's trap house and how he went
19 there to get high The first consistency between the
20 co-conspirators is Lance Holloway, between those two
21 Kim Taylor was involved in this conspiracy as well
22 as another conspiracy in this big giant case She pled
23 guilty to trafficking methamphetamines, twenty-eight to
24 a hundred grams, second offense, and to two
25 distributions of meth, second offense And we

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1 recommended and she was sentenced to twenty years
2 Whew, what a deal Admitted co-defendant, admitted co-
3 conspirator, admitted drug addict She was purchasing
4 meth from her boyfriend at the time, John Ham, who is
5 not in this conspiracy But she also purchased through
6 Lance Holloway And who did she say Lance's source was?
7 Stacy Anderson I'm sorry, Tony G, Anthony Gracely, and
8 that she remembers two occasions where she actually saw
9 Tony G with meth Not three, not four, she didn't deal
10 with him directly She dealt with Lance and she knew
11 Lance's source because of her two experiences When
12 Lance brought Tony G to the shop and when Lance -- Tony
13 G delivered to Lance the two ounces of meth, one of
14 which she purchased from Lance Three people are now
15 saying Tony G and Lance, Tony G and Lance, Tony G and
16 Lance
17 Let's talk about Joel Hall He pled to two counts
18 of trafficking methamphetamines, ten to twenty-eight
19 grams first offense, and three counts of distribution of
20 methamphetamines, first offense We recommended ten
21 years and he was sentenced to ten years, concurrent with
22 his federal time Admitted co-defendant, admitted co-
23 conspirator, admitted meth addict He's been using and
24 selling methamphetamines since 2001 He's known Tony G
25 since the '90's But he only purchased one time from

1 Tony G That's because he said it was a hassle Tony G
2 was paranoid He was difficult to deal with He talked
3 about Adam Scott was to set him up with his one deal
4 with Tony G, and that they met at a motel in Greenville,
5 got high together after they did the deal He also told
6 you that he knew Lance Holloway, Ernie Craft, and that
7 he dealt with them both If he wasn't telling the
8 truth, he was trying to get a better deal, wouldn't he
9 have said he would have dealt with him more than once in
10 the twenty some-odd years that he knew him?

11 Believability Credibility What are the
12 consistencies? Ernie, Lance, Tony G in Greenville,
13 difficult to deal with, paranoid That's a common
14 theme

15 Let's talk about Stacy Anderson Bad guy Pled
16 guilty to two counts of trafficking methamphetamines,
17 twenty-eight to a hundred grams, first offense And a
18 distribution of methamphetamines, first offense We
19 recommended fifteen years concurrent with his federal
20 time He's going to be sentenced after he receives his
21 federal sentence He's an admitted co-defendant,
22 admitted co-conspirator, admitted meth user He met
23 Tony G through Chris Latham who is another co-
24 conspirator in this, one of the sixteen named They met
25 at McDonald's in Greenville and then went back to Tony

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1 G's apartment and smoked some meth and discussed doing
2 business together They discussed the terms of their
3 agreement to do business It is the agreement itself
4 and not the act in furtherance of the agreement that
5 violates the law He gave Tony G a quarter ounce to
6 sell And then he stated on the stand that he was owed
7 seventy-three hundred dollars for drugs by Tony G They
8 made an agreement and they dealt together Seventy-
9 three hundred dollars The testimony throughout the
10 trial was that an ounce was roughly sixteen hundred
11 dollars An ounce of meth cost sixteen hundred dollars
12 You divide sixteen hundred dollars into seventy-three
13 hundred dollars, you get roughly four point five ounces
14 of meth or a hundred and twenty-six grams

15 But let's go back to the act of one co-conspirator
16 that's attributable to all of them He self admitted
17 that he brought into this State ten ounces of meth a
18 day for ten months Well, let's give him Sunday off
19 Let's just use six days a week Let's say he took
20 Sunday off All right? That is roughly sixty-seven
21 thousand grams of methamphetamine And we only have to
22 prove four hundred Consistencies there, he met through
23 a co-conspirator, it's all in Greenville again All at
24 his apartment in Greenville

25 Ernest Craft pled guilty to trafficking

1 methamphetamines, ten to twenty-eight grams, first
2 offense Distribution of methamphetamines first
3 offense We recommended fifteen years and he was
4 sentenced to fifteen years He's been sentenced
5 Admitted co-conspirator Admitted co-defendant
6 Admitted meth addict Started using or selling meth
7 when he was fourteen years old Admitted that his house
8 was a trap house It was the place to be to smoke meth,
9 to ingest meth, to shoot meth If you wanted meth or
10 you wanted to sell it, Ernie Craft's house was a great
11 place to do it

12 Dwayne Mitchell was his next door neighbor and his
13 connect or one of his connects with Tony G He and
14 Dwayne went to a motel off Pleasantburg Road in
15 Greenville and who'd they meet? They met Brian Stegall
16 and Tony G And what did they do? Dwayne bought a half
17 an ounce and then sold an eight ball to Ernie He
18 bought a half an ounce from Tony G He also knew Tony
19 G's source was Stacy Anderson And at his trap house he
20 dealt with Warren Chastain, Brain Stegall, Lance
21 Holloway, Joey DeFresco and Stacy Anderson

22 Now, lastly, let's talk a little bit about Lance
23 Holloway Definitely a co-conspirator He pled guilty
24 to two counts of trafficking methamphetamines, twenty-
25 eight to a hundred grams, and distribution of meth,

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1 first offense The State recommended twelve years, and
2 he was sentenced to twelve years He's been sentenced
3 He's an admitted co-defendant, and an admitted co-
4 conspirator And what did he admit? He admitted that
5 he's been selling for the last twelve years That he's
6 known Tony G the last fifteen years That he dealt with
7 Kim Taylor and her boyfriend, John Ham, and that he
8 didn't remember Tony G being involved with John and Kim
9 He doesn't remember that Don't you think if he wanted
10 his deal so bad he would have remembered that? But he
11 didn't Credibility Believability From June of 2007
12 to February of 2008, daily he would go and pick up Tony
13 G and ride around Greenville and Pickens County and sell
14 methamphetamines At least two ounces a week That was
15 their business And they would pool their money and get
16 their meth from Stacy Anderson or Joey DeFresco What
17 else did he tell you? Brian Stegall and Joel Hall were
18 always around and always buying from Tony G And that
19 he bought from Tony G and he sold to Frank Posey and
20 Ernie Craft

21 I'm not a mathematician, but by my math, if you
22 conservatively add up -- and we're going to leave out
23 the ten ounces per day that Stacy Anderson talked about
24 But if you conservatively add up what the people said
25 they saw or dealt with Tony G directly on, or indirectly

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(1 through Lance or Dwayne or Warren, I added up to five
2 hundred and sixty three grams Y'all need to add it up
3 Y'all need to rely on your memories and add it up Now,
4 I would submit to you the law allows you to attribute
5 every act of a co-conspirator to everybody else and you
6 need to put in the sixty-seven thousand grams from Stacy
7 Anderson, admitted co-conspirator and co-defendant

8 And I want to briefly touch on this SLED partners
9 up with local agencies and they do these State Grand
10 Jury investigations and they're very important Do I
11 wish she had gotten phone tolls and phone records, yeah
12 Hindsight is twenty/twenty It is easy to step back now
13 and say, well, why didn't you do this and why did you do
14 that and why didn't you do this? And golly, wouldn't it
15 be nice to have this But you know what, ladies and
16 gentlemen, this is a twenty-eight defendant conspiracy
17 We're focused on sixteen of them And not everything
18 was done Here's the thing, it doesn't have to be
19 Our job is to prove to you beyond a reasonable doubt
20 that Tony G was involved in this conspiracy and that he
21 dealt in more than four hundred grams of
22 methamphetamines

23 Now, what is reasonable doubt? Reasonable doubt is
24 the kind of doubt that would cause a reasonable person
25 to hesitate to act Or reasonable doubt is overcome if

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1 we leave you firmly convinced that Anthony Gracely was
2 involved in this conspiracy

3 How do we do that? Well, first and foremost, you
4 gather information And when you start with the
5 information then you try to get hard, solid evidence
6 Ladies and gentlemen, SLED, with the help of local
7 agencies, made twenty-one undercover purchases of
8 methamphetamines from this conspiracy, from these
9 sixteen people Twenty-one buys Not one, not two, but
10 twenty-one That, my friends is hard evidence That is
11 proof beyond a reasonable doubt They seized sixty
12 grams just when they arrested these people They bought
13 eighty grams, they seized fifty There's a hundred and
14 thirty grams right there from these sixteen individuals,
15 from this conspiracy

16 And I'm sure someone is going to say, but they
17 didn't buy from Anthony Gracely It doesn't mean we
18 haven't proven this case beyond a reasonable doubt What
19 it means is that at the time the people that could and
20 began to cooperate, they were in jail That's what it
21 mean It's hard to buy drugs when you're in jail
22 Ladies and gentlemen, twenty-one buys, fifty grams
23 seized, co-defendant, after co-defendant, after co-
24 defendant admitted what they had done and who they dealt
25 with I wish that those co-defendants were ministers and

1 doctors and architects and professors and lawyers and
2 dentists, but they aren't Because what you've heard
3 repeatedly from each of these admitted meth addicts is
4 when you do meth, you don't do anything else None of
5 them have jobs All of them sold to support their habit
6 That's -- the lawyers, the doctors, the preachers,
7 they're not going to know about it, because they're not
8 going to be lawyer, they're not going to be a doctor,
9 they're not going to be a preacher if they're a meth
10 addict

11 In opening statements Mr Coulter asked you to do
12 something He asked you to take a step back and to
13 analyze this case I second that request This is not
14 Law and Order It is not CIS Miami It is not
15 Hollywood It is real life Take a step back Leave
16 all your pre-conceived notions at that door And when
17 you go into that jury room weigh all the evidence,
18 everything that was told to you through this witness
19 stand, weigh it all Judge the credibility Judge the
20 believability Look at the consistencies in their
21 testimony

22 And most importantly, use your common sense That's
23 why our system works That's why we have twelve of our
24 peers sit in judgment Use your everyday experiences and
25 your common sense And at the end of the day, I am

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1 convinced, firmly convinced, that y'all will return a
2 verdict of guilty Thank you

3 THE COURT Mr Coulter, you may address the
4 jury

5 MR COULTER May it please the Court I'm
6 just going to move this before I hurt myself

7 CLOSING STATEMENT

8 BY MR COULTER

9 Ladies and gentlemen, good morning I'll tell you,
10 I will admit when I am wrong And I am wrong about one
11 thing I told you at the beginning the hardest part was
12 coming up in trying to get you to step back and look at
13 it I think the hardest part I've had in this trial was
14 sitting over here where I was listening to all of that,
15 because what you got was the spin, this web of this --
16 some conspiracy web that the prosecutors put together
17 that, again, she said if you don't remember it the way
18 she does, you remember it the way you remember it My
19 goodness I didn't hear what she said, okay?

20 Now, my beginning is like this When we look at
21 this case, when I look at a case, when I used to
22 prosecute, I was told when I first started that, look,
23 you have to understand that the job as a prosecutor is to
24 do justice Is what I said now That sounds great
25 They didn't explain to me what that was, but quickly

1 after I started I realized this, and that is, just
2 because law enforcement hands you a warrant, doesn't mean
3 that person is guilty, okay? Just because they decide,
4 if they have an opinion about something, doesn't mean
5 that they're guilty All right Now, that's part of our
6 -- something that you consider your civic duty

7 Now, when you got your jury summons and opened it up
8 and said, oh, no, here's what I've got to do, you also
9 recognized shortly thereafter that, yeah, this is my
10 civic duty to come here and to listen to this and to do
11 what I can -- probably what you thought what's best for
12 my county And I don't disagree with that at all But I
13 hope that you all learned a little bit when you came in
14 at the beginning, because like when I was a prosecutor I
15 though, yeah, well, everybody -- they got a warrant I
16 guess that's good enough

17 You were instructed right away that Anthony Gracely
18 is presumed innocent He still is, until they prove him
19 guilty And they've got to prove him guilty beyond a
20 reasonable doubt Applying the law is your civic duty
21 If you find that he's guilty beyond a reasonable doubt,
22 then it's your duty to do that, find him guilty But if
23 you find the case of the State fails in any respect in
24 any one of the elements they have to prove, then the duty
25 y'all would have is to find him not guilty

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1 Now, you've heard a definition about reasonable
2 doubt It's a kind of doubt for which a person might
3 hesitate to act When considering this case, do I have a
4 hesitation about the guilt of Anthony Gracely? Do I have
5 a hesitation that the State has met all of their burdens?
6 Mind you, this is a case of the State against Anthony
7 Gracely Anthony Gracely is on trial, but the State's
8 case is equally on trial They have to prove the case
9 That's why they get to sit here That's why they get to
10 come before you first, because they carry that real and
11 true burden of proving the case beyond a reasonable
12 doubt And if they fail, then the right verdict is not
13 guilty

14 If you think Anthony Gracely may have been involved
15 in this, then the true verdict would be not guilty If
16 you think that he's probably guilty, probably guilty,
17 then your real and true verdict would be not guilty You
18 have to be firmly convinced of his guilt, firmly
19 convinced

20 And what -- in looking back on this case from the
21 very beginning, you remember the prosecutor said, there's
22 not going to be, you know, very little forensic evidence
23 presented in this case And you have heard everything
24 that's going to be presented from this stand How little
25 forensic evidence were you presented with to consider,

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1 with this huge task of determining whether or not
2 somebody is guilty beyond a reasonable doubt How much
3 forensic evidence have you been provided with? Zero
4 How many buys? How many attempts? Or where's the phone
5 records? Where's all of that? It's not there Nothing
6 Zero

7 What did they give us? They gave us Frank Posey I
8 will tell you now -- I apologize for having to take the
9 time to go through each and every charge that each person
10 had as they came up on the stand But it's true, you get
11 to consider those types of things when you establish and
12 review somebody's credibility, okay? And so that's why
13 that was so important to look at what we're dealing with
14 and what they're charged with and what their motive might
15 be in presenting the testimony that they may present
16 The Judge is going to charge you with that You can
17 consider their charges and consider what do they have to
18 gain or what do they have to lose by what they said on
19 this stand

20 Frank Posey says, oh, Tony owed me five thousand
21 bucks I was mad at him, he said I went to get my
22 money at Shannon Smith's house, as I recall his
23 testimony And when he went to Shannon Smith's house,
24 there was a search warrant being executed and SLED says,
25 hey, we want to talk to you We think you're involved in

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1 a drug conspiracy now So how did that happen? He was
2 trying to get his money And then he just comes up And
3 just because he's trying to get his money, he runs into
4 SLED And so who's he mad at? Anthony Gracely And he
5 says, oh, yeah, Anthony has been involved in this
6 Anthony is involved in this He's been involved in these
7 drugs Now, what's interesting about that is when he
8 testified or when he talked to SLED after he was charged,
9 after he was found at the search warrant, he told them,
10 yeah, about ten or eleven times I bought between two
11 hundred and fifty and three hundred dollars worth of
12 meth That's what he said, ten or thirteen different
13 times Now, what I can't understand is if Anthony
14 Gracely owes him five thousand dollars, why is he paying
15 him for anything? Why? I mean it doesn't make sense
16 You know what? It may very well be that Frank Posey
17 thought, I'm just going to tell them what I know How in
18 the world can I get in trouble about this? I'm just
19 going to say, hey, it was Tony Gracely Tony Gracely
20 He did all of this I'm just a user Little did he know
21 that there's this historical type case where they can
22 just come back later on and say, oh, you were involved
23 and you get charged and now you face the time So he
24 pointed a finger at somebody saying he bought When, in
25 fact, he was owed money from the same individual Does

1 that make sense This same person who has two previous
2 convictions of methamphetamine Excuse me Yeah, two
3 possession of methamphetamine, a distribution of
4 methamphetamine within proximity of a school, three prior
5 drug offenses and they say, he got five years and that's
6 a lot of time That's a lot of time Babies develop, so
7 on and so forth Well, he's facing sixty So instead of
8 getting -- this three time drug offender who's facing
9 sixty years confessed to all of this He is dead to
10 right by the State They say wait a second We want you
11 to come up here and cooperate and we'll give you five
12 Well, where do I sign? Five That's Frank Posey
13 You've Brian Stegall and the prosecutor came up here
14 and said, oh, he remembered dealing with Anthony when it
15 was cold out and it was 2008 Now, why did she say that?
16 Because you see, their indictment says that this whole
17 conspiracy occurred between June of 2007 and 2008 If
18 you remember Stegall, he said, well, I don't know when it
19 was I just know I was wearing pants and it was cold and
20 it could have been 2007, which would have put it outside
21 what they're saying, which means it wouldn't be part of
22 this conspiracy, okay? But she came up and said that
23 And what we know about Brian Stegall is, he was caught
24 red handed In this operation, Vanilla Ice, they sent in
25 a CI wired, you know, just a little tape recorder with a

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1 microphone hidden on it Sent him in there Let's give
2 it a try And we heard about Brian Stegall's name We
3 was going to send him in and see what type of evidence we
4 can get And they caught him dead to right They got
5 him selling

6 And what else do we know about Brian? Convicted of
7 drugs in Georgia in 2002 Convicted of distribution of
8 methamphetamine in 2004 Convicted of possession of
9 methamphetamine in 2004 as well Here's a guy they had
10 dead to right, who faces fifty years in jail, minimum,
11 selling all these drugs previously It's not like this
12 is the first time he's been involved You know, you can
13 understand, well, he got involved, everybody gets a
14 second chance But this is not quite that way, the way
15 we're looking at it, because Brian Stegall got his first
16 chance, he got a second chance, he's got his third chance
17 and here's the fourth chance, what happens? He's facing
18 a minimum of fifteen and up to sixty years and what do
19 they offer? The absolute minimum for this fellow who's
20 been dealing and wants to get a break They give him the
21 absolute minimum And, by the way, remember he's also
22 making a motion to have his sentence reduced because of
23 his cooperation It will be heard here at some other
24 time Just feels like it's a little bit too much,
25 apparently

1 Now, Kim Taylor was kind of glossed over And Kim
2 Taylor is a critical part of this case, about how this
3 case was put together, all right? Kim Taylor also caught
4 dead to right She sold to a person with a wire twice
5 Okay We know that She admitted that She pled guilty
6 to it She was facing the minimum of fifteen and up to
7 thirty, okay? Law enforcement went to her and said,
8 listen, we will give you this deal if you give us
9 information And so she gave a statement on June 11th of
10 2008 She mentions Joel Hall, Lance Holloway and John
11 Ham Never mentions Anthony Gracely Okay That's
12 fine Maybe she just forgot

13 They go back to her on July 23rd and they say, we
14 need more information You're facing all of this time
15 You give us more information She mentions John Ham,
16 Jeremy Dixon, Lance Holloway, Stacy, last name unknown,
17 Keith, last name unknown, Dana Nix, Debbie Young, her
18 sister She implicates her sister Never mentions
19 Anthony Gracely, never, not until she realizes she's
20 facing ninety years in jail and signs a deal and comes in
21 here in Court and all of a sudden remembers Anthony
22 Gracely How does that happen? She's giving all these
23 names, given two opportunities, never mentions it, but
24 when she gets in here, oh, yeah, now I remember, Anthony
25 Gracely And by the way, Kim also fourth time offender

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1 in drugs Priors all sorts of place, but they decide
2 they're willing to give her that deal, deserves it
3 apparently For whatever reason
4 Joel Hall Auto break-in, burglary, he's got
5 everything The drugs I mean the drugs and the thieves
6 and the breaking and stealing, I mean, he's got it going
7 on, okay? All of these priors, five prior drug
8 convictions Five He's convicted -- he is found having
9 gotten a wire -- once again, putting a wire on him, sent
10 in a CI, makes a deal, caught red handed And listen to
11 this Not only, even though it's fifth offense, it's
12 treated as first, but he is facing one hundred and fifty
13 years, a hundred and fifty years, and he got ten Not
14 only did he get ten for what he came up here to testify
15 to, it ran concurrent with the charges he's already doing
16 in federal court Does that appeal to you? This is the
17 type of evidence they're putting in front of you to try
18 to make a conviction beyond a reasonable doubt This is
19 this admitted co-conspirator where the prosecutor just
20 said, I really didn't like to deal with Anthony It was
21 a hassle But somehow that's a co-conspirator? They
22 have seventeen people listed as conspiring and they
23 brought in five, two of which weren't even indicted with
24 conspiring with Anthony Gracely Five
25 Stacy Anderson It boggles the mind on Stacy

1 Anderson Indecent liberties with minors, prior drug
2 offenses, admits to bringing in ten ounces a week I
3 don't even know what he admitted or claimed that he knew
4 about Anthony, but he sure didn't say that I was moving
5 ten ounces a week with Anthony He did not say that
6 That's what was interesting about their closing argument,
7 it was all about Stacy Anderson moving all of this stuff
8 It's all about Ernest Craft moving all of this stuff
9 They're trying to talk about all of these other people,
10 because they want you to continuously believe somehow
11 he's involved with all of this, although they don't have
12 that What they do have is an admission from Stacy
13 Anderson that he was getting stuff up in North Carolina
14 Do they check out the dealer? Do they go after the
15 supplier? No They give him fifteen years to come in
16 here and testify

17 Lance Holloway, drug convictions all over the place,
18 burglary, auto breaking, facing a hundred and twenty
19 years, gets twelve in return for saving his own skin
20 And the interesting thing about not only Lance, but all
21 these other people, is these guys were saying they're on
22 meth and they're taking meth and doing meth all the time
23 And yet they go, yeah, okay, June, July of 2007 It's
24 2010 Here in 2010, I'm looking back in July of '07 and,
25 yeah, oh, I shared a quarter ounce with Anthony Gracely

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1 These people who are supposedly taking meth every single
2 day Yet their memory is crisp and clear enough to be
3 able to point out, surprisingly, right in the middle of
4 the indictment of the allegation of June 1, 2007 to
5 present, they're all of a sudden able to remember, yeah,
6 in 2010 despite the fact that I was wacked out on all of
7 these drugs, yeah, I had a quarter ounce way back when
8 And then finally, I skipped, but I waited on Ernest
9 Craft to the very end because his testimony, I submit, is
10 the microcosm of the case, it really is Ernest Craft
11 The Prosecutor got up here and she said this with -- he
12 said this with almost everyone You're going to tell the
13 truth, right? That you're cooperating and telling the
14 truth, right? Nobody's threatened you And what did
15 Ernest Craft say? At some point there he said, well, you
16 told me I'd get consecutive time Right? Consecutive
17 time Okay And then when we were looking at the
18 statement together, I said, Ernest, you put in here that
19 you were buying from Stacy Anderson as much as a half
20 ounce to an ounce every other day He said, oh, it
21 wasn't that much I was just trying to valid Valid
22 He wanted law enforcement to believe he was valid so he
23 could get a deal That's what he said And so in order
24 to be valid to law enforcement, he has to create
25 something more than it was, which is what he did That's

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1 what they all did

2 And the prosecutor talked to you about the hard
3 evidence they have, the twenty-one sales that they had,
4 but absolutely none of them from Anthony Gracely Look,
5 I said at the beginning, meth has got to be dealt with
6 Meth has got to go There's nothing worse than it, okay?
7 We all want to get rid of it We all want to look at
8 this and say, it's got to go But there are ways to do
9 that, okay? It's not necessarily just because somebody
10 is charged with it do we have to say, okay, we need to
11 do this for our county to get it gone, because our job,
12 your job, not mine Your job is to determine if they've
13 done what they need to do That's why I say it's so hard
14 to come up and say, look, look at the facts Because
15 immediately I know y'all are going, we don't want meth
16 here I get that I understand that But the question
17 isn't whether or not we want meth here I know we
18 don't And that's a hard thing to struggle with because
19 we want to do what's right We want to get our places
20 clean But you don't do it just because they say he did
21 They've got to prove it They've got to prove it
22 And what's the foundation they've built it on They
23 talk about building a car They talked about that a lot
24 Building a house, how about that? You put it on a solid
25 foundation What -- you build upon that If the

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1 foundation is bad, the house is bad It's a house of
2 cards There is no legitimate foundation for this case,
3 other than seven people coming up before you trying to
4 save their skin, just to point out somebody so they can
5 get a deal and not get that life sentence as she
6 suggested These people who have been convicted and
7 convicted and convicted get another chance They get
8 another chance Some fellow who's been pushing ten
9 ounces a week, sixty thousand -- they're giving him a
10 chance to save his skin and not get that kind of time
11 where he'd do life The fellow who's charged or
12 convicted of this indecent liberty with a child

13 When you consider this, again, you have to consider
14 all of the elements about the charge The judge is going
15 to give you a very, very long charge about what the
16 elements to this is Not only do you have to have the
17 conspiracy, but mind you, they also have to prove the
18 amounts involved and so forth And if they fail to prove
19 any of those, even one of those elements then, again, the
20 proper verdict is not guilty And the Judge is going to
21 charge you -- there's even lesser included offenses of
22 what you're going to get They're going to say if they
23 haven't proven four hundred grams, well, did they prove,
24 I think it's forty-eight to a hundred grams Did they
25 prove that? If not, then you can consider whether or not

1 they proved that he moved twenty-four to forty grams
2 You can consider all of that He's going to say that
3 because they have to prove each one But even though
4 they have to prove it, which they do, it's got to be
5 based on what they presented to you today
6 And the problem I submit to you is, when they said
7 you're going to be truthful, right? That's what you
8 promised to do, to be truthful Is what in the world did
9 they show you, what did they show you that corroborated
10 whether or not they were truthful or not What did they
11 show you? Did they even try as they did with other
12 people admittedly, to put a wire on one of these
13 seventeen co-conspirators, send them in and just see? I
14 mean, they've got all sorts of wires all over the place
15 Why not just see if it'll work Didn't bother to do
16 that Why didn't they check to verify that these people
17 even knew each other, other than what they put on the
18 stand, just to say, hey, I know this guy I'm facing a
19 hundred fifty years and now I get ten because, yeah, I
20 know him They got -- these guys have cooperated Why
21 don't they just get a phone number, a phone number and
22 say, look, let's back-track this and let's see if they've
23 ever talked Because do they have any proof outside of
24 what was said right here that these people even know each
25 other? Did they even get phone records to show that

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1 Chris and Latham and whoever these forty people are even
2 knew each other? Did they present that evidence to you?
3 I mean, how hard is that? You can go on your computer
4 and do a reverse search and find it And this is what
5 the government is putting before you for you to make a
6 decision, for you to say, I'm comfortable with everything
7 they've done, that somehow that proves the case beyond a
8 reasonable doubt This isn't hindsight as twenty/twenty
9 Getting phone records is Law Enforcement 101 That is
10 easy stuff Why didn't they do it? That's what I
11 wonder Why didn't they do it? Why didn't they send him
12 to make a buy? It's her opinion that he's dealing What
13 if it's because he wasn't dealing? What if it's because
14 he used everything he had? A user, not a dealer, not a
15 trafficker They gave you these witnesses and that's
16 what they want you to rest on, those witnesses And
17 didn't do a thing to show you and to corroborate what
18 they said and that's a problem
19 I submit to you that the evidence simply is not
20 there, not for four hundred, not for one hundred, not for
21 twenty-eight, not for anything Anthony Gracely doesn't
22 have to put up a case It's not his burden They've got
23 to prove it They've got to prove it And I submit to
24 you they have not proven it And I'm going to ask you,
25 finally, to return a verdict of not guilty for Anthony

1 Gracely Make them give you what you should get to make
2 decisions like this Thank you

3 **CHARGE**

4 **BY THE COURT**

5 Mr Foreman, ladies and gentlemen, it is now my
6 responsibility to instruct you on the law of the case
7 We have an indictment that makes a charge against the
8 defendant of trafficking in methamphetamine of more than
9 four hundred grams The fact -- let me remind you, the
10 fact that he's been arrested and he's been charged, he's
11 been indicted, that's not evidence in the case It can't
12 be considered by you as evidence of guilt in the case
13 It doesn't create any presumption of guilt or inference
14 of guilt It's merely the paper by which this case is
15 brought before us to have disposition today

16 Now, I mentioned to you at the start of the case
17 that under the law of South Carolina, a defendant may be
18 tried even if he does not attend the trial But the fact
19 that the Defendant is not present may not be considered
20 by you against the Defendant in any manner whatsoever

21 The Defendant has entered a plea of not guilty to
22 the indictment, and that plea places the burden on the

23 ~~State to prove his guilt beyond a reasonable doubt~~ -A - -

24 person charged with committing a criminal offense in
25 South Carolina is never required to prove himself

Charge

1 innocent That's an important rule of law that a
2 defendant in a criminal trial, no matter how serious the
3 charge may be, will always be presumed to be innocent of
4 the crime for which the indictment was issued unless
5 guilt has been proven by evidence satisfying you of that
6 guilt beyond a reasonable doubt This presumption of
7 innocence doesn't end when you begin your deliberations,
8 but it accompanies the Defendant throughout the trial
9 until you reach a verdict of guilt based upon evidence
10 satisfying you of that guilt beyond a reasonable doubt

11 Presumption of innocence has often been described as
12 a robe of righteousness that's placed about the shoulders
13 of a defendant and remains with that defendant until it's
14 been stripped by evidence satisfying you of that
15 Defendant's guilt beyond a reasonable doubt Presumption
16 of innocence is not a mere legal theory It's not just a
17 legal phrase that's used It is a substantial right
18 which every defendant is entitled unless you the jury are
19 satisfied from the evidence of that defendant's guilt
20 beyond a reasonable doubt

21 You may ask yourself, what is a reasonable doubt in
22 the law? A reasonable doubt is the kind of doubt that

23 would cause a reasonable person to hesitate to act By
24 having the burden of proving guilt beyond a reasonable
25 doubt, that's the burden on the State Some of you may

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1 in the past have served as jurors in civil matters where
2 you were told by a Judge it was only necessary to prove
3 that a fact was more likely true than not true, such as
4 by what was called the greater weight of the evidence or
5 the preponderance of the evidence In criminal cases,
6 the State's proof is more powerful than that and must be
7 proved beyond a reasonable doubt Proof beyond a
8 reasonable doubt is proof that leaves you firmly
9 convinced of the defendant's guilt

10 Now, ladies and gentlemen, there are very few things
11 in this world that we know with absolutely certainty and
12 in criminal cases, the law doesn't require proof that
13 overcomes every possible doubt If, based upon your
14 consideration of all the evidence, you're firmly
15 convinced that the Defendant is guilty of the crime
16 charged, then you must find the Defendant guilty If,
17 on the other hand, you think there's a real possibility
18 that the Defendant is not guilty, you must give the
19 Defendant the benefit of the doubt and find him not
20 guilty

21 Now, I will remind you that during the course of
22 this trial you and I have had certain duties to perform
23 As the trial Judge it's my responsibility to preside over
24 the course of the trial, to rule on the admissibility of
25 evidence that's been offered during the trial You're to

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1 consider only the competent evidence before you If
2 there was testimony to which objection was made and
3 sustained or ordered stricken from the record during the
4 trial, you must disregard this testimony You must
5 consider only the evidence which has been presented from
6 the witness stand, that's been made a part of the record
7 I have the additional duty to charge you the law
8 applicable in the case As the presiding Judge, I'm the
9 sole Judge of the law It's your duty as jurors to
10 accept the law and apply the law exactly as I state it to
11 you You may already have an idea of what the law is or
12 even an idea or notion of what the law ought to be in a
13 case like this And if you have such an idea and that's
14 in conflict with what I now tell you the law is, you must
15 abandon that idea because you're sworn to accept the law
16 and apply the law exactly as I state it to you
17 Every case that's tried in this courtroom before a
18 jury, that jury becomes the sole, exclusive judge of the
19 facts in a case The trial judge can't intimate or
20 state, comment on, make any statement whatsoever to a
21 trial jury about the facts in the case You're not to
22 infer from what I've said during the process of the trial
23 in ruling upon the admissibility of evidence or
24 otherwise, anything I say to you even now during the
25 course of this instruction to you that I have an opinion

1 about the facts Our Constitution in South Carolina
2 prohibits a Judge from having an opinion about the facts
3 I don't have an opinion That's totally up to you and
4 you alone to determine what the facts are You make that
5 determination as to the value and the effect, the weight
6 and the truth of the evidence that's been presented to
7 you

8 There's two types of evidence that are normally
9 presented in a trial There's direct evidence and
10 there's circumstantial evidence Direct evidence is the
11 testimony of a person who claims to have actual knowledge
12 of a fact, such as an eyewitness It's evidence which
13 immediately establishes the main fact to be proved
14 Circumstantial evidence is proof of a chain of facts and
15 circumstances that indicate the existence of a fact
16 It's evidence which immediately establishes collateral
17 facts from which the main fact may be inferred
18 Circumstantial evidence then is based on inference and
19 not on personal knowledge or observation

20 The law makes absolutely no distinction between the
21 weight or value to be given either direct evidence or
22 circumstantial evidence, nor is there a greater degree of
23 certainty required of circumstantial evidence than of
24 direct evidence You should weigh all of the evidence in
25 the case and after weighing the evidence if you're not

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1 convinced of the guilt of the Defendant beyond a
2 reasonable doubt, then, of course, you must find the
3 Defendant not guilty

4 Necessarily, ladies and gentlemen, you must
5 determine the credibility of witnesses who testify in the
6 case Credibility simply means believability It's your
7 duty as jurors to analyze and to evaluate the evidence,
8 determine which evidence convinces you of its truth In
9 determining the believability of witnesses who've
10 testified, you can believe one witness over several
11 witnesses You can believe several witnesses over one
12 witness In your discretion, you can believe part of the
13 testimony of a witness You can reject the remaining
14 part of the testimony of that very same witness You can
15 ask yourself questions as to whether or not the
16 witnesses' demeanor -- you can certainly consider that
17 You can believe the testimony, as I said, of a witness in
18 its total entirety You can reject it in its entirety
19 You can determine the witnesses' interests or bias or
20 prejudice, other motive in the case You can ask
21 yourself, is this witness straight forward or hesitant in
22 answering questions Was the witness consistent or
23 inconsistent? How did this witness stack up with other _____
24 witnesses as far as consistency or inconsistency Was it
25 strengthened or weakened by other testimony? It's

Charge

1 totally your prerogative, ladies and gentlemen, to
2 determine the credibility of the witnesses who have
3 testified

4 Now, a person who has a prior, a past criminal
5 record, is competent to testify in a trial A past
6 record does not affect the ability of that witness to
7 testify The past record may be considered by you, if at
8 all, in determining that witness's believability It's
9 well within the discretion of the Prosecution to offer
10 plea agreements to defendants in a case and allow co-
11 defendants to plead guilty to lesser offenses You
12 determine the competency, the legal ability of a witness,
13 and that's not affected in any way by a promise of
14 leniency or even immunity Remember, you are the sole
15 judge of the facts in the case and the believability of
16 any and all witnesses who testified

17 Now, in order to establish criminal liability,
18 criminal intent is required and it must be proven by the
19 State beyond a reasonable doubt Criminal intent's
20 always a matter that must be determined by a jury from
21 the circumstances surrounding the situation There's no
22 way to prove intent to a mathematical certainty

23 Obviously, there's no way that medical science can
24 dissect a person's brain and determine what that person
25 had in mind, so the law says that criminal intent may be

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1 inferred from the circumstances shown to have existed
2 It's not necessary to establish intent by direct and
3 positive evidence, but it may be established by inference
4 in the same way as other facts, by taking into
5 consideration the acts of the parties and all the facts
6 and circumstances of the case In other words, criminal
7 intent is a mental state It's a conscious wrongdoing
8 It's up to you to determine what the defendant intended
9 to do, based upon the circumstances shown to have
10 existed

11 Now, ladies and gentlemen, I instruct you and I
12 emphasize to you in this case the fact that the Defendant
13 has not testified is not a factor to be considered by you
14 in anyway whatsoever in your deliberations and in your
15 decision as far as the question of guilt or innocence of
16 the Defendant It must not be considered by you in any
17 manner whatsoever A Defendant has a constitutional
18 right to remain silent and the assertion of this right
19 must not be considered by you in your deliberations I
20 repeat, under your oath, you're to draw no conclusions
21 whatsoever from the fact that the Defendant in this case
22 chose not to testify The fact that he did not testify
23 should not even be discussed by you in the jury room - - - - -

24 The burden of proof, as I've stated, is on the State
25 The Defendant's not required to prove his innocence

1 That burden remains on the State to prove guilt beyond a
2 reasonable doubt

3 You've heard testimony concerning the penalty a
4 person can serve for crimes alleged in the indictments
5 In determining the innocence of the Defendant, you cannot
6 consider any possible penalty for any particular crime
7 The punishment for the crime is a matter for me to
8 determine and should never be considered by you in anyway
9 whatsoever in arriving at a fair and impartial verdict as
10 to the guilt or innocence

11 Now, as I stated earlier the charge in this case
12 trafficking methamphetamine, more than four hundred grams
13 by way of conspiracy And by being charged with
14 conspiracy, the State must prove beyond a reasonable
15 doubt that the Defendant combined with one or more
16 persons for the purpose of committing an unlawful act or
17 of committing a lawful act by unlawful means There must
18 be a mutual understanding, agreement, or common intention
19 in plan Mere passive knowledge of or consent to the
20 criminal conduct of another is not enough to make a
21 person a conspirator There must be guilty knowledge and
22 participation

23 Similarly the mere fact that the Defendant may have
24 associated with another person or met with another person
25 or discussed common aims and interests does not

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1 necessarily establish proof of the existence of a
2 conspiracy or that the Defendant was involved in a
3 conspiracy

4 On the other hand, it's not necessary that the
5 agreement be a formal one, that it be in writing, that
6 the person -- the persons hold a meeting or expressly
7 state the terms of the common plan or that the agreement
8 be stated in words between them The agreement of a
9 criminal conspiracy may come into being through an
10 implied mutual understanding The willful, intentional
11 and knowing adoption by two or more persons of a common
12 plan is sufficient No overt act needs to be shown to
13 establish a conspiracy

14 Conspiracy may be shown by circumstantial evidence
15 in the conduct of the parties In order to convict the
16 Defendant of conspiracy, the State must prove beyond a
17 reasonable doubt not only that the Defendant knew of the
18 unlawful conduct, but the Defendant agreed to combine
19 with other persons for the purpose of accomplishing the
20 unlawful conduct

21 As I've stated, the Defendant is charged with
22 trafficking methamphetamine by conspiracy The State
23 must prove beyond a reasonable doubt that the Defendant
24 knowingly sold, manufactured, cultivated, delivered,
25 purchased or brought into the State, or that the

1 Defendant provide financial assistance or otherwise
2 aided, abetted, attempted or conspired to sell,
3 manufacture, cultivate, deliver, purchase or bring into
4 the State, or was knowing in actual or constructive
5 possession or knowingly attempted to become in actual or
6 constructive possession of the illegal drug

7 Now the State may establish a trafficking and drugs
8 conspiracy by proof of several drug transactions where
9 the amount involved standing alone would constitute
10 several distributions, but added together, the amount was
11 sufficient to establish the threshold trafficking amount

12 The State must also prove beyond a reasonable doubt
13 that the amount of the methamphetamine or any mixture
14 thereof was four hundred grams or more Now, there are
15 also lesser amounts that can meet the trafficking statutes
16 of South Carolina and you'll be given a verdict form
17 reflecting such, which I will explain to you later

18 Now, to prove possession the State must prove beyond
19 a reasonable doubt that the Defendant had both the power
20 and the intent to control the disposition or use of the
21 drug And possession can either be actual or possessive
22 -- excuse me -- actual or construction Actual

23 possession means that the drug was in the actual,

24 physical custody of the Defendant Constructive

25 possession means that the Defendant had dominion and

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1 control or the right to exercise dominion and control
2 over either the drug itself or the property on which the
3 drug was found Mere presence at the scene where drugs
4 are found is not enough to prove possession Actual
5 knowledge of the presence of the drug is strong evidence
6 of the Defendant's intent to control its disposition or
7 use The Defendant's knowledge and possession may be
8 inferred when a substance is found on property under the
9 Defendant's control This inference, however, is simply
10 an evidentiary fact to be taken into consideration by
11 you, along with other evidence in the case, and to be
12 given the weight you decide it should have Two or more
13 persons may have joint possession of a drug To deliver
14 a drug means to actually or constructively or attempt to
15 transfer the drug To distribute means to deliver, other
16 than administering or dispensing a drug

17 Now, Mr Foreman, ladies and gentlemen, I have
18 prepared a verdict form for you I believe it will be
19 self-explanatory The charge, of course, is that the
20 Defendant was trafficking methamphetamine by conspiracy
21 of more than four hundred grams There will be a verdict
22 for you to find if you find the State has met its burden
23 of proof beyond a reasonable doubt, then, of course, your
24 verdict would be guilty If you find that the State has
25 not met its burden of proof, your verdict should be not

Charge

1 guilty

2 On the verdict form I've also included some of those
3 lesser included that I've talked to you about If you
4 find the State hasn't met the burden of proof as far as
5 four hundred grams then there's a finding that you can
6 make as to whether or not the State has proven beyond a
7 reasonable doubt that the Defendant was trafficking in
8 two hundred grams or more, but less than four hundred
9 grams, either a guilty verdict there or a not guilty
10 verdict Or if you find that the amount was one hundred
11 grams or more, but less than two hundred grams, I have a
12 verdict form for that as well Or if you find that the
13 amount was twenty-eight grams or more, but less than a
14 hundred grams, there's a verdict form for that as well
15 If you find that the State has failed its proof on any
16 such amounts, then, of course, your verdict would be not
17 guilty

18 All twelve of you must agree upon a verdict It
19 must be a unanimous verdict It can't be based upon
20 sympathy or passion or prejudice, emotion, any other
21 consideration not in evidence in the case

22 Now, when you have reached a unanimous verdict, Mr
23 Foreman, I'll ask that you complete the verdict form as
24 I've indicated on the particular one that you find that
25 the State has met its burden or has not met its burden

State of South Carolina -vs- Robert Anthony Gracely (2008 GS-47 0011)
Charge

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1 Sign your name as foreperson and date it Let the
2 Bailiffs know that you have reached a unanimous verdict
3 and we'll receive it back here in the courtroom

4 You're free to ask me any questions concerning the
5 law in the case Remember, however, it's impermissible
6 for me to answer any questions you have regarding the
7 facts in the case That's your duty as the sole fact
8 finders to determine just what the facts are

9 I'm going to ask that you now go back to your jury
10 room Don't start deliberating just yet There's a
11 final matter of law that I need to discuss with the
12 attorneys After that, we'll give you instructions to
13 begin your deliberations and I'll have the verdict form
14 back for you You may retire to your jury room at this
15 time

16 (WHEREUPON, the jury exited the open court at
17 approximately 12 34 p m)

18 THE BAILIFF The door is closed, Your Honor

19 THE COURT Any exceptions to the charge, from
20 the State?

21 MS PORTER Yes, sir, Your Honor I would
22 just renew my request for three things, Your Honor Page

23 six of my request to charge, I'd ask that we instruct - - - - -

24 them that co-defendants are also accomplices and that the
25 testimony of an accomplice to a crime is sufficient in

Charge

1 and of itself to convict a defendant I think that State
2 v Hicks is still good law And Mr Coulter made a big
3 deal about there's no forensic evidence here and the
4 law's clear, accomplice testimony is, in and of itself,
5 enough if they deem that it's proof beyond a reasonable
6 doubt So I would ask that you charge that in some
7 manner

8 I'd also ask that you charge that a member of a
9 conspiracy -- if they deem that -- well, that a member of
10 a conspiracy is responsible for every criminal act done
11 by every other member of the conspiracy during its
12 existence and while the person remains in the conspiracy
13 That is also the law

14 THE COURT What number was that?

15 MS PORTER That is on page nine and ten

16 THE COURT Oh, that was part of your ---

17 MS PORTER That was part of my conspiracy

18 charge

19 THE COURT All right

20 MS PORTER And that is State v Hicks, Your

21 Honor I can get you the cite

22 THE COURT That's okay

23 MS PORTER. Just those two, Your Honor -- --

24 THE COURT All right Not three?

25 MS PORTER No, sir I apologize Just those

State of South Carolina vs Robert Anthony Gracely (2008-GS-47-0011)
Charge

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1 two

2 THE COURT Anything from the Defense?

3 MR COULTER Judge, I listened very carefully
4 to your charge on the conspiracy and I think it covered
5 all of that very adequately

6 THE COURT Okay

7 MR COULTER And I would certainly feel that
8 if you would bring the jury back out at this point and
9 present those specific issues, then it would be a
10 problem

11 THE COURT Well, I looked at *State v Hicks*,
12 Ms Porter, and while it might still be good law, I think
13 the -- I was bothered a little bit about the context of
14 the decision It was a directed verdict motion, not a
15 jury charge The law was stated But I think that my
16 general charge adequately covered that and your exception
17 is noted on both of those

18 MS PORTER Thank you, Your Honor

19 THE COURT All right You've reviewed the
20 verdict form We'll be ready to send the verdict form
21 back to the jury and I think lunch has been provided

22 Mr Evans, if you'll have the verdict form go back

23 ~~to them and make sure you have the alternate come out and~~

24 have him dismissed You can tell them they can begin

25 their deliberations

Charge

1 (WHEREUPON, the verdict forms were delivered to the
2 jury at approximately 12 38 p m and court stood at
3 recess awaiting the verdict of the jury)

4 THE COURT Mr Alexander, thank you very much
5 for your service Your fellow jurors have stayed intact
6 and we won't need your services Thank you very much for
7 being here

8 THE JUROR That's a shame

9 THE COURT Well, you were the alternate
10 We're grateful that the other folks didn't get ill or
11 whatever, but you're free to go at this time There
12 might be some lunch for you We'll be glad for you to
13 eat the lunch You won't be able to do that with the
14 jurors, though

15 THE JUROR How about the rest of the week, is
16 what I was wondering

17 THE COURT You won't be needed the rest of the
18 week We've got other matters I've got some ---

19 THE JUROR I've got some kayaking to do

20 THE COURT All right, sir Thank you very
21 much for your service today You're free to go at this
22 time

23 (WHEREUPON, the alternate juror was dismissed at
24 approximately 12 40 p m)

25 THE COURT All right We'll be at ease until

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)
Charge

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1 we hear from our jury

2 (WHEREUPON, the court stood at recess awaiting the
3 verdict of the jury)

4 THE COURT All right I understand the jury
5 has reached a verdict Is there anything you need to
6 take care of before the verdict is received from the
7 jury Anything from the State?

8 MS PORTER No, Your Honor

9 THE COURT From the Defense?

10 MR COULTER No, sir

11 THE COURT All right Mr Teal, if you'll
12 have the jury come in if they're ready

13 (WHEREUPON, the jury entered the open court at
14 approximately 1 39 p m)

15 THE COURT Mr Foreman, I understand the jury
16 has reached a verdict Is that correct?

17 THE FOREMAN Yes, sir

18 THE COURT Is it a unanimous verdict?

19 THE FOREMAN Yes, sir

20 THE COURT If you would, please hand the
21 verdict to the bailiff

22 (WHEREUPON, the verdict form was handed up to the
23 Court)

24 THE COURT Mr Clerk, you may publish the
25 verdict

Charge

1 THE CLERK May it please the Court State of
2 South Carolina versus Anthony Gracely, indictment number
3 2008-GS-47-11, Count Two, as to the charge of trafficking
4 methamphetamine conspiracy more than four hundred grams,
5 we the jury unanimously find the Defendant, Anthony
6 Gracely, guilty Signed Foreman Michael E Bishop, June
7 30th, 2010

8 Ladies and Gentlemen of the jury, is this your
9 verdict and is it still your verdict so say it by raising
10 your right hand

11 (WHEREUPON, all jurors' right hands were raised)

12 THE CLERK Thank you

13 THE COURT Thank you very much Is there
14 anything else we need to take care of with the jury in
15 this case? Anything from the State?

16 MR CROUT I don't believe so, Your Honor

17 THE COURT From the Defense?

18 MR COULTER I suppose, Judge, I need to poll
19 the jury, request that

20 THE COURT All right We'll have a polling of
21 the jury

22 THE CLERK Ladies and gentlemen of the jury, I
23 am going to ask you two questions relating to your - - - -

24 verdict As I call each one of your names, please answer
25 yes or no to both questions Michael E Bishop, was this

State of South Carolina -vs Robert Anthony Gracely (2008 GS 47 0011)

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Charge

1 your verdict?

2 THE JUROR Yes, sir

3 THE CLERK Is it still your verdict?

4 THE JUROR Yes, sir

5 THE CLERK Colleen Hydrick Was this your

6 verdict?

7 THE JUROR Yes, sir

8 THE CLERK Is it still your verdict?

9 THE JUROR Yes, sir

10 THE CLERK Joan C Loftin Was this your

11 verdict?

12 THE JUROR Yes, sir

13 THE CLERK Is it still your verdict?

14 THE JUROR Yes, sir

15 THE CLERK Linda Hughes Was this your

16 verdict?

17 THE JUROR Yes, sir

18 THE CLERK Is it still your verdict?

19 THE JUROR Yes, sir

20 THE CLERK Cerrie Norris Was this your

21 verdict?

22 THE JUROR Yes, sir

23 THE CLERK Is it still your verdict?

24 THE JUROR Yes, sir

25 THE CLERK Michelle Yates Was this your

State of South Carolina vs- Robert Anthony Gracely (2008 GS 47 0011)
Charge

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1 verdict?

2 THE JUROR Yes, sir

3 THE CLERK Is it still your verdict?

4 THE JUROR Yes, sir

5 THE CLERK Jimmy Scruggs Was this your

6 verdict?

7 THE JUROR Yes, sir

8 THE CLERK Is it still your verdict?

9 THE JUROR Yes, sir

10 THE CLERK Glenda Finley Was this your

11 verdict?

12 THE JUROR Yes, sir

13 THE CLERK Is it still your verdict?

14 THE JUROR Yes, sir

15 THE CLERK Judith Hassam, was this your

16 verdict?

17 THE JUROR Yes, sir

18 THE CLERK Is it still your verdict?

19 THE JUROR Yes, sir

20 THE CLERK Christopher Kees Was this your

21 verdict?

22 THE JUROR Yes, sir

23 THE CLERK Is it still your verdict?

24 THE JUROR Yes, sir

25 THE CLERK James Posey Was this your

State of South Carolina vs- Robert Anthony Gracely (2008 GS-47 0011)

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Charge

1 verdict?

2 THE JUROR Yes, sir

3 THE CLERK Is it still your verdict?

4 THE JUROR Yes, sir

5 THE CLERK Martha E Whitlock Was this your

6 verdict?

7 THE JUROR Yes, sir

8 THE CLERK Is it still your verdict?

9 THE JUROR Yes, sir

10 THE CLERK That concludes it

11 THE COURT All right Thank you very much,

12 ladies and gentlemen, for your service in this case

13 It's been an honor for me to serve with you I

14 appreciate your service We have some other matters we

15 need to take care of the rest of this week that won't

16 involve a jury, probation revocations and bond hearings

17 and things of that nature So you're free for the rest

18 of the week We won't need your services anymore

19 Thank you for serving on this trial You've been an

20 attentive group I appreciated so much your

21 conscientious effort that you've put forth in this case

22 It's not often that you'll be called upon to serve as a

23 juror This might be the only opportunity you will ever

24 have, if you haven't already I hope it has been an

25 educational experience for you, that you've seen a little

1 bit about how the Court of General Sessions operates
2 anyhow We have the Court of Common Pleas, it's called,
3 where civil disputes are resolved, but we'll have a term
4 of that court next month I hope that you will free to
5 come to the courthouse now that you've had this
6 experience anytime that you have an opportunity to watch
7 our proceedings We'd love to have you here You might
8 have had enough of it this week, but I appreciate your
9 service so much

10 Some of you may need a statement for your employer
11 that you have served on jury this week If that's the
12 case, just go by Clerk's office downstairs and Mr
13 Welborn's staff will certainly assist you with that As
14 you may recall from my questions of you on Monday, this
15 will eliminate your jury service for this Court for the
16 next two years You'll be exempted if you're called upon
17 in 2011 or 2012 I hope that, perhaps based on the
18 experience you've had this week, that you'll waive that
19 exemption and want to serve again We need valuable
20 jurors who are just as -- if one day you're involved in a
21 proceeding on the civil or the criminal side, you'd want
22 good conscientious jurors such as yourselves to decide
23 the facts and I'm grateful that you've committed to these
24 parties to be fair and just and I appreciate your working
25 with me this week You're dismissed at this time I

State of South Carolina vs- Robert Anthony Gracely (2008 GS-47 0011)
Charge

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1 thank you very much for serving with us You're excused

2 (WHEREUPON, the jury was dismissed and exited the

3 open court at approximately 1 48 p m)

4 THE COURT All right Anything we need to
5 take care of before sentencing is imposed?

6 MS PORTER At the appropriate time, Your
7 Honor, I'd like to just say a few things that I think the
8 Court needs to be aware of before it ---

9 THE COURT Is there a sentencing sheet that's
10 been prepared yet?

11 MS PORTER Yes, sir I do need to find the
12 CDR Code and I can't find my CDR Code book

13 THE COURT Okay All right Well ---

14 MR COULTER I think, Judge, I do need to make
15 motions for the record before ---

16 THE COURT All right I'll be glad to hear
17 from you, Mr Coulter

18 MR COULTER Yes, sir I'd like to make a
19 motion for a new trial The facts presented, I submit to
20 you, are insufficient to support the conviction and that
21 it was based on a prejudice and I believe that, quite
22 frankly, there were some issues on cross examination that
23 didn't allow me to fully develop the bias of the ---

24 witnesses Nonetheless, just a motion for a new trial

25 THE COURT All right Your motion is noted

1 I believe that the verdict would stand based upon the
2 evidence that's presented in the trial Your objection
3 is noted, sir

4 MR COULTER My understanding is that it would
5 be a sealed sentence?

6 THE COURT That's correct

7 MR COULTER And that the individual would
8 have the opportunity to appeal once the sealed sentence
9 was read?

10 THE COURT I'll be glad to hear from you now
11 or anyone else now Certainly be glad to hear from
12 anyone later, after the sentence is opened, by whomever
13 it may be I don't know if that will always be me or
14 not I might not be -- I don't know when Mr Gracely
15 will be here for the opening of it, but I'll be glad to
16 hear from you or anyone else both times as far as the --
17 I will impose the sentence, but I'll certainly be glad to
18 ---

19 MR COULTER I guess I -- and this was, I
20 guess, more of a question I think it would be correct
21 that he would have ten days from the time of sentencing
22 to appeal I'll file anyway, just to be sure

23 THE COURT I don't want to advise you on
24 appellate practice

25 MR COULTER That's true

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1 THE COURT All right Anything that you or
2 any other person that you have with you would like to
3 address me on before I impose sentence? I believe that
4 everybody would agree that for this conviction, the
5 mandatory minimum sentence is twenty-five years, the
6 maximum is thirty years Is there any question about
7 that, based upon the finding of the jury

8 All right I'll be glad to hear from you, Ms
9 Porter

10 MS PORTER Briefly, Your Honor, I would like
11 to go through his extensive record It starts in 1999
12 with possession of alcohol under the age of twenty-one
13 1994, he has four fraudulent check convictions, a
14 burglary second degree conviction

15 THE COURT Excuse me, that was 1989?

16 MS PORTER '91

17 THE COURT '91 was the ---

18 MS PORTER The possession of alcohol under
19 the age of twenty-one

20 THE COURT It was 1991

21 MS PORTER Yes, sir

22 THE COURT Okay I'm sorry I didn't hear
23 that

24 MS PORTER I'm sorry I'll slow down

25 THE COURT Thank you

1 MS PORTER In 1994, he had four convictions
2 for fraudulent checks, a burglary second degree, and
3 false information to police . In 1995 he had a driving
4 under the influence, driving under suspension, attempted
5 burglary, simple assault and battery 1998, he has two
6 DUS's a DUI and a petite larceny In 2000, he has what I
7 believe is possession with intent to distribute cocaine
8 In 2001, he has a habitual traffic offender In 2002, he
9 has possession of marijuana, habitual traffic offender,
10 possession of cocaine In 2003, he has a distribution of
11 meth, possession of a controlled substance, two
12 trafficking methamphetamines between ten and twenty-eight
13 grams, as well as a trafficking heroine Currently, he
14 has charges pending in North Carolina for ---

15 MR COULTER Judge, I'm going to object to
16 that I don't think that's proper consideration, some
17 pending charges, as well as I'm going to object to the
18 fact that she thinks he may have had a prior possession
19 with intent I'm just making sure that the record's
20 straight

21 MS PORTER Well, I'm not positive that it's
22 cocaine That's what I'm -- I mean, I'm not positive
23 that it's possession with intent to distribute or
24 distribution, but he was convicted of that section in the
25 Code, but the rap sheet is not clear as to which one

State of South Carolina -vs- Robert Anthony Gracely (2008-GS 47 0011)
Charge

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1 Because it's all under one section, but he was convicted
2 of either possessing with intent to distribute or
3 distribution There's no doubt it was a conviction

4 My point is, after he was charged with these -- with
5 all of this, he's racked up new charges in North Carolina
6 as well as new charges ---

7 MR COULTER Again, I object to that, Judge

8 THE COURT All right

9 MS PORTER --- new charges in Mauldin County
10 -- I'm sorry, Mauldin City, Greenville County and
11 Richland County Those are pending, but they are
12 trafficking level charges, but they are pending In
13 addition, when this case was resolved -- well, when it
14 was indicted and the roundup began, he was -- law
15 enforcement was advised by co-conspirators to be careful,
16 that he was very dangers And I report all of this to
17 the Court because I think this is a candidate, based upon
18 his prior record and his level of involvement in this
19 conspiracy, for a thirty year maximum sentence Thank
20 you

21 THE COURT Yes, sir, Mr Coulter?

22 MR COULTER Yeah, Judge, I'm going to address
23 that because I mean, it's interesting how it's been
24 fashioned, but nonetheless, he was extended an offer of
25 seven years on this charge, which he was willing to

1 accept his entire time The problem that he was having
2 was that they wanted him to come in and testify to what
3 he did not believe that he could be truthful about,
4 because they wanted him to testify to things that he said
5 were untrue That's where this got sideways This was
6 agreed upon months ago But they wanted him to sign that
7 agreement And, you know, he's now a candidate for
8 thirty years I understand that But months ago, he was
9 a candidate for seven if he cooperated That is fine,
10 Judge We'll, certainly -- obviously it's twenty-five or
11 thirty and we hope that you give him some sort of mercy,
12 because he's not a whole lot different than Brian Stegall
13 who was up here just a minute ago He's got a son who's
14 one years old And he's got a wife

15 As a matter of fact, this guy barely paid me
16 anything on this charge and I continued to do it because
17 I like the guy, and I liked his wife, and I liked them
18 together And I was trying to help them And, you know,
19 we would ask for some mercy I mean, my goodness
20 Twenty-five years, eighty-five percent versus thirty
21 years at eighty-five percent I mean, he's not going to
22 see his son until he's out of college, okay? And I
23 understand he's a bad guy So is the guy who was charged
24 with, you know, indecent liberties with a minor who got
25 fifteen

State of South Carolina vs Robert Anthony Gracely (2008 GS 47 0011)
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1 So I just hope that, you know, there's some measure
2 of sympathy that I would ask the Court to consider I
3 understand he's not here I understand that he has a bad
4 criminal history, but twenty-five years, there's not many
5 people that I've convicted in my lifetime that's gotten
6 that much But nonetheless, I hope you would consider
7 that

8 THE COURT All right Thank you You
9 certainly represented your client well in his absence,
10 Mr Coulter Yes, ma'am, Ms Porter

11 MS PORTER Now, just to clarify the record
12 We've never talked to Tony G, so I don't know how he
13 could think that we -- he couldn't be truthful We never
14 talked to him So that accusation that we wanted him to
15 lie about people, I just don't -- I don't appreciate it
16 And I just want to be candid with the Court We've never
17 debriefed him He's never cooperated He did agree to
18 take the deal and then he -- when we said that deal
19 includes cooperating against your co-defendants and
20 telling us what you know, he got out of here

21 MR COULTER And Judge, I don't want anything
22 I'm not trying to get sideways with Ms Porter She won
23 the case Did a great job, fantastic job I didn't
24 accuse her of anything I just said they were giving me
25 names that they were going to try this week and I talked

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Charge

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1 to my client about it And he said, I don't know her I
2 can't testify Okay I'm not trying to accuse them of
3 anything, never did

4 THE COURT All right All right Thank you
5 very much You both did a good job representing your
6 clients I'll give the sentence, seal it and leave it
7 with the Clerk's office

8 MS PORTER Thank you, Your Honor

9 MR COULTER Thank you, Judge

10

11

12 (END OF REQUESTED TRANSCRIPT OF RECORD)

STATE GRAND JURY OF SOUTH CAROLINA

ORIGINAL FILED**JUN 10 2009**

STATE OF SOUTH CAROLINA

CASE NO. 2008-GS

**JAMES R. PARKS
CLERK, STATE GRAND JURY**

VS

**SUPERSEDING
INDICTMENT FOR
UNLAWFUL DRUGS**

ROBERT YOUNG

KIM SLOVER

FRANK POSEY

TREVOR KAY

BRITANY DUNCAN

JOHNNY JONES

Trafficking Methamphetamine
(Conspiracy)

S.C. Code Ann. § 44-53-575(C)

BRYAN STEGALL

STACY ANDERSON

RAINER KOCH

ERNEST CRAIG

PATRICK BRIDGES

APRIL COX

DESIREE HOPKINS

JOE HAM

SHANNON SMITH

CHRISTIAN HAM

EDGAR SHIPMAN

MELINDA CUDDY

CANDACE DUNCAN

JOSEPH DIRESO

ANTHONY GRACEY

JOHN HAM

SALVADOR CHAVEZ

KIMBERLY TAYLOR

LANCE HOLLOWAY

THOMAS STANCH

ROBIN GONZALES

CARLA SWEET

TIMOTHY TEEBIE

Trafficking Methamphetamine
10 - 28 grams

S.C. Code Ann. § 44-53-575(C)(1)(i)

Trafficking Methamphetamine
28 - 100 grams

S.C. Code Ann. § 44-53-575(C)(2)(a)

Distribution of Methamphetamine

S.C. Code Ann. § 44-53-575(B)(1)

Simple Possession of Marijuana

S.C. Code Ann. § 44-53-70(d)(5)

Trafficking Cocaine

10 - 28 grams

S.C. Code Ann. § 44-53-575(C)(1)

Possession of Methamphetamine

S.C. Code Ann. § 44-53-575(A)

Possession With Intent to Distribute
Methamphetamine

S.C. Code Ann. § 44-53-575(B)

Possession of Firearm During the
Commission of a Violent Crime

S.C. Code Ann. § 16-2-400

DEFENDANTS

Trafficking Methamphetamine >100
grams

S C Code Ann § 44-53-375 (C)(3)

Possession of a Stolen Pistol

S C Code Ann § 16-23-30

At a session of the State Grand Jury of South Carolina, convened in Columbia, South

~~Carolina, on June 10, 2009 the State Grand Jurors present upon their oath~~

COUNT I
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S C Code Ann § 44-53-375(C)(5)

That ROBERT YOUNG, KIM STOVER, FRANK POSEY, TREVOR KAY,
BRITTANY DUNCAN, JOHNNY JONES, BRYAN STEGALL AND TIMOTHY LEE HEIL,
and other persons whose names are both known and unknown to the State Grand Jury, did in
Greenville County and Pickens County of South Carolina, during the period of time extending
from on or about June 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase,
or bring into this State, more than four hundred (400) grams of methamphetamine ('ice' or
'crank'), a controlled substance under provisions of § 44-53-110, et seq , Code of Laws of
South Carolina (1976), as amended, such conduct not having been authorized by law and such
activity occurring and/or having significance in more than one county of this State

COUNT II
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S C Code Ann. § 44-53-375(C)(5)

That STACY ANDERSON, TREVOR KAY, RAINER KOCH, ERNEST CRAFT, PATRICK BRIDGES, APRIL COX, DESIREE HOPKINS, JOEL HALL, SHANNON SMITH, CHRIS LATHAM, FRANK POSEY, EDGAR SHIPMAN, MELINDA CUDDY, CANDACE DUNCAN, JOSEPH DIFRESCO, LANCE HOLLOWAY AND ANTHONY GRACELY and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Spartanburg County and Pickens County of South Carolina during the period of time extending from on or about June 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, et seq, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

**COUNT III
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S C Code Ann § 44-53-375(C)(5)**

That JOHN HAM, SALVADOR CHAVEZ, KIMBERLY TAYLOR, PATRICK BRIDGES, LANCE HOLLOWAY, JOEL HALL AND THOMAS STANCIL, and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Spartanburg County and Pickens County of South Carolina, during the period of time extending from on or about November 1, 2007 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, et seq, Code of Laws of South Carolina (1976), as

amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT IV
TRAFFICKING METHAMPHETAMINE 10 - 28 GRAMS
S C Code Ann § 44-53-375(C)(1)(a)

That ROBERT YOUNG did in Greenville County, on or about February 20, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less twenty-eight (28) grams of methamphetamine (‘ice’ or ‘crank’), a controlled substance under the provisions of § 44-53-110, *et seq*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT V
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S C Code Ann § 44-53-375(C)(2)(a)

That ROBERT YOUNG did in Greenville County, on or about February 25, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine (‘ice’ or ‘crank’), a controlled substance under the provisions of § 44-53-110, *et seq*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT VI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S C Code Ann § 44-53-375(C)(2)(a)

That ROBERT YOUNG did in Greenville County, on or about February 27, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ('ice' or 'crank'), a controlled substance under the provisions of § 44-53-110, *et seq* , Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT VII
TRAFFICKING METHAMPHETAMINE

S C Code Ann § 44-53-375(C)(5)

That ROBERT YOUNG did in Greenville County, on or about February 27, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine (ice or crank') a controlled substance under the provisions of § 44-53-110, *et seq* , Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT VIII
TRAFFICKING METHAMPHETAMINE 10 - 28 GRAMS
S C Code Ann § 44-53-375(C)(1)

That JOHNNY JONES did in Greenville County, on or about February 22, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less twenty-eight (28) grams of methamphetamine ('ice' or "crank'), a controlled substance under the provisions of § 44-53-110, *et seq* , Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT IX
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That STACY ANDERSON did in Pickens County, on or about February 20, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or ~~having significance in more than one county of this State or arising out of or in connection with a~~ crime having significance in more than one county of this State

COUNT X
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S C Code Ann § 44-53-375(C)(2)(a)

That STACY ANDERSON did in Greenville County, on or about May 7, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S C Code Ann § 44-53-375(C)(2)(a)

That DESIREE HOPKINS did in Greenville County, on or about March 8, 2008, knowingly possess (actually or constructively) deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine (ice" or

“crank”), a controlled substance under the provisions of § 44-53-110, *et seq* , Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XII
POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

~~That BRITTANY DUNCAN did in Greenville County, on or about June 3, 2008,~~

knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet or conspire to manufacture, distribute, dispense, deliver, or purchase or possess with intent to manufacture, distribute, dispense or deliver a quantity of methamphetamine (‘ice ’ or “crank”), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XIII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That JOHN HAM did in Greenville County, on or about July 22, 2008, knowingly distribute, dispense, or deliver methamphetamine (‘ice’ or ‘crank ’), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State

COUNT XIV
TRAFFICKING METHAMPHETAMINE
S C Code Ann § 44-53-375(C)(5)

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XV
SIMPLE POSSESSION OF MARIJUANA
S C Code Ann § 44-53-370(d)(3)

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), a quantity of marijuana, a controlled substance under the provisions of § 44-53-110, *et seq*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XVI
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S C Code Ann § 44-53-375(C)(2)(a)

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell or bring into this State, twenty-eight (28) grams

or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et seq*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XVII
TRAFFICKING COCAINE 10 - 28 GRAMS
S C Code Ann § 44-53-370(e)(2)(a)(1)

That JOHN HAM did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than ten (10) grams but less twenty-eight (28) grams of cocaine, a controlled substance under the provisions of § 44-53-110, *et seq*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XVIII
TRAFFICKING METHAMPHETAMINE
S C Code Ann § 44-53-375(C)(5)

That SALVADOR CHAVEZ did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110 *et seq*, Code of Laws of South Carolina (1976), as amended such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XIX
TRAFFICKING METHAMPHETAMINE
S C Code Ann § 44-53-375(C)(5)

That SALVADOR CHAVEZ did in Greenville County, on or about July 23, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, more than four hundred (400) grams of methamphetamine ('ice' or 'crank'), a controlled substance under the provisions of § 44-53-110, *et seq* , Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XX
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That LANCE HOLLOWAY did in Spartanburg County, on or about August 1, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice " or "crank"), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXI
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That ERNEST CRAFT did in Greenville County on or about June 5 2008 knowingly distribute, dispense or deliver methamphetamine (' ice ' or ' crank'), a controlled substance under provisions of § 44-53 110, *et seq* Code of Laws South Carolina (1976), as amended, such

conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

----- That KIM TAYLOR did in Pickens County, on or about May 19, 2008, knowingly -----
 distribute, dispense, or deliver methamphetamine ('ice' or 'crank'), a controlled substance under provisions of § 44-53-110, *et seq*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXIII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That KIM TAYLOR did in Pickens County, on or about June 2 2008, knowingly distribute, dispense, or deliver methamphetamine ('ice' or 'crank'), a controlled substance under provisions of § 44-53-110, *et seq*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXIV
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That MELINDA CUDDY did in Pickens County, on or about June 2, 2008 knowingly distribute, dispense, or deliver methamphetamine ("ice" or 'crank'), a controlled substance under provisions of § 44-53-110, *et seq*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXV
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That JOEL HALL did in Greenville County, on or about April 1, 2008, knowingly distribute, dispense, or deliver methamphetamine ('ice' or 'crank'), a controlled substance under provisions of § 44-53-110, *et seq*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXVI
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That JOEL HALL did in Greenville County, on or about April 22, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq* Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXVII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That JOEL HALL did in Greenville County on or about April 30, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXVIII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That SHANNON SMITH did in Greenville County, on or about May 20, 2008 knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled

substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXIX
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That SHANNON SMITH did in Greenville County, on or about May 20, 2008, knowingly distribute, dispense, or deliver methamphetamine ('ice' or 'crank'), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXX
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That PAT BRIDGES did in Greenville County, on or about August 13, 2008, knowingly distribute, dispense, or deliver methamphetamine ('ice ' or crank'), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State

COUNT XXXI
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That PAT BRIDGES did in Greenville County, on or about August 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under ~~provisions of § 44-53-110, et seq., Code of Laws South Carolina (1976), as amended, such~~ conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXXII
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S C Code Ann § 44-53-375(C)(2)(a)

That PAT BRIDGES did in Greenville County, on or about August 21 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, et seq , Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XXXIII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That CANDACE DUNCAN did in Greenville County, on or about September 10, 2008, knowingly distribute, dispense, or deliver methamphetamine ('ice ' or 'crank '), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXXIV
POSSESSION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(A)

That CANDACE DUNCAN did in Greenville County, on or about September 16, 2008, knowingly possess (actually or constructively), a quantity of methamphetamine a controlled substance under the provisions of § 44-53-110, *et seq* , Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XXXV
DISTRIBUTION OF METHAMPHETAMINE BY CONSPIRACY
S C Code Ann § 44-53-375(B)

That CHRIS LATHAM did in Pickens County, on or about June 2, 2008, knowingly distribute, dispense or deliver methamphetamine (' ice ' or 'crank '), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such

conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXXVI
DISTRIBUTION OF METHAMPHETAMINE BY CONSPIRACY
S C Code Ann § 44-53-375(B)

----- That CHRIS LATHAM did in Greenville County, on or about August 13, 2008, -----

knowingly distribute, dispense, or deliver methamphetamine ('ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXXVII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 19, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice ' or crank '), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976) as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXXVIII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 26, 2008, knowingly distribute, dispense, or deliver methamphetamine ('ice ' or crank') a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XXXIX
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about August 29 2008, knowingly distribute, dispense, or deliver methamphetamine ('ice ' or crank'), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976) as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XL
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That EDGAR SHIPMAN did in Greenville County, on or about September 11, 2008,

knowingly distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq* Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XLI
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That ROBIN GONZALES did in Greenville County, on or about May 9, 2008, knowingly distribute, dispense, or deliver methamphetamine (' ice ' or "crank"), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XLII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That CARLA SWEET did in Greenville County, on or about May 14, 2008, knowingly distribute, dispense, or deliver methamphetamine (ice' or "crank "), a controlled substance under provisions of § 44-53-110 *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime

having significance in more than one county of this State

COUNT XLIII
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That THOMAS STANCIL did in Pickens County, on or about August 22, 2008,
 knowingly distribute, dispense, or deliver methamphetamine (' ice ' or ' crank '), a controlled
substance under provisions of § 44-53-110, et seq , Code of Laws South Carolina (1976), as
 amended, such conduct not having been authorized by law and such activity occurring and/or
 having significance in more than one county of this State or arising out of or in connection with a
 crime having significance in more than one county of this State

COUNT XLIV
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That BRYAN STEGALL did in Greenville County, on or about March 19, 2008,
 knowingly distribute, dispense, or deliver methamphetamine (' ice ' or ' crank '), a controlled
 substance under provisions of § 44-53-110, et seq , Code of Laws South Carolina (1976), as
 amended, such conduct not having been authorized by law and such activity occurring and/or
 having significance in more than one county of this State or arising out of or in connection with a
 crime having significance in more than one county of this State

COUNT XLV 35
TRAFFICKING METHAMPHETAMINE 28 - 100 GRAMS
S C Code Ann § 44-53-375(C)(2)(a)

That PAT BRIDGES did in Greenville County, on or about September 16, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, twenty-eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or crank"), a controlled substance under the provisions of § 44-53-110, *et seq*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XLVI
DISTRIBUTION OF METHAMPHETAMINE
S C Code Ann § 44-53-375(B)

That TREVOR KAY did in Pickens County, on or about August 29, 2008, knowingly distribute, dispense, or deliver methamphetamine ("ice" or crank"), a controlled substance under provisions of § 44-53-110 *et seq*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XLVII
POSSESSION OF METHAMPHETAMINE
S C Code Ann § 44-53-370(A)

That ROBERT YOUNG did in Laurens County on or about August 8, 2008, knowingly possess a quantity of methamphetamine, a controlled substance under the provisions of § 44-53-

110, *et seq* , Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State

COUNT XLVIII
TRAFFICKING METHAMPHETAMINE > 100 GRAMS
S C Code Ann § 44-53-375 (C)(3)

That ROBERT YOUNG did in Laurens County, on or about August 8, 2008, knowingly possess (actually or constructively), deliver, sell, or bring into this State, one hundred (100) grams or more, but less than two hundred (200) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et seq* , Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State

COUNT XLIX
POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
S C Code Ann § 16-23-490

That ROBERT YOUNG did in Laurens County, South Carolina on or about August 8, 2008 possess or visibly display three firearms, described as a Smith and Weston 9MM Model #59 Serial #A37609A a Davis Industries 32 Caliber Derringer Model #32 Serial #128687 and a Taurus 45 Caliber Model #PT745C Serial #NYC71550, during the commission of a violent crime, to wit, Trafficking Methamphetamine, such conduct not having been authorized by law

COUNT L
POSSESSION OF A STOLEN PISTOL
S C Code Ann § 16-23-30

That ROBERT YOUNG did in Laurens County, South Carolina on or about August 8, 2008
 receive, or possess, sell, conceal, or dispose of a stolen pistol described as a Taurus 45 Caliber
 Model #PT745C Serial #NYC71550

COUNT LI
POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
S C Code Ann § 16-23-490

That TIMOTHY LEE HEIL did in Laurens County, South Carolina on or about August 8, 2008
 possess or visibly display two firearms, described as a Valor 22LR Caliber Revolver Serial
 #35145 and a Smith and Weston 9MM Model #SW9E Serial #PBF1495 during the commission
 of a violent crime, to wit, Trafficking Methamphetamine, such conduct not having been
 authorized by law

COUNT LII
POSSESSION OF A STOLEN PISTOL
S C Code Ann § 16-23-30

That TIMOTHY LEE HEIL did in Laurens County, South Carolina on or about August 8, 2008
 receive, or possess, sell, conceal, or dispose of a stolen pistol described as a ^{SMITH & WESTON} Weston 9MM Model
 #SW9E Serial #PBF1495

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

A TRUE Bill

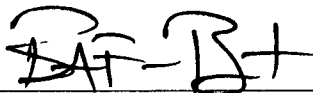
SSJenn
FOREMAN

Henry McMaster
HENRY McMASTER (jkc)
ATTORNEY GENERAL

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings "

January 4, 2012

A handwritten signature in black ink, appearing to read 'EAF-Best', written over a horizontal line.

Elizabeth A Franklin-Best
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

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Pickens County

G Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

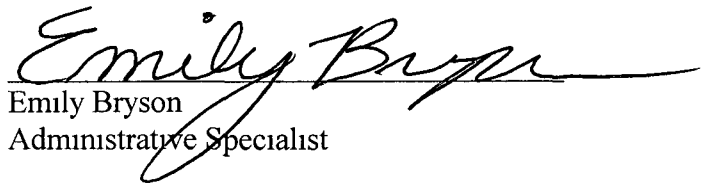
V

ANTHONY GRACELY

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Joshua R Underwood, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201 this 4th day of January, 2012


Emily Bryson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of January, 2012

 (L S)
Notary Public for South Carolina

My Commission Expires May 16, 2021

RECEIVED

JAN 04 2012

SC Court of Appeals