

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM SALUDA COUNTY

Donald B. Hocker, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TRAVIS SAMUEL WARREN,

APPELLANT

APPELLATE CASE NO. 2013-002739

RECORD ON APPEAL

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**STATE OF SOUTH CAROLINA**

**COURT OF GENERAL SESSIONS**

**COUNTY OF SALUDA**

**2013-GS-41-00341**

**2013-GS-41-00345**

**The State of South Carolina**

**-VS-**

**Michael William McCraw and  
Travis Samuel Warren,**

**Defendants.**

**TRANSCRIPT OF RECORD**

October 8, 9, & 10, 2013  
Saluda, South Carolina

**Ordered:** January 6, 2014

**Delivered:** April 28, 2014

**B E F O R E:**

**The Honorable Donald B. Hocker, Presiding Judge.**

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

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**PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864**



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1 October 8, 2013

11:08 A.M.

2 (Off-the-Record Comments)

3 Voir Dire

4 THE COURT: All right. Now, I'm going to ask the — the Solicitor  
5 if he will call this first case to trial. And, then, we will conduct our voir dire.

6 (Brief Pause)

7 MR. MAYE: May it please the Court? Your Honor, the State  
8 now calls for trial indictment number 2011-GS-41-071; *The State vs. Michael*  
9 *William McCraw*, an indictment for manufacturing methamphetamine. It's  
10 been true billed by the grand jury of Saluda County. And the State now calls  
11 this for trial.

12 Additionally, the State calls indictment 2000-GS-41-345 [sic], *The*  
13 *State vs. Travis Samuel Warren*, an indictment for manufacturing  
14 methamphetamine. It too has been true billed by the grand jury of Saluda  
15 County.

16 The State calls both of these cases for trial by jury at this time.

17 THE COURT: Thank you very much, Solicitor. Madam Clerk,  
18 I'm going to ask you to swear the qualified jury panel in, please, ma'am.

19 (Whereupon, the jury panel was sworn.)

20 (Off-the-Record Discussion)

21 MR. MAYE: Your Honor, may I approach?

22 THE COURT: Certainly.

23 (Whereupon, a bench conference was had with all attorneys  
24 present.)

25 THE COURT: All right, Solicitor?

1                   **MR. MAYE:**           Your Honor, the correct indictment number for  
2                   Travis Samuel Warren is indictment 2013-GS-41-345, Your Honor. I'll just tell  
3                   you the indictment number charges the same with manufacturing  
4                   methamphetamine. And it's been true billed by the grand jury of Saluda  
5                   County. That is the only addition or correction that I have.

6                   **THE COURT:**       Thank you very much.

7                   **MR. MAYE:**           Yes, Your Honor.

8                   **(Brief Pause)**

9                   **THE COURT:**       I — I did fail to ask, if the State and the Defense, is  
10                  there any objections or exceptions to the qualification and the exemption  
11                  process of the jury panel from the State?

12                  **MR. MAYE:**           None from the State, Your Honor. Thank you.

13                  **THE COURT:**       From the Defense?

14                  **MR. JOHNSON:**   None of the Defense, Your Honor.

15                  **MR. WILLIAMS:**   None from Defendant — Defendant Warren, Your  
16                  Honor.

17                  **THE COURT:**       Okay. Thank you very much. Okay, ladies and  
18                  gentlemen of the jury panel, if you would, pay very close attention to the  
19                  questions that I ask you.

20                  Is anyone related by blood or ever been related by marriage, to either  
21                  of the two Defendants — and, if they would, please stand ----

22                  **(Both Defendants complied with the Court's request.)**

23                  **THE COURT:**       — Michael William McCraw and Travis Samuel  
24                  Warren. If you'll just face the jury panel, please, gentlemen.

25                  **(Both Defendants complied with the Court's request.)**

1                   **THE COURT:**       Thank you very much. You can have a seat.

2                   **(Both Defendants complied with the Court's request.)**

3                   **(No Response)**

4                   **THE COURT:**       Has anyone ever had a close personal or social  
5 relationship, with either of the two Defendants, Michael William McCraw  
6 and/or Travis Samuel Warren? If so, please, stand.

7                   **(No Response)**

8                   **THE COURT:**       All right. No one can leave the courtroom at this  
9 time. Be seated.

10                  **(Off-the-Record Discussion)**

11                  **THE COURT:**       I'm going to provide you with a list of possible  
12 witnesses for either the State or the Defense in this case. And I say possible;  
13 they may not testify.

14                  Has anyone ever been related by blood or marriage to any of the  
15 people that I will list in just a moment or does anyone have a close personal  
16 or social relationship with the following: William Troy Norris, Michelle Norris,  
17 Russ Padgett, Jesse Quartlebaum, Kess Holmes, Billy Laney, Nick  
18 Schifferle? If so, please, stand.

19                  **(Potential juror stood in response.)**

20                  **THE COURT:**       Okay. Yes, sir, your number and your name,  
21 please, sir.

22                  **POTENTIAL JUROR:**   My number is 76. My name is Tommy  
23 Duncan.

24                  **THE COURT:**       Okay.

25                  **POTENTIAL JUROR:**   I've been knowing Russ Padgett ever since

1 he was born.

2 **THE COURT:** Okay. And the fact that you've known Russ  
3 Padgett for a long time, would that prevent you from being fair and impartial  
4 to both the State and the Defense in this case?

5 **POTENTIAL JUROR:** No, sir.

6 **THE COURT:** Okay. Thank you, sir. Have a seat. And let me  
7 mention one thing too. And I failed to do this at the beginning of the voir dire.  
8 The same rules apply. If there is something that you would like to tell  
9 me or respond to me, that you want to do so in private like you did earlier,  
10 then, I'll give you an opportunity at that time. So you do not need to respond  
11 in public if you wish not to.

12 **(Brief Pause)**

13 **THE COURT:** All right. At this time, I'm going to ask the — the  
14 attorneys for the State to introduce themselves. And, then, I'll give the same  
15 opportunity to the attorneys for the Defense. Solicitor?

16 **MR. MAYE:** My name is Ervin Maye and I am an assistant  
17 solicitor for the Eleventh Judicial Circuit. Seated with me is Mike Ross, who  
18 is also an assistant solicitor of the Eleventh Circuit.

19 **THE COURT:** Okay. Thank you very much. And Defense?

20 **MR. JOHNSON:** I'm Ola Johnson. I practice out of Lexington  
21 County, South Carolina.

22 **MR. WILLIAMS:** I'm Theo Williams. I live in Batesburg, South  
23 Carolina. And my office is in Lexington, South Carolina, with the firm of  
24 Williams, Hendricks, Styger and Brandt (phonetic).

25 **THE COURT:** Okay. Thank you, Mr. Williams. Has any member

1 of the jury panel ever been represented by any of the attorneys involved in  
2 this case or any of their particular law firms or respective law firms.? If so,  
3 please, stand.

4 (No Response)

5 THE COURT: Has anyone ever been related, by blood or  
6 marriage, to or have you ever had a close personal or social relationship with  
7 any of the attorneys involved in this case or their respective law firms? If so,  
8 please, stand.

9 (No Response)

10 (Brief Pause)

11 THE COURT: Well, ladies and gentlemen of the jury panel, the  
12 Defendants have been indicted. And let me just state to you, the indictments  
13 that I have in my hand that the Solicitor referred to earlier, these indictments  
14 are not evidence.

15 They're not an indication of — of guilt on the — on the part of the  
16 Defendants. The indictments serve as the mechanism in order to get the  
17 case to where we are today, to — to trial.

18 So, when the indictments are referred to, at any point in these  
19 proceedings, do not consider them as evidence or any indication of — of guilt  
20 on the part of the — on the part of the Defendants.

21 I'm going to publish the — the indictments to you. And — and I'll do  
22 so separately for each Defendant. And I'll give you the body of the  
23 indictment.

24 "That Michael William McCraw did, in Saluda County, on or about the  
25 date of December 3<sup>rd</sup>, 2010, unlawfully, knowingly, intelligently, and willfully



1 make — manufacture, or otherwise aid, abet, attempt, or conspire with  
2 Michelle Holloman Norris (phonetic) and/or Travis Samuel Warren, to  
3 manufacture a quantity of methamphetamine, a controlled substance, under  
4 the provisions of the laws of this State.”

5 (Brief Pause)

6 THE COURT: “That Travis Samuel Warren did, in Saluda  
7 County, on or about the date of December 3, 2010, knowingly, intentionally,  
8 willfully, and unlawfully manufacture or otherwise aid, abet, attempt or  
9 conspire with William — Michael William McCraw and/or Michelle Holman  
10 Norris, to manufacture a quantity of methamphetamine, a controlled  
11 substance, under the provisions of the laws of this State.”

12 Has any member of the jury panel formed or expressed an opinion  
13 about any issue or matter involved in this case? If so, please, stand.

14 (No Response)

15 THE COURT: Okay. Chances are all you know about this case  
16 is what I just read to you from the indictments. Is there any member of the  
17 jury panel aware of any bias or prejudice towards either the State or the  
18 Defendants in this case?

19 (No Response)

20 THE COURT: Is there any member of the jury panel that was a  
21 member of the grand jury which issued the indictments in this case? I don't  
22 believe that would apply because I talked to you about grand jury service  
23 previously, but I'm asking it as I'm required to: Has any member of the jury  
24 panel served on the grand jury that issued these indictments?

25 (No Response)

1                   **THE COURT:**       Is there any member the jury panel who is a  
2                   member of or a contributor to any group which has as its primary concern the  
3                   promotion of law enforcement or victims' rights?

4                   And these groups would include, but not limited to, MADD, SADD, or  
5                   CAVC? That acronym stands for Citizens Against Violent Crimes. If that  
6                   applies to you, please, stand.

7                   **(No Response)**

8                   **THE COURT:**       Is there any member of the jury panel who has a  
9                   family member or a close personal friend who has ever been a victim of or  
10                  accused of a crime? If that applies to you, please, stand.

11                  **(No Response)**

12                  **THE COURT:**       Has any member of the jury panel or any member  
13                  of your family, member of the jury panel, or any close personal friend of the  
14                  jury panel, has ever been affected by drugs or drug abuse? If so, please,  
15                  stand.

16                  **(No Response)**

17                  **THE COURT:**       Is there any member of the jury panel morally  
18                  opposed to drugs or drug use such that you could not render a fair and  
19                  impartial decision in this case?

20                  **(No Response)**

21                  **THE COURT:**       Are you or any member of your family or a close  
22                  personal friend currently a law enforcement officer or ever have been a law  
23                  enforcement officer or otherwise someone who has had any power of arrest?  
24                  If that applies to you, please, stand.

25                  **(Potential juror stood in response.)**

1                   **THE COURT:**       Yes, sir?

2                   **POTENTIAL JUROR:**     Ollie Williams. I have a nephew that is a  
3                   DEA agent.

4                   **THE COURT:**       Okay. The fact that you have a nephew that is a  
5                   DEA agent, would that prevent you from being fair and impartial to both the  
6                   State and the Defense in this case?

7                   **POTENTIAL JUROR:**     No.

8                   **THE COURT:**       Thank you, sir. Yes, sir?

9                   **POTENTIAL JUROR:**     Juror number 59. My mother, Janice Ergle,  
10                  is a jail administrator for Saluda County.

11                  **THE COURT:**       Okay. The fact that your mother is a jail  
12                  administrator for Saluda County, would that prevent you from being fair and  
13                  impartial to the State and to the Defense?

14                  **POTENTIAL JUROR:**     No, sir.

15                  **THE COURT:**       Thank you, sir. Yes, ma'am?

16                  **POTENTIAL JUROR:**     My husband is a SLED agent.

17                  **THE COURT:**       Okay. And your number — your juror number and  
18                  name, please.

19                  **POTENTIAL JUROR:**     Number 123, Sherri Matthews.

20                  **THE COURT:**       And, yes, ma'am, Ms. Matthews?

21                  **POTENTIAL JUROR:**     My husband works for the South Carolina  
22                  Law Enforcement Division.

23                  **THE COURT:**       All right. The fact that your husband works with  
24                  SLED, would that prevent you from being fair and impartial to both the State  
25                  and the Defense in this case?

1                   **POTENTIAL JUROR:**     No, sir.

2                   **THE COURT:**       Okay. Thank you, ma'am.

3                   **(Brief Pause)**

4                   **THE COURT:**       All right. Has any member of the jury panel, or  
5 any family member of the jury panel, ever been prosecuted by the Eleventh  
6 Circuit Solicitor's Office?

7                   **(No Response)**

8                   **(Brief Pause)**

9                   **THE COURT:**       Does any member of the jury panel know of any  
10 reason whatsoever why he or she should not serve as a juror in this case,  
11 with particular emphasis being placed on your ability to be fair and impartial  
12 to both the State and the Defendant — both Defendants? If so, please,  
13 stand.

14                   **(No Response)**

15                   **THE COURT:**       Now, I'll give you an opportunity. Is there any  
16 member the jury panel who would like to talk with me privately concerning  
17 those questions I have just given to you? If so, we'll form a line and we'll  
18 come down in front. If so, please, stand.

19                   **(Potential juror stood in response.)**

20                   **THE COURT:**       Okay. We have one. If you'll come down,  
21 please, ma'am.

22                   **(Potential juror stepped forward.)**

23                   **(Off-the-Record Comments)**

24                   **THE COURT:**       Yes, ma'am?

25                   **(Off-the-Record Discussion)**

1                   **THE COURT:**       Anyone else?

2                   **(No Response)**

3                   **THE COURT:**       Let me first ask the State, are there any additional  
4 voir dire questions that you would like the Court to consider asking?

5                   **MR. MAYE:**           None from the State, Your Honor.

6                   **THE COURT:**       Any objections to the voir dire previously given to  
7 the jury panel from the State?

8                   **MR. MAYE:**           Not from the State, Your Honor.

9                   **THE COURT:**       Thank you very much. All right. Mr. Johnson, any  
10 additional voir dire questions you would like the Court to consider asking the  
11 jury panel?

12                  **MR. JOHNSON:**   No, sir.

13                  **THE COURT:**       All right. Are there any objections or exceptions to  
14 the voir dire previously conducted with the jury panel?

15                  **MR. JOHNSON:**   No, sir.

16                  **THE COURT:**       Okay. Mr. Williams, any additional voir dire  
17 questions you would like the Court to consider asking?

18                  **MR. WILLIAMS:**   No, Your Honor.

19                  **THE COURT:**       Any objections or exceptions to the voir dire  
20 conducted with the jury panel?

21                  **MR. WILLIAMS:**   None, Your Honor.

22                  **THE COURT:**       Thank you very much.

23                  **(Brief Pause)**

24                  **(Voir dire concluded at 11:29.)**

25                  **THE COURT:**       Madam Clerk, you may proceed.

1 (Brief Pause)

2 THE COURT: There is going to be a list compiled. And, if your  
3 name is called, you will be asked to come — how do they — do they come  
4 around? How does — how is that normally done?

5 (Off-the-Record Discussion)

6 THE COURT: All right. You'll come around to the side and you  
7 stand at the bench facing the State and the Defense. And they will consider  
8 whether or not they want for you to serve as a member of this trial jury.

9 Please, if you are not selected, don't take offense. Don't feel  
10 ashamed; don't take offense.

11 Some of you are saying, "Yeah — I — I know what some of you are  
12 thinking, but these fine lawyers — and let me just tell you now, we have  
13 excellent lawyers in this case; the solicitor's office and defense lawyers, they  
14 are excellent lawyers.

15 And they have a — a manner in which they select a — a — a jury. And  
16 they have certain reasons for wanting or not wanting certain people to serve  
17 on — on the jury that they're involved in.

18 So, even though some of you will not be upset or take offense to that,  
19 if others of you may be inclined to do so, please, please, don't.

20 (Brief Pause)

21 THE COURT: Let me just see the lawyers one second, please.

22 (Whereupon, a bench conference was had with all attorneys  
23 present.)

24 Jury Selection

11:31 A.M.

25 THE COURT: Are the lawyers ready?

- 1                   **MR. MAYE:**           The State is ready, Your Honor.
- 2                   **MR. JOHNSON:**       The Defense is ready, Your Honor.
- 3                   **MR. WILLIAMS:**       Defense for Warren is ready, Your Honor.
- 4                   **THE COURT:**           Thank you very much. You may proceed, Madam
- 5 Clerk.
- 6                   **MADAM CLERK:**       Okay. As I call your name, please, come forward
- 7 and stand right here (indicating) and face the audience. And bring all of your
- 8 belongings with you because your next stop may be the jury box.
- 9                   169, Lanigan S. Rodgers.
- 10                  **(Potential juror stepped forward.)**
- 11                  **MADAM CLERK:**       What say ye for the State?
- 12                  **MR. MAYE:**            Please present the juror.
- 13                  **MADAM CLERK:**       What say ye for the Defense?
- 14                  **(Brief Pause)**
- 15                  **MR. JOHNSON:**       Please seat the juror.
- 16                  **MADAM CLERK:**       What say ye for the Defense Warren?
- 17                  **MR. WILLIAMS:**       Please excuse the juror from the trial of this case.
- 18                  **MADAM CLERK:**       Please return to your seat.
- 19                  **(Potential juror complied with the request.)**
- 20                  **MADAM CLERK:**       104, Tammie S. Jones.
- 21                  **(Potential juror stepped forward.)**
- 22                  **MADAM CLERK:**       What say ye for the State?
- 23                  **MR. MAYE:**            Please present the juror.
- 24                  **MADAM CLERK:**       What say ye for Defense Warren [sic]?
- 25                  **(Brief Pause)**

1                   **MR. JOHNSON:**   Please seat the juror.

2                   **(Brief Pause)**

3                   **MR. WILLIAMS:**   Please excuse the juror from the trial of this case.

4                   **MADAM CLERK:**   Please return to your seat.

5                   **(Potential juror complied with the request.)**

6                   **MADAM CLERK:**   Twenty-four (24), Tonya D. Butler.

7                   **(Potential juror stepped forward.)**

8                   **MADAM CLERK:**   What say ye for the State?

9                   **MR. MAYE:**       Please present the juror.

10                  **MADAM CLERK:**   What say ye for the Defendant Warren?

11                  **(Brief Pause)**

12                  **MR. JOHNSON:**   Defendant McCraw?

13                  **MADAM CLERK:**   Warren.

14                  **MR. WILLIAMS:**   Did you mean ----

15                  **MADAM CLERK:**   I said Warren.

16                  **MR. WILLIAMS:**   Okay. Well, I thought you were going with

17                  McCraw first. I'm sorry.

18                  **MADAM CLERK:**   Okay. All right.

19                  **MR. WILLIAMS:**   Please swear the juror.

20                  **MADAM CLERK:**   Okay. McCraw?

21                  **MR. JOHNSON:**   Please seat the juror.

22                  **MADAM CLERK:**   Okay. Please have a seat in the jury box.

23                  **(Potential juror complied with the request.)**

24                  **MADAM CLERK:**   202, Brittany A. Waters.

25                  **(Potential juror stepped forward.)**



1                   **MADAM CLERK:**   What say ye for the State?

2                   **MR. MAYE:**           Please present the juror.

3                   **MADAM CLERK:**   What say ye for Defendant McCraw?

4                   **(Brief Pause)**

5                   **MR. JOHNSON:**   Please seat the juror.

6                   **MADAM CLERK:**   What say ye for Defendant Warren?

7                   **MR. WILLIAMS:**   Please swear the juror.

8                   **MADAM CLERK:**   Please have a seat in the jury box.

9                   **(Potential juror complied with the request.)**

10                  **MADAM CLERK:**   180, Eric B. Shealy.

11                  **(Potential juror stepped forward.)**

12                  **MADAM CLERK:**   What say ye for the State?

13                  **MR. MAYE:**           Please present the juror.

14                  **MADAM CLERK:**   What say ye for the Defendant McCraw?

15                  **MR. JOHNSON:**   Please seat the juror.

16                  **MADAM CLERK:**   What say ye for Defendant Warren?

17                  **(Brief Pause)**

18                  **MR. WILLIAMS:**   Please swear the juror.

19                  **MADAM CLERK:**   Please, have a seat in the jury box.

20                  **(Potential juror complied with the request.)**

21                  **MADAM CLERK:**   200, Kyna R. Wallace.

22                  **(Potential juror stepped forward.)**

23                  **MADAM CLERK:**   What say ye for the State?

24                  **MR. MAYE:**           Please present the juror.

25                  **MADAM CLERK:**   What say ye for the Defendant McCraw?

1 MR. JOHNSON: Please seat the juror.

2 MADAM CLERK: What say ye for Defendant Warren?

3 MR. WILLIAMS: Please swear the juror.

4 MADAM CLERK: Please, have a seat in the jury box.

5 (Potential juror complied with the request.)

6 MADAM CLERK: 181, Charles E. Shell.

7 (Potential juror stepped forward.)

8 MADAM CLERK: What say ye for the State?

9 MR. MAYE: Please present the juror.

10 MADAM CLERK: What say ye for Defendant McCraw?

11 (Brief Pause)

12 MR. JOHNSON: Please excuse the juror.

13 MADAM CLERK: Please return to your seat.

14 (Potential juror complied with the request.)

15 MADAM CLERK: 156, Donna N. Rhinehart.

16 (Potential juror stepped forward.)

17 MADAM CLERK: What say ye for the State?

18 MR. MAYE: Please present the juror.

19 MADAM CLERK: What say ye for the Defendant McCraw?

20 MR. JOHNSON: Please seat the juror.

21 MADAM CLERK: What say ye for the Defendant Warren?

22 MR. WILLIAMS: Please excuse the juror from the trial of this case.

23 MADAM CLERK: Please return to your seat.

24 (Potential juror complied with the request.)

25 MADAM CLERK: 103, Barbara Ann Jones.

1 (Potential juror stepped forward.)

2 MADAM CLERK: What say ye for the State?

3 MR. MAYE: Please present the juror.

4 MADAM CLERK: What say ye for Defendant McCraw?

5 MR. JOHNSON: Please seat the juror.

6 MADAM CLERK: What say ye for Defendant Warren?

7 MR. WILLIAMS: Please swear the juror.

8 MADAM CLERK: Please, have a seat in the jury box.

9 (Potential juror complied with the request.)

10 MADAM CLERK: 120, Elaine R -- I mean, Elaine A.

11 Marchegiano.

12 (Potential juror stepped forward.)

13 MADAM CLERK: What say ye for the State?

14 MR. MAYE: Please present the juror.

15 MADAM CLERK: What say ye for the Defendant McCraw?

16 MR. JOHNSON: Please seat the juror.

17 MADAM CLERK: Defendant Warren?

18 MR. WILLIAMS: Please excuse the juror from the trial of this case.

19 MADAM CLERK: Please return to your seat.

20 (Potential juror complied with the request.)

21 MADAM CLERK: 102, Gary J. Johnson.

22 (Potential juror stepped forward.)

23 MADAM CLERK: What say ye for the State?

24 MR. MAYE: Please present the juror.

25 MADAM CLERK: What say ye for Defendant McCraw?

1 (Brief Pause)

2 MR. JOHNSON: Please excuse the juror.

3 MADAM CLERK: Please return to your seat.

4 (Potential juror complied with the request.)

5 MADAM CLERK: Thirty-six (36), Sammy S. Connelly.

6 (Potential juror stepped forward.)

7 MADAM CLERK: What say ye for the State?

8 MR. MAYE: Please present the juror.

9 MADAM CLERK: What say ye for Defendant McCraw?

10 MR. JOHNSON: Please excuse the juror.

11 MADAM CLERK: Please return to your seat.

12 (Potential juror complied with the request.)

13 MADAM CLERK: Thirty-three (33), Louise L. Coleman.

14 (Potential juror stepped forward.)

15 MADAM CLERK: What say ye for the State?

16 MR. MAYE: Please excuse the juror from the trial of this case.

17 MADAM CLERK: Please return to your seat.

18 (Potential juror complied with the request.)

19 MADAM CLERK: 123, Sherri W. Matthews.

20 (Potential juror stepped forward.)

21 MADAM CLERK: What say ye for the State?

22 MR. MAYE: Please present the juror.

23 MADAM CLERK: What say ye for Defendant McCraw?

24 MR. JOHNSON: Please excuse the juror.

25 MADAM CLERK: Please return to your seat.

1 (Potential juror complied with the request.)  
2 MADAM CLERK: 140, Kayla M. Nichols.  
3 (Potential juror stepped forward.)  
4 MADAM CLERK: What say ye for the State?  
5 MR. MAYE: Please present the juror.  
6 MADAM CLERK: What say ye for Defendant McCraw?  
7 MR. JOHNSON: Please seat the juror.  
8 MADAM CLERK: What say ye for Defendant Warren?  
9 MR. WILLIAMS: Please swear the juror.  
10 MADAM CLERK: Please, have a seat in the jury box.  
11 (Potential juror complied with the request.)  
12 MADAM CLERK: 132, Bobby S. Mitchell.  
13 (Potential juror stepped forward.)  
14 MADAM CLERK: What say ye for the State?  
15 MR. MAYE: Please present the juror.  
16 MADAM CLERK: What say ye for Defendant McCraw?  
17 MR. JOHNSON: Please seat the juror.  
18 MADAM CLERK: Defendant Warren?  
19 MR. WILLIAMS: Please swear the juror.  
20 MADAM CLERK: Please have a seat in the jury box.  
21 (Potential juror complied with the request.)  
22 MADAM CLERK: 41, Meredith R. Crawford.  
23 (Potential juror stepped forward.)  
24 MADAM CLERK: What say ye for the State?  
25 MR. MAYE: Please present the juror.

1                   **MADAM CLERK:**   What say ye for Defendant McCraw?

2                   **MR. JOHNSON:**    Please seat the juror.

3                   **MADAM CLERK:**    Defendant Warren?

4                   **MR. WILLIAMS:**   Please swear the juror.

5                   **MADAM CLERK:**    Please have a seat in the jury box.

6                   **(Potential juror complied with the request.)**

7                   **MADAM CLERK:**    162, Sammie L. Robinson.

8                   **(Potential juror stepped forward.)**

9                   **MADAM CLERK:**    What say ye for the State?

10                  **MR. MAYE:**           Please excuse the juror from the trial of this case.

11                  **MADAM CLERK:**    Please return to your seat.

12                  **(Potential juror complied with the request.)**

13                  **MADAM CLERK:**    Number seven (7), Christine B. Frick.

14                  **(Potential juror stepped forward.)**

15                  **MADAM CLERK:**    What say ye for the State?

16                  **MR. MAYE:**           Please present the juror.

17                  **MADAM CLERK:**    What say ye for Defendant McCraw?

18                  **MR. JOHNSON:**    Please seat the juror.

19                  **MADAM CLERK:**    Defendant Warren?

20                  **MR. WILLIAMS:**   Please swear the juror.

21                  **MADAM CLERK:**    Please have a seat in the jury box.

22                  **(Potential juror complied with the request.)**

23                  **MADAM CLERK:**    12, Essie M. Bledsoe.

24                  **(Potential juror stepped forward.)**

25                  **MADAM CLERK:**    What say ye for the State?

1                   MR. MAYE:       Please present the juror.

2                   MADAM CLERK:   What say ye for Defendant McCraw?

3                   MR. JOHNSON:    Please seat the juror.

4                   MADAM CLERK:    Defendant Warren?

5                   MR. WILLIAMS:   Please swear the juror.

6                   MADAM CLERK:   Please, have a seat in the jury box.

7                   (Potential juror complied with the request.)

8                   MADAM CLERK:    187, Russell B. Smith.

9                   (Potential juror stepped forward.)

10                  MADAM CLERK:   What say ye for the State?

11                  MR. MAYE:       Please present the juror.

12                  MADAM CLERK:   What say ye for Defendant McCraw?

13                  MR. JOHNSON:   Please excuse the juror.

14                  MADAM CLERK:   Please return to your seat.

15                  (Potential juror complied with the request.)

16                  MADAM CLERK:   91, Larry W. Holley.

17                  (Potential juror stepped forward.)

18                  MADAM CLERK:   What say ye for the State?

19                  MR. MAYE:       Please present the juror.

20                  MADAM CLERK:   What say ye for Defendant McCraw?

21                  MR. JOHNSON:   Please seat the juror.

22                  MADAM CLERK:   Defendant Warren?

23                  MR. WILLIAMS:   Please excuse the juror from the trial of this case.

24                  MADAM CLERK:   Please return to your seat.

25                  (Potential juror complied with the request.)

1                   **MADAM CLERK:** Nine (9), Wanda B. Black.  
2                   **(Potential juror stepped forward.)**  
3                   **MADAM CLERK:** What say ye for the State?  
4                   **MR. MAYE:** Please present the juror.  
5                   **MADAM CLERK:** What say ye for Defendant McCraw?  
6                   **MR. JOHNSON:** Please seat the juror.  
7                   **MADAM CLERK:** Defendant Warren?  
8                   **MR. JOHNSON:** Please seat the juror.  
9                   **MADAM CLERK:** Please, have a seat in the jury box.  
10                  **MADAM CLERK:** 43, Evelyn S. Crumpton.  
11                  **(Potential juror stepped forward.)**  
12                  **MADAM CLERK:** What say ye for the State?  
13                  **MR. MAYE:** Please present the juror.  
14                  **MADAM CLERK:** What say ye for Defendant McCraw?  
15                  **MR. JOHNSON:** Please seat the juror.  
16                  **MADAM CLERK:** Defendant Warren?  
17                  **MR. WILLIAMS:** Please swear the juror.  
18                  **MADAM CLERK:** Please have a seat in the jury box.  
19                  **(Potential juror complied with the request.)**  
20                  **THE COURT:** One alternate.  
21                  **MADAM CLERK:** 11, Virginia L. Blacks.  
22                  **(Potential juror stepped forward.)**  
23                  **MADAM CLERK:** What say ye for the State?  
24                  **MR. MAYE:** Please present the juror.  
25                  **MADAM CLERK:** Defendant McCraw?



1                   **MR. JOHNSON:**    Please seat the juror.

2                   **MADAM CLERK:**   Defendant Warren?

3                   **MR. WILLIAMS:**   Please swear the juror.

4                   **MADAM CLERK:**   Please have a seat in the jury box.

5                   **(Potential juror complied with the request.)**

6                   **(Jury selection ended at 11:47 a.m.)**

7                   **(Off-the-Record Comments)**

8                   **THE COURT:**       Okay. I'm going to ask that the — the trial jury to  
9                   retire for just a few minutes in the — the jury room. We'll bring you back  
10                  shortly.

11                  **(The jury exited the courtroom at 11:47 a.m.)**

12                  **THE COURT:**       Anything from the State to the — any objections  
13                  or exceptions to the selection of the jury?

14                  **MR. MAYE:**         None from the State, Your Honor.

15                  **THE COURT:**       From Mr. Johnson?

16                  **MR. JOHNSON:**   No, sir.

17                  **THE COURT:**       Mr. Williams?

18                  **MR. WILLIAMS:**   No, Your Honor.

19                  **THE COURT:**       Thank you very much.

20                  **(Brief Pause)**

21                  **THE COURT:**       All right. The remaining members of the — the  
22                  jury panel, you have been provided -- I assume Madam Clerk, with a phone  
23                  number — a call-in phone number?

24                  **(Off-the-Record Discussion)**

25                  **THE COURT:**       Ladies and gentlemen of the jury panel, you will

1 be — as you leave in just a moment, you'll be provided with a number. And  
2 what you'll need to do after 6 o'clock tonight, you need to call that number.  
3 And you will receive instructions on what to do from that point forward.

4 So it's very important that you call to see if we need you back  
5 tomorrow or when we need you back if at all. So be sure to call that number  
6 after 6 o'clock.

7 So, with that being said, there's no further business that we have to  
8 take up with you. The remaining members are --- you are free to leave. I  
9 hope you have a good evening. And, hopefully, we'll see you back.

10 **(Whereupon, the jury panel was excused and exited at 11:49 a.m.)**

11 **(Off-the-Record Comments)**

12 **THE COURT:** Okay. I — I think what — what I'm going to do is  
13 what I indicated to the lawyers back in — in chambers. I think I'm going to  
14 have the trial jury come back in the morning and we'll start the case just to  
15 make sure that we have plenty of time to deal with — with the motions.

16 We'll have to have a suppression hearing and any time I may need in  
17 properly ruling on the motions. So, just to err on the side of caution, I think  
18 we'll have — just have them come back in the morning.

19 And there's still — we need to break. We need to take a break and,  
20 then, of course, a lunch break too. So any objections to that from the State?

21 **MR. MAYE:** None from the State, Your Honor.

22 **THE COURT:** Mr. Johnson?

23 **MR. JOHNSON:** No objection, Your Honor. I did have something I  
24 need to put on the record.

25 **THE COURT:** Okay. I just — I'm going to get them out and go

1 ahead and excuse them for the day. And, then, we'll deal with that.

2 **MR. JOHNSON:** Yes, sir.

3 **THE COURT:** Mr. Williams, any objection to starting in the  
4 morning?

5 **MR. WILLIAMS:** No objection, Your Honor.

6 **THE COURT:** Okay. Thank you. If you will, bring the jury back  
7 out.

8 **(The jury entered the courtroom at 11:53 a.m.)**

9 **(Off-the-Record Comments)**

10 **THE COURT:** Okay. Members of the trial jury, what the plan is,  
11 is I've got some — some legal issues, some matters, to take up with the  
12 lawyers. And we're going to work on that this afternoon.

13 So we're not going to start the trial of this case until in the morning. So  
14 I'm going to ask that you come back in the morning at 9:30; be prompt. At  
15 that time, we will appoint a foreperson of the jury, in addition to having you  
16 sworn in as the official trial jury.

17 I will remind you — and you'll hear this, throughout the proceeding and  
18 throughout the whole trial, don't discuss this case among yourselves. Don't  
19 discuss it with any friends or family member that you may come into contact  
20 with today or this evening.

21 And I'll — I'll remind you of that throughout the proceeding until the end  
22 of the day when it's time for you to begin your deliberations. So that is very,  
23 very important. Please, keep that in mind.

24 I hope you have a great afternoon and evening. And we will see you  
25 back promptly at 9:30 in the morning.

1 (Whereupon, the jury was excused and exited at 11:57 a.m.)

2 THE COURT: Let's take a — a short break. And, then, we'll get  
3 back on the record. I'll hear from you, Mr. Johnson, and, then, we'll probably  
4 get started on — on your motions before we break for lunch.

5 MR. JOHNSON: Yes, sir. Sir, the State's witness list was passed  
6 up. I didn't — Mr. Maye passed that up. I don't have a copy of that list.

7 THE COURT: You want a copy of it? Okay.

8 MR. JOHNSON: Yes.

9 (Off-the-record comments regarding making copies of the State's  
10 witness list.)

11 THE COURT: All right. We'll be at ease for a few moments.

12 (Brief pause while copies are made.)

13 Pre-Trial Motions 12:18 p.m.

14 (Off-the-Record Comments)

15 THE COURT: All right, gentlemen, we're — we're back on the  
16 record. And Mr. Johnson filed several motions. I'll take them up in whatever  
17 order that we need — that you would like to have them dealt with.

18 MR. JOHNSON: Yes, sir.

19 THE COURT: And, then, you said you had something else to go  
20 on the record.

21 MR. JOHNSON: I have a few other things. Well, I — I would like to  
22 ask the State to sequester all the witnesses during the pre-hearing -- or  
23 pretrial motions. If they can have their witnesses outside the courtroom  
24 during that process.

25 I think it's — ask the Court during the trial and the pretrial as far as

1           their testimony.

2                   **THE COURT:**       Now, I would imagine that one or --- more than  
3           one of the officers will — will testify in the suppression hearing. But other  
4           than that, Solicitor, do you have any objection to your folks being outside the  
5           courtroom?

6                   **MR. MAYE:**       We will comply with that.

7                   **THE COURT:**       And, then, when we get into the suppression  
8           hearing, then, you can call whoever you need to.

9                   **MR. MAYE:**       Sure.

10                  **MR. JOHNSON:**    Okay.

11                  **(Witnesses exited the courtroom.)**

12                  **MR. JOHNSON:**    All right. Your Honor, the first I guess non-related  
13           to their testimony would be my — I want to put on the record that my client —  
14           I found out months ago that I was the solicitor assigned to a case that  
15           involved my client.

16                   And that was actually — according to the solicitor's office, they're going  
17           to use that as a previous conviction for enhancement. And I've talked to my  
18           client. And there's no indication that he wishes to move to have me relieved  
19           as far as I know.

20                  **(Off-the-Record Comments)**

21                  **MR. JOHNSON:**    Okay. Your Honor, that answer has been  
22           changed. I think my client has a motion at this time.

23                  **DEFENDANT MCCRAW:** I want to make a motion to have him  
24           relieved as ---

25                  **THE COURT:**       I — I cannot hear you.

1                   **DEFENDANT MCCRAW:** I said I would like to make a motion of have  
2 him relieved as counsel.

3                   **THE COURT:**       Okay.

4                   **DEFENDANT MCCRAW:** Because ----

5                   **MR. JOHNSON:**   Well, Your Honor, I — I would just say that I — I  
6 gave him written notice and I talked to him months ago. We talked about it in  
7 July when this trial was originally up.

8                   And this is the first I've head of this, but, if it's his motion, I'm going to  
9 step aside and let him argue it to the Court.

10                  **DEFENDANT MCCRAW:** It was not — it was not months ago. This is  
11 the first time I've — this is the first time I've been back in front of a judge  
12 since I found this out.

13                  He said he sent me a letter. He did send me a letter. And I got the  
14 letter probably a week and a half ago.

15                  **MR. JOHNSON:**   Your Honor, I'll just state for the record I spoke  
16 with Solicitor Mike Ross, who is not in the courtroom, but he's involved in this  
17 case.

18                  And, when he notified me right before our pending trial in July — he  
19 notified me and handed me the sentencing sheets — I called Mr. McCraw the  
20 day we were supposed to have our trial.

21                  And Judge Russo actually had to leave the bench due to an injury.  
22 And we and Mr. McCraw talked about it. I gave him notice at that time.

23                  **THE COURT:**       What about Judge Russo?

24                  **MR. JOHNSON:**   Well, he — we couldn't go forward with any  
25 motions or — or our trial at that time. So the trial did not go forward. But I

1 found out on that day or just before that day I found out that I was the solicitor  
2 on a previous conviction ----

3 **THE COURT:** Right.

4 **MR. JOHNSON:** — used for enhancement. So I — I talked to Mr.  
5 McCraw about it at that time, Your Honor.

6 **THE COURT:** Okay. And, of course, Mr. McCraw, your --- all  
7 right, is it your position that Mr. Johnson did not discuss that with you some  
8 several months ago?

9 **DEFENDANT MCCRAW:** It wasn't seven months ago.

10 **THE COURT:** I said several months ago.

11 **DEFENDANT MCCRAW:** No, it wasn't several months ago.

12 **THE COURT:** Okay.

13 **DEFENDANT MCCRAW:** And like I say, I — I still got the letter at  
14 home. I got the letter like a week and a half ago.

15 **MR. JOHNSON:** That — that was — I did send a letter recently, but  
16 this conversation took place over the phone in July.

17 **(Brief Pause)**

18 **THE COURT:** All right. And you're wanting Mr. Johnson to be  
19 relieved — relieved as your attorney. Why do you believe that there would be  
20 a conflict for him to represent you?

21 **DEFENDANT MCCRAW:** I mean, he worked — he worked for  
22 Lexington County. He prosecuted me.

23 **THE COURT:** You — you need to speak up, sir.

24 **DEFENDANT MCCRAW:** He helped to prosecute me in another case,  
25 I mean. And I'm — I'm not really satisfied with what he's done so far either —

1           either, sir. I mean, he hasn't really kept me informed on anything.

2                     I mean, he tells me stuff, but, I mean, he — he hasn't even asked for a  
3           plead deal. So, I mean...

4                     **THE COURT:**       Well, you — you — you got two different areas  
5           here that I'm hearing you base your motion on. One is you want him relieved  
6           because he formerly prosecuted you on behalf of the solicitor's office  
7           sometime in the past.

8                     And, then, you're saying you're not happy with him because he hasn't  
9           done what you expected him to do?

10                    **DEFENDANT MCCRAW:** Right. Well, I — I believe that the  
11           client/attorney privilege has been breached. And, I mean, just I don't trust  
12           him.

13                    **THE COURT:**       All right, sir. You believe — all right. Now, we  
14           have a third ground; that he has breached the attorney/client privilege.

15                    **DEFENDANT MCCRAW:** No, I said the fact — I'm sorry. I apologize.  
16           Maybe I stated that wrong, but I — to me, it's a conflict of interest. I — I don't  
17           think it — you know, I'm not sure it would be fair. I mean, I...

18                    **THE COURT:**       All right. Solicitor, do you have any — any position  
19           on — on this?

20                    **MR. MAYE:**       Well, Your Honor, he's been on notice for trial all  
21           this time. I've spoken with Mr. Johnson. And I — and it's an unusual  
22           situation for me to be collaborating something.

23                    But he told me that he discussed it with him at that time.

24                    **THE COURT:**       Yeah.

25                    **MR. MAYE:**       And we talked about this at length. And he



1 indicated that his client understood it but waived it at that point in time.

2 We've now waited until the call of the case.

3 The State's position respectfully, Your Honor, would be he would  
4 have two options. He can go forward at this time certainly without counsel. I  
5 mean, if he wants to discharge his counsel, at this point in time, we've  
6 already called the case. It's begun.

7 And he can certainly proceed and represent himself if he wants to if he  
8 wants to discharge Mr. Johnson because he's not asked for a continuance;  
9 he's just asked to discharge Mr. Johnson.

10 So, at this point in time, we can certainly go ahead and try him at — at  
11 this point in time and continue on. And he can relieve Mr. Johnson if he  
12 wants to.

13 But he's — we would maintain — he stated, again, he's basically waived  
14 it. And we're prepared to go forward.

15 **THE COURT:** Mr. McCraw, if — if I were to grant your motion  
16 and relieve Mr. Johnson as your attorney, are you prepared to go forward  
17 today?

18 **DEFENDANT MCCRAW:** No, no, sir. I — I would like to have a  
19 continuance if possible.

20 **THE COURT:** Okay.

21 **DEFENDANT MCCRAW:** I mean, like I say, I just got the letter a  
22 week and a half ago.

23 **THE COURT:** Well, Mr. Johnson has represented to the Court,  
24 Mr. McCraw, that he spoke to you some several months ago when he found  
25 out of this situation of him formerly prosecuting you.

1           He indicates to the Court, as an officer of the Court, he even — he  
2           even talked with the Solicitor about this; that he discussed it with you, even  
3           though maybe the letter had just been written a week and a half ago.

4           **DEFENDANT MCCRAW:** Yes, sir. Well, it — it wasn't several months  
5           ago. But, like I say, as soon as I came in today, I wrote him a note telling him  
6           I wanted a motion for him to be relieved as counsel.

7           And he told me I had to wait until the proper time. He said that's now,  
8           so, that's the first time I've been in front of a judge since I've been told this.

9           I — I didn't — I don't know how to go about it. I'm not an attorney. I do  
10          know I need the Court's permission to do it, though, so...

11          **(Brief Pause)**

12          **THE COURT:** All right. Let me just see the lawyers back in  
13          chambers. Mr. Johnson is still your attorney, so, I'm not going to have you  
14          back there because I have not relieved him yet.

15          Let me — let me see the lawyers back in chambers. Everybody else  
16          be at ease for just a few minutes, please.

17          **(Whereupon, an in-chambers conference began 12:26 p.m.)**

18          **THE COURT:** Okay. Let the record reflect that I had a — a  
19          discussion with the lawyers in — in chambers concerning the motion made by  
20          Mr. McCraw to have his attorney, Mr. Johnson, relieved.

21          I'm going to take that under advisement. And I will issue a ruling the  
22          first thing in the morning.

23          Mr. McCraw, I'll say this, and you can take it however you wish to take  
24          it: It's the Court's opinion that this motion that you have made is intended to  
25          delay these proceedings. That's my opinion. And it's — it's only the Court's

1 opinion.

2 And I'll certainly take that into consideration, along with everything else  
3 in — in ruling on — on your motion. So we will be in recess in this case until  
4 9:30 in the morning.

5 **(Whereupon, the proceeding recessed for the day at 12:34 p.m.**  
6 **and reconvened at 9:30 a.m. on October 9, 2013.)**

7 **(Off-the-Record Comments)**

8 **(Pause while Mr. Johnson tries to contact Mr. McCraw.)**

9 **THE COURT:** We'll go on the record for just a second.

10 **MR. JOHNSON:** Yes, sir.

11 **(Off-the-Record Comments)**

12 **(Resumed pre-trial motions at 9:38 a.m.)**

13 **THE COURT:** All right. We're on the record this morning in the  
14 matter of *The State v. Michael William McCraw and Travis Samuel Warren*.

15 It appears that it's about ten minutes past the time I indicated that we  
16 would begin the trial. And, Mr. Johnson, Mr. McCraw is not present. Have  
17 you an opportunity to reach him by phone?

18 **MR. JOHNSON:** I've attempted that at all numbers, Your Honor.  
19 I've not been successful.

20 **THE COURT:** Okay.

21 **(Brief Pause)**

22 **THE COURT:** Yesterday, of course, I think everybody was  
23 informed that we would start back this morning. I — I took the motion that Mr.  
24 McCraw made pro se. I took that motion under advisement. But I think  
25 everyone was informed that we would start back at 9:30 this morning.

1           Let me go ahead and — and deal with his motion. And, then, we'll  
2 deal with how we're going to proceed with him not being present.

3           Due to the hard work of my trusted law clerk, he came up with a case  
4 that is amazing dead on point. And it's *The State vs. Childers* (phonetic). It's  
5 at 373 South Carolina 367 Supreme Court decision. And it is dead on point.

6           And without a showing that there is a conflict of interest, Mr. Johnson,  
7 that — that you would have in representing the Defendant or a showing that  
8 you have some divided loyalties between the Defendant and the solicitor's  
9 office, then, I have every discretionary right to deny Mr. McCraw's motion to  
10 — for you to be relieved. And I'm, therefore, denying his motion.

11           He did make some brief comment that he didn't believe that you had  
12 done anything. And, based just upon the numerous motions that you have  
13 filed on his behalf, I think certainly the Court can make a finding that you  
14 have provided excellent representation up to this point on behalf of Mr.  
15 McCraw.

16           So his motion is denied. And, Mr. Johnson, you're still on the case.  
17 Now, what do we do because he's not present? In order for me to proceed  
18 forward with a trial in — in his absence, based on *The State vs. Jackson*, we  
19 — there is a two-part finding, whether or not he received notice; and — and I  
20 think he did because he was here yesterday and I said we would resume this  
21 trial at 9:30 this morning.

22           But, the second part under *State vs. Jackson* that I think he is entitled  
23 to be warned that we would proceed, with the trial in his absence, if he did not  
24 appear.

25           And, of course, none of us anticipated that he would not appear today

1 because he was here yesterday. So I think the — the better course of action  
2 — and I'm certainly going to allow the State to state your position and — and  
3 certainly from Defense, but it would seem like to me that I just need to order  
4 the sheriff's department to go out and try to locate Mr. McCraw and, then,  
5 kind of go from there.

6 But first I'll hear from the — from the Solicitor and, then, from Defense  
7 Counsel on this.

8 **MR. MAYE:** Your Honor, the State would rely — Rule 15 states  
9 "Except in cases where capital punishment is the sentence, a person indicted  
10 for misdemeanors and/or felonies may voluntarily waive his rights to be  
11 present and tried in his absence upon a finding by the Court that such person  
12 has received notice of his right to be present and a warning was given that a  
13 trial would proceed in his absence upon a failure to attend for court."  
14 (Phonetic).

15 Your Honor, I note that this bond paperwork, at any point in time — in  
16 the past, when I ever tried anybody in their absence, we go back to their bond  
17 paperwork. And I will hand up to the Court here — and we can obtain the  
18 originals.

19 (Documents handed up.)

20 **THE COURT:** All right.

21 **MR. MAYE:** This is an acknowledgment by Mr. McCraw that, "I  
22 understand that, if I violate any conditions of this order ..." — and this was the  
23 order for his original bond — "... a warrant for my arrest will be issued. I  
24 understand and have been informed that I have a right and an obligation to  
25 be present at trial. And, should I fail to attend the court, trial will proceed in

1 my absence. It has been explained to me that, if I fail to appear before the  
2 Court as required, a warrant for my arrest will be issued.”

3 Your Honor, what I have is a copy, but I know that all of them, when  
4 their bonds are initially set, receive that notice.

5 **THE COURT:** Right.

6 **MR. MAYE:** That is the notice that the State has always relied  
7 upon in proceeding to trial. And I think that we can proceed in his absence  
8 given the fact that he had that admonition and — especially with his presence  
9 yesterday.

10 **THE COURT:** Right, right. And — and I’m aware that, that  
11 language appears in those — in those bond forms. I dealt with this issue, to  
12 some extent, in Laurens a month or so ago. And that issue was brought up  
13 as well.

14 I’m trying to figure out, if — if we came across a case where — which  
15 maybe said that it was not adequate notice or maybe it said that it was  
16 adequate notice. Let me look.

17 **MR. MAYE:** And, Your Honor, we did notify his bail bondsman  
18 yesterday of his appearance to try to get him here.

19 **(Brief Pause)**

20 **THE COURT:** Give us a — and — and I’m going to hear from  
21 Defense Counsel, but there’s a case that addresses that. And I think we  
22 need to — we need to locate that case.

23 But, Mr. Johnson, do you have any — any ideas?

24 **MR. JOHNSON:** Well, Your Honor, I would just agree with the  
25 Court; he was not given notice by the Court.

1                   **THE COURT:**       Yeah.

2                   **MR. JOHNSON:**   And, also, there's no testimony or anything  
3 backing up the fact that he received notice through this paperwork, which I  
4 don't think would be sufficient anyway. And I would ask the Court to continue  
5 the proceedings.

6                   **THE COURT:**       Okay. Mr. Williams, you want to -- you want to  
7 jump in on this? I know you don't have a dog in the fight ----

8                   **MR. WILLIAMS:**   You're right, Your Honor, I don't.

9                   **THE COURT:**       -- but on this point?

10                  **MR. WILLIAMS:**   I -- I -- you're right; I don't have a position on this  
11 issue, Your Honor.

12                  **THE COURT:**       All right. Let's just be at ease for just a moment to  
13 see if I can -- if we can locate that case that we're thinking about.

14                  (Pause from 9:47 a.m. until 10:01 a.m.)

15                  **MR. MAYE:**       Your Honor, I -- I can deliver to the Court -- I did  
16 only have one page here, but I found all three.

17                  **THE COURT:**       Okay.

18                  **MR. MAYE:**       I'd like to make this a Court's Exhibit at this point  
19 in time if it please the Court.

20                  **THE COURT:**       Sure.

21                  **MR. MAYE:**       But I have his bail receipt form signed by the judge  
22 and signed by him.

23                  **THE COURT:**       Okay.

24                  **MR. MAYE:**       Or at least a copy of it. I mean, I have the  
25 originals, but what I have is a copy.

1                   **THE COURT:**       All right. That will be marked as Court's Exhibit  
2                   Number 1.

3                   **(Whereupon, Court's Exhibit 1 was marked for identification.)**

4                   **MR. JOHNSON:**    I'll step out again while ----

5                   **THE COURT:**       Sure.

6                   **(Pause while Mr. Johnson stepped out of courtroom .)**

7                   **MR. MAYE:**         May it please the Court, Your Honor?

8                   **THE COURT:**       Is this on the record?

9                   **MR. MAYE:**         Yes, I would guess.

10                  **THE COURT:**       All right. Back on the record.

11                  **MR. MAYE:**       Judge, I think in traditional cases, where someone  
12                  was tried in their absence — the State would take the position in this case,  
13                  what distinguishes it from any of the other traditional trial in absence cases,  
14                  in the past, when I have done trials in absence, the Defendant did not appear  
15                  at all.

16                  The State would take the position what distinguishes this from other  
17                  cases, where that has been the case, Mr. McCraw appeared. We selected a  
18                  jury.

19                  I know that the jury has not been sworn in this case and jeopardy does  
20                  not attaches — has not attached, but the State would take the position that  
21                  we've begun the trial in this case and this is basically a situation where he did  
22                  not return in the course of the trial.

23                  At this stage in the proceeding, we have already selected and  
24                  impaneled a jury. And I would think that this is distinguished from true trial  
25                  absence cases because we stated the case had been called.



1                   We have selected a jury. I would think this is more analogous to  
2                   someone that, during the course of a multi-day trial, they did not return rather  
3                   than a true case of a trial in absence.

4                   **THE COURT:**       Right.

5                   **MR. MAYE:**       He certainly had notice that we selected a jury and  
6                   began this trial yesterday.

7                   **THE COURT:**       Right. And — and I believe I'm going to proceed  
8                   forward. We've found the case, *The State v. Fairey*, F-a-l-r-e-y, 374 SC 92,  
9                   which appears — I'm just reading; I want to make sure — but which appears  
10                  that it does allow for the bond form to serve as notice. I just wanted to make  
11                  sure.

12                  **(Brief Pause)**

13                  **THE COURT:**       Okay. I'm going to — under *State v. Fairey*, I'm  
14                  going to find that Mr. McCraw did receive adequate notice that he would be  
15                  tried in his absence.

16                  What we'll need sometime before we conclude, Solicitor, the  
17                  photocopy — and I know what the — the form says, but does cut off some of  
18                  the language. So we — we need to make sure we have a clean second page  
19                  of the bond form.

20                  So, if you could either locate a better copy or locate the original. You  
21                  see what I'm saying?

22                  **MR. MAYE:**       I'm seeing the second page ---

23                  **THE COURT:**       It just kind of cuts off some of the language. Do  
24                  you see?

25                  **(Brief Pause)**

1 MR. MAYE: That first copy ----

2 (Off-the-Record Comments)

3 MR. JOHNSON: Your Honor, can I receive a copy of the ----

4 THE COURT: Yeah.

5 MR. JOHNSON: I'll run a copy of it.

6 THE COURT: The second page — a new second page and,

7 then, let Mr. Johnson take a look at it.

8 MR. MAYE: Sure.

9 (Brief Pause)

10 (Off-the-Record Comments)

11 (Brief pause while a new copy is made.)

12 (Copy of bond paperwork given to Mr. Johnson.)

13 MR. JOHNSON: Thank you, Judge.

14 THE COURT: All right. Court's Exhibit 1 needs to --

15 (Off-the-Record Comments)

16 THE COURT: Can we replace that second page?

17 MR. MAYE: Yes, sir, we can.

18 (Court's Exhibit 1 replaced with new copy.)

19 MR. JOHNSON: Your Honor, do you want me to respond just for  
20 the record on that?

21 THE COURT: Yeah, go — go ahead.

22 MR. JOHNSON: Okay. I would argue that my client was not given  
23 sufficient notice under that. And that is our position. And we ask for a  
24 continuance based on that.

25 THE COURT: All right. Your request, Mr. Johnson, is denied.

1 Again, let me just make sure that the record is -- is -- is perfectly clear.

2 Yesterday --

3 (Brief Pause)

4 (Off-the-Record Discussion)

5 THE COURT: All right. Let's -- let's make sure that the -- the  
6 record is -- is perfectly clear. Yesterday, on October 8<sup>th</sup>, Mr. McCraw made  
7 a motion --- all this being prior to the jury being sworn, made a motion for Mr.  
8 Johnson to be relieved. And I took his motion under advisement, instructed  
9 everybody to be back today this morning at 9:30.

10 Consequently, he received adequate notice to -- to appear. And,  
11 secondly, I find, based upon the bond form pursuant to *State vs. Fairey*, he  
12 received adequate notice that he would be tried in his absence. So we're  
13 ready to go forward.

14 Now, I've got numerous motions, Mr. Johnson, that you have filed.  
15 Are any of those motions resolved or are they all still in the contested mode?

16 MR. JOHNSON: Well, Your Honor, I think we can knock some  
17 them out real quick. First I wanted to address the motion regarding the  
18 indictments and releasing the jury and basically having a new jury -- jury  
19 pool. If you would like me to address that first of all, I think ---

20 THE COURT: Well, I have not seen a motion related to the  
21 indictments.

22 MR. JOHNSON: I -- I did not file that. That's based on what  
23 happened yesterday ----

24 THE COURT: Okay.

25 MR. JOHNSON: ---- when we ----

1                   **THE COURT:**       Well, let me just stop you. I — I just need to get a  
2                   feel for how long I'm going to keep the jury back in the jury room.

3                   **MR. JOHNSON:**    Yes, sir.

4                   **THE COURT:**       Can we dispose of the motions in — in enough  
5                   time to where I can still keep them back there or do I need to release them for  
6                   a period of time?

7                   **MR. JOHNSON:**    Well ----

8                   **THE COURT:**       I just need to get a feel for ----

9                   **MR. JOHNSON:**    Okay.

10                  **THE COURT:**       — how long we're going to deal with these  
11                  pretrial motions.

12                  **MR. JOHNSON:**   Well, the one — if — if the Solicitor is indicating —  
13                  there was some gray area about whether or not items or substances were  
14                  seized directly off the person of my client. If there was nothing seized, then,  
15                  that motion is — is gone.

16                  I — I think the Solicitor indicated that might may be the case. Nothing  
17                  was seized from Mr. McCraw, from his pockets, from his person?

18                  **MR. MAYE:**       No, nothing from his person that I'm aware of.

19                  **MR. JOHNSON:**   Okay. Well, that motion, of course ----

20                  **THE COURT:**       Okay. So that motion to suppress related to a  
21                  controlled substance taken off this guy some distance from the residence, I  
22                  think that's — that's — that's withdrawn?

23                  **MR. JOHNSON:**   That's withdrawn, Your Honor.

24                  **THE COURT:**       Okay.

25                  **MR. JOHNSON:**   We don't need to worry about that. The other

1 ones, of course, we've got the suppression of the testimony, photographs of  
2 the pistol and the testimony about that and the pistol itself. That's something  
3 we'll have to hear.

4 **THE COURT:** All right.

5 **MR. JOHNSON:** Suppress the videos and photographs taken  
6 by ----

7 **MR. MAYE:** I — I can clear that up. I'm not going to put in the  
8 photographs of the — of the pistol.

9 **MR. JOHNSON:** Or testimony.

10 **MR. MAYE:** That's fine.

11 **THE COURT:** Okay.

12 **MR. MAYE:** As far as the relevance as far as the pistol, I'm not  
13 worried about that.

14 **MR. JOHNSON:** Okay.

15 **THE COURT:** Okay, that's — that's withdrawn.

16 **MR. JOHNSON:** Okay. The other one would be video and  
17 photographs taken by Investigator Glen Bradley, the private investigator that's  
18 deceased. We — I don't believe we can agree on that because I'm objecting  
19 to the whole video.

20 **THE COURT:** Okay. So, that --- that's — that's still at issue.

21 **MR. JOHNSON:** And the motion to suppress items seized. This is  
22 regarding items, photographs, testimony regarding these items. And I — I  
23 cite some case law and some rules.

24 Basically, there was no testing. I think that's something that they're  
25 going to want, obviously, to talk about to constitute what they consider to be a

1 meth lab, so, we're going to have to ----

2 **THE COURT:** You're talking about your motion to suppress  
3 related to substances seized at [REDACTED]?

4 **MR. JOHNSON:** Yes, sir.

5 **THE COURT:** Okay. So that's still at issue.

6 **MR. JOHNSON:** Yes, sir.

7 **THE COURT:** And, then, you have a motion to suppress  
8 statements made by a co-defendant. Is that still an issue?

9 **MR. JOHNSON:** That's still an issue. It's my understanding they're  
10 going to offer testimony about a statement given by a co-defendant, Mr.  
11 Warren.

12 And under *Bruton* (phonetic), I'm going to move that they cannot  
13 provide that testimony since that's obviously going to ----

14 **THE COURT:** Okay. All right. So we still have three — three  
15 motions to suppress that will need to be argued, correct?

16 **MR. JOHNSON:** Well, for the — yes, sir, I think that's it. I've —  
17 we've got another motion to compel disclosure.

18 And I'll put this on the record. I think this has been resolved. When I  
19 talked to the Solicitor the other day — and we obviously went through all of  
20 that about him contacting police officers.

21 This was — just to go into details so — for the record, Your Honor, I  
22 think this was resolved.

23 **THE COURT:** Well, I don't want to argue yet. I'm still trying to  
24 get a feel for how much time that I need to spend dealing with these motions  
25 and what to do with my jury. I don't want to ----

1                   **MR. JOHNSON:**    Yes, sir. We're -- I'm not arguing it. I'm just going  
2 to list it for the record because I think it's all ----

3                   **THE COURT:**       Okay.

4                   **MR. JOHNSON:**    -- I think it's all been resolved. The -- let's see.

5                   **(Brief Pause)**

6                   **MR. JOHNSON:**    The State -- it first says, "State to provide all  
7 substances, tests -- all tests and chain of custody -- I think for substances  
8 seized in the case and chain of custody paperwork."

9                   Now, it's my understanding that they've provided that. And if there's --  
10 if there's some other test or something that's out there, then, I'm not aware of  
11 it.

12                  **MR. MAYE:**           We -- we admit that everything that was related to  
13 this meth. It was destroyed and there was no testing related to ----

14                  **MR. JOHNSON:**    Well, there wouldn't ----

15                  **MR. MAYE:**           ---- meth. There was one item that was seized,  
16 but we don't intend to offer anything on that.

17                  **MR. JOHNSON:**    Okay. There was a test performed on an item  
18 seized, some ----

19                  **MR. MAYE:**           We're not offering that.

20                  **MR. JOHNSON:**    But there is a test that shows negative on that it's  
21 my understanding. And, if -- I don't have the complete chain of custody, but  
22 if I intend -- if I intend to use that, they're -- it's my understanding they're not  
23 going to object to that because they understand it was tested by SLED, came  
24 back negative.

25                  **MR. MAYE:**           They tested some item of powder up there that

1 weren't — they didn't think was a meth lab, yeah. They just tested it to see if  
2 it was a controlled substance of any kind.

3 **THE COURT:** Right. Okay.

4 **MR. MAYE:** They seized some powder in there; they didn't  
5 know what was it. They didn't know if it was some sort of controlled  
6 substance or what it was, just to see what it was.

7 It did test positive to be a controlled substance. I don't know what it  
8 was, some sort of chemical.

9 **THE COURT:** If you want that brought out, why can't it be  
10 stipulated to that some powdery substance ----

11 **MR. JOHNSON:** Yes, sir.

12 **THE COURT:** ---- obtained at the residence was tested and it  
13 was tested negative for — for meth? Can we stipulate to that, if you want that  
14 brought out during the course of the trial?

15 **MR. JOHNSON:** Yes, sir. I mean, that's ---

16 **THE COURT:** Okay.

17 **MR. JOHNSON:** That resolves that if the State is willing to do that.

18 **THE COURT:** All right. The motion to compel evidence, is that  
19 — is that resolved?

20 **MR. JOHNSON:** I think that resolves that. And in addition as to a  
21 copy of the video surveillance. I've got a copy. It's my understanding it's a  
22 complete copy. Unless that's changed, that's resolved.

23 **THE COURT:** All right.

24 **MR. JOHNSON:** Then, the last one was the one we talked about  
25 the other day, just, "Any and all statements made by co-defendants and other



1 witnesses, summaries, non-recorded statements, including, content, date,  
2 and time given and witnesses present.”

3 Now, that — I don't have a copy of every interview of Ms. Norris. She's  
4 the State's witness, the cooperating co-defendant. I don't know the dates.  
5 I — I just never got a clear idea of how many times she was interviewed and  
6 who was present.

7 Now, the Solicitor hasn't made it clear that other than that other than  
8 that initial outburst, where she said, “Nobody is here,” --- and I think the  
9 officers back that up — then, she starts identifying — she started going along  
10 saying, “These people were here and this is what we're doing.”

11 But, if that was consistent, I was asking for I guess the — the dates  
12 and the — how many times she was interviewed because if I — I go up there  
13 and I cross her, and I don't know, I'm sort of lost trying to pin her down;  
14 “When — how many times did you talk to the police? When did you talk to  
15 the police? And who was there.”

16 And they've never really given me a list of that. And I'm sure that — I  
17 don't think they're hiding anything; it's just that's something I really kind of  
18 have to have to — to do a cross examination. And I think they can prepare  
19 that, Your Honor.

20 **THE COURT:** All right.

21 **MR. MAYE:** Your Honor, we intend to something. We've  
22 complied with Rule 5 and there's no — there's no — we have — at no point in  
23 time did she given any exculpatory information to my knowledge. We would  
24 have turned over anything that was in the realm of exculpatory evidence; we  
25 just don't have anything in that regard.

1 I think when — when she's spoken with her lawyer, or when I've talked  
2 to her, along with her attorney, in preparation for trial testimony — like I said,  
3 obviously, if — if she had said disclosed something exculpatory, I would have  
4 done so. But that would be an area where I probably don't think that's —  
5 would be relevant.

6 She — she has not made any other statements, written statements, to  
7 the police to my knowledge. And we've turned over everything and fully  
8 complied with Rule 5 in that regard.

9 **THE COURT:** Okay. So you still — do you still want to deal with  
10 that?

11 **MR. JOHNSON:** Well, Your Honor ----

12 **THE COURT:** Again, I'm just trying to get a list of what we need  
13 to deal with.

14 **MR. JOHNSON:** If — if Your Honor — if Your Honor feels like that  
15 resolves it, I guess there's nothing else to say because I've — I've been given  
16 a copy of a statement given a year ago by Ms. Norris. And I believe that the  
17 Solicitor tells me that's the only statement..

18 I just wanted to know, if Your Honor feels that, that's something that I  
19 have a right to, wanted to know how many times she was interviewed and  
20 who was present during the interviews because I think that's important for me  
21 to have that information.

22 **THE COURT:** All right. Would you not have — as far as dates of  
23 interviews, would you not have that information, Solicitor?

24 **MR. MAYE:** Your Honor, I believe that she talked to one of the  
25 detectives in this case on the date we gave a statement. She basically said

1 she looked at this video tape and that it fairly and accurately reflected the  
2 events of that night.

3 There was a private investigator following them. And there was a  
4 recording of the co-defendants. It was a private investigator, that is now  
5 deceased, that followed them around that night.

6 Basically, the State's contention would be, as they were gathering the  
7 raw materials to make meth, there was a video and still photographs that  
8 were taken apparently, mainly stills off the video. And that entire video was  
9 provided to the Defense.

10 Investigator Jesse Quartlebaum, on the date of the statement that they  
11 have, she basically gives a statement that she said, "I reviewed the video  
12 tape and the photographs and they fairly and accurately reflect -- reflect the  
13 -- the events of that night, you know, just prior to us coming to Saluda."

14 He spoke with her then. To my knowledge, she has not given any  
15 exculp -- I know she did not give exculpatory information at that time. They  
16 have that.

17 I spoke with her, along with Mr. McQuire ----

18 **THE COURT:** And that was for purposes of preparing her ----

19 **MR. MAYE:** Preparing her testimony ----

20 **THE COURT:** Okay.

21 **MR. MAYE:** ---- and before the last term of court and last ----

22 **THE COURT:** Okay. All right.

23 **MR. MAYE:** And I do have any record that she's ever did that.  
24 She's never given any exculpatory information.

25 **THE COURT:** Right.

1                   **MR. MAYE:**           I know at the scene she gave information to the  
2 officers, as to the identities of her co-defendants, but that was ----

3                   **THE COURT:**        I got it.

4                   **MR. MAYE:**           — before she was even placed into custody, Your  
5 Honor.

6                   **THE COURT:**        So any other interview dates, you're not aware of  
7 any?

8                   **MR. MAYE:**           I'm not aware of any other interview dates.

9                   **MR. JOHNSON:**       Okay.

10                  **THE COURT:**        That should -- that should take care of it, right?

11                  **MR. JOHNSON:**    That -- that would, yes, Your Honor. The Solicitor  
12 seems to indicating there were four total interviews; one with the written  
13 statement, one at the scene, and two by him and an officer ----

14                  **THE COURT:**        Right.

15                  **MR. JOHNSON:**    ---- in trial preparation. If that's what he says is  
16 the complete ----

17                  **THE COURT:**        Yeah, that's what I understand him saying.

18                  **MR. JOHNSON:**    Yes, sir.

19                  **MR. MAYE:**           That's all I'm aware of, Your Honor.

20                  **MR. JOHNSON:**    And I'm aware of the names of those officers.

21                  **MR. MAYE:**           She was never talked to at any other time that I'm  
22 aware of.

23                  **MR. JOHNSON:**    And I have those names, Your Honor, so I think  
24 that resolves that.

25                  **THE COURT:**        All right. So that's resolved?

1                   **MR. JOHNSON:**    Yes, sir.

2                   **THE COURT:**       All right. Now, you still have a motion for a  
3                   continuance based upon the — the docket statute? You still want to deal with  
4                   that?

5                   **MR. JOHNSON:**    No. Are you referring to the publishing of the  
6                   docket — no, sir, no, sir.

7                   **THE COURT:**       Okay. I — I was given a — a copy of — of the —  
8                   the — the docketing statute. And it's my understanding that you were ---

9                   **MR. JOHNSON:**    No, sir, that's withdrawn.

10                  **THE COURT:**       ---- making a motion to continue. So you're  
11                  withdrawing that?

12                  **MR. JOHNSON:**    Yes, sir.

13                  **THE COURT:**       Okay. All right.

14                  **MR. JOHNSON:**    My — my only remaining motion would be these  
15                  three motions, in addition to the motion regarding the indictment numbers  
16                  called by the Solicitor yesterday.

17                  **THE COURT:**       Okay. Tell — tell me what that motion is based  
18                  on.

19                  **MR. JOHNSON:**    Well, he called the old indictment under 2011 I  
20                  believe, under Mister — he said on Mr. McCraw, and he read out this  
21                  indictment number. And, then, he stopped. And then he — we approached  
22                  Your Honor.

23                               And, then, after having a conversation, I believe Your Honor indicated  
24                               that he could basically state it — state that he could — that he could call the  
25                               second indictment and thereby kind of fix the problem, but, the jury pool was

1 given the impression that they were hearing about two separate indictments.

2 My concern was that they would get the impression that my client had  
3 two separate manufacturing charges. So, then, Mr. Maye then said — he  
4 called 2013, his new indictment, he gave me I think a week ago. And, then,  
5 he said, "Well, I called the wrong number."

6 And that sort of indicates to me that the jury might think, "Well, this guy  
7 has got two manufacturing indictments out there. Where's the other one?  
8 When else was he manufacturing methamphetamine?"

9 **THE COURT:** Well, certainly I can clear — clear that up in my  
10 preliminary charge that there's only one indictment in — involved in this case  
11 and — and no others.

12 **MR. JOHNSON:** Yes, sir.

13 **THE COURT:** And there's only been one indictment. Now ---

14 **MR. MAYE:** That's correct. And, Your Honor, I apologize.  
15 We're under a new system of where we only keep the indictments. The  
16 clerk knows — and this is not the clerk's fault in any regard.

17 I just published the wrong number. I had the right indictment, but I  
18 didn't publish the whole number because that's what I had written down on a  
19 piece of my paperwork. And that's just my error and ---

20 **THE COURT:** I think I can ---

21 **MR. MAYE:** --- a scribbler's error.

22 **THE COURT:** --- correct it with a charge.

23 **MR. MAYE:** I gave the wrong number, but I did call the correct  
24 indictment, the one for manufacturing.

25 **MR. JOHNSON:** I just want to make the motion for the record,

1 Your Honor.

2 THE COURT: Okay.

3 MR. JOHNSON: And, if that — if it's denied, I just want to put on

4 the record ----

5 THE COURT: Okay.

6 MR. JOHNSON: — that I was moving to have that jury struck and  
7 have a new jury pool brought in.

8 THE COURT: Right.

9 MR. JOHNSON: Other than that, I think we're left with my three (3)  
10 motions.

11 THE COURT: Okay.

12 MR. JOHNSON: And — unless Mr. Williams has got some  
13 additional.

14 MR. WILLIAMS: Your Honor, I'm good (phonetic).

15 MR. JOHNSON: The only other issue I guess we could address at  
16 this time, I was going to — or we could do it later — I was going to question  
17 the State's witness regarding the penalty she was facing.

18 I have some case law on that if the Solicitor objects. I think it's pretty  
19 well settled it. I have the right to ask her specifically about the penalty she's  
20 facing. And that's under *State v. Curry*. It's a case that I brought.

21 THE COURT: Right.

22 MR. JOHNSON: But if the Solicitor agreeing — in agreement with  
23 that, then, that shouldn't be an issue.

24 MR. MAYE: I really don't and don't know. We're going to take  
25 it up as we come.

1                   **THE COURT:**       Yeah.

2                   **MR. MAYE:**           I'm not sure about that one.

3                   **THE COURT:**       Well, let's — let's put that one on hold. I've  
4 already looked at that — that issue. And certainly let's deal with that, but not  
5 deal with it pre-trial.

6                   **MR. JOHNSON:**    Yes, sir.

7                   **THE COURT:**       Just to kind of shorten the amount of time ----

8                   **MR. JOHNSON:**    Yes, sir.

9                   **THE COURT:**       ---- before we can start. But just — when — when  
10 we get close to the — the time that we need to discuss it, then, we'll discuss  
11 it, okay?

12                  **MR. JOHNSON:**    Yes, sir. And the only other one I guess — and  
13 along with that will be her rap sheet. But that's something, like you said,  
14 Judge, we'll address that. So we have three left, Your Honor.

15                  **THE COURT:**       Okay. All right.

16                  **(Brief Pause)**

17                  **THE COURT:**       These three motions — of course, I'm not exactly  
18 sure how — how — how this thing is going to start off as far as what the State  
19 intends to do.

20                         Can any of these pretrial motions actually be dealt with as — as — as  
21 we deal — come up with the issue like what we're going to do about the  
22 cross examination on — on the penalty related to the co-defendant?

23                         I just don't want to keep this jury sitting there ----

24                  **MR. JOHNSON:**    Well, Your Honor, it's going to come up if the  
25 Solicitor plans on objecting to it. And, obviously, I guess it'll come up — we



1 can handle it before he calls her or in the middle of his — the testimony, once  
2 I start asking and, if he objects, then, we'll have to get the jury out, which I  
3 don't know how Your Honor would want to deal with it, either way.

4 **MR. MAYE:** Judge, you've — you've read that case, and if he's  
5 entitled to do it, I'll abide by your ruling with no argument.

6 **THE COURT:** I ---

7 **MR. MAYE:** If he's entitled to do that and you make a  
8 determination on that, I — I have no real issue on that. That's not something  
9 I'm going to get wound around an axis about. (Phonetic)

10 **THE COURT:** Related to what? You're not — you're not ---

11 **MR. MAYE:** She — apparently he wants to ask her about how  
12 much time she's facing. You've got whatever cases. I'll just abide by  
13 whatever you rule with no argument.

14 **THE COURT:** Right. But what — what I was really getting at was  
15 the three motions to suppress. Can any of those motions be laid to the side  
16 and dealt with when — when the issue comes up or do we need to deal with  
17 all three right now?

18 **MR. JOHNSON:** Well, I think dealing with them now is probably  
19 best as soon as — I mean, are we releasing the jury and having them come  
20 back in the afternoon so we can deal with them now because the video, if the  
21 Solicitor is going to argue portions of it he — that he wants to come in now,  
22 that's going to burn time. And that's going to involve showing his redacted  
23 versions.

24 The other one regarding the substances, if he's going to call officers to  
25 testify ----

1                   **THE COURT:**       Okay.

2                   **MR. JOHNSON:**     --- I think that's pretty much straightforward.

3                   **THE COURT:**       All right. Here is what I'm going to do: I'm going  
4 to bring the jury out. And I'm going to — and typically I appoint the  
5 foreperson, but I think under this situation, to give them something to do while  
6 we're arguing these motions, I'm — I'm going to bring them out and let them  
7 pick the foreperson.

8                   And that will give them something to do while we — while we deal with  
9 these motions.

10                  Still do not swear the jury until we're ready to — to begin. So, if you'll  
11 bring the jury out, please?

12                  **(The jury entered the courtroom at 10:22 a.m.)**

13                  **THE COURT:**       Good morning.

14                  **(Responses of "Good Morning" heard.)**

15                  **THE COURT:**       I hope everyone is doing well this morning. I  
16 wanted to bring you out just to kind of let you know we've — we've been  
17 working on this case.

18                  And sometimes, when juries are just sitting around in the jury room,  
19 they're thinking that the judge and the lawyers are not doing anything. And I  
20 didn't — I don't want to give you that impression.

21                  We -- we worked yesterday afternoon and we've been working this  
22 morning. And what we're trying to do is — is get this case in the right posture,  
23 and the best posture, that we possibly can put it in before we begin the trial.

24                  We've got a little more work to do. So I wanted to bring you out and let  
25 you know and ensure you that we were working very hard.

1                   When you have excellent lawyers like I've got on both sides, they're  
2                   going to work a judge pretty hard. So we need to spend a little bit more time  
3                   on some legal matters before we actually begin the trial of this case.

4                   So I wanted to bring you out to explain that to you. And I'm going to  
5                   let you go back to the jury room.

6                   But, while you're back in the jury room, I'm going to let you pick who  
7                   the foreperson is going to be for this — for this jury. I normally select the  
8                   foreperson, but in this case, I want you all to have something to do while  
9                   we're out here working.

10                  And, now, the foreperson, their vote doesn't count anymore than  
11                  everybody else's vote when you begin deliberations to decide this case.

12                  The foreperson's role is to serve as go-between between the jury and  
13                  the Court if there is some concern or some question or something that comes  
14                  up.

15                  Secondly, the foreperson's role is to make sure that the other jury  
16                  members are following the rules that I've laid out such as don't start talking  
17                  about this case until it's time and things of that nature.

18                  And, third, when you do start your deliberations, then, the foreperson  
19                  would be in charge of seeing that the deliberations begin and go as smoothly  
20                  as it possibly can go.

21                  But other than that, the foreperson is no more important than  
22                  everybody else on this jury. So, what I'm going to ask you that to do is go  
23                  back.

24                  Hopefully, you all have gotten to know each other a little bit; maybe get  
25                  to know each other a little bit more and share whatever you would like to

1 share and, then, decide on a — on a foreperson. And I've be looking at you  
2 and looking at — at your background that we have and I think any of you  
3 would be an excellent choice to serve as foreperson.

4 The alternate — and I'm trying to remember who the alternate — raise  
5 your hand who the alternate is.

6 **(The alternate juror complied with the Court's request.)**

7 **THE COURT:** Yes, ma'am. Of course, you cannot be picked as  
8 foreperson, but I think you would do an excellent job if you were not an  
9 alternate and so picked.

10 But the 12 of you — so decide among yourselves. And we'll just get  
11 you back out here just as soon as we possibly can, okay?

12 So I ask that you retire back to your jury room. Thank you.

13 **(The jury exited the courtroom at 10:24 a.m.)**

14 **THE COURT:** Okay. Mr. Johnson, let's — let's deal with your  
15 motions. Let's start with the — the motion to suppress statements made by a  
16 co-defendant. Tell me about it.

17 **MR. JOHNSON:** Well, Your Honor, I think under this case law,  
18 which also cites *Bruton*, basically the reason I think it applies is because his  
19 testimony, if they have testimony about his statement saying he was there,  
20 the nature of the actual — when you look at the indictment itself, it doesn't  
21 require what they talk about or this linkage of evidence.

22 When the jury hears his — that this co-defendant said, "I was there,"  
23 and, then, of course, they've got the allegation in the indictment saying, "did  
24 conspire with Travis Samuel Warren."

25 I think that's direct evidence that's exculpatory towards my client. And

1 I think that, under that case law, that we cannot go forward with the State  
2 drawing out that testimony since it's against my client. And in the  
3 confrontation (phonetic) clause, I think that, that violates that rule.

4 There's just no way to fix it. It's not a written statement that can be  
5 redacted out where they talk about fixing statements and kind of polishing  
6 them up. We can't do that. This is testimony about a statement; it's not a  
7 written article or instrument. And it directly links him.

8 But based on the wording of the indictment, it's not a chain of evidence  
9 that they have to follow.

10 **THE COURT:** Okay. Solicitor, your response?

11 **MR. MAYE:** Your Honor, I believe that what he's talking about  
12 -- I know that under *Bruton*, if I had -- if I tried to put in a confession of one  
13 individual in that would implicated another one, that would implicate --  
14 implicate a *Bruton* problem. I don't have any *Bruton* problems in this case,  
15 Your Honor.

16 We have a co-defendant in this case that's going to testify that both of  
17 them were present. And my understanding is they all came to Saluda for the  
18 purpose of manufacturing meth.

19 The only statement that I'm aware of that the other co-defendant made  
20 puts himself there at the scene. I don't think I'm going to bring that up. I  
21 don't think it comes to -- I don't think that it implicates the Defendant in this  
22 case other than he's there.

23 And I would directly have the witness that we're going to have testify  
24 that both of them were there.

25 I do have -- the only thing that either one of them ever said in this

1 case — and I don't think it's subject to *Jackson v. Denno* — when Mr.  
2 Warren was arrested, he told the officer — and the officer is going to testify ---  
3 not with any — in response to any question, when they picked him up, that he  
4 was with these other two individuals during that night.

5 That, that's why he was at Saluda. I think he also indicated to me that  
6 he said that he had been with the other individuals. And that's contained in  
7 the discovery.

8 But that puts Mr. Warren back there at the scene. But I don't know  
9 how that directly implicates Mister — that, that's some confession, on the part  
10 of Mr. McCraw, that he was manufacturing methamphetamine.

11 **THE COURT:** Right. All right. The statement, Mr. Johnson —  
12 specifically the statement that you have a concern about is what? Give ---  
13 give me the statement.

14 **MR. JOHNSON:** I think the — well, there is no written statement, it  
15 just says ---

16 **THE COURT:** Yean, I --- I know it's not written. It's a verbal  
17 statement indicating ---

18 **MR. JOHNSON:** It's a verbal statement indicating where Mr.  
19 Warren indicates he was present at this residence.

20 **THE COURT:** He says, "I was there at..." — is it [REDACTED]? Is  
21 that the — is that the alleged place where the meth — the manufacturing ---

22 **MR. MAYE:** Yes.

23 **THE COURT:** All right. So he says, "I was there."

24 **MR. JOHNSON:** Unless the officer is going to say something  
25 different that I'm not aware of, that's my understanding.

1                   **MR. MAYE:**           Basically the officer is going to testify, when he  
2                   picked Mr. Warren up the next morning — Mr. McCraw was caught very near  
3                   the scene.

4                   The deputy that is going to testify in this case that, when they arrived,  
5                   two individuals fled and went down and jumped in the lake. They got McCraw  
6                   a short time later at a boat landing freezing cold, trying to start a fire and at —  
7                   at a boat landing.

8                   Kess Holmes, that worked with the sheriff's department, was on patrol  
9                   the next morning. They got a call that there was a suspicious person walking  
10                  down the road some distance from the location.

11                  The deputy, Holmes, picked him up. He said that he was lost. And he  
12                  said that he had been with these other two subjects the night before.

13                  **THE COURT:**           Okay.

14                  **MR. MAYE:**           And — but that's where — how he had gotten  
15                  there.

16                  **THE COURT:**           All right. Okay. Mr. Johnson, on this motion, I'm  
17                  going to deny it based upon — on two grounds. And — and, then, if you want  
18                  to still respond, I'll — I'll allow you to.

19                  Under — under *Bruton* and — and *McDonald* — and *McDonald* is the  
20                  case that I think you've handed to me, that, if it's incriminating but it can be  
21                  linked with other evidence in the case, and the other evidence in part would  
22                  be the lady co-defendant's testimony that they were both there, then, it would  
23                  not be inadmissible.

24                  And, secondly, under *State vs. Sullivan* (phonetic), statements made  
25                  by co-defendants indicating a furtherance of some conspiracy to commit a

1 crime, would also be admissible.

2 So, under those two — two points, I would deny the motion. I'll be glad  
3 to hear you if you want to respond to that.

4 **MR. JOHNSON:** Just that — Your Honor, and the incident report  
5 says, "Deputy spoke to subject. He stated he was with the previous subjects  
6 the night before." And that's what it says.

7 And so, if that's the testimony, he's directly saying, "I was with Mr.  
8 McCraw." And that's something that — if he's going to say that, and  
9 obviously, under the confrontation clause, I think that should be denied. I  
10 don't think that should be allowed, Your Honor.

11 The — under *McDonald* citing *Bruton* it says, "A non-testifying co-  
12 defendant confession that implicates another Defendant is inadmissible."  
13 And that's what I'm relying upon since it ----

14 **THE COURT:** Right. But, see, *McDonald* also goes further and  
15 says...

16 **(Brief Pause)**

17 **THE COURT:** Well — it says that, "*Bruton* only applies when  
18 the statement implicates the defendant on it — on its face. And the rule does  
19 not apply to statements that only become incriminating when linked to other  
20 evidence introduced at trial."

21 And there's going to be evidence from the lady co-defendant that they  
22 both were there. So I — I don't think *Bruton* would — would prevent that.

23 But, in furtherance of my ruling to allow it, if it's a statement and  
24 indication of a conspiracy to commit some crime under *State v. Sullivan*.

25 So I think under two points I think it would be admissible. Let me just



1 make my note, and then, we'll go to your next one.

2 (Brief Pause)

3 THE COURT: All right. The — the next one would be the video  
4 and photos taken by the deceased private investigator.

5 MR. WILLIAMS: Your Honor, could I speak to that issue? I didn't  
6 think I was going to have any issues, but as we went on, it — we may have a  
7 *Jackson v. Denno* issue ---

8 THE COURT: Okay.

9 MR. WILLIAMS: --- if indeed what the Solicitor is saying is what  
10 the witnesses are going to say because, in the incident report, it only said that  
11 my client stated that he was with the subjects the night before. And that's it.

12 The incident report indicates that, when the police arrived, that they  
13 saw one individual leaving the house; not two, but one.

14 So, if they're — and we have no written statements, no oral statements  
15 and — provided in the discovery that my client said anything other than that  
16 he was with the subjects the day before or the night before.

17 So, if there's going to be anything beyond that presented by the -- the  
18 Solicitor, in regards to statements made by my client, then, I would think that  
19 we would have a *Jackson v. Denno*. But I didn't anticipate it at the time.

20 THE COURT: Okay. All right. Mr. Solicitor, do you want to  
21 respond?

22 MR. MAYE: Your Honor, I am only aware that the deputy —  
23 and maybe this is just a matter of semantics — basically the deputy picked  
24 him up and I understand, from the statement he made, this deputy, the only  
25 way that he knew to collect him — to connect him back to this crime was that

1 he fitted the description of somebody he was looking at, is he indicated that  
2 he was with these two subjects the night before.

3 And I guess that would be semantics. I guess Mr. Williams might  
4 argue that could have been in Lexington and it could have been at any other  
5 place, but the deputy obviously took him back to the — took him back to the —  
6 to the deputies in relation to this case based on that statement.

7 But he said that he had been with those statements — with those  
8 subjects the night before. I don't know that I'm offering anything beyond that.  
9 If you got anything on that, that's ----

10 **MR. WILLIAMS:** As — as long as he's not offering anything beyond  
11 that, we have no issue in regards to ----

12 **THE COURT:** Right. And — and it may be a little matter of  
13 semantics, but from what I — from what I understand, I don't think he's going  
14 to go beyond what you're concerned about.

15 **MR. WILLIAMS:** Well, it —

16 **MR. MAYE:** And they may be argue something different, that I  
17 was with them in Lexington and that he ended up in Saluda and he was ----

18 **MR. WILLIAMS:** Then, we have no issue with the *Jackson v.*  
19 *Denno* ----

20 **THE COURT:** Okay.

21 **MR. WILLIAMS:** — if that's what he's talking about.

22 **MR. MAYE:** That's what I was talking about because I did not  
23 think that, that was anything other than — and — but I was going to make  
24 sure in this case — I don't — it was not in response to any question, so, I did  
25 not think it was subject to *Jackson v. Denno*.

1           The deputy indicated to me that he just made that statement. He said  
2           this guy was cold and freezing and wanted to get in the car with him. And he  
3           made that statement that he had been with these other two.

4           And he said that's how he was sure that he was involved in this crime,  
5           at least to take him back to the detectives that were working on it.

6           **MR. WILLIAMS:**   And see, none of all that is in this report. None of  
7           all of that expansion that the Solicitor just stated.

8           **MR. MAYE:**       We're not going to talk about that other than the  
9           statement. That was just speculation; that he knew he was connected with  
10          this because he said he was with Norris and McCraw the night before.

11          **THE COURT:**     All right. All right, next, the video and photos of —  
12          taken by a deceased P.I.

13          **MR. JOHNSON:**   Your Honor, well, the first argument would be  
14          foundation of Mr. Bradley (phonetic), who is deceased. They're not going to  
15          be able to provide his testimony.

16          I don't think they'll have a sufficient foundation for that to authenticate  
17          it. And, of course, the other argument is you've got relevance because it  
18          seems they have video outside of a motel.

19          And a — there's a parking lot I think at Walgreen's. There's really  
20          barely any image I think of — at all of their witness in that video. I would  
21          argue, of course, that there would be no relevance.

22          And there's also a scene outside of the incident location that actually  
23          shows my client in custody.

24          **MR. MAYE:**       We're not going to show that. I — I — I can put  
25          that to bed.

1                   **THE COURT:**       Okay.

2                   **MR. MAYE:**       We're not going to offer anything showing him in  
3 custody.

4                   **MR. JOHNSON:**    I would also argue that the — like on the side of  
5 the van where it talks about hazardous material and disposal. Again, they're  
6 going into this argument of my argument; nothing has been tested.

7                   We don't have any idea what the substances are. And it's giving the  
8 jury the impression — I think it's prejudicial; it shows all that to the jury when  
9 it's not been proven.

10                  And those are all of my reasons. I think that, as far as the video  
11 goes ----

12                  **THE COURT:**       All right. I've got — let me make sure I've got a  
13 good handle on — on — on the video and — and the photos. It shows a  
14 motel? Help — help me out, Solicitor.

15                  **MR. MAYE:**       Your Honor, I would like to — if it would help the  
16 Court for me to lay this in context. The — Ms. Norris, the co-defendant in  
17 this case, and her husband were estranged from one another. He believed  
18 that she was on drugs and running around with drug heads.

19                  So he hired a private investigator, a guy named Glenn Bradley, to  
20 follow her around. And the private investigator followed — went to the motel  
21 where she was staying over in Lexington County, at Travelers Inn.

22                  He shot video basically that same night. This was December 2<sup>nd</sup> going  
23 into December the 3<sup>rd</sup>. He shot photographs of them altogether at this motel  
24 and it shows them all there together at the motel.

25                  Mr. McGraw and Mr. Warren went to a CVS that same night. He

1 followed them there to a CVS. We've got a CVS receipt, at that same time  
2 period, that matched the — the time that he videoed that.

3 It basically puts them altogether. I — I know that they picked Mr.  
4 Warren up walking down the side of the road in Saluda County. And he  
5 claims that they were all there together. It collaborates the testimony of what  
6 I would anticipate Ms. Norris testifying that they all left West Columbia  
7 together and came here.

8 The private investigator basically followed them all the way over here  
9 to Saluda County. When they went over into Saluda County, he — we're not  
10 going to have any of this come forward, because obviously he's not there —  
11 he's not here to testify, but he called Mr. William Troy Norris and said,  
12 "They've headed towards Saluda County."

13 Basically, on that, William Troy Norris called the sheriff's department  
14 and he said, "I have a lake house at [REDACTED]" and he said, "No  
15 one has permission to be in there. That's my property.

16 "Go check it and, if anybody's there, it's being burglarized. They've  
17 gone in and — and entered the premises without my knowledge."

18 The deputies, then, responded. Ms. Norris came to the door. And the  
19 deputies' testimony is going to be two individuals fled. And they chased two  
20 individuals out. And they went down into the water.

21 And, then, subsequently, Mr. McCraw was captured that night. Mr.  
22 Warren was captured the next morning by Investigator Kess Holmes.

23 That basically is it. He shot this video. I — I am going to ask Ms.  
24 Norris if the videotape, some of which was at the motel, that puts them  
25 together just before the time they left, if that fairly and accurately reflects

1           them being there at the hotel.

2                   And I'm going to ask her if the videotape tape where they went to CVS,  
3           if that fairly and accurately reflects them using her automobile.

4                   It's my understanding she's going to testify, "Yes," that, that's the only  
5           time that Mr. Warren and Mr. McCraw ever had access to her vehicle to do  
6           that.

7                   "That's my vehicle. I see the tag number. I thought they were going  
8           somewhere else, but they were going to CVS." They went to CVS during that  
9           time period.

10                   I think it's going to weight rather than admissibility. I think that's  
11           something the Court will have to rule on after I have Ms. Norris come and  
12           testify and we put forward the tape.

13                   I'm — I'm not going to put forward anything out of the videotape at the  
14           scene. I redacted it; nothing with his client in custody, no video that was shot  
15           there.

16                   The only parts of the video that I would intend to put up is them there  
17           at the motel, all three of them together, and the video frames at the motel,  
18           which collaborates — which would collaborate Ms. Norris' testimony; that they  
19           were all there and, then, came to Saluda and of these two co-defendants at  
20           CVS using her vehicle on that night.

21                   **THE COURT:**       Okay. I — I think, foundation, even though the  
22           person who shot the video — I think without Ms. Norris testifying, then, I — I  
23           think the video could not come in. But the fact that she can testify that it does  
24           accurately — because, you know, a lot of times photographs are — are taken,  
25           and the person who took the photograph is — is not present, but you can ask

1 the witness, you know, "Does that accurately reflect what your house looks  
2 like?"

3 **MR. MAYE:** Right.

4 **THE COURT:** Yeah, so, yeah, it comes in. So I think with Ms.  
5 Norris laying the foundation as to an accurate representation, then, I — I think  
6 we're — we're good there.

7 I think the relevance just to — to provide evidence that these folks  
8 were allegedly together very close to the time of the — the allegation of the  
9 manufacturing and the subsequent arrest, I — I think it would be — be  
10 permissible.

11 **MR. JOHNSON:** Your Honor, I would also object, although this is  
12 not in my written motion, I would argue that, by showing them at a pharmacy,  
13 they could be implying that he's guilty of a separate crime, which would be  
14 inadmissible. If they're trying to imply that he was guilty of purchasing  
15 sudephederine for the purpose of manufacturing methamphetamine.

16 That's not in my written motion, but I think that, that's tending to show  
17 that if they're contending ----

18 **MR. MAYE:** We are not.

19 **MR. JOHNSON:** Well, considering the charge, and considering  
20 their presence at a drug store, I — I would also base my motion on that,  
21 showing the drug store and being evidence of another crime, that, that would  
22 give the jury ----

23 **THE COURT:** Why can't — why could I not — and you're going  
24 to have to remind me — I can just give a curative instruction when — you  
25 know, either right before or right after the video is shown that, you know, that

1           they're not to use that as indication of any — of evidence of any other crimes  
2           other than the crime that the Defendants are being charged with.

3           I — I think that a curative instruction can — I don't think the jury, quite  
4           frankly, would even consider that, but I can give a curative instruction  
5           concerning that; just you'll — you'll need to remind me to do that.

6           **MR. JOHNSON:**   Yes, sir. My other question, just again — I know  
7           I'm beating a dead horse — they're not implying that this receipt is something  
8           they seized from the person of Mr. McCraw ----

9           **MR. MAYE:**       No.

10          **MR. JOHNSON:**   — and they're not going to offer that testimony?  
11          Okay then.

12          **MR. MAYE:**       No. We have a receipt for lithium batteries from  
13          CVS at that same period of time that was at the house.

14          **MR. JOHNSON:**   Okay.

15          **MR. MAYE:**       A cash receipt. And it doesn't have any writing on  
16          it. It doesn't have anybody else's — it doesn't have anybody's name on it at  
17          all. It's just a cash receipt for lithium batteries ----

18          **MR. JOHNSON:**   Okay.

19          **MR. MAYE:**       — at that same time period.

20          **MR. JOHNSON:**   I would — I would just base my motion on — on  
21          the foundation issue, Your Honor, as well as like I said, if he's not offering the  
22          evidence, the video from the scene showing that truck or my client in  
23          custody ----

24          **THE COURT:**      Okay.

25          **MR. JOHNSON:**   — I, of course, would argue, as I said before,



1 she's not present in the video, there's no foundation and also the relevance  
2 of it as well, Your Honor.

3 **THE COURT:** Right.

4 **MR. MAYE:** I will — I will proffer that through her. We can  
5 bring her over. I would assume that the only thing that leaves is the  
6 suppression. And I have the deputy that executed the search warrant and we  
7 can go through the suppression on ---

8 **THE COURT:** Right.

9 **MR. MAYE:** --- on all of that.

10 **THE COURT:** Okay. The third motion to suppress deals with the  
11 — the various ingredients found at [REDACTED].

12 **MR. JOHNSON:** Yes, sir. I'm sorry. I was just busy writing. This  
13 one, there's no indication that any of these officers are going to provide  
14 testimony that they're experts or they conducted any tests or they have test  
15 results from someone who's qualified to conduct a test to say what any of  
16 these substances are.

17 It's my understanding they're going to go into there and they're going  
18 to say, "Well, we read labels," and/or "by the appearance of this object, we  
19 think it's this."

20 I would argue, of course, under the motion that under 701, 702  
21 they're trying to give the jury the impression that these officers are providing  
22 this expert testimony although they're not going to be qualified as experts and  
23 giving the jury the impression that they know what was — what the contents  
24 were of these various containers and things and they really have no idea.  
25 And those substances were destroyed without testing.

1           Also, under the hearsay rule, of course, if they're going to relate  
2 statements that they — or labels that they read which are written documents  
3 that they read outside the court and they're trying to offer that in court, for the  
4 truth of the matter asserted here, I would just argue that under hearsay that,  
5 that is barred as well, Your Honor.

6           **THE COURT:**       Okay. And now, of all the motions that you've  
7 filed, Mr. Johnson, I found that, that one was the most novel motion out of all  
8 of them. And I had not — I had not seen that before. So I — I appreciate  
9 your hard work. Solicitor, do you ---

10          **MR. MAYE:**       Your Honor, I'm — I'm going to call — it's my  
11 understanding they've had this same issue. I've spoke with — that's one  
12 reason I'm calling the expert witness from Spartanburg County.

13               They've had this same issue over there already where they were  
14 basically saying, "Well, you didn't test something that was in a bottle that had  
15 acetone on it or did not test something that had different — I mean, you don't  
16 know what those are."

17               I think they've already dealt with that there. That's one reason I called  
18 the expert from that county. But I do have an officer — if — if they're  
19 asserting that they have any right to challenge the — and I don't know that  
20 they are.

21               I'll go through a — a suppression motion based on the search warrant  
22 and the items that they seized there as a result of that search warrant. Of  
23 course, I don't know that they're asserting — that they've got any standing to  
24 do so.

25               It's not their property. It was these two individuals that — that left,

1           whether or not they assert it's one or two individuals that left, weren't present  
2           when officers did a search.

3                     I don't know, if — if they're challenging that search warrant on some  
4           basis of — of having some standing to challenge the search warrant, I'll be  
5           happy to hear that.

6                     And, if they do, and Your Honor deems that they have any standing to  
7           challenge it, I'll call the officers that executed the search warrant and got it.

8                     **THE COURT:**       If — if I understand the motion correctly, the  
9           challenge is made, number one, how do we know that a substance — well,  
10          I'm just going to take as an example the Coleman fuel.

11                    I think what Mr. Johnson is arguing is how do we know that, that is, in  
12          fact, Coleman fuel when that substance has not been tested by anyone to  
13          determine that it is, in fact, Coleman fuel?

14                    And, secondly, I think Mr. Johnson is arguing that you can't allow —  
15          you can't rely on the label, because that would be an out-of-court statement  
16          and offered for the truth of the matter asserted.

17                    Now, I'm not trying to steal your thunder, Mr. Johnson, but is that  
18          basically where you're coming from on that?

19                    **MR. JOHNSON:**    Yes, sir. The relevance, of course, if there's no  
20          idea what it is. And, obviously, the prejudicial effect if — if they're given that  
21          impression.

22                    And we really don't know, obviously, because they're saying that it is a  
23          meth lab.

24                    **THE COURT:**       Right.

25                    **MR. JOHNSON:**    It's highly prejudicial and no probative value

1 because we don't know what the probative value is. We don't have any of  
2 that.

3 **MR. WILLIAMS:** Your Honor, I would actually join.

4 **THE COURT:** Okay. All right. So noted for the record. I — I  
5 think if — as far as hearsay, I — I think it would fall under 803-17, which is the  
6 commercial publications, reports, et cetera that are customarily relied upon by  
7 the public.

8 And so I think it would full under that — that exception. And I think  
9 really it goes to the weight. I think, certainly, Mr. Johnson or Mr. Williams  
10 both, you all can argue to the jury that, you know, nobody knows if that is, in  
11 fact, camping fuel just because it's in a container that's says Coleman  
12 Camping Fuel. I think you certainly have a right to make that argument.

13 But, the officers can testify, "This is what we found at — at the scene,"  
14 and certainly it would go to — to the weight as to admissibility. And it was  
15 found pursuant to a — a search warrant.

16 **MR. MAYE:** Yes, sir. And I — I don't know that they're  
17 asserting that they have standing to contest items that were seized at [REDACTED]  
18 [REDACTED] Lane.

19 **THE COURT:** Right.

20 **MR. MAYE:** It may be their contention that they were not there  
21 and it doesn't matter to them. But I'd rather know whether or not they're  
22 contesting that or if they want me to go through — the officers did go and get  
23 a search warrant.

24 They secured the scene initially and, then, they went and got a search  
25 warrant. They didn't do any searching; they did not take custody of anything.

1 They just secured the premises, secured Ms. Norris.

2 They went that same night and got a search warrant. If they want me  
3 to call that officers that executed the search warrant or — or contest whether  
4 or not we had the right to seize all the items and photograph the items there,  
5 we'll go through that. But I don't know that they're contesting that.

6 **MR. JOHNSON:** Your Honor, I'm not — I'm not challenging the  
7 search warrant.

8 **THE COURT:** Right.

9 **MR. JOHNSON:** I'm just saying — and I want to add under 803-17,  
10 I would ask the Court that, since all the items were destroyed, I think the  
11 State would have to provide some testimony from somebody who can testify  
12 after seeing — I guess the only thing they could witness would be the photos  
13 at this point.

14 Somebody would have to testify that it would qualify under 17 because  
15 I don't know if a police officer is qualified to do that, when you're talking  
16 about, "market quotations, tabulations, directories, other published  
17 compilations generally used and relied upon by public or person in particular  
18 occupations."

19 I don't know how police officers are qualified to give that testimony. So  
20 I don't think they could do that and allow it to fall under 803-17, Your Honor.

21 **THE COURT:** Right. Okay.

22

23 **(Brief Pause)**

24 **THE COURT:** Okay. I think we've covered everything, have we  
25 not?

1                   **MR. JOHNSON:**   Your Honor ----

2                   **MR. MAYE:**           I think so, Your Honor. We would have to before  
3                   — I think before we publish the video, we would have to proffer some  
4                   testimony from Ms. Norris. But we can do that when —

5                   **THE COURT:**        Okay.

6                   **MR. MAYE:**           ---- when she testifies.

7                   **THE COURT:**        Right. Did we cover everything, Mr. Johnson?

8                   **MR. JOHNSON:**   Well, the other issue, they're not going to —  
9                   they've indicated they're not going to use photographs of the gun.

10                           It's my understanding they're not going to talk about the gun. Just for  
11                   the record, I would argue — I would — I would say specifically that they've got  
12                   photographs; one of a pill bottle, another of a powdery substance and of pills  
13                   and with no testing there, I would just point out the prejudicial effect of that.

14                           And, in addition to my general hearsay objection, I just wanted to  
15                   include that because it was ---

16                   **THE COURT:**        It was my understanding, concerning the powdery  
17                   substance, that was what was tested and came back negative as to meth; is  
18                   that correct?

19                   **MR. MAYE:**           Just a controlled substance. There was a  
20                   powdery substance that was laying ----

21                   **THE COURT:**        So that ----

22                   **MR. MAYE:**           — on a counter that they attempted to identify.

23                   **THE COURT:**        Okay. So that photograph is not — there's no  
24                   need for that photograph to come in.

25                   **MR. JOHNSON:**   I think there's also photographs of — of pills and a

1 bottle and there's no testing, Judge, on any of that.

2 **THE COURT:** Right

3 **MR. MAYE:** Your Honor, I've tried to pull out the photographs  
4 that they objected to. I have — and we may be able to pre-mark these and  
5 — and talk about these —

6 **THE COURT:** Okay. Well, let's — let's do this. Let's — let's  
7 make sure before you do that.

8 **MR. MAYE:** Yes, sir.

9 **THE COURT:** All right. Have — have all the motions been  
10 covered, Mr. Johnson?

11 **MR. JOHNSON:** All my motions, Your Honor.

12 **THE COURT:** Okay. All right. All right. Let's — let's take a short  
13 break and see what photographs can be pre-marked, what can be agreed to  
14 as — as coming into — into evidence. So let's just take a short little break.

15 (Whereupon, a recess was taken from 10:53 a.m. until 11:02 a.m.)

16 (Off-the-Record Discussion)

17 (Whereupon, State's Exhibit Numbers 1 - 24 were marked for  
18 identification.)

19 **THE COURT:** Okay. Are we ready to start back?

20 **MR. WILLIAMS:** The Defense is ready, Your Honor.

21 **THE COURT:** Okay.

22 **MR. MAYE:** We're ready.

23 **THE COURT:** Is the State ready to start back?

24 **MR. MAYE:** The State is ready, Your Honor. Thank you.

25 And, Your Honor, I'm not sure which photographs they had any objection to

1 and which were all right.

2 (Off-the-Record Discussion)

3 MR. JOHNSON: Your Honor, I'm objecting to all of them, but —  
4 based on my motion, but ----

5 THE COURT: Okay.

6 MR. JOHNSON: — we separated out — there are eight (8) if you  
7 want me to go on the record now — I'm sorry. I apologize.

8 THE COURT: All right.

9 MR. MAYE: I'll just have to lay a foundation for these other  
10 ones I guess.

11 MR. JOHNSON: Yeah.

12 THE COURT: I — I guess we — we can do it now or we can just  
13 when it comes up.

14 MR. JOHNSON: Well, Judge ----

15 THE COURT: I mean, if it's all — if it's — if you're — let's go on  
16 the record.

17 If your objections to some or all of the photographs are based upon  
18 your — your prior motions that I've already ruled on ----

19 MR. JOHNSON: Yes, sir.

20 THE COURT: — then — then you're — you're protected. Now,  
21 if — if you have additional objections to some of the photographs, then, of  
22 course, we'll need to either deal with it now or deal with it when — when it  
23 comes up on what ----

24 MR. JOHNSON: Well, the additional objection I believe you stated  
25 earlier that if there is a negative test on powder or residual, if I'm not stating



1 this incorrectly, that those would not be admissible.

2 They've got eight (8) photos that show powder and residual. And, if  
3 the Solicitor is still planning on putting those in, after you've ruled that those  
4 were not coming in, then, that's something he's indicating right now I believe.  
5 That's why I'm ----

6 **THE COURT:** Well, I -- I don't know if I specifically ruled. I -- I  
7 remember that I -- I asked if a stipulation could be made between Counsel  
8 that the -- that, that powdery substance tested negative for meth.

9 I don't know if I specifically ruled as to photographs.

10 **MR. JOHNSON:** Okay. I -- well, I was remembering -- I did make  
11 the objection regarding -- I was trying -- I had a motion about producing  
12 chain of custody and drug results. And we had that conversation and they  
13 stipulated that they had a drug result that tested negative on some powder.

14 But separate from that issue, I would object to all of these photos -- all  
15 of this is in my written motion that we've already discussed -- but also these  
16 eight (8) photos contain a pill bottle, pills, powder, and powder residue.

17 And based -- the prejudicial effect of all of that and they have not been  
18 tested, no foundation, and no analysis ----

19 **THE COURT:** Okay.

20 **MR. JOHNSON:** -- in fact, that's an additional ----

21 **THE COURT:** All right. All right, so, the relevance as to those  
22 eight (8) photographs showing a pill bottle and this powdery substance that  
23 tested negative ----

24 **MR. MAYE:** Your Honor, I'm going to pull the one that's got  
25 some pills in it. They did test those, but they -- they -- they're not meth.

1           These other photos that I have that have powder or substance in them,  
2           although they're not a controlled substance, I will have expert testimony that  
3           these are ingredients or that this is indicative of manufacturing meth, these  
4           other powdery substances, even — you know, because methamphetamine is  
5           made primarily of ingredients that you go down to WalMart and CVS and buy.

6           Even though they're not unlawful substances, they're a controlled  
7           substance in and of themselves; for example, salt or other ingredients, we  
8           certainly would intend to offer them as evidence of manufacturing meth  
9           whether or not we've got a — a result showing that they're controlled  
10          substances or not.

11           **THE COURT:**       What about the pill bottle?

12           **MR. MAYE:**        I'm going to pull that, Your Honor. I've got it right  
13          here. There was a ----

14           **THE COURT:**       You pulled that one?

15           **MR. MAYE:**        Yes, sir.

16           **THE COURT:**       Okay.

17           **MR. MAYE:**        I pulled it.

18           **THE COURT:**       Okay.

19           **MR. MAYE:**        It does show some kind of pills.

20           **MR. JOHNSON:**   Does that show ----

21           **MR. MAYE:**        It's just a prescription pill bottle and it shows some  
22          little pills in the bottom of a -- of a container. But I pulled that out.

23           **THE COURT:**       All right. Okay.

24           **MR. JOHNSON:**   And, Your Honor, my position, of course, would be  
25          his expert can't say that, that's not flour or sugar or — or what it is based on

1 the fact that it's all been destroyed and there was no testing done.

2 **THE COURT:** All right.

3 **MR. MAYE:** And, again, Your Honor, we would say that goes  
4 to weight rather than admissibility. And we can take that up as we go.

5 **THE COURT:** Okay. I'm going to deny it. You can certainly  
6 renew your motion.

7 **MR. JOHNSON:** Yes, sir.

8 **THE COURT:** Okay.

9 **MR. WILLIAMS:** Your Honor, on behalf of my client, I would not  
10 object to the marking of those photographs, which are currently in front of the  
11 court reporter, but I would request that they — obviously, there's no  
12 foundation that's been established, at this point in time, so we would renew  
13 the foundation arguments.

14 And I assume that she's just marking them for ----

15 **THE COURT:** For identification.

16 **MR. WILLIAMS:** — for identification only.

17 **THE COURT:** And the State can move them into evidence, if — if  
18 it so chooses, and, then, you can certainly renew — renew your motions. So  
19 you're ----

20 **MR. JOHNSON:** Thank you, Your Honor.

21 **THE COURT:** But right now they're just marked for ID. Anything  
22 further that we need to take up before we bring this jury out?

23 **MR. JOHNSON:** Nothing from Mr. McCraw, Your Honor.

24 **THE COURT:** Anything from the State?

25 **MR. MAYE:** No, Your Honor. I just want -- I do want to make

1           sure they — we have brought Ms. Norris up.

2                   **(Off-the-Record Discussion)**

3           **THE COURT:**       Okay. What we'll try to do is I'll — I'll give them  
4           my preliminary charge, we'll have opening argument, and, then, maybe we  
5           can get — get some testimony in before we break for lunch, okay?

6                   All right. Bring the jury out, please.

7                   **(The jury entered the courtroom at 11:02 a.m.)**

8                               **Preliminary Instruction**

9           **THE COURT:**       Okay. Let the record reflect that the jury is back  
10          in. And has a — a foreperson been selected?

11                   **(Members of jury nod in the affirmative.)**

12          **THE COURT:**       Okay. All right. Go ahead, if you don't mind, just  
13          switch seats. That seat is — it's Mr. Shealy, correct?

14          **MR. SHEALY:**       Yes.

15          **THE COURT:**       Mr. Shealy, you will always sit in that seat. Ms.  
16          Blacks, you will always sit in that seat. But everybody else, it doesn't matter.  
17          You can sit any seat you want to on these two rows, but the foreperson will  
18          always occupy that seat.

19                   **(Jurors complied with the Court's request.)**

20          **THE COURT:**       Okay? Thank you very much. Madam Clerk,  
21          would you swear this jury in, please?

22                   **(Whereupon, the jury was impaneled at 11:07 a.m.)**

23          **MADAM CLERK:**    Thank you. Be seated.

24                   **(Jurors complied with the request.)**

25          **THE COURT:**       Thank you very much. Mr. Foreman and

1 members of this jury, we're about to start the case of the State versus two  
2 Defendants, Michael William McCraw and the other Defendant — Mr.  
3 Warren, if you would just stand, please — Travis Samuel Warren.

4 **(Mr. Warren complied with the Court's request.)**

5 **THE COURT:** You can have a seat. Thank you very much. Mr.  
6 Foreman and ladies of this jury, before we begin this trial, I want to tell you  
7 some things.

8 And I want to tell you that this trial probably — probably will be a lot  
9 different than what you might expect. Many people do not have a chance to  
10 attend actual court sessions as you're doing now.

11 And you may think, from watching television or movies or reading  
12 books, that trials are always full of high drama, intense action, and riveting  
13 circumstances.

14 While all of these things may be true at times, this trial is not for  
15 entertainment. It's a fundamental part of our democracy; a search for the  
16 truth in an effort to make sure that justice is done between the parties before  
17 a Court.

18 Searching for the truth and making sure that justice is done is often  
19 slow, deliberate, and repetitive; the opposite of what you may have seen on  
20 television or seen in movies or read in — in books.

21 This courtroom is a place of honor dedicated to the protection and  
22 preservation of citizens' rights through what many have called the greatest  
23 justice system ever created.

24 The attorneys appearing before you are advocates for the parties they  
25 represent. First and foremost, they are officers of the Court, sworn to uphold

1 the integrity and fairness of our judicial system and to help you in the search  
2 for the truth.

3 You should expect them to be professional, competent, and ethical in  
4 the representation of their client's interest. You are also expected to be  
5 professional, reasonable, and ethical as well.

6 I want to thank you very much for accepting the important  
7 responsibility of jury service and for your contribution today to our justice  
8 system.

9 I believe I told you previously that service on -- on a jury is the second  
10 most highly regarded civic responsibility that we have second only to serving  
11 in the military.

12 Now, what I will now say is intended to serve as an introduction to the  
13 trial of this case. These remarks are not a charge on the law in this case.

14 I will instruct you on the law applicable to this case at the end of the  
15 trial before you retire to consider your verdict. This is merely an explanation  
16 of the procedure that we will follow in the trial of this case so that you may  
17 better understand what may be happening.

18 Now, let me tell you now that you're not permitted to take any notes  
19 during this trial.

20 Now, the Defendants are charged by what we call an indictment. And  
21 I think I may have explained this to you earlier. There's one indictment for  
22 each Defendant.

23 The elements of the indictment will be explained to you later. But it's  
24 important for you to know right now that the indictment is merely the charge  
25 by which the case is brought into court. It is not in any sense evidence of any

1           allegations it contains.

2           The Defendant has — the Defendants both have pled not guilty to their  
3           respective indictment. The State, therefore, has the burden of proving each  
4           of the elements of the indictment beyond a reasonable doubt.

5           And it will be your duty, Mr. Foreman and ladies of this jury, to decide  
6           whether the State has met that burden. Your purpose as jurors is to find and  
7           determine the facts.

8           You are the sole judge of the facts. If at any time, I make any  
9           comment regarding the facts, you must disregard them. You are to  
10          determine the facts from the testimony you hear and the other evidence  
11          introduced in court.

12          It is up to you to determine the inferences which you feel may properly  
13          be drawn from the evidence. It's especially important that you perform your  
14          duty of determining the facts diligently and conscientiously because ordinarily  
15          there is no way to correct an erroneous determination of the facts by a jury.

16          Now, on the other hand, Mr. Foreman and ladies of this jury, and with  
17          equal emphasis, the same law that makes you the judges of the facts makes  
18          me the judge of the law.

19          The law as given by the Court is the only law you may consider. You  
20          must accept and follow it even though you may disagree with it.

21          I cannot tell you what the facts are and you cannot disagree with me  
22          about what the law is or what the law should be. Your job is to take the law  
23          as I give it to you and apply it to the facts as you find them from the testimony  
24          of the witnesses and any other evidence that is introduced.

25          After doing that, you will render your verdict; a verdict under the

1 solemn oath that you just took as jurors.

2 Now, as I've already told you and I will tell you now and I will continue  
3 to tell you throughout the course of this trial, you cannot discuss the facts  
4 among yourselves.

5 You cannot begin your deliberations until I tell you to begin your  
6 deliberations. You cannot discuss anything about this case with any family  
7 members, friends, anyone that you may come into contact with.

8 During the deliberations, you may only discuss the case in the jury  
9 room with your fellow jurors because they have seen and heard the same  
10 evidence you have.

11 You must decide this case based solely on the evidence presented  
12 here in this courtroom. This means that, during the trial, you must not  
13 conduct any independent research about this case, about the facts in the  
14 case, the evidence presented, or any of the people involved in this case.

15 Please do not try to find out any information from any source outside  
16 this courtroom.

17 **(Brief Pause)**

18 **THE COURT:** And, during this trial, do not read, listen to, or  
19 watch, if any, news reports about the case. And there may not be any. This  
20 includes anything that may be in the newspapers, on the Internet, radio, or  
21 television.

22 And, again, there may not be any. But, if there are, you cannot look at  
23 those sources.

24 Now, if any of you become aware of any other juror's violation of these  
25 instructions, you must — I say you must — report that immediately to the



1 Court.

2 Now, it's important, Mr. Foreman and — and ladies of the jury, that you  
3 keep an open mind and not decide any issue in this case until all of the  
4 evidence has been presented, after the parties have made their closing  
5 arguments, and after I have instructed you on the law in this case.

6 It is your solemn responsibility to determine the guilt or innocence of  
7 the Defendants. And your verdict must be based solely on the evidence as it  
8 is present to you in this trial and on the law as I instruct you during and at the  
9 close of the trial.

10 Now, in a moment, both — both sides will make what is called an  
11 opening argument to you. And that's basically to expect — to explain to you  
12 their respective positions in the case and what they believe the issues in the  
13 case to be.

14 It's not evidence. Their opening arguments are not evidence in — in  
15 the case. Again, it's just their statement as to what they believe the evidence  
16 will be, the issues involved, and their respective positions.

17 Now, from that, it may be necessary that I excuse you to the jury room,  
18 which I've already done. It may be where one side or the other side has a  
19 matter of law to take up with the Court.

20 They may make an objection to something that is going on in the trial.  
21 And it may be necessary to excuse you from the courtroom for a period of  
22 time.

23 And the reason for this is that you are the sole judges of the — the  
24 facts in this case. And sometimes, when I'm discussing a matter of law with  
25 the attorneys, it may be necessary for me to make some comment as to the

1 facts in connection with ruling — with a ruling whether or not a particular law  
2 applies.

3 And, since I'm not supposed to tell you what the facts are in this case,  
4 it may be necessary for me to excuse you from the — from the courtroom.

5 In deter — in determining what the true facts are in this case, you  
6 must decide whether or not the testimony of the witnesses is believable. And  
7 it will be my responsibility to rule, as a matter of law, as to whether certain  
8 testimony is admissible at all or not.

9 But, once the testimony is admitted, whether or not you believe it is  
10 solely for you to determine. In deciding whether to believe a witness, you  
11 have the right to consider the interest of any witness, the bias of any witness,  
12 the prejudice of any witness, the opportunity for the witness to have seen the  
13 matters and things about which the witness may testify, and the way the  
14 witness acts on the witness stand.

15 You have a right to consider anything that is in the record that will help  
16 you to evaluate the testimony of the witnesses. That means --- (clears throat)  
17 excuse me — that it is your duty to pay close attention to these witnesses, to  
18 observe the witnesses, to listen to the witnesses, and pay close attention to  
19 the attorneys and to the Court.

20 Don't let your thoughts wander, but give strict attention to everything  
21 that goes on in this courtroom.

22 And before I — we hear from the attorneys, in their opening  
23 arguments, I'm going to first ask the State is any objections or any exceptions  
24 to the State's — I mean to the Court's preliminary charge?

25 **MR. MAYE:** None from the State, Your Honor. Thank you.

1                   **THE COURT:**       Anything from the Defense, Mr. Johnson?

2                   **MR. JOHNSON:**    Your Honor, I just think we need a side bar briefly.

3                   **THE COURT:**       Okay. All right.

4                   **MR. WILLIAMS:**   None on behalf of Defendant Warren, Your Honor.

5                   **THE COURT:**       Okay. Thank you.

6                   **(Whereupon, a bench conference was had with all attorneys**  
7                   **present.)**

8                   **THE COURT:**       One other matter, Mr. Foreman and ladies of the  
9                   jury. One of the Defendants, as you can see, is not present in the courtroom.  
10                  That is Michael William McCraw, who Mr. Johnson represents.

11                  And I instruct you now — and I'll instruct you again at the close of this  
12                  case if — if it still is applicable, you are not to hold it against Mr. McCraw, in  
13                  any manner whatsoever, that he is not present for at least the start of this  
14                  trial.

15                  You cannot consider that. You cannot discuss that, and that cannot  
16                  factor in whatsoever concerning your decision in this case.

17                  Is that satisfactory, Mr. Johnson?

18                  **MR. JOHNSON:**    Yes, sir, thank you.

19                  **THE COURT:**       Thank you very much. All right, now, Solicitor,  
20                  opening?

21                  **MR. ROSS:**       Thank you, Your Honor. May it please the Court?

22                  **THE COURT:**       Certainly.

23                                   **Opening Statements                                   11:22 a.m.**

24                  **MR. ROSS:**       Tired, dirty, and lost. If you run from Saluda  
25                  County deputies, that's how you're going to end up; tired, dirty, and lost.

1 Mike McCraw and Travis Warren, the two gentlemen on trial today,  
2 they learned that lesson the hard way during — during the early morning  
3 hours of December 2<sup>nd</sup> and 3<sup>rd</sup> of 2010.

4 The facts leading up to their arrest, leading up to their being found  
5 tired and dirty and lost, those facts are very simple and straightforward. And  
6 you're going to hear all about them during the course of this trial.

7 On the night in question, Saluda County Deputies responded to [REDACTED]  
8 [REDACTED] Road. This is just down the street on the shores of Lake Murray.

9 They were responding to a suspected burglary in progress. And, when  
10 the deputies arrived at [REDACTED] two people ran out the back of that  
11 single wide trailer.

12 They jumped over a fence and, then, the deputies heard a splash into  
13 Lake Murray. And, at that point, the chase stopped. It was about midnight,  
14 early December, and freezing cold.

15 Those deputies knew that, whoever ran out the back, they were not  
16 going to get very far. They weren't going to swim their way home. And the  
17 deputies also had a burglary in progress.

18 So they checked on the house. And there they found a lady by the  
19 name of Michelle Norris. And the evidence will show that her ex-husband  
20 owns [REDACTED]

21 And, when the deputies got inside of that house, that trailer, they were  
22 overwhelmed by a powerful chemical odor. That smell was so strong that the  
23 deputies had trouble breathing. And one of them even threw up right there  
24 on the scene.

25 And they immediately knew what they had on their hands. And they

1 knew that they had themselves a meth lab at that property. And they knew  
2 that meth labs are inherently dangerous and inherently explosive.

3 You need special training to dismantle one of these meth labs. And  
4 none of those officers had that specialized training. So they called narcotics  
5 officers that did.

6 Two narcotics officers from over in Lexington County came over to  
7 deal with that meth lab. And one of them is going to take the stand and tell  
8 you exactly what he did that day; how he responded to the scene.

9 And, as those narcotics officers were securing the scene at [REDACTED]  
10 [REDACTED] the Saluda County Deputies focused on finding those  
11 suspects that ran out the back.

12 And it didn't take them long to find Mike McCraw. He was about one  
13 half mile from the scene, freezing cold, trying to start a fire.

14 Later that morning they found Travis Warren. He didn't make it that far  
15 either.

16 Ladies and gentlemen, it was so cold that December morning that  
17 these two individuals were actually happy to see the police when they arrived  
18 to arrest them. And they were arrested and charged with that meth lab that  
19 they were running away from.

20 And, during the course of this trial, you all are going to learn more  
21 about meth and meth labs than you probably ever wanted to know. And the  
22 folks that are going to teach you are narcotics officers who deal with this stuff  
23 every day.

24 And you're going to learn that today you don't need fancy equipment  
25 and you don't need a degree in chemistry to make methamphetamine.

1 All you really need is some Sudafed, some household chemical products,  
2 and a Coke bottle.

3 You go down to any pharmacy and you buy yourself some Sudafed.  
4 And the scientific name for Sudafed is pseudoephedrine. This is an over-the-  
5 counter cold medication that everybody in this courtroom has probably taken  
6 at one point in their lives.

7 And you take that Sudafed, those Sudafed pills and you crush them  
8 up. You crush them into powder and you put them in this Coke bottle  
9 (indicating).

10 Then, you add Coleman Camp Fuel. You add drain opener. You add  
11 ammonium nitrate, which you can get from cold packs that you would put on  
12 a sports injury.

13 And, then, you add lithium batteries strips, and put all these  
14 ingredients in this Coke bottle and, then, you shake it up (demonstrates).  
15 You shake this Coke bottle up and the energy that's produced from shaking  
16 the bottle will cause chemical reactions; all those chemicals react with each  
17 other.

18 And that process works with Sudafed, with pseudoephedrine, into  
19 methamphetamine; it's as easy as that. It's as easy as shaking a Coke  
20 bottle.

21 **(Brief Pause)**

22 **MR. ROSS:** So you're going to hear from those narcotics  
23 officers. And you're going to hear from the deputies that responded to the  
24 scene and the deputies that caught Mr. McCraw and Mr. Warren.

25 And you're also going to hear from Michelle Norris. You'll remember

1 she was the lady in the house when they ran away.

2 We anticipate that she's going to take this stand and testify. And she  
3 was charged with this meth lab too. And she's going to tell you her story.  
4 And the evidence will show that she was knee deep in this meth conspiracy  
5 too.

6 She'll explain how she brought them there to [REDACTED] how  
7 they ended up there, how that was her ex-husband's property. And, aside  
8 from that, who knows what she's going to say.

9 But, after everybody testifies, and you hear from all the witnesses in  
10 this case, as the Judge explained a while ago, he's going to charge you on  
11 the law.

12 And Judge Hocker is going to explain that, under the law in South  
13 Carolina, the same law that makes it illegal to manufacture meth, also makes  
14 it illegal to aid, abet, assist, or conspire with someone else who is making  
15 methamphetamine; aid, abet, assist, or conspire.

16 So if you're — under the law in South Carolina, it doesn't matter if  
17 you're shaking the bottle or if you're buying the ingredients or if you're in any  
18 other way helping that person that's making meth, the law treats it just the  
19 same.

20 And I tell you that because it's important in this case because three  
21 people are charged with this meth lab. And the evidence will show three  
22 people were involved in this meth conspiracy.

23 And two of them get their day in court today; two of whom are on trial  
24 today.

25 And the evidence will be clear. And, after you hear all of this evidence,

1 we're going to ask that you find these two men guilty as charged.

2 **THE COURT:** Thanks, Solicitor. Defense?

3 **(Mr. Johnson's opening statement began at 11:30 a.m.)**

4 **MR. JOHNSON:** Ladies and gentlemen, my name is Ola Johnson.

5 I practice out of Lexington, South Carolina. And I represent Mr. McCraw.

6 And I wanted to touch on two things that Mr. Ross said. He said who  
7 knows what Ms. Norris will say. Well, as you review the evidence in this trial,  
8 I want you to remember that he said that because it's a very, very accurate  
9 statement, "Who knows what she will say."

10 You're going to learn about that and you're going to learn about Ms.  
11 Norris. And I want you to pay attention to what she said; what she says now  
12 and what she said before. I think it's very important and very indicative of  
13 who she is and what's she's been doing.

14 I would also point he made the statement about degrees and testing  
15 and said you don't need a degree. Well, if you want to find out what a  
16 substance is, you can't tell by looking at it. You need — you really need  
17 testing and you need an expert.

18 So listen, as you sit and review the evidence from the State, knowing  
19 that they have the burden, beyond a reasonable doubt, to prove my client  
20 guilty of manufacturing methamphetamine.

21 And let's focus on what they did, what testing took place, and what  
22 experts with degrees tested what substances. And I think you're see a much  
23 clearer picture of what's really going on and what they got.

24 Despite the evidence that they claim that they're going to show you, I  
25 would ask you to focus not only on their evidence, but what you don't see.



1 Focus on the evidence they fail to show you. That's part of your job as well.  
2 They have the burden. It's their job.

3 And I certainly appreciate your attention. Once, again, I'm — my name  
4 is Ola Johnson. I practice out of Lexington, and I just want to say thank you.

5 And thank you for your attention. And, please, focus on both sides;  
6 the evidence that you see and the things that they fail to produce. Thank  
7 you.

8 **THE COURT:** Thank you, Mr. Johnson. Mr. Williams?

9 **MR. WILLIAMS:** May it please the Court?

10 **(Mr. Williams' opening statement began at 11:32 a.m.)**

11 **MR. WILLIAMS:** Mr. Foreman, ladies and gentlemen of the jury, I'm  
12 Theo Williams. I'm not the one from Edgefield, but I live in Batesburg, South  
13 Carolina and I practice law in Lexington, South Carolina, along with my wife  
14 and several other lawyers there.

15 My client is Travis Warren. You met him yesterday.

16 Now, I know you've been cooped up for a while and a lot of stuff we've  
17 done. And what we're doing right now I guess is kind of telling you what we  
18 think the case will be about. It's called an opening statement.

19 But I want you to remember that what lawyers tell you, in an opening  
20 statement, really isn't evidence in any way whatsoever. It is meant to —  
21 sometimes it's flowery, just like closing statements, but normally in an  
22 opening statement, you're supposed to tell the jury what you intend to prove  
23 and what you intend to — to show.

24 And I know you've heard, you know, the statement from the Solicitor  
25 about tired and dirty and that kind of thing, almost like a Les Miserables

1 (phonetic) type of introduction.

2 And you've heard about the Coke bottle and how he did do things.  
3 You all aren't old enough to remember Shake 'n Bake, but you don't  
4 necessarily prove the evidence against an individual based on slogans, good  
5 stories, melodrama.

6 To prove the guilt of an individual who is charged with a crime, you  
7 have to examine the evidence that is brought forward. And you have to make  
8 the determination as to what that evidence proves.

9 You have to look and see if that evidence points to guilt. And, then,  
10 you weigh that evidence and you listen to the law. And you see whether or  
11 not that convinces you, beyond a reasonable doubt, that anybody is guilty of  
12 anything and particularly the one person who I'm representing, who is Travis  
13 Warren.

14 In the law, you are not guilty by association. Collateral damage, as in  
15 war, may be appropriate, but it's not appropriate in court. You make a  
16 decision, in regards to the guilt of the Defendant, based on the evidence  
17 against that Defendant.

18 And, if the State doesn't have that evidence to prove my client, Mr.  
19 McCraw [sic], guilty beyond a reason doubt, it's your job to find him not guilty.

20 I would suggest to you that there will be a total lack of evidence either  
21 physical, direct, circumstantial — which are legal terms if you will — to show  
22 that my client participated in the manufacture of meth.

23 Look for those reports that indicate that meth was there to begin with.  
24 Look for the evidence that my client did anything to produce any meth  
25 whatsoever.

1 I thank you for your attention and hopefully the trial won't be too long.

2 **THE COURT:** Thank you, Mr. Williams.

3 **MR. WILLIAMS:** Thank you, Your Honor.

4 **THE COURT:** Is the State ready to call its first witness?

5 **MR. MAYE:** The State is ready to proceed, Your Honor. The  
6 State would call William Troy Norris to the stand.

7 **THE COURT:** Okay.

8 **(The witness stepped forward to be sworn.)**

9 **(Whereupon,**

10 **WILLIAM TROY NORRIS**

11 having been first duly sworn, testified as follows:)

12 **THE COURT:** Your witness, Solicitor.

13 **Direct Examination by Mr. Maye:**

**11:35 A.M.**

14 **Q.** Would you state your name for the record and introduce yourself to the  
15 ladies and gentlemen of the jury?

16 **A.** William Troy Norris.

17 **Q.** Okay. Mr. Norris, now you're not a Saluda resident full time, are you?

18 **A.** No, I'm not.

19 **Q.** Okay. Tell the ladies and gentlemen of the jury where you're from and  
20 where you live.

21 **A.** West Columbia.

22 **Q.** You live over in West Columbia? How long have you lived over in  
23 Lexington County, West Columbia?

24 **A.** Thirty-five (35), 36 years.

25 **Q.** Who is Michelle Norris or who was she to you?

1 A. She used to be my wife. She's my ex-wife.

2 Q. She was your wife? How long were you all married?

3 A. Roughly around eight (8) years. We were together eight (8) years and  
4 married for six (6).

5 Q. Okay. Did you all have any family or children together or anything?

6 A. One child.

7 Q. You have one child?

8 A. Yes.

9 Q. Okay. Let's go back to December of 2010, just prior — the months  
10 prior to December the 2<sup>nd</sup> of 2010, going into the early morning hours of December  
11 the 3<sup>rd</sup>, 2010.

12 In the months proceeding that — let's just cut to the chase: Were you  
13 and your wife splitting up? What were the circumstances?

14 A. We were. She — it had been going on for about two years. And, in  
15 the beginning of 2010, around February, that was probably the last time I physically  
16 saw her.

17 I spoke to her on the phone. I did that because we have a child. But  
18 physically that's the last time I saw her besides going to Family Court one day.

19 Q. Had a lot of erratic behavior? Let's cut to the chase, she had a drug  
20 problem ----

21 A. That's right.

22 Q. ---- correct?

23 A. Right.

24 Q. Okay. Moving forward into December of 2010, on that night of

25 December the 2<sup>nd</sup> of 2010, did you have an ongoing domestic case with her in the

1 Family Courts?

2 A. I did. We had an emergency hearing.

3 Q. Okay. What did you do on that night in order to try to find out what  
4 was going on in her life, what she was doing? What steps did you personally take in  
5 order to obtain evidence that you could use?

6 A. I hired a private investigator by the name of ----

7 THE COURT: If you will, sit real close to the microphone, Mr.  
8 Norris.

9 THE WITNESS: Yes, sir.

10 (The witness complied with the request.)

11 THE COURT: Thank you.

12 A. ---- Glen Bradley.

13 Q. He was a private investigator?

14 A. He was a private investigator, yes.

15 Q. He worked over in Lexington County?

16 A. Yeah.

17 Q. Okay. What did you hire him to do? What was he doing?

18 A. To collect evidence on Michelle for the custody case.

19 Q. Okay. How was he going to do that? Was he going to follow her  
20 around?

21 A. Follow her around.

22 Q. Okay.

23 A. Video her for me.

24 Q. Now, Mr. Bradley is no longer with us, he's deceased; is that correct?

25 A. That's correct.

1           **Q.**       Since this case occurred December the 2<sup>nd</sup> going into the 3<sup>rd</sup> of 2010,  
2 unfortunately, Bradley, he passed on; he died. Is that correct?

3           **A.**       He did.

4           **Q.**       Okay. I want you to tell me about the evening of December the 2<sup>nd</sup> of  
5 2010. But, in doing so, I don't want you to tell me anything that Mr. Bradley said.  
6 But, on that night, did you get a phone call from him?

7           **A.**       I did. And he kept me abreast of where — he had a tracking device on  
8 her car.

9           **Q.**       Okay.

10          **A.**       And he was keeping me abreast of where her car was at throughout  
11 the night.

12                   **MR. WILLIAMS:**   Your Honor, I would object to the statement that  
13 he "kept him abreast." Obviously that would require hearsay testimony with  
14 regards to what ----

15                   **MR. MAYE:**       Yeah. Don't say anything — and I apologize, Your  
16 Honor. We withdraw.

17                   **THE COURT:**       I sustain the objection. Don't repeat what Mr.  
18 Bradley may have told you or any conversation that you had.

19                   **THE WITNESS:**   Okay.

20          **Q.**       (By Mr. Maye) Let me just ask you this: As a result of a phone  
21 conversation you had with him, what steps did you take and what did you do on the  
22 night of December the 2<sup>nd</sup> of 2010 going into the 3<sup>rd</sup>, in that late night. What did you  
23 do after you talked with him?

24          **A.**       I called the Saluda Sheriff's Department.

25          **Q.**       What did you tell them when you called them?

1           A.       That I felt there was a burglary in progress on some property that  
2 nobody should be at.

3           Q.       Okay. Did you own property in Saluda County?

4           A.       I do.

5           Q.       Tell the ladies and gentlemen of the jury about that property.

6           A.       It's lake property. My daddy has a place beside of mine. And we go  
7 up there during the summer. And come winter time, we shut everything down; no  
8 electricity, no water, no heat.

9                    There's not even access to any kind of heat up there. So in  
10 December it would be odd for someone to be up there.

11          Q.       So in December you got her shut down like a lot of folks do at the  
12 lake?

13          A.       Right. It generally comes right when they start back to school. We  
14 shut everything down, winterize it and, then, wait til spring.

15          Q.       Okay.

16                   MR. MAYE:        Beg the Court's indulgence.

17                   **(Brief pause while exhibit shown to Counsel.)**

18          Q.       (By Mr. Maye) About how long have you and your dad had those  
19 adjoining lake properties over there?

20          A.       He's had his property since I was six (6) years old, so 40 years. And  
21 I've had mine there for about 20- some years.

22          Q.       Okay. So I guess like a lot of people, you all use that to come out and  
23 enjoy the lake?

24          A.       We do, and cut a lot of grass.

25          Q.       I want to show you what's been marked as State's Exhibit 11, 12, 13,

1 15, 16, and 17. Take a look at all of those photos.

2 (Brief pause while the witness complied with the request.)

3 Q. (By Mr. Maye) Got a chance to look at all of them?

4 A. Yes.

5 Q. Let me ask you: Do those photographs fairly and accurately reflect  
6 the scenes in and around your piece of property; the yard, the trailer? Do all of  
7 those photographs show either items — scenes on the property or the trailer itself  
8 there that you own at [REDACTED]?

9 A. Yes, sir.

10 MR. MAYE: At this time, Your Honor, I'm going to move to  
11 admit these into evidence.

12 THE COURT: What says Defense, Mr. Johnson?

13 MR. JOHNSON: No objection, Your Honor.

14 THE COURT: Mr. Williams?

15 MR. WILLIAMS: No objection.

16 THE COURT: All right. Without objection, it will be marked as  
17 State's 11, 12, 13, 15, 16 and 17 into evidence.

18 (Whereupon, State's Exhibit Numbers 11, 12, 13, 15, 16, and 17  
19 were admitted without objection.)

20 Q. (By Mr. Maye) Mr. Norris, let me show you 15. What does that show?  
21 What is that view out there in that photograph?

22 A. That is the property. And it's taken from the back facing the road that  
23 runs in front (inaudible).

24 Q. Okay.

25 THE COURT: Mr. Norris, you're going to need to speak ----



1                   **THE WITNESS:**     Okay.

2                   **THE COURT:**       ---- into the microphone so our court reporter can  
3                   hear you and so I can hear you.

4           **A.**        Okay. This is the property entering the trailer.

5           **Q.**        That's your trailer and that's the front -- that's the back side of the  
6           trailer but ----

7           **A.**        The back side.

8           **Q.**        ---- where you go in and out?

9           **A.**        In and out most -- 90% of the time, yes.

10          **Q.**        And the front side faces the lake?

11          **A.**        The front and side faces the lake, but most of the time we go from  
12          Harvest.

13          **Q.**        Let's talk about 16. What does that show?

14          **A.**        That's also what I call the front of the trailer which is facing towards the  
15          lake.

16          **Q.**        As you come into the property?

17          **A.**        As you come into the property, yes, sir.

18                   **(Brief Pause)**

19          **Q.**        Let's look at State's 11. What area around the trailer does that show?

20          **A.**        This is facing the lake and it has a front porch on it, which is the front  
21          door.

22          **Q.**        Okay. And that's around the back side of the trailer?

23          **A.**        The back side, but facing the lake.

24          **Q.**        Let's talk about State's 13. What area of your property does that  
25          show?

1           A.           The left side also what I call the front side of the trailer.

2           Q.           Okay. State's 12, what area of the property is that?

3           A.           That would be where the boat ramp is at on — well, it's my dad's  
4 property, not mine.

5           Q.           Okay. So you all got it where you can put the boat in and out and all of  
6 that?

7           A.           Yes.

8           Q.           Okay.

9                    **(Brief Pause)**

10          Q.           What about State's 17? What does that show?

11          A.           That is my dad's property — no, that's my property actually on the left  
12 side. The trailer would be to the right.

13          Q.           Okay.

14                    **(Brief Pause)**

15          Q.           Do you know either Travis Warren or Michael McCraw? Did you know  
16 either one of them back at that time?

17          A.           No, no, sir.

18          Q.           Okay. On the night of December the 2<sup>nd</sup>, 2010, going into December  
19 the 3<sup>rd</sup> of 2010, did you give any permission for Travis Warren or Michael McCraw  
20 to go to your trailer there and enter it?

21          A.           No, sir.

22          Q.           Okay. How about Michelle Norris at that time; did she have any  
23 permission to go into that trailer or do anything?

24          A.           No, sir.

25                    **(Brief Pause)**

1 Q. So you made the initial call to the sheriff that night asking them to go  
2 check your property?

3 A. I did.

4 Q. Okay. When was the next time you went back out to the trailer?

5 A. Later that night — well, it was the next day, 2010, December the 3<sup>rd</sup>.  
6 And it was about 4:30 in the morning.

7 Q. Okay. So you went out there at that point in time?

8 A. The deputies asked me to come out, yes.

9 Q. Okay. At any point in time, did you have lithium batteries or Coleman  
10 Camp Fuel or items like that at the trailer out there?

11 A. No, we had all space heat. We didn't use camp fuel out there.

12 Q. Okay. Did you ever have any big Coke bottles or attempt to  
13 manufacture any meth on that property?

14 A. I don't drink Coke.

15 Q. Okay.

16 A. Any soft drinks.

17 Q. Okay. But you've never had any materials out there that would be —  
18 that you utilized to make meth or manufacture meth or illegal drugs on that property,  
19 did you?

20 A. No, sir.

21 Q. Okay.

22 (Brief Pause)

23 MR. MAYE: Answer any questions the Defense has for you.

24 THE COURT: Cross examination? Can — can we decide on the  
25 order that — and it doesn't matter to the Court — but who will go first on cross

1 and recross?

2 MR. JOHNSON: I'll be happy to go first if Mr. Williams ----

3 THE COURT: Can you decide on that?

4 MR. WILLIAMS: Sure, Your Honor.

5 THE COURT: Is that --

6 MR. WILLIAMS: Sure.

7 THE COURT: Okay. Mr. Johnson?

8 MR. JOHNSON: Thank you.

9 Cross Examination by Mr. Johnson:

11:45 A.M.

10 Q. Mr. Norris, your ex-wife is not an honest person, is she?

11 A. No, she is not.

12 Q. And, when she's asked a question, she's capable of telling a lie when  
13 it's convenient for her, correct?

14 A. Yeah, yes ----

15 Q. And ----

16 A. ---- in my case.

17 Q. Yep. And you had access to this trailer before this incident for how  
18 long?

19 A. Twenty (20) years.

20 Q. Okay. And, to this day, you would describe Ms. Norris as somebody  
21 who is not honest?

22 A. I would say that in my case, yes.

23 Q. Okay.

24 (Brief Pause)

25 MR. JOHNSON: No more questions, Your Honor.

1 THE COURT: Mr. Williams?

2 MR. WILLIAMS: Just a couple of questions, Your Honor.

3 Cross Examination by Mr. Williams: 11:47 A.M.

4 Q. Mr. Norris, from — from my understanding, you are no longer married  
5 to her. So you were divorced from her at some particular point in time. What was  
6 the date of your divorce?

7 A. Two thousand and eleven (2011). And I can't remember the exact  
8 date. It was in November.

9 Q. November maybe; is that what you said?

10 A. Yes, sir.

11 Q. All right. So you were divorced in November of 2011. What was the  
12 date of your separation from you wife?

13 A. I'm not sure about the exact date, but the separation was filed  
14 approximately two weeks when we had our first hearing. The only reason I hired a  
15 private investigator was because my lawyer said I needed to.

16 Q. I guess more directly, on December the 2<sup>nd</sup>, of 2010, had you filed for a  
17 divorce or separation on that date?

18 A. The — a week or two before.

19 Q. Had you had any type of order, a Family Court order, a temporary  
20 order, that established that the lake property was yours alone or that your wife had  
21 no access to it?

22 A. I don't have any — I don't understand the question.

23 Q. Had you been to court, at any point in time, prior to December the 2<sup>nd</sup>  
24 or December the 3<sup>rd</sup>, and some judge had ordered that the lake property, which you  
25 owned, was not — was not accessible to your ex-wife; that she had no right to be

1 there?

2 A. No, I had not.

3 (Brief Pause)

4 Q. So, when you called the Saluda County Sheriff's Department and told  
5 them that your ex-wife was going — that your wife was going there and she didn't  
6 have the right to be there, and that you thought that there was going to be a break-in  
7 or a burglary — is that what you told them?

8 A. Yes, because stuff had been missing up there.

9 Q. All right. You actually had no legal basis to say that it was burglary,  
10 did you?

11 A. If I understand your question, we had been missing stuff up there for a  
12 while, so we had it parked (phonetic) every December and there was no heat and no  
13 water, and I —

14 Q. She had the right to be there, didn't she?

15 A. No, I told her three years prior that, it was — you know, that it wasn't  
16 her place to visit. She didn't have a key to it. That she didn't stay out of my  
17 business, I would call the police.

18 Q. The — the only reason why she didn't have a right to be there is  
19 because you had told her she couldn't be there; is that correct?

20 A. Right.

21 (Brief Pause)

22 A. Nobody should be there in December.

23 (Brief Pause)

24 MR. WILLIAMS: That's all I have, Your Honor.

25 THE COURT: Any redirect?

1 MR. MAYE: Yes.

2 Redirect Examination by Mr. Maye:

11:50 A.M.

3 Q. Did she even have a key to the property ----

4 A. No.

5 Q. ---- to your knowledge?

6 A. I was the only one that had a key.

7 Q. Okay.

8 A. Me and my father.

9 Q. So if anybody entered the property they broke -- they were forcing  
10 their way in; they didn't enter with any key that you gave anybody or allowed anyone  
11 to have?

12 A. Right. And, at that time, key -- a lot of keys stayed in my safe  
13 because of the things that were transpiring prior to that.

14 Q. All right. You were having trouble with her. You made sure that she  
15 didn't have a key to your knowledge to either your place of business or that lake  
16 house, didn't you?

17 A. Correct.

18 Q. She had a drug problem, right?

19 A. Correct.

20 Q. And stuff had been missing from out there, correct?

21 A. Right.

22 Q. All right.

23 MR. MAYE: Nothing else. Thanks.

24 THE COURT: Recross?

25 Recross Examination by Mr. Williams:

11:51 A.M.

1           **Q.**           One question on recross is, when you arrived at that scene, was there  
2 evidence of a break-in at the trailer?

3           **A.**           I mean, I could look at it and smell it. I could go in — I walked in and  
4 walked out the smell was so bad.

5           **Q.**           Did you see any broken locks?

6           **A.**           There, again, I didn't look.

7                       **MR. WILLIAMS:**   That's all I have, Your Honor.

8                       **THE COURT:**       Thank you for your testimony, Mr. Norris. You can  
9 step down. Any objections to this witness being excused?

10                      **MR. MAYE:**           None from the State.

11                      **MR. JOHNSON:**   None from the Defense.

12                      **THE COURT:**       Mr. Williams?

13                      **MR. WILLIAMS:**   No objection from Travis Warren, Your Honor.

14                      **THE COURT:**       All right. Mr. Norris, you're welcome to stay with  
15 us or you're free to leave.

16                      **THE WITNESS:**   Okay. Thank you.

17                      **(Witness complied with the Court's request.)**

18                      **THE COURT:**       All right. Does the State have a — another say  
19 relatively short witness?

20                      **MR. MAYE:**           The next one I would say would be more lengthy  
21 than the whole trial I would think.

22                      **THE COURT:**       Okay.

23                      **(Brief Pause)**

24                      **THE COURT:**       Okay. Well, I guess, then, we'll take a — a little  
25 earlier lunch break, Mr. Foreman and — and ladies of the jury. We're going



1 to break for lunch.

2 And it's about seven til 12:00 if that clock is correct. So, let's be back  
3 in the courtroom — or be back in your jury room rather at 1:15.

4 I remind you, again, don't talk about this case among yourselves or  
5 with anyone else. Have a good lunch and we'll see you back at 1:15.

6 **(Whereupon, the jury exited the courtroom for the luncheon**  
7 **recess at 11:53 a.m.)**

8 **(Off-the-Record Comments)**

9 **THE COURT:** Can I see the lawyers up here?

10 **(Whereupon, a bench conference was had with all attorneys**  
11 **present.)**

12 **THE COURT:** This is on the record.

13 **MR. WILLIAMS:** Are we going to have — After we had this  
14 discussion we just talked about, Your Honor, are we going to place something  
15 on the record?

16 **THE COURT:** Well, we'll — we'll make that decision. All right.  
17 Everybody be at ease for just a moment. I've got a little matter to deal with in  
18 chambers. And, then, we'll be in recess for lunch. Don't go anywhere until  
19 then.

20 **(Whereupon, a recess was taken while an in-chambers meeting**  
21 **with Counsel was had.)**

22 **(Off-the-Record Comments)**

23 **(Whereupon, a lunch recess was had from 12:15 p.m. til 1:15 p.m.)**

24 **THE COURT:** Let's mark this Court's 2, please.

25 **COURT REPORTER:** All right.

1                   **THE COURT:**       Thank you.

2                   **(Whereupon, Court's Exhibit 2 was marked for identification.)**

3                   **(Brief Pause)**

4                   **THE COURT:**       Okay, Gentlemen, anything we need to put on the  
5 record before the jury is brought back out?

6                   **MR. JOHNSON:**    Yes, sir, I've got a little —

7                   **THE COURT:**       I see a smile on Mr. Johnson's face.

8                   **MR. JOHNSON:**    Well, I'm just in a good mood. I — I'm — I have  
9 received some paperwork.

10                   There was an indication, from the solicitor's office, that there was a fax  
11 to the clerk's office from my client. And I went to the clerk's office and I  
12 retrieved it.

13                   And there was a message, along with a document, from Lexington  
14 Medical Center. I called the Lexington Medical Center; they confirmed that  
15 Mr. McCraw was admitted for some broken ribs.

16                   And this says "Discharge Instructions" on it, but they were unable to  
17 confirm if he was discharged. But they said it was because their records  
18 haven't been updated.

19                   But this does say that there were fractured ribs. And it says, "Rib  
20 Fracture Discharge Instructions," and, then, there is a prescription for  
21 oxycodone. And that was the — it goes on with the message that was  
22 attached, which has the name "Mike McCraw" written on it.

23                   I've not been able to contact my client, but that is something I received  
24 from the clerk's office and the solicitor has also informed me that they  
25 received a phone call from they say that it was a person claiming to be my

1 client giving them this information.

2 So I'm would I guess move for a mistrial at this point if we've got a  
3 medical emergency. Did you want to see this ----

4 **THE COURT:** Yeah, yes, sir. Have you see it, Solicitor?

5 **MR. MAYE:** No, I have not, Your Honor, but ----

6 **THE COURT:** Well, take — take a look at it first before handing it  
7 to me.

8 **MR. MAYE:** Sure.

9 **(Brief pause while Mr. Maye reviews document.)**

10 **MR. MAYE:** It just says he has three broken ribs, Your Honor,  
11 on there. And, like I said, the jury is sworn, and we're ready to proceed.

12 **MR. MYERS:** Let me add something to that, Your Honor. I was  
13 back there when the call came purportedly from Mr. McCraw. And he made  
14 a statement like he had some ribs and relay that to Mr. Johnson.

15 We said, "Give us your telephone number so we can confirm it." And  
16 he wouldn't.

17 **THE COURT:** Okay.

18 **MR. MEYERS:** He would not tell us where he was and wouldn't  
19 tell us where he was or what telephone number he could be reached.

20 **(Pause)**

21 **THE COURT:** Well, you know, it would appear that we're going  
22 to have to do a little bit more inquiry. I — I don't want to just proceed without  
23 making some further inquiry of whether or not this condition would medically  
24 prevent Mr. McCraw from attending this — this trial.

25 I think what — and I don't — I don't know if — if Dr. Andrew Denato

1 (phonetic), who appears to be the treating physician, whether or not he would  
2 talk with you, Mr. Johnson. But we're going to need to — we're going to need  
3 to find — we're going to need to check behind this.

4 I can't just accept it on its face and declare a — a mistrial. But, then,  
5 again, on — on the flip side of it, I can't just say, "Well, there's no merit to this.  
6 We'll proceed forward."

7 So, I've got to — and, if it requires this Court issuing an order to obtain  
8 this information ASAP, the Court will certainly do that.

9 So, what I'm going to ask you to do, Mr. Johnson, is — is — is make a  
10 — I'm sure this Dr. Denato, being an ER doctor at — is that Lexington ----

11 **MR. JOHNSON:** Yes, sir.

12 **THE COURT:** ---- Medical — it's Lexington ---

13 **MR. JOHNSON:** Medical Center.

14 **THE COURT:** ---- Medical Center that — is to contact the ER  
15 Department and see if — if he's available. Well, he's going to have to make  
16 himself available.

17 I mean, I — I'm going to try to cooperate with the doctor, but, then,  
18 again, we're — we're in the middle of a trial — and see what information you  
19 can obtain.

20 If it requires a court order, we'll — we'll supply a court order for you.

21 **MR. JOHNSON:** Your Honor, do you want a conference call with  
22 this doctor in chambers or...?

23 **THE COURT:** I — I think that would be good for us to have a  
24 conference call. And — so we can all hear what this doctor says.

25 **MR. JOHNSON:** Yes, sir. I'll work on it right now.

- 1           **THE COURT:**       So we'll just — we'll be at ease for a little bit.
- 2           **MR. MEYERS:**     I can get in touch with the head of security.
- 3           **THE COURT:**     Okay, at — at the hospital?
- 4           **MR. MEYERS:**     (Nods affirmatively.)
- 5           **THE COURT:**     Okay. And see if they can assist in helping —
- 6           **MR. JOHNSON:**    Yes, sir.
- 7           **THE COURT:**     ---- in helping us on this.
- 8           **MR. JOHNSON:**    Thank you, Judge.
- 9           **THE COURT:**     We'll just be at ease.
- 10                           **(At ease while hospital personnel were contacted from 1:28 p.m.**
- 11                           **until 2:01 p.m.)**
- 12                           **(Off-the-Record Comments)**
- 13                           **(Whereupon, Court's Exhibit 3 was marked for identification.)**
- 14                           **(Brief Pause)**
- 15           **THE COURT:**     We need to get this to Lexington County, this
- 16                           bench warrant, so ----
- 17           **MR. MAYE:**        We — we will. And they indicate that they believe
- 18                           he's still staying at this airport inn, in Traveler's. Actually, that's where we got
- 19                           this video from. That's what the narcotics officer that's here now says that
- 20                           they -- their most recent experience with him was ----
- 21           **THE COURT:**     All right.
- 22           **MR. MAYE:**        ---- and that he's still there.
- 23           **THE COURT:**     Well, does any — does anybody need this bench
- 24                           warrant?
- 25           **MR. MEYERS:**     Yes, sir.

1 (Off-the-Record Discussion concerning Mr. McCraw and juror  
2 who lived on [REDACTED] who was excused and the alternate took her  
3 place on the jury.)

4 (Brief Pause)

5 THE COURT: All right. We're back on the record. And I'll put on  
6 the record what has taken place over the last half hour, forty-five minutes.

7 The clerk's office received a — a two-page fax from Michael McCraw,  
8 the Defendant. The first page of the fax has been marked as Court's Exhibit  
9 Number ----

10 COURT REPORTER: Three (3).

11 THE COURT: — Number 3. The first page is an attached  
12 cover sheet. The second page is a document purporting to be from — issued  
13 from the emergency room at the Lexington Medical Center indicating Mr.  
14 McCraw had sustained some rib fractures and was treated on this date,  
15 October 9<sup>th</sup>.

16 Consequently, the Court, in the presence of the solicitor's office and  
17 defense counsel, was able to talk with Kelly Harnett, H-a-r-n-e-t-t, who is the  
18 supervisor for the physician's group at the emergency room. And she pulled  
19 up all of the records in the emergency room and indicated that she saw  
20 nothing in those records, from either a physical standpoint, a medication  
21 standpoint, that would prevent Mr. McCraw from attending court today.

22 She indicated that he sustained, based upon the history given to the  
23 emergency room from Mr. McCraw, that he sustained the rib fractures in an  
24 altercation that took place on October 8<sup>th</sup>.

25 He was not given any work or school excuse. He was admitted into

1 the emergency room at 10:45 a.m. and discharged at 11:58 a.m.

2 As a result of that, the Court has made the decision that we will  
3 proceed forward with the trial of this case in the Defendant's absence. Along  
4 with that, the Court has issued a bench warrant for Mr. McCraw to be picked  
5 up and brought to the court.

6 With that said, Mr. Johnson, do you need to place anything else on the  
7 record?

8 **MR. JOHNSON:** Your Honor, just that my motion for a mistrial on  
9 my — the basis of — of the fact that the person that we spoke to, from the  
10 hospital was not the treating physician, but the fact that she did confirm,  
11 however, that he did receive these prescriptions, I believe for oxycodone, and  
12 being under — under the influence of drugs, I think would be a situation  
13 where my client wouldn't be able to show up and — there's a chance that he  
14 would not be able to show up and function at a trial and ask for a mistrial or a  
15 continuance at this point.

16 **THE COURT:** Does the State want to put anything —

17 **MR. WILLIAMS:** Your Honor ----

18 **THE COURT:** Oh, excuse me. Mr. Williams. You go ahead.

19 **MR. WILLIAMS:** Your Honor, my client has shared with — some  
20 information with me, in regards to this, and has indicated that he actually saw  
21 some sort of evidence of — of an altercation yesterday after court, meaning  
22 that he saw evidence that he had been in a fight.

23 But I certainly — he hasn't — he doesn't know how he is this morning,  
24 but he can confirm that yesterday after court that he observed evidence of  
25 where he had been in a fight.

1                   **THE COURT:**       Okay. So would that — did he, then, form the  
2                   opinion that, when he — when Mr. McCraw was in court yesterday, that he  
3                   had already been in that altercation?

4                   **MR. WILLIAMS:**    If what he was — if what he was telling my client  
5                   was accurate, then, that would be the conclusion that I would draw from that.

6                   **THE COURT:**       Okay. All right. All right, thank you very much.  
7                   Anything from the Solicitor?

8                   **MR. MAYE:**         Yes, Your Honor. We just maintain that it's a  
9                   willful ----

10                  **THE COURT:**       Right.

11                  **MR. MAYE:**         — failure to appear. And that this is just some  
12                  excuse to generate that. Like I said, whoever contacted the solicitor's office,  
13                  we attempted to get some contact information. I mean, he's been intention  
14                  — whoever called was being intentionally elusive ----

15                  **THE COURT:**       Right.

16                  **MR. MAYE:**         — wouldn't give us any information to contact  
17                  anyone.

18                  For that reason, and just sending it by a generic fax with no way to  
19                  contact him, he's not trying to avail himself for communications with this  
20                  Court. And we just think it's a willful attempt to delay.

21                  **THE COURT:**       Okay. And that person did report to me ----

22                  **MR. MAYE:**         He identified himself as McCraw, but when we  
23                  asked him for information to assist the Court to be able to verify any of this, it  
24                  was willful refusal to provide any contact information.

25                  For that reason, we would certainly think that it was just staged for this



1 purpose.

2 **THE COURT:** All right. And, then, too the record needs to  
3 reflect that his attorney, Mr. Johnson, has made every diligent effort that he  
4 could in trying to reach Mr. McCraw and been unable to; consequently, Mr.  
5 Johnson has had no communication initiated by Mr. McCraw to — to Mr.  
6 Johnson.

7 So, with all that said, the motion for a mistrial will be denied. We will  
8 proceed forward. Hopefully, the — law enforcement will have some success  
9 in — in locating Mr. McCraw.

10 All right. Anything before we ----

11 **MR. MAYE:** Nothing from the State, Your Honor. We're ready  
12 to proceed.

13 **THE COURT:** All right. Let's bring the jury out.

14 **(The jury was summoned and entered the courtroom at 2:18 p.m.)**

15 **THE COURT:** Ms. Blacks, you're no longer an alternate, so, you  
16 want to have a seat with — with the others? Just sit in that row.

17 **(Juror complied with the Court's request.)**

18 **THE COURT:** All right. Let the record reflect the jury is back in.  
19 Thank you very much for your patience. We had some matters that we had  
20 to deal with. And, Solicitor, you may call your next witness.

21 **MR. MAYE:** The State would call Michelle Norris to the stand.

22 **THE COURT:** Okay.

23 **(The witness stepped forward to be sworn.)**

24 (Whereupon,

25 **MICHELLE NORRIS**

1 having been first duly sworn, testified as follows:)

2 (Off-the-Record Comments)

3 THE COURT: Ma'am, if you would, sit close to that microphone  
4 and speak into that microphone so we can all hear you, okay?

5 THE WITNESS: Okay.

6 THE COURT: Thank you. You may proceed, Solicitor.

7 Direct Examination by Mr. Maye: 2:20 P.M.

8 Q. Just state your name for the record and tell the ladies and gentlemen  
9 of the jury who you are.

10 A. I'm Michelle Holloman (phonetic) Norris.

11 Q. Ms. Norris, where are you originally from?

12 A. I'm from west Columbia.

13 Q. Did you live all your life around west Columbia?

14 A. Yes, sir.

15 Q. Okay. Who were you previously married to back in December of  
16 2010?

17 A. William Troy Norris.

18 Q. Okay. How long were you all married?

19 A. From — seven (7) years.

20 Q. Seven years? Okay. Back in December of 2010, when this took  
21 place, about how long had you all been — been split up? About how long had you  
22 all parted ways at that point in time?

23 A. Better than a month.

24 Q. Better than a month at that point in time? Had you all been having  
25 some problems for a substantial period of time?

1 A. Yes, sir.

2 Q. I don't mean to embarrass you, but is it fair to say at that time you had  
3 a pretty substantial drug problem?

4 (Brief Pause)

5 A. You can say that, yes, I had —

6 THE COURT: Ma'am, you're going to need to speak up, ma'am,  
7 because I'm having a hard time hearing you.

8 THE WITNESS: Yes, sir.

9 A. I had with several drugs, yes.

10 Q. Well, any time you're using meth, that's a pretty serious issue, isn't it?

11 A. Yes, it is, sir.

12 Q. Okay.

13 (Brief Pause)

14 Q. Your husband and you were at the situation, at that point in time, in —  
15 in December. You weren't living with him at that time, right?

16 A. Troy had changed the locks on our home so I was staying at  
17 Traveler's Inn, west Columbia.

18 Q. Is that a motel?

19 A. Yes, it is, sir.

20 Q. Okay. Tell the ladies and gentlemen of the jury what was happening  
21 that day and who was around you on the — on that day in the hours before you all  
22 were coming over here to Saluda County.

23 A. Well, I was staying at Traveler's Inn with a friend, Travis Warren.

24 Q. Okay. Travis Warren?

25

1           A.           Uh-huh (affirmative).

2           Q.           Okay. What about Michael McCraw, the other Defendant in this case,  
3 how did you know him?

4           A.           I just know him through my brother and his friends, you know, I just  
5 knew of him and had brought drugs from him before.

6           Q.           Okay. Let me ask you this: When ----

7           **MR. JOHNSON:**   Objection, Your Honor.

8           **THE COURT:**     Sir?

9           **MR. JOHNSON:**   Your Honor, I object to that line of questioning.

10          **THE COURT:**     Okay.

11          Q.           (By Mr. Maye) All right. Don't go into anything other than what  
12 happened on December the 2<sup>nd</sup> and 3<sup>rd</sup>, okay? Let me ask you this: In the — in the  
13 hours before you left to come over here to Saluda County, were you with Mr.  
14 Warren, a Defendant in this case, and Mr. McCraw? Were they in your company at  
15 that time, prior to coming over here?

16          A.           Yes, they were.

17          Q.           Okay. Where was that at again?

18          A.           Traveler's Inn in west Columbia.

19          Q.           Traveler's Inn in west Columbia? Okay. And what was Mr. McCraw,  
20 a Defendant in this case, what was he working on or what was he doing in the hours  
21 prior to you all leaving and coming over here? What was he doing?

22          A.           Well, when we were originally there, we didn't know where he was. He  
23 was — had a bench warrant and was wanted by the law so ----

24                        **(Phonetic, more than one person talking and hard to understand.)**

25          Q.           No, don't go into ----

1                   **MR. JOHNSON:**    Objection, Your Honor.

2           **Q.**           --- anything about anything that ----

3           **A.**           Okay. I sorry.

4                   **MR. JOHNSON:**    Objection.

5                   **THE COURT:**       Don't say anything.

6           **A.**           Well ----

7                   **THE COURT:**       Wait, wait, wait. Okay. We've got an objection.

8                   And I sustain the objection and move to strike that testimony concerning the  
9                   bench warrant.

10                   I'm going to ask the — or instruct the jury rather not to consider that  
11                   piece of testimony.

12                   **MR. JOHNSON:**    Your Honor, at this point, I think I need to take up  
13                   an issue outside the presence of the jury.

14                   **THE COURT:**       Okay. All right. Mr. Foreman, members of the  
15                   jury, I'll need to have you return to your jury room for a very brief moment to  
16                   take up a matter of law.

17                   **(Whereupon, the jury exited the courtroom at 2:24 p.m.)**

18                   **THE COURT:**       Yes — yes, sir, Mr. Johnson?

19                   **MR. JOHNSON:**    Your Honor, based upon the two statements, the  
20                   first one being that the client stated she had purchased drugs from my client,  
21                   and the second one where she stated that he had a bench warrant for his  
22                   arrest and she started going into that, based on those two things that the jury  
23                   heard both of those, I don't believe a curative instructions would resolve that  
24                   and I ask the Court to grant a mistrial at this point.

25                   **THE COURT:**       All right. I'm having a very difficult time hearing

1           this witness even though I'm sitting right next to her. And, as I — I cannot  
2           hear, I heard the — the words, "bench warrant," but I could not hear nothing  
3           further.

4                     So tell me, again, exactly what you understand — remember her  
5           saying. And, then, we'll see if Mr. Johnson agrees with that.

6                     **MR. MAYE:**           Your Honor, I asked her what he was doing in the  
7           hours just prior to them leaving and coming over here. And I think she said  
8           the he had been there and that he was wanted on a bench warrant. But that  
9           was not certainly in response to any question that I asked her.

10                    And, like I said, that — that's all I can tell you about it, you know.

11                   **THE COURT:**       All right.

12                   **MR. MAYE:**       And it certainly wasn't in response to my question.

13                   **THE COURT:**       Right.

14                   **MR. MAYE:**       And that's the first time I've ever heard that ---

15                   **THE COURT:**       Right.

16                   **MR. MAYE:**       --- in the many times that I've ever spoken with  
17           her or anything else.

18                   **THE COURT:**       Right. And nobody is pointing a finger at you,  
19           Solicitor. We just need to determine what to do about this — this piece of  
20           testimony.

21                   All right. And, then, Mr. Johnson says that she made some statement  
22           that Mr. McCraw — she purchased drugs from Mr. McCraw. I — and, again, I  
23           could not hear her. And the court reporter can't hear her either. We — we  
24           need to deal with that in just a moment.

25                   Did she say that she purchased drugs from Mr. McCraw?

1                   **MR. MAYE:**           She said that she had purchased drugs from him  
2                   in the past is what I believe I heard her say.

3                   **THE COURT:**           Okay.

4                   **MR. MAYE:**           But, again, that was not in response to any  
5                   question; I don't know why she gave that editorial, but it certainly was not in  
6                   any response to any question that the State asked in this case.

7                   **THE COURT:**           Right.

8                   **MR. MAYE:**           And I specifically directed her not to speak about  
9                   any other criminal acts or anything else in regard to — to this witness or any  
10                  outside the events of the 2<sup>nd</sup> or 3<sup>rd</sup>.

11                  **THE COURT:**           Okay. All right. And that's basically what you said  
12                  you heard?

13                  **MR. JOHNSON:**   Yes, sir, based on those two statements, those  
14                  answers, I'd like to ----

15                  **THE COURT:**           All right. You know, I think certainly a curative  
16                  instruction for the Court to give to the jury for them to disregard it.

17                  This is a drug case. And I will instruct them that they are not to  
18                  consider that; he's not — he has not been indicted for any sort of distribution  
19                  charges. And that is not relevant evidence and they're to disregard it.

20                  And I think that should be sufficient. I don't see where we need to take  
21                  the drastic measure of — of — of — of declaring a mistrial over that.

22                  And, then ----

23                  **MR. MAYE:**           And, Your Honor, the only way that I can see that  
24                  it's in any way relevant in this case, but I won't go into that, at the direction of  
25                  the Court.

1           It's my understanding, from my previous communications with this  
2 Defendant, that there was some indication about in order to provide the place  
3 — you know, to cook or to manufacture drugs, it would be to receive drugs.  
4 And that, that is a typical payment for someone providing them with a place.

5           And I had not intended on doing that, but I know that it is an ongoing  
6 conspiracy. And it's my understanding there is information in this case that,  
7 as part of the conspiracy, that the receipt of finished product — she indicated  
8 that he had previously indicated that he could make around four grams based  
9 on the information that she had.

10           And I think that there would have been some expectation that she  
11 would receive drugs from him as a result of being allowed to cook there and  
12 that, that was part of it.

13           I think that was — that's the only line that I could see would be the  
14 least bit relevant as to the distribution and it's part of the ongoing part of the  
15 conspiracy in this case, which would be to provide a place to manufacture or  
16 cook methamphetamine in exchange for drugs. And that, that was an  
17 ongoing pattern and that was the expectation of the witness.

18           **THE COURT:**     Okay. I'm — I'm going to deny the motion for a  
19 mis — for a mistrial. I'm going to give curative instructions on both pieces of  
20 testimony and instruct the witness, pay very close attention, ma'am, to the  
21 question being asked to you and try to be as responsive and as direct to the  
22 questions as you possibly can be.

23           Now, the other issue is that you're going to need to be just right all  
24 over that microphone because I can't hear you and the court reporter can't  
25 hear you. And, if neither one of us can hear you, then, we've got a serious



1 problem.

2 So sit real close to that microphone, try to maybe slow down a little bit  
3 in — in speaking. And let's see if we can move forward. Let's bring the jury  
4 in, please.

5 **MR. MAYE:** And, Your Honor, I'm going to instruct this witness  
6 right here in open court, do not say anything about any events taking place at  
7 any other time, previously buying drugs from him, or any other trouble that he  
8 has been in.

9 **THE WITNESS:** Okay.

10 **MR. MAYE:** Don't give any response other than what's  
11 happening that night in regards to your — to this case.

12 **THE COURT:** Okay. Bring the jury out, please, sir.

13 (Whereupon, the jury was summoned and entered the courtroom  
14 at 2:28 p.m.)

15 **THE COURT:** Okay. Let the record reflect the jury is back in.  
16 Mr. Foreman and ladies of this jury, there were two responses given by this  
17 witness; one that she had purchased drugs from the Defendant McCraw and  
18 two, that there was an outstanding bench warrant concerning Mr. McCraw.

19 Both of those pieces of — of testimony are stricken from the record.  
20 And I'm instructing you not to consider that in any way in — in this case.

21 It's not evidence, it's not relevant to what — what you are to decide.  
22 And it should not be any part of your deliberations when you start your  
23 deliberations at the end of this case.

24 Thank you very much. You may proceed, Solicitor.

25 Continued Direct Examination by Mr. Maye:

2:21 P.M.

1 Q. As to Mr. Warren in this case, you had known him for some period of  
2 time prior to December 2<sup>nd</sup>, 2010, correct?

3 A. Yes, sir.

4 Q. And he was your boyfriend at that point in time; is that correct? Is that  
5 a fair statement?

6 A. Yes, sir.

7 Q. Okay. Mr. McCraw, in this case, how long had you known him?

8 A. Maybe six (6) months.

9 Q. Okay. In regard to you all ending up over here in Saluda County, what  
10 was he doing, at the motel room in your presence, just prior to you all getting ready  
11 to come over here or you all ending up here? What was going on at that point in  
12 time with him?

13 A. He was making phone calls. He was meeting people outside.

14 Q. Okay. What was the next — what could you hear them talking about in  
15 regard to the telephone calls in this case?

16 A. I could hear him say that he had ----

17 MR. JOHNSON: Objection, Your Honor, hearsay.

18 MR. MAYE: The State would move Defendant against his  
19 interest.

20 MR. WILLIAMS: Your Honor, I would object on the basis of  
21 hearsay.

22 THE COURT: Okay. All right. And she is — she's repeating  
23 what she heard Mr. McCraw saying; is that correct?

24 MR. MAYE: Yes, sir.

25 THE COURT: Okay. I'll deny the objection.

1 Q. (By Mr. Maye) What was Mr. McCraw saying?

2 A. He said that he had two boxes and that ---

3 Q. Of what?

4 A. I understand it was Sudafed, but he said that he had two boxes and  
5 that he could make four (4) grams.

6 Q. Okay. All right. What else was happening?

7 A. He was looking for somebody to pick him up or to--- or a place to go.

8 Q. For what purpose? A place to go for what purpose?

9 A. To ---

10 MR. WILLIAMS: Objection to hearsay, Your Honor, and  
11 speculation.

12 THE COURT: Just -- just repeat what he -- what you heard him  
13 say. Don't speculate as to the intent of what he was saying. So I'll sustain  
14 the objection on that part.

15 A. I heard him say that he had two boxes and could make four (4) grams.

16 Q. (By Mr. Maye) Okay. What were you driving at the time?

17 A. I was driving a Mazda Millennium.

18 Q. Okay. Did you have some kind of special tag or did you have a  
19 personalized tag on that thing?

20 A. I did. I had a Gamecock tag on it.

21 Q. You had a Gamecock tag on that car? Okay. Prior to you all coming  
22 over here to Saluda, who did you let use your vehicle at that point in time?

23 A. I let Travis Warren drive me because my license was suspended for  
24 failure to pay a ticket.

25 Q. Okay. Who else used that vehicle that night prior to you all coming

1 over here?

2 A. Mike may have drove it, but I gave the keys to Travis.

3 Q. You gave the keys to him. Did they leave with your vehicle during that  
4 period of time?

5 A. They did.

6 Q. Okay. So they took your Mazda Millennium with the Carolina  
7 personalized tag on it and they left?

8 A. Yes, sir.

9 Q. Okay. On December the 2<sup>nd</sup>, prior to you all coming over here?

10 A. They did.

11 Q. Okay. All right. Did they come back together at some point in time  
12 later?

13 A. They did.

14 Q. Okay. What happened next, after they came back with the vehicle  
15 after they had left with it on the 2<sup>nd</sup>?

16 A. Mike leaving was my goal and I — I was hoping that he could find a  
17 ride and I offered to let him go to Saluda.

18 Q. To let him go to Saluda?

19 A. To drive him on to Saluda.

20 Q. Okay. What kind of place was over here in Saluda? Where were you  
21 all coming?

22 A. It was ---

23 (Brief Pause)

24 A. It was my husband's and my lake place.

25 Q. Okay. All right. And this was a place you were familiar with and had

1       been before, correct?

2           A.       (Nods affirmatively.)

3           Q.       All right. Who drove?

4           A.       Travis.

5           Q.       Travis Warren drove the car?

6           A.       Yes, sir.

7           Q.       Okay. Who else was in the car with him?

8           A.       I was in the car and Mike McCraw was in the car.

9           Q.       Okay. Prior to coming over here to come to the lake house, where did  
10       you all go together at that point in time?

11          A.       On the way to the lake, Mike asked to stop at Walmart ----

12               MR. JOHNSON:   Objection, Your Honor, hearsay.

13               THE COURT:       All right. Again, I did not — I maybe just need to  
14       get in — in another spot of this courtroom; I can't — I can't hear her. And so I  
15       didn't hear what she said. I'm sorry.

16               MR. MAYE:       She repeated back that he asked to stop at  
17       Walmart, which is a statement in furtherance of the conspiracy from the  
18       State's perspective.

19               THE COURT:       The nature of your objection, Mr. Johnson?

20               MR. JOHNSON:   Hearsay.

21               THE COURT:       Denied. You may proceed.

22           Q.       (By Mr. Maye) He wanted to stop at Walmart?

23           A.       Yes, sir.

24           Q.       Did you all stop at Walmart?

25           A.       Yes, sir, we did.

1 Q. What did he get at Walmart?

2 A. He --- he looked as if he had found camp fuel.

3 MR. WILLIAMS: Objection. Speculation, Your Honor.

4 THE COURT: Okay.

5 Q. (By Mr. Maye) What did he come back with?

6 A. He had camp fuel.

7 Q. You stopped at Walmart and got camp fuel?

8 A. Yes, sir.

9 Q. Okay. After you all left Walmart, after getting the camp fuel, where did  
10 you all come? How did you get here?

11 A. We went down 378 through the traffic circle to the road where we went  
12 to [REDACTED] Road, the lake --- the lake place.

13 Q. Okay. What happened when you got out to the lake place?

14 A. I turned on the --- I flipped on the switches for the water pump and the  
15 electricity. And Mike got his belongings and went inside.

16 Q. You said Mike McCraw ----

17 A. McCraw.

18 Q. ---- got his belongings?

19 A. He got ----

20 Q. What all did he have?

21 A. He had several duffle bags, army duffle bags, over his shoulder.

22 Q. Okay. And what did he, then, do with those duffle bags? Did he take  
23 them into the residence?

24 A. He did.

25 Q. Okay. When was the last time you had been out there to that lake

1 place prior to that time?

2 A. It had been a few months.

3 Q. And this was — what time of day or night? This is well over into the  
4 night, isn't it?

5 A. I think it was 11:00 or between 11:00 and 12:00 maybe.

6 Q. In December?

7 A. Yes, sir.

8 Q. All you all drove all the way over from the Traveler's Inn in west  
9 Columbia ----

10 A. We did.

11 Q. — out here to that trailer (indicating) at that time of night?

12 A. Yes, sir.

13 MR. JOHNSON: Objection, Your Honor, leading. He's leading.

14 THE COURT: All right. Repeat your question. Do not lead.

15 Q. (By Mr. Maye) What happened next?

16 A. The police came up

17 Q. Okay. At the time that the police came up to the property, who all was  
18 there with you at the property?

19 A. Mike was inside. Travis was in the car and I was coming out the back  
20 door.

21 (Brief Pause)

22 Q. Okay. What is the next thing that happened after the cops got there?

23 A. They asked me who I was. I showed them my ID and told them it was  
24 my residence. And they heard a door slam and they asked was there somebody  
25 else. And they went around to the front of the trailer.

1 (Brief Pause)

2 Q. Did you ever see Warren or McCraw again at that point in time that  
3 night?

4 A. I didn't.

5 Q. So they took off?

6 MR. WILLIAMS: Objection to leading.

7 Q. (By Mr. Maye) What did they do?

8 A. The last time I saw Mike he was inside. I walked outside to speak with  
9 the police.

10 Q. Uh-huh (affirmative).

11 A. So, when I saw Travis the last time, the police weren't here yet, but he  
12 was in the car. And he was — and I think he honked the horn and said, "Hurry,  
13 come on." He was ready to go. He didn't want to be there.

14 And I was just dropping — trying to drop Mike off. I flipped on the — I  
15 mean, we were maybe there for less than five minutes.

16 Q. You were going to drop him off at your lake house?

17 A. Yes, sir.

18 (Brief Pause)

19 Q. And you're sure about that?

20 A. Yes, sir.

21 Q. Once the police got you out and took you into custody, was either  
22 McCraw or Warren there on the scene on the property? Did you see either one of  
23 them there?

24 A. I did not.

25 Q. So they were gone; they were not there?



1           A.       No, sir.

2           Q.       Did you see either one of them again after you were taken into  
3 custody?

4           A.       I saw Mike McCraw in booking. And I saw ---

5           MR. JOHNSON:   Objection, Your Honor.

6           THE COURT:     Okay. I'm going to have to stand somewhere  
7 else. I apologize, ma'am, I still cannot understand anything that you're  
8 saying. And, therefore, I can't rule on any --- any objection.

9                   Let me stand down here.

10          MR. MAYE:       I'm sorry about that, Your Honor.

11          (The Court moves and stands in front of bench.)

12          THE COURT:     That's okay. All right. Mr. Johnson, state the  
13 nature of your objection.

14          MR. JOHNSON:   Your Honor, I object to the statement that she just  
15 said, that she saw Mr. McCraw in booking, prejudicial.

16          THE COURT:     Well, I mean, he's --- that she saw in booking, I  
17 mean, he's ----

18          MR. JOHNSON:   Yes, sir.

19          THE COURT:     ---- been indicted. He has be to arrested in order  
20 to be, you know...

21          MR. JOHNSON:   Yes, sir.

22          THE COURT:     Denied.

23          Q.       (By Mr. Maye) Did you ever see either one them again out there at the  
24 scene with the police?

25          A.       No, sir, I didn't.

1 Q. Okay. And you got charged with several things in this case, didn't  
2 you?

3 A. I did, yes, sir.

4 Q. All related to the incident out there that night, correct?

5 A. Yes, sir.

6 Q. You got charged with trafficking?

7 A. Yes, sir.

8 Q. Okay. You got charged with manufacturing?

9 A. I did.

10 Q. Okay. Let me ask you this: Has anybody promised you anything in  
11 exchange for your testimony or told you what's going to happen to your charges in  
12 this case?

13 A. No, sir.

14 (Brief Pause)

15 Q. What was the type of cook or the term for the type of cook that you all  
16 were going to do? What is the term for that, that you provided the place? What was  
17 that type or method of production of methamphetamine?

18 A. Well, Mike was known for shake 'n bake.

19 MR. JOHNSON: Objection, Your Honor.

20 THE COURT: The basis for your objection?

21 MR. JOHNSON: A highly prejudicial statement, Your Honor. She  
22 said — she just made the statement, "Mike was known for shake 'n bake."

23 THE COURT: You need to speak up too, Mr. Johnson.

24 MR. JOHNSON: She said Mike was known for shake 'n bake, Your  
25 Honor.

1                   **THE COURT:**       I think that the testimony was that's what they  
2                   were planning to do.

3                   **MR. MAYE:**           That was my question, Your Honor.

4                   **MR. JOHNSON:**       Her actual statement was, "Mike is known for  
5                   that." That's ---

6                   **THE COURT:**       No, I don't think she said that. I think she said that  
7                   was what they were planning to do.

8                   **MR. JOHNSON:**       Yes, sir.

9                   **THE COURT:**       Okay. Denied.

10                  **Q.**        (By Mr. Maye) What was the method that was going to take place  
11                  there that night called?

12                  **A.**        Shake 'n bake.

13                  **Q.**        Shake 'n bake? What do you know about the ingredients that are  
14                  used in shake 'n bake?

15                  **A.**        Only what I've heard. And I really don't know all the ingredients, just  
16                  from what I've listened and heard. I know camp fuel ----

17                  **MR. WILLIAMS:**   Objection to speculation, Your Honor, if she  
18                  doesn't know.

19                  **THE COURT:**       Okay. If she does not have personal knowledge  
20                  and, she's basing her testimony purely on what someone told her, then, I will  
21                  sustain the objection.

22                  **(Brief Pause)**

23                  **Q.**        (By Mr. Maye) Do you know what materials that he had with him there  
24                  other than the fuel that you previously talked about?

25                  **A.**        I didn't see anything else but fuel.

1           Q.       But you knew he was going there to make methamphetamine that  
2 night, correct?

3           A.       I did.

4           Q.       No secret about what you all going there for?

5           A.       Correct.

6           Q.       To — to anybody that was present, was there?

7           A.       Correct.

8           Q.       Okay. So your boyfriend Mr. Warren drove; is that correct?

9           A.       Yes, sir.

10          Q.       And you provided the place, correct?

11          A.       Correct.

12          Q.       And Mr. McCraw was going to be the cook; is that right?

13          A.       (Nods affirmatively.)

14          Q.       What was your expectation? What did you ----

15                **THE COURT:**       Ma'am, you need to answer verbally.

16          A.       Yes, sir, yes, sir.

17          Q.       What did you expect to get out of this by letting him go out there and  
18 cook at you all's lake place? What was your expectation of what you would receive?

19          A.       To get him out of my hotel room.

20          Q.       Why did you want him out of your hotel room?

21          A.       Because it is illegal activity. I mean, he was — I didn't feel comfortable  
22 with him in my hotel room. I didn't want him in my hotel room.

23          Q.       So you're telling the jury you had no expectation of receiving any  
24 finished product or anything else from him?

25          A.       No, sir.

1 Q. What was your intent? Were you just going to leave him there?

2 A. I was.

3 (Brief Pause)

4 Q. Why were you getting heat on at the house and doing those things to  
5 get the house in shape at that point in time then?

6 A. Because it was one of the coldest days in December. It was very cold.

7 (Brief Pause)

8 Q. Well, if you were leaving, why were you worried about that?

9 A. I just had a lot of things to worry about. I got to get -- I was getting the  
10 heater out of the closet and, then, lock the door back because my husband, he kept  
11 calling and calling. That was my intention.

12 Q. So you all were just going to drop him off, provide him with a place to  
13 cook, and you all were just going to leave?

14 MR. WILLIAMS: Objection to leading.

15 THE COURT: Try not to lead, Solicitor.

16 (Off-the-Record Discussion)

17 Q. (By Mr. Maye) At the time the police got there, what was going on in  
18 the house at that time? Did you smell anything or was there anything going on in  
19 the house?

20 A. I did not smell anything until the police opened the door or I really  
21 didn't smell anything until the police told me and I stood on the porch and there was  
22 a smell.

23 Q. You could smell the odor of chemicals?

24 A. I could somewhat smell that their -- that he was doing what they said  
25 he was doing, what they found was true.

1           **Q.**           You could smell the chemical odor inside the house at that point in  
2 time yourself?

3           **A.**           I could smell it at the back door whenever they — a few minutes later  
4 after the door slammed and....

5                   **MR. MAYE:**       All right. Answer any questions the Defense has  
6 for you.

7                   **THE COURT:**     Mr. Johnson?

8                   **MR. JOHNSON:**   Thank you, Your Honor.

9                   **THE COURT:**     If you wouldn't mind, kind of position yourself over  
10 there so I can stay in this position.

11                   **MR. JOHNSON:**   Yes, sir.

12                   **THE COURT:**     Thank you very much.

13                   **MR. JOHNSON:**   I'll try to speak up. Yes, sir.

14                   **THE COURT:**     Thank you.

15           **Cross Examination by Mr. Johnson:**

**2:35 P.M.**

16           **Q.**           You go by Ms. Norris?

17           **A.**           I do.

18           **Q.**           Ms. Norris, are you a liar?

19           **A.**           No, I'm not.

20           **Q.**           Okay. And you would disagree with your husband, then, your ex-  
21 husband, when he says you lie?

22                   **MR. MAYE:**       Your Honor, I have an objection to that. That's  
23 pitting the witnesses together ----

24                   **THE COURT:**     I sustain the objection.

25           **Q.**           (By Mr. Johnson) All right. Ms. Norris, you're a drug addict?

1 A. Yes, I'm a drug addict.

2 Q. Okay. And you — are you saying that you didn't have any interest in  
3 any drugs being provided to you?

4 A. I did not.

5 Q. Okay. And are you wanting to go to prison for 15 years?

6 A. Not at all.

7 Q. Okay. And that's what you facing, right?

8 A. Yes, sir, I am.

9 Q. So you're here today to help yourself out so you don't go to prison for  
10 15 years, correct?

11 A. I'm not sure what's going to happen.

12 Q. Well ---

13 A. I'm here to tell the truth.

14 Q. Okay. And you're doing that for the Solicitor?

15 A. No.

16 Q. The Solicitor called you, correct?

17 A. I've been here in — in jail for 17 months. I think it's time for me to  
18 come to court and to proceed, sentenced or however.

19 Q. Okay. And so you're saying that you have no wish for anyone in the  
20 solicitor's office or anyone in the future to help you out with that 15 years you're  
21 facing? Is that what you're saying?

22 A. No — what's the question?

23 Q. You don't want the solicitor's office to help you or anyone to help you?  
24 You're willing to plead guilty and go to prison for 15 years?

25 A. I'm willing to tell the truth and see the judge to see whatever my

1 punishment is.

2 Q. When the police came up there, didn't you tell them that there was  
3 nobody inside?

4 A. No, I did not say that.

5 Q. You didn't say that?

6 A. No, I was actually calling someone's name.

7 Q. Okay. And back in 2000, were you convicted of 16 counts of  
8 fraudulent check?

9 A. In 2000 ----

10 Q. Uh-huh (affirmative).

11 A. — my checkbook was stolen and I was not convicted of it. I was — it  
12 was taken care of.

13 Q. Oh you were not convinced of that?

14 A. No, I was not convicted of check fraud.

15 Q. Did you ever go by the name of Kathryn Michelle Holloman (phonetic)?

16 A. That's my birth name.

17 Q. Okay.

18 MR. JOHNSON: Your Honor, if I can have this marked Defense  
19 Exhibit 1.

20 (Whereupon, Defendant's Exhibit 1 was marked for identification.)

21 (Off-the-Record Discussion)

22 THE COURT: Is it being marked for identification only?

23 MR. JOHNSON: For identification right now, Your Honor.

24 THE COURT: Okay.

25 Q. (By Mr. Johnson) Ms. Norris, I'm going to show you what's marked



1 Defendant's Exhibit 1. Do you recognize that?

2 (Brief Pause)

3 MR. MAYE: Your Honor, now, I'm going to object to him  
4 publishing anything out of that as hearsay. I'm going to object to him  
5 publishing anything unless he wants to put into evidence.

6 THE COURT: All right.

7 MR. MAYE: Now, I'll stipulate that he can put it into evidence if  
8 he wants to ----

9 MR. JOHNSON: I was asking ----

10 MR. MAYE: ---- as a Defense exhibit..

11 MR. JOHNSON: I'll ----

12 THE COURT: We can't have both of you talking at the same  
13 time, even though we've got a very experienced and excellent court reporter,  
14 it makes it a little difficult for her to take down everything that both of you are  
15 saying. So, please, just speak one at a time.

16 You can ask if she recognizes that document. And, then, I don't know  
17 where Mr. Johnson is going with it after that. But answer the question,  
18 ma'am.

19 A. I recognize the — the canceled checks. The — the checks were stolen  
20 from me in '95. And in 2002 is when it was all resolved. And I didn't prosecute the  
21 people who stole the checks, so, I had — you know, it showed up on my record.

22 Q. Okay. And it shows up on your record as a conviction?

23 MR. MAYE: Your Honor, I object, again, to publishing it. If he  
24 wants to put it in as a Defense exhibit, I'll stipulate that it can come in. But  
25 he's trying to publish hearsay out of that ----

1                   **MR. JOHNSON:**   Your Honor, I'm —

2                   **MR. MAYE:**           ---- without no foundation.

3                   **MR. JOHNSON:**   Your Honor, I'm not ----

4                   **MR. MAYE:**           If he wants to put it in evidence, I'll stipulate to  
5                   that.

6                   **THE COURT:**       Okay. Well, if it comes into evidence, then, would  
7                   he not have the right to publish it.

8                   **MR. MAYE:**           If he wants to put in, sure, as a Defense exhibit. If  
9                   he wants to put it into evidence, I'm happy for him to do that, sure.

10                  **THE COURT:**       Okay.

11                  **MR. MAYE:**           And I'll stipulate that he can put it into evidence.

12                  **THE COURT:**       All right.

13                  **MR. MAYE:**           But to ask her about it is pure hearsay, no  
14                  foundation.

15                  **THE COURT:**       Mr. Johnson, he's — he's waiting for you to put it  
16                  into evidence.

17                  **MR. JOHNSON:**   Well, I did move it into evidence. I just wanted to  
18                  ask her that question.

19                  **THE COURT:**       Well, you can't have — you can't have your cake  
20                  and eat it too. You can't ask her about the document and, then, it doesn't go  
21                  into evidence.

22                               If you're going to question her about the contents of the document ----

23                  **MR. JOHNSON:**   Yes, sir.

24                  **THE COURT:**       ---- then, I think the State has a right to have it into  
25                  evidence.

1                   **MR. JOHNSON:**   Well, I'm not moving it in, Your Honor. I — I  
2                   appreciate that.

3                   **THE COURT:**       Okay.

4                   **MR. JOHNSON:**   And I'll continue with questioning.

5           **Q.**       (By Mr. Johnson) Now, ma'am, how much meth were you using?

6                   **(Brief Pause)**

7           **A.**       I was constantly using it. I didn't really keep track of how much.

8           **Q.**       On that day, how much did you use?

9           **A.**       I still can't tell you an exact amount. I was casually....

10          **Q.**       But you were using methamphetamine on that day?

11          **A.**       I did, sir, on that day, yes.

12          **Q.**       Did you have anything to drink on that day?

13          **A.**       I believe I did have a drink or two. It was a long time ago.

14          **Q.**       And you said you were in a relationship with the co-defendant, Mr.  
15          Warren, correct?

16          **A.**       Yes, sir.

17          **Q.**       And you were married at the time to Mr. Norris?

18                   **(Brief Pause)**

19          **A.**       I was separated.

20          **Q.**       So I ask you again, what — is it a habit for you to lie when it's  
21          convenient you to lie?

22          **A.**       I don't try to make it a habit to tell a lie.

23          **Q.**       Okay. And is it — would you say it's convenient for you to tell this story  
24          today considering you're facing 15 years in prison?

25          **A.**       Nothing is convenient about this, nothing.

1 Q. Would it go along with the Solicitor wanted you to say if you got up  
2 here and said something different?

3 A. No, not on my sentence, sir. I'm not saying anything different than the  
4 truth.

5 MR. JOHNSON: No more questions, Your Honor.

6 THE COURT: Okay. Mr. Williams, any cross examination, sir?

7 MR. WILLIAMS: Yes, Your Honor. Thank you.

8 (Brief Pause)

9 Cross Examination by Mr. Williams:

2:40 P.M.

10 Q. Ms. Norris, I'm just going to hit some highlights of what was testified to.  
11 And I want to make sure I understand. On the question from the Solicitor, as to your  
12 vehicle and going to Saluda, did you say that you offered your car to Mister ----

13 A. McCraw, to -- he ----

14 Q. You did not -- I'm sorry?

15 A. He needed to get out of the hotel, and -- and that was the last resort.

16 Q. All right. You did not -- or -- or did you offer your car to anyone other  
17 than Mr. McCraw for that purpose?

18 A. No, sir.

19 Q. All right. And, if Mr. McCraw drove to Saluda, the reason he drove to  
20 Saluda was because you don't have a driver's license; is that correct?

21 A. Well, Mr. McCraw didn't have a driver's license either.

22 Q. So the only one that drove that car would have been your boyfriend at  
23 that time; is that correct?

24 A. Yes, sir.

25 Q. And he was the only one that had a driver's license?

1 A. Yes, sir.

2 Q. And the only reason why you offered to drop — to let him use your car  
3 — talking about Mister — Mr. McCraw, was to get him out of the hotel room?

4 A. Yes, sir.

5 Q. So your boyfriend drives this guy away from your hotel room for you;  
6 is that correct?

7 A. Yes.

8 Q. Okay. Now, Mr. McCraw did — was it your understanding that he was  
9 just going to stay there and you and your boyfriend were going to leave?

10 A. Yes, sir.

11 Q. Did Mr. McCraw, to your knowledge, have relatives nearby?

12 A. He — he told me that he was making arrangements for his family or  
13 friends to come and pick him up or....

14 Q. All right. And, when you got to this location at the lake, at — that's  
15 obviously your — your ex-husband's property; is that right?

16 A. Yes, sir.

17 Q. When you got there, who went inside this residence?

18 A. I had keys. I unlocked the door for Mike. I flipped on the water pump  
19 and the electricity that was on a breaker box.

20 (Brief Pause)

21 Q. All right. And who went inside the residence?

22 A. Mike went inside and myself.

23 THE COURT: What was that answer you gave, ma'am?

24 A. Mike went inside and I went inside.

25 THE COURT: Okay.

1 Q. What — where did your boyfriend go?

2 A. He was staying in the car.

3 Q. Was the car running?

4 A. Yes, sir.

5 Q. All right. And what did you do inside the residence when you went  
6 inside the residence, just ...?

7 A. Flipped on the breaker box. And I was getting the heater out of the  
8 bedroom closet. I was going to put a heater in — in my bedroom.

9 Q. Did you do anything else?

10 A. No, sir.

11 Q. All right. And, when was the first time that you realized that the police  
12 were called to the area?

13 (Brief Pause)

14 A. Moments later, right as I went into the bedroom.

15 Q. Did you know that your ex-husband had actually called the police  
16 before you actually got there?

17 A. I had an idea, yes.

18 Q. Were you talking to you ex-husband on the phone that night?

19 A. Yes, sir, I was (phonetic).

20 Q. And, please, tell the jury what type of — well, don't say the words that  
21 were spoken, but was it a friendly conversation or ----

22 A. No, sir. No, sir, it wasn't.

23 Q. And, at the time that you were talking on the phone to your ex-  
24 husband, you knew the police were coming; is that correct?

25 A. Well, I knew that there was a PI following me and I knew that the

1 police would be coming.

2 Q. And were you fussing with your ex-husband?

3 A. Yes, sir.

4 Q. And I believe you told the solicitor that your boyfriend, Mr. Warren, did  
5 not want to be there?

6 A. Yes, sir.

7 Q. Did he toot the horn?

8 A. He did.

9 Q. And, when the police arrived, was your boyfriend there?

10 A. He — I suppose he was in the car still. I mean, I was dealing with the  
11 police. I really wasn't looking around right then.

12 Q. So you didn't see him?

13 A. No. The last time I saw him he was in the car.

14 Q. All right. I don't want you to say anything you didn't see.

15 A. Okay.

16 Q. You saw him when you went inside the trailer?

17 A. Uh-huh (affirmative).

18 Q. The police come, and the next time you come out, do you see your  
19 boyfriend?

20 A. No, sir, I don't. I see the police.

21 Q. I'm sorry?

22 A. I see the police. That's my main focus.

23 Q. All right. When was the next time you saw your boyfriend?

24 (Brief Pause)

25 A. When I was released from jail.

1 Q. Would it be safe to say that you don't know exactly what point in time  
2 your boyfriend left?

3 A. Yes, sir.

4 Q. So, if the police didn't see him there when they pulled up, then, he was  
5 already gone?

6 A. Yes, sir.

7 Q. And it's your testimony that he was tooting on the horn saying he didn't  
8 want to be there; is that correct?

9 A. Yes, sir.

10 (Brief Pause)

11 MR. WILLIAMS: That's all the questions I have, Your Honor.

12 THE COURT: Anything in redirect?

13 MR. MAYE: Yes, I do.

14 Redirect Examination by Mr. Maye:

2:48 P.M.

15 Q. Was there any other occasion other than the night of December 2<sup>nd</sup> of  
16 2010, that Mr. McCraw — McCraw would have been in your car, in that vehicle?

17 A. No, sir.

18 Q. And you have testified previously that you let Mr. Warren leave with  
19 Mr. McCraw before you all left and came over here, correct?

20 A. Yes, sir.

21 Q. Okay.

22 MR. MAYE: Your Honor, I have some issues involving a tape  
23 we need to take up outside the presence of the jury briefly.

24 THE COURT: And it may be a good time to take a little early  
25 afternoon break. Ladies and gentlemen, let's take a break. So I'm going to



1 ask the jury to retire to your jury room, maybe get something to drink, use the  
2 restroom.

3 And, again, I remind you not to talk about this case among yourselves.  
4 We'll get you out here shortly.

5 **(Whereupon, the jury exited the courtroom at 2:49 p.m.)**

6 **THE COURT:** Yes, sir, Solicitor.

7 **Voir Dire of Ms. Norris by Mr. Maye:**

**2:50 P.M.**

8 **Q.** Okay. Let me ask you this: Have you had a previous opportunity to  
9 view a videotape that was shot by the private investigator?

10 **A.** Yes, sir.

11 **Q.** Okay. On that night, on December the 2<sup>nd</sup> of 2010, did you have an  
12 opportunity to view the Defendant in this case, Mr. McCraw, and Mr. Warren, at  
13 CVS? Did you see that?

14 **A.** Yes, sir.

15 **Q.** Okay. Is there any other time, during the night time on any other  
16 occasion, that both of these individuals would have been in your automobile?

17 **(Brief Pause)**

18 **A.** No, sir.

19 **Q.** Okay. So you looked at that video footage that was shot that night.  
20 Does it fairly and accurately reflect them in your automobile and using your  
21 automobile on the night of December the 2<sup>nd</sup> of 2010?

22 **A.** Yes, sir.

23 **Q.** And you're certain about that?

24 **A.** Yes, sir.

25 **MR. MAYE:** Your Honor, I have just the portions of tape. I've

1 redacted — I talked to them about being present at the hotel together. But I  
2 have just the portions of the tape that show him there on the — on — the two  
3 of them together at the CVS at that time, Your Honor.

4 I think, from the cross examination, there's an attempt in this case to  
5 show that Mr. Warren was — was not a willing participant in this and was not  
6 assisting and he did not want to be there.

7 I think it's directly relevant in this case that he's driving around without  
8 the testifying witness in this case, Your Honor, to pick up items. And the  
9 video tape would reflect that.

10 And I think any objections to its admissibility would go to the weight of  
11 it rather than its admissibility.

12 She has testified now that the only time that the two of them would  
13 have ever been together in the car was that night that she allowed them to  
14 use together.

15 She's previously testified that they were there. And I would intend to  
16 pub — to publish that portion of the tape that shows them together at CVS  
17 going in and out and using her vehicle there.

18 **THE COURT:** Does it show them getting out of the car — her car  
19 — and getting into the car?

20 **MR. MAYE:** It shows them there at the CVS that night, getting  
21 into the vehicle, utilizing her vehicle at CVS. And it shows them coming in  
22 and out.

23 I can publish it. They've viewed it. And I have just an excerpt of them  
24 at CVS.

25 **THE COURT:** All right. Mr. Johnson or Mr. Williams, I'll be

1 happy to hear from you both.

2 **MR. JOHNSON:** Well, Your Honor, there's no way she could — if  
3 she's not in the video, there's no way she could testify about the accuracy of  
4 the date and timing, where it was at.

5 And that's going to be — there's going to be some information on the  
6 screen. I would object because there's really no way for her to lay a  
7 foundation for that.

8 Also, as I said before, my objection about evidence of another crime  
9 being at this drug store. And I believe Your Honor indicated he wanted to  
10 give an instruction on that.

11 And the — if there's part of the video that's going to be at that motel,  
12 there's no way that she ----

13 **MR. MAYE:** I don't intend to offer that.

14 **THE COURT:** All right.

15 **MR. MAYE:** I've redacted just that portion that's there at the  
16 CVS. I think it shows more than just an unwilling participation. I was hesitant  
17 to go into it on — on direct, but now, they've made it an issue that he was not  
18 assisting in any way.

19 And it shows him driving him around. We've got a receipt for lithium  
20 batteries, for that same time, that were retrieved out of the house. It shows  
21 them going around together purchasing those precursor chemicals. And I  
22 think it's directly relevant.

23 I — I think any objections would go to weight rather than admissibility.  
24 She's testified that the only time that they could have been in her automobile  
25 was that night.

1                   And that she's limiting — she says it fairly and accurately reflects them  
2                   using her vehicle on that night because it's the only time the two of them ever  
3                   had access to it together.

4                   **THE COURT:**       All right. So, Mr. Johnson, the — your objection is  
5                   based upon that you don't want this video to have any indication of — of  
6                   committing any other crimes that he's not been indicted on; is that correct?

7                   **MR. JOHNSON:**   Well, in addition to my motion regarding  
8                   foundation since the investigator has passed away that made the video and  
9                   she's not able to lay a foundation.

10                  **THE COURT:**       Well, I mean, she has testified that the only time  
11                  the two of them ever used her car was this night in question. She can look at  
12                  the video and say, "Yes, that's my car and I — I identify the — the two people  
13                  in — getting in and out of the car as the Defendants."

14                  So the fact that she did not take that video, she can at least say what  
15                  is in the video is — is — is it's her car and the two Defendants.

16                  **MR. JOHNSON:**   Well, I guess ----

17                  **THE COURT:**       And I'll still instruct the jury that they're not to  
18                  consider the video as any evidence of any other crimes other than the crime  
19                  that they have been indicted for.

20                  **MR. JOHNSON:**   Well, I guess my only remaining point was the fact  
21                  that the timing and the day. And she's obviously is going to say — indicate  
22                  that it was that day. And she — she cannot be sure of that.

23                  **THE COURT:**       Well, does the video have the little date stamp on  
24                  it?

25                  **MR. MAYE:**       It's got it right on there, Your Honor, and she's

1 said that she's absolutely certain it was that night; that, that's the only time  
2 that those two ever used that vehicle together. And it fairly and accurately  
3 reflects them on that night using her vehicle.

4 And, like I said, those arguments go to weight, not admissibility. And  
5 certainly, there be no indication — I hope going to CVS is not a crime or an  
6 indication of a crime; a lot of us would be in trouble for that.

7 But, as to this particular case, it does shows assistance in obtaining  
8 the precursor ingredients. It shows both of them coming and going from  
9 CVS. And not just one of them ----

10 **THE COURT:** Okay.

11 **MR. MAYE:** ---- somebody dropping him off.

12 **THE COURT:** Mr. Williams?

13 **MR. WILLIAMS:** Your Honor, obviously, I have a problem with  
14 foundation and relevance because, up until this point in time, there's been no  
15 introduction of evidence that would connect going to CVS and any type of  
16 drug activity.

17 There hasn't been the introduction of any type of item that's been  
18 found at the location with the CVS receipt. Mere being in the parking lot of  
19 CVS is not relevant at this point in time.

20 We — we don't know why they were at the CVS parking lot.

21 **THE COURT:** Well, in light of the fact that the Solicitor indicates  
22 that they've got evidence, CVS evidence, I don't think it's necessary that, that  
23 to be put in first prior to the video.

24 If they don't put up any CVS evidence, then, I would imagine the jury is  
25 going to find this video pretty much worthless I would think.

1 I mean, I — I understand the Solicitor's point about trying to showing  
2 cooperation on behalf of your client, Mr. Williams, but I'm — I'm going to allow  
3 it in. I will give a curative instruction that they cannot consider this as  
4 evidence of any other crime other than what's been indicted.

5 **MR. JOHNSON:** And, Your Honor, just to confirm, he's not going to  
6 play this for us before the jury comes back so we can confirm.

7 **MR. MAYE:** Sure.

8 **MR. JOHNSON:** I haven't seen this redacted version he's talking  
9 about.

10 **MR. MAYE:** Sure. I'll let them look at it and make sure it's  
11 redacted to their satisfaction.

12 **THE COURT:** All right. Okay.

13 **MR. MAYE:** But I had it broken up so that it's just the little bit at  
14 CVS.

15 **THE COURT:** All right. You all take a look at it. All right. We'll  
16 be at ease and off the record.

17 **(Whereupon, a recess was taken while Counsel views video.)**

18 **MR. MAYE:** Your Honor, we're ready.

19 **THE COURT:** Okay. Have they seen it?

20 **MR. MAYE:** Yes, sir.

21 **THE COURT:** Okay.

22 **(Brief Pause)**

23 **MR. JOHNSON:** Your Honor, do you have a copy of your  
24 instruction?

25 **THE COURT:** Excuse me?

1                   **MR. JOHNSON:**    The instruction you were going to give?

2                   **THE COURT:**       Are — are you talking about my — my charge?

3                   **MR. JOHNSON:**    For the — regarding the video.

4                   **THE COURT:**       No, I'm just going to give a verbal ----

5                   **MR. JOHNSON:**    Yes, sir.

6                   **THE COURT:**       ----- curative instruction.

7                   **MR. JOHNSON:**    Yes, sir.

8                   **THE COURT:**       Yeah.

9                   **MR. JOHNSON:**    Yes, sir.

10                  **THE COURT:**       Do you want — do you want me to put it in writing?

11                  **MR. JOHNSON:**    No, sir. I didn't know if you had — I just didn't

12                  know if you had it. No, sir. That's okay.

13                  **THE COURT:**       No, I'm just going to give a verbal curative

14                  instruction that they're not to consider this video as evidence of any other

15                  crime other than the crime that he's been indicted.

16                  **MR. JOHNSON:**    Yes, sir. Thank you.

17                  **THE COURT:**       I thought you were wanting to go ahead and get

18                  my final --- a copy of my final jury charge, which I will give you all a copy of.

19                  But we're not quite there yet I don't think.

20                  **MR. JOHNSON:**    Yes, sir.

21                  **THE COURT:**       Did you say a one-day trial? Did somebody tell

22                  me a one-day trial?

23                  **MR. ROSS:**        We're in Saluda, Your Honor. Things change in

24                  Saluda.

25                           **(Continued Off-the-Record Comments)**

1                   **MR. MAYE:**           We're ready at any point in time, Your Honor.

2                   We're ready to publish that.

3                   **THE COURT:**       Okay. All right.

4                   **MR. MAYE:**           We're ready for the jury.

5                   **THE COURT:**       All right. Is everybody ready I guess?

6                   **MR. JOHNSON:**    Yes, sir.

7                   **MR. WILLIAMS:**   Yes, sir.

8                   **THE COURT:**       All right. Go ahead and bring the jury in. Madam  
9                   Court Reporter, you okay?

10                  **COURT REPORTER:**    Yes, sir. Thank you.

11                  **(Whereupon, the jury returned to the courtroom at 3:05 p.m.)**

12                  **THE COURT:**       Okay. Let the record reflect the jury is back in.

13                  Mr. Foreman and ladies of the jury, I understand that the State is going to  
14                  publish a video. It's short, but nonetheless a video.

15                  And I just — I'm instructing you that you are not to consider this video  
16                  as evidence of any other crime other than the crime for which the Defendants  
17                  have been indicted.

18                  So, with that instruction, Solicitor, you may proceed.

19                  **MR. MAYE:**           Your Honor, at this time, we'd ask to publish the  
20                  video tape.

21                  **THE COURT:**       Certainly.

22                  **MR. WILLIAMS:**    Subject to prior objections, Your Honor.

23                  **THE COURT:**       Subject to all prior objections.

24                  **(Off-the-Record Comments)**

25                  **MR. MAYE:**           Your Honor, at this point in time, just for purposes



1 of the record, we've been in camera, but to lay the foundation in front of the  
2 jury. I would — I would ask her one or two questions just to put what was  
3 proffered outside the presence of the jury.

4 **THE COURT:** Certainly, Solicitor.

5 **Continued Redirect Examination by Mr. Maye:** **3:06 p.m.**

6 **Q.** Ms. McCraw [sic], let me ask you this: Have you had an opportunity to  
7 view portions of a video tape on December the 2<sup>nd</sup> of 2010 that reflected both of  
8 these Defendants using your automobile?

9 **A.** Yes, sir, I have.

10 **Q.** Okay. If — at any other time other than December — the night of  
11 December 2<sup>nd</sup> of 2010, did you ever let them utilize your vehicle or use your vehicle  
12 together?

13 **A.** No, sir.

14 **Q.** And your absolutely certain of that?

15 **A.** I'm absolutely certain.

16 **Q.** The two of them were there and present in your vehicle on December  
17 2<sup>nd</sup> of 2010, before you all came to Saluda?

18 **A.** Yes, sir.

19 **Q.** Okay. And you've reviewed the video clip. And does it fairly and  
20 accurately reflect the events of that night?

21 **A.** It does, sir.

22 **MR. MAYE:** Your Honor, at this time, I'm going to ask to  
23 publish it.

24 **THE COURT:** Okay. You may proceed.

25 **(Whereupon, State's Exhibit 26 was marked for identification and**

1 admitted into evidence over objection.)

2 (Off-the-Record Comments)

3 (Whereupon, State's Exhibit Number 26 was published to the jury

4 at 3:07 p.m.)

5 Continued Redirect Examination by Mr. Maye:

3:10 p.m.

6 Q. (By Mr. Maye) Ms. Norris, you've had a chance to look at that video

7 tape again. Who are the two guys that are using your car there?

8 A. Travis Warren and Mike McCraw.

9 Q. Who was driving?

10 A. Travis Warren.

11 Q. Okay. Was driving the vehicle?

12 A. Uh-huh (affirmative).

13 Q. Okay. And, again, that fairly and accurately reflects that night,

14 December the 2<sup>nd</sup> of 2010?

15 A. Yes, sir.

16 Q. Just before you all came out here to Saluda?

17 A. Yes.

18 Q. Okay. Did you all go to WalMart afterwards or before this?

19 MR. WILLIAMS: Objection, leading.

20 A. Afterwards.

21 MR. MAYE: Let me withdraw that.

22 MR. WILLIAMS: Leading.

23 MR. MAYE: I withdraw that.

24 THE COURT: Okay. Withdraw the leading.

25 Q. (By Mr. Maye) After the time of this video, did you go anywhere else

1 with them?

2 A. Well, I went to WalMart. And I was at WalMart with them.

3 Q. Okay. Who drove there?

4 A. Travis drove.

5 Q. And, again, who drove over here to Saluda?

6 A. Travis drove.

7 Q. Okay.

8 MR. MAYE: Nothing else. Thank you.

9 THE COURT: Okay. Any recross?

10 MR. JOHNSON: None for me, Your Honor.

11 MR. WILLIAMS: Yes, Your Honor.

12 Recross Examination by Mr. Williams:

3:11 P.M.

13 Q. Ma'am, from your testimony that was just elicited, I think you testified  
14 that, based on this video tape, that you identified your boyfriend and Mr. McCraw as  
15 being the two individuals on the video tape; is that correct?

16 A. Yes, sir.

17 Q. And you did not make the video tape?

18 A. No, sir.

19 Q. You didn't prepare the — how the video tape was run?

20 A. I didn't.

21 Q. And you didn't provide the information in terms of when and where that  
22 video tape was taken?

23 A. Correct.

24 Q. Correct?

25 A. Correct.

1 Q. You didn't go inside the CVS?

2 A. No, I didn't.

3 Q. Are you aware of any other video inside the CVS that would have  
4 shown what happened inside the CVS?

5 A. I don't.

6 Q. The only thing that you can testify to is that you saw your boyfriend  
7 and Mr. McCraw in the parking lot of a CVS on this video?

8 A. Yes, sir.

9 Q. Is that correct?

10 A. Yes, sir.

11 Q. Now, you said that you and your boyfriend and Mr. McCraw went to  
12 WalMart?

13 A. Yes, sir.

14 Q. All right. And which WalMart did you go to?

15 A. 378 and 15 (phonetic).

16 Q. And, to your knowledge, is there any type of videotape showing the  
17 three of you all going to WalMart?

18 A. No, sir.

19 Q. Is there any type of video that you're aware of that shows the three of  
20 you all inside of WalMart?

21 A. No, sir.

22 Q. Is there any type of receipt or documents that indicate that my client  
23 bought anything at WalMart?

24 A. Not to my knowledge, no.

25 (Brief Pause)

1 Q. Who actually went inside WalMart?

2 A. I went into Walmart. Travis went into WalMart. Mike went into  
3 WalMart. And we went in separate directions, but we all went.

4 Q. All right. And ----

5 THE COURT: Let me step down here.

6 (The Court steps off the bench.)

7 THE COURT: Repeat that answer? I could not understand you,  
8 ma'am.

9 A. (No Response)

10 THE COURT: Repeat that answer, please.

11 A. I went into WalMart and Travis also went into WalMart. And Mike went  
12 into WalMart in different directions.

13 Q. (By Mr. Williams) All right. And did my client purchase anything, to  
14 your knowledge, in WalMart?

15 A. No, sir.

16 Q. And, on this video here, do you know of — whether or not he actually  
17 purchased anything in the CVS or not?

18 A. I do not.

19 Q. So, essentially, your testimony is that you can identify two people in a  
20 CVS parking lot and that the three of you all went to WalMart?

21 A. Yes, sir.

22 Q. And my client didn't purchase anything as far as you know?

23 A. No.

24 Q. But he drove you to Saluda to your ex-husband's house because you  
25 wanted to get rid of this Mr. McCraw?

1 A. Yes, sir.

2 Q. Why did you want to get rid of Mr. McCraw?

3 A. I wanted him out of my hotel room because I'm afraid of him

4 (phonetic).

5 Q. Did you have any other type of relationship with him? Were you afraid  
6 of him for any other reason?

7 A. He had a repu — a bad reputation. On several occasions ----

8 MR. JOHNSON: Objection, Your Honor.

9 A. (Inaudible)

10 THE COURT: Wait a minute. Wait a minute. I've got an  
11 objection.

12 MR. JOHNSON: Was he — I'm sorry, was she identifying  
13 statements? It's a hearsay objection, Your Honor, if she ----

14 THE COURT: I — I couldn't understand what she — what she  
15 said.

16 MR. JOHNSON: She was — I believe she was referring to  
17 statements ---

18 THE COURT: Repeat the answer — repeat the question, Mr.  
19 Williams, if you would. And repeat your answer, please, ma'am. And, then,  
20 we'll see.

21 Q. (By Mr. Williams) What were your fears that -- that caused you to  
22 request your boyfriend to drive him away from the hotel room? You said you were  
23 afraid of him, talking about Mr. McCraw.

24 A. Right.

25 Q. And what were your fears based on?

1 A. He had threatened to tell my husband ----

2 MR. JOHNSON: Objection, Your Honor.

3 THE COURT: Okay.

4 MR. JOHNSON: Hearsay.

5 THE COURT: It goes to state of mind. Overruled. You may  
6 proceed.

7 A. He had threatened to tell my husband about my drug use and about  
8 Travis and me.

9 MR. WILLIAMS: That's all I have, Your Honor.

10 THE COURT: Okay. Anything in redirect?

11 MR. MAYE: Just very briefly.

12 Redirect Examination by Mr. Maye:

3:15 P.M.

13 Q. But you all knew full well you all were going out there to make meth;  
14 you had already testified to that, correct?

15 MR. WILLIAMS: Objection to leading.

16 THE COURT: Okay. Repeat your question or rephrase.

17 Q. (By Mr. Maye) Was there anybody that went out there, on the trip to  
18 Saluda, that did not know you all were going to make meth?

19 (Brief Pause)

20 A. I guess I knew what his intentions were.

21 (Brief Pause)

22 Q. Who drove him to CVS?

23 A. Travis drove.

24 Q. Who drove to Saluda for you all to come out here?

25 A. Travis drove.

1 Q. Anybody else ever drive that car that night to your knowledge?

2 A. Not to my knowledge, no.

3 MR. MAYE: Nothing else.

4 THE COURT: Anything further from the defense?

5 MR. JOHNSON: No, sir.

6 MR. WILLIAMS: No, Your Honor.

7 THE COURT: Okay. You may step down, ma'am.

8 (The witness complied with the request.)

9 THE COURT: Any objection to her being escorted back ----

10 MR. JOHNSON: Not from Defendant McCraw.

11 MR. WILLIAMS: None from Defendant ----

12 THE COURT: Okay.

13 MR. WILLIAMS: — Travis Warren.

14 THE COURT: Okay. She's — she's free to leave the  
15 courthouse, sir.

16 (Brief Pause)

17 THE COURT: All right, Solicitor, call your next witness.

18 MR. MAYE: The State would call Russ Padgett from the  
19 Saluda County's Sheriff's Office.

20 THE COURT: Okay.

21 (The witness stepped forward to be sworn.)

22 (Whereupon,

23 Officer Russ Padgett

24 having been first duly sworn, testified as follows:)

25 THE COURT: Your witness.



1 Direct Examination by Mr. Maye:

3:19 P.M.

2 Q. Investigator Padgett, tell the ladies and gentlemen of that jury who you  
3 are and where you're employed.

4 A. I'm Lieutenant Russ Padgett with the sheriff's office in Saluda.

5 Q. Okay. What capacity do you currently work for the sheriff?

6 A. I'm a narcotics investigator.

7 Q. Okay. Let's go back to December of 2010. What were you doing for  
8 the sheriff at that point in time?

9 A. I was a night shift supervisor for the road (phonetic).

10 Q. Okay. Did you have an opportunity go out to [REDACTED] here  
11 in Saluda County?

12 A. Yes, sir, I did.

13 Q. On the night of December the 2<sup>nd</sup> of 2010?

14 A. I don't remember if it was the 2<sup>nd</sup> or the 3<sup>rd</sup>, but I have my report here.

15 Q. From the night of the 2<sup>nd</sup> going into the 3<sup>rd</sup> ---

16 A. Right.

17 Q. --- did you respond to a call?

18 A. Yes, sir.

19 Q. What kind of call were you going on? What were you going to do?

20 A. We received a call that there was possibly a break-in at [REDACTED]  
21 Road. The — the owner of the property, Mr. Norris, asked us to go check his  
22 property because there was supposed to be no one there.

23 It was a summertime home and there wasn't supposed to be anybody  
24 there at that time. And that he felt like that his ex-wife and ---

25 MR. WILLIAMS: Objection to hearsay, Your Honor.

1 Q. Don't go into anything he said. What happened when you got there?

2 A. Once I got there, someone looked out the door. And we went to the  
3 door and, then, she opened the door. And we -- we immediately began to clear the  
4 house.

5 Q. Who is "she"?

6 A. Ms. Norris.

7 Q. Ms. Norris? Okay. When you got there, were there any vehicles there  
8 at the property?

9 A. There was one vehicle there.

10 Q. Was anybody in that vehicle?

11 A. No, sir.

12 Q. That vehicle was empty?

13 A. Yes, sir.

14 Q. Okay. So what was the next thing that happened?

15 A. We began clearing the house — well, when she opened the door, we  
16 could smell a very strong chemical odor, consistent with what my experience told me  
17 would be a meth lab.

18 And we cleared the residence for our safety. As we were clearing the  
19 residence, we heard people running from the back of the house. We went out the  
20 back door, heard people go over the fence that was on — on the property line there.

21 And we began to chase them. At which time, myself and my partner  
22 both, became sort of ill (phonetic). My partner actually threw up from the chemical  
23 smell.

24 We heard someone splash into the lake and we quit chasing them and  
25 went back around front to speak to Ms. Norris.

1 Q. Okay. How many people were you chasing, one person or two  
2 people?

3 (Brief Pause)

4 A. It sounded like two people went over the fence, in two different spots; I  
5 only seen one.

6 Q. You saw one person, but you heard what you believed was two  
7 individuals there?

8 A. Because it sounded like two different spots.

9 Q. Okay. At — at or near the same period of time?

10 A. Right.

11 Q. Okay. How many splashes did you hear when they went out into the  
12 lake?

13 A. Just one splash into the lake.

14 Q. Okay. But you believed you were in pursuit of two people and not  
15 one?

16 A. Right.

17 Q. Okay. What did you, then, do?

18 A. We, then — I, then, contacted our — while we were clearing the  
19 house, to make sure no one else was in there, we observed items that we ---

20 MR. JOHNSON: Objection.

21 MR. MAYE: Hold on just a second.

22 Q. (By Mr. Maye) Let me ask you this — and I'm going to stop you.

23 THE COURT: Hold on a minute. I've got an objection.

24 MR. MAYE: Go ahead.

25 MR. JOHNSON: Based on the previous arguments and motions,

1 Your Honor, I have an objection to this.

2 **THE COURT:** Let's have just a very quick sidebar.

3 **(Whereupon, a bench conference was had with all attorneys**  
4 **present.)**

5 **Q.** (By Mr. Maye) Investigator Padgett, let me ask you this ----

6 **MR. JOHNSON:** Your Honor, I'm sorry. Did we get a ruling on the  
7 objection?

8 **THE COURT:** Right. And it's this -- this line of questioning is  
9 subject to prior objections ---

10 **MR. JOHNSON:** Yes, sir.

11 **MR. MAYE:** Yes, sir.

12 **THE COURT:** -- certainly.

13 **Q.** (By Mr. Maye) And you secured the residence initially; is that correct?

14 **A.** Yes, sir.

15 **Q.** And you took Ms. Norris into custody at that point in time, correct?

16 **A.** We placed her in investigative detention, yes, sir, we did ----

17 **Q.** Let me ask you this ---

18 **A.** -- until we could find out what was going on.

19 **Q.** ----- prior to going in and conducting any search or doing anything  
20 inside the house, did you go down to Judge Horn (phonetic) and get a search  
21 warrant for the residence there at [REDACTED] Lane [sic]?

22 **A.** After the scene was secured, I did.

23 **Q.** Okay. Did you go down and provide him with all the information that  
24 you had up until that point in time?

25 **A.** Yes, sir.

1 Q. Okay. Were you, in fact — at that point in time, did you — were you  
2 sworn by the Magistrate at the time you gave him all the information and the  
3 affidavit?

4 A. Yes, sir, I was.

5 Q. Okay. Did you give him supplemental testimony based on all the  
6 information that you had at that point in time?

7 A. Yes, sir, I did.

8 Q. Okay. Did he indicate that on the face of the search warrant, that you  
9 had give him all the information you had, including supplemental oral testimony?

10 A. Yes, sir.

11 Q. Okay. At that time, on December the 3<sup>rd</sup>, of 2010, did the Summary  
12 Court, Judge Horn, Bruce Horne, issue a valid search warrant at that point in time  
13 for the residence at [REDACTED] Lane [sic]?

14 A. Yes, sir, he did.

15 Q. Okay. I'm going to ask you this: What items did you seize pursuant to  
16 the search warrant in that case?

17 MR. JOHNSON: Your Honor, I have to object. He's not — based  
18 on a previous ruling of Your Honor.

19 THE COURT: Pursuant to prior objections ---

20 MR. JOHNSON: This is also based on another ruling. Can we step  
21 up?

22 MR. WILLIAMS: Your Honor, I would object to him publishing the  
23 search warrant since it's not in evidence. If he's just going to read what was  
24 found, as listed on the search warrant return, then, my objection would be  
25 that he's publishing something which is not in evidence.

1                   **MR. MAYE:**           I'll move it into evidence if you want me to, but I'm  
2                   not in the habit of putting a search warrant in. I will — I'll do so. I'll move the  
3                   return into evidence. I'll ask him if that's the return.

4                   **MR. JOHNSON:**   Your Honor, I think this is subject to your previous  
5                   ruling. If we could ----

6                   **THE COURT:**       Let's have a sidebar.

7                   **(Whereupon, a bench conference was had with all attorneys**  
8                   **present.)**

9                   **THE COURT:**       All right. Subject to the prior objections, you may  
10                  proceed.

11                  **(Brief Pause)**

12                  **THE COURT:**       And repeat the question again.

13                  **MR. MAYE:**       Yes, sir.

14                  **Q.**        (By Mr. Maye) As a result of the search warrant, the valid search  
15                  warrant that was issued by Judge Horn, what items did you seize and take custody  
16                  of?

17                  **A.**        We seized one gallon of Coleman camp fuel, a 32-ounce bottle of  
18                  Liquid Lightning (phonetic) Drain Opener, 275 milligrams of an unknown white liquid  
19                  substance, numerous pills, and 1.2 pounds of Drano (phonetic).

20                  **THE COURT:**       I couldn't hear that last answer, sir.

21                  **A.**        One point two (1.2) pounds Drano.

22                  **Q.**        Okay. And you all seized those items as a result of the search  
23                  warrant?

24                  **A.**        Right.

25                  **Q.**        Okay. Did you have DEA or agents of DEA destroy some of those

1 items?

2 A. All the chemicals were destroyed by DEA.

3 Q. Okay. So you all did not keep and maintain those? Those were all  
4 destroyed?

5 A. Yes, sir.

6 Q. Okay. But you did seize all those items as a result of the search  
7 warrant and you found them there at the residence?

8 A. Yes, sir.

9 Q. Okay.

10 (Brief pause while documents shown to opposing Counsel.)

11 Q. (By Mr. Maye) Let me ask you to review these photographs: State's  
12 Exhibit Number 4 for ID, State's Exhibit Number 3 for ID, State's Exhibit Number 2  
13 for identification, State's Exhibit Number 1 for identification, State's 7 for  
14 identification, State's it looks like 8 for identification. and 10 for identification.

15 And ask you, at the time that you ex — executed the search warrant, if  
16 those photograph fairly and accurately reflect either items that you seized there at  
17 the house or items that were present there in the house when you executed the  
18 search warrant ?

19 (Brief pause while the witness examines exhibits.)

20 A. Well, this one was at the — on the back porch area.

21 Q. But you viewed that and saw it?

22 MR. JOHNSON: Objection.

23 THE COURT: The nature of your objection?

24 MR. JOHNSON: He's publishing the photo, Judge. It's not in  
25 evidence — the officer was.

1                   **THE COURT:**       Okay. Well, lay — lay your foundation, Solicitor.  
2                   Make sure he recognized that those are items seized. And, then, if you want  
3                   to move them into evidence, we'll can deal with it at — at that time

4                   Then, if they — if they go into evidence, then, they can be published.

5           **Q.**       (By Mr. Maye) I'll ask you: Are all these photographs, that you've  
6           looked at so far, do those fairly and accurately reflect the scene on the night that  
7           you executed the search warrant, including some items the you seized that night?

8           **A.**       Yes, sir.

9                   **MR. MAYE:**       Your Honor, at this time, I'd like to introduce the  
10           photos into evidence.

11                   **THE COURT:**       Okay.

12                   **MR. JOHNSON:**   Just object based on previous arguments and  
13           motions, Your Honor.

14                   **THE COURT:**       All right. Subject to ---

15                   **MR. WILLIAMS:**   Your Honor, my objection is that, unless this  
16           officer is the one who actually found the items, and is testifying as to the  
17           location, then, the identification of pictures;

18                   He — he would have absolutely no idea where these items were found  
19           in the house simply by looking at the pictures. He can construe that they  
20           were this item in this location when they really weren't.

21                   So I guess it has to do with whether or not this officer found those  
22           items at that location.

23                   **THE COURT:**       Okay.

24                   **MR. WILLIAMS:**   So I — I would object to the foundation.

25                   **THE COURT:**       All right. Well, continue with foundation and see



1           who took the photographs and see if — if it was in the same location that —  
2           that he knew them to be, that sort of thing.

3           Q.       (By Mr. Maye) Let me ask you this: Did you take the photographs  
4           yourself there that night?

5           A.       No, sir, I did not.

6           Q.       Okay. But did you see all of the items that were photographed? Were  
7           you in the house? Were you present for the execution of the search warrant?

8           A.       Yes, sir.

9           Q.       Okay. And those photographs reflect the location of the items as they  
10          were photographed and where the things were, correct?

11          A.       I wasn't in the house when they were photographed because of the  
12          chemical smell and I didn't have a mask. I went into the house — that's what I seen.

13          Q.       That accurately reflects it from your -- from where you were in the  
14          house?

15          A.       Yes.

16          Q.       And you actually went in the house and saw it? It made you sick, but  
17          you went in the house and saw those items?

18          A.       Right.

19          Q.       And the photographs fairly and accurately reflect all of them?

20          A.       Yes, sir.

21               **MR. MAYE:**       At this time, I move them into evidence.

22               **THE COURT:**     Subject to the previous objections and subject to  
23               that recent objection, which is overruled, they will be admitted into evidence  
24               as 2, 3, 4, 7, 8, and 10 for the State [sic].

25               **MR. JOHNSON:**   Your Honor, was there 1 also?

1                   **THE COURT:**       I haven't seen Number 1 yet.

2                   **MR. JOHNSON:**   Well, it was cited by the Solicitor, so, I'm  
3                   confused.

4                   **MR. MAYE:**        I'll read you the numbers off of the ones we've got  
5                   in so far: 7, 1, 2, 3, 4, 8, and 10.

6                   **THE COURT:**       And that was the Court's mistake. I did not report  
7                   Number 1 in my notes.

8                   **MR. JOHNSON:**   Yes, sir.

9                   **(Whereupon, State's Exhibit Numbers 1, 2, 3, 4, 7, 8, and 10 were**  
10                  **admitted into evidence over objection.)**

11                  **Q.**        (By Mr. Maye) I'm going to show you State's 14 and ask you if you  
12                  can view that. Don't publish what it is, but can you — are you familiar with that item  
13                  that is in State's 14?

14                  **A.**        Yes, sir.

15                  **Q.**        Okay. Did you seize and take custody of that item there on that day?

16                  **A.**        Yes, sir.

17                  **Q.**        Okay. Do you have it here present with you today as well?

18                  **A.**        Yes, sir, I do. It's in the file.

19                  **Q.**        Okay. Can you retrieve that from your file?

20                  **THE WITNESS:**   Can I step down?

21                  **THE COURT:**       Yeah, you can step down and go to your file.

22                  **(The witness complied with the request.)**

23                  **(Brief Pause while documents are retrieved.)**

24                  **MR. MAYE:**        You can go back and take the stand.

25                  **THE WITNESS:**   Okay.

1 (The witness complied with the request.)

2 (Off-the-Record Discussion)

3 Q. (By Mr. Maye) I'm going to show you State's Exhibit 14 for ID at this  
4 point in time.

5 (Exhibit handed to the witness.)

6 Q. Does that photograph show a paper receipt that you all seized there  
7 on that night? Does that fairly and accurately show that paper receipt on 14?

8 A. Yes.

9 Q. The photograph?

10 A. Yes, sir.

11 MR. MAYE: At this point in time, Your Honor, I would move to  
12 admit that photograph into evidence, of a receipt found in the — in the house.

13 MR. JOHNSON: Your Honor, I would just object based on  
14 foundation and previous objection. And I would ---

15 THE COURT: What was the subject of the previous objection?

16 MR. JOHNSON: I don't know if he can testify about the fact that he  
17 seized it. Is that what he said? I -- I don't believe he said he seized it.

18 THE COURT: I think he said it was seized. I'm not sure if he  
19 physically himself seized it or not. If -- if you want that foundation brought  
20 out, Solicitor, inquire of the witness concerning -- concerning that.

21 Q. (By Mr. Maye) Were all of these items seized basically in your  
22 presence there and collect that night you executed the search warrant?

23 Was this receipt seized that night there from the residence? Is that, in  
24 fact, a receipt or a photograph of that receipt that was seized?

25 A. It was in my presence.

1 Q. Okay.

2 A. Deputy Conkrell (phonetic) is the one who actually executed the  
3 search warrant.

4 Q. But it was done in your presence?

5 A. Yes.

6 Q. And you know that's a fair and accurate photograph of it?

7 A. Yes, sir.

8 MR. MAYE: Your Honor, I would move to admit it at this time,  
9 just the photograph showing it in the location in the house.

10 MR. WILLIAMS: Your Honor, my objection — it's my understanding  
11 the question dealt with the search warrant and what was seized pursuant to  
12 the search warrant.

13 MR. MAYE: I'm asking him now if he seized a receipt there at  
14 the house.

15 MR. WILLIAMS: My objection to the receipt, Your Honor, is that he  
16 can't testify that he received the receipt or that he found the receipt.

17 And, then, the second objection would be best evidence. If we had the  
18 original — the proper document would be the original as opposed to a  
19 photograph.

20 MR. MAYE: I'll put the -- I'll offer the receipt and withdraw the  
21 photograph.

22 THE COURT: All right. He wants — all right, that was part two  
23 of Mr. Williams' objection. Of course, part one is that this officer was not the  
24 officer who actually seized this document.

25 MR. MAYE: Yes, but, Your Honor, he has testified it was done

1 in his presence there.

2 Q. (By Mr. Maye) And I'll ask him, at this point in time, if Your Honor will  
3 allow me to, was that kept and maintained by the sheriff's department in evidence?

4 A. Yes, it is.

5 MR. MAYE: And it was, Your Honor, which I believe would be  
6 a full foundation for it. It was seized in his presence and kept and maintained  
7 by the sheriff's office.

8 MR. WILLIAMS: Your Honor, as long as he says that he was  
9 present, when it was found in that house, then, we have no objection, Your  
10 Honor.

11 THE COURT: And — and I think that's what he has testified to.

12 MR. WILLIAMS: That's what I — I just wanted to make sure.

13 THE COURT: All right. Ask him, again, specifically so Mr.  
14 Williams can — can know whether or not to pursue that objection or not.

15 MR. MAYE: Okay.

16 Q. (By Mr. Maye) Those items that were seized, as a result of the search  
17 whether that night, the receipt that was seized, that was seized in your presence?

18 A. Yes, sir.

19 Q. Okay. And that has been kept and maintained by that sheriff's office?

20 A. Yes, sir.

21 Q. You're certain that the document — I mean, the item that I've handed  
22 you, it doesn't have a State's number on it at this time, it's the same paper received  
23 — that was seized there that night, correct?

24 A. Yes, sir.

25 MR. WILLIAMS: No objection.

1                   **MR. MAYE:**           Okay. At this point in time, I'm going to move to  
2 remove -- admit the receipt into evidence.

3                   **THE COURT:**       Let the record reflect that Mr. Williams is now  
4 withdrawing that previous objection. Thank you, sir.

5                   **MR. JOHNSON:**    I'm relying on the previous objection, Your Honor.  
6 I would object to it.

7                   **THE COURT:**       All right.

8                   **(Off-the-Record Comments)**

9                   **(Whereupon, State's Exhibit Number 25 was marked and admitted**  
10 **into evidence over objection.)**

11                  **MR. JOHNSON:**    Your Honor, what is -- I'm sorry. What is the  
12 exhibit number?

13                  **THE COURT:**       Fourteen (14).

14                  **MR. JOHNSON:**    Thank you.

15                  **MR. MAYE:**       And the photograph was 14. This receipt was 25.

16                  **THE COURT:**       Okay.

17                  **MR. MAYE:**       But you can't publish what's ----

18                  **MR. JOHNSON:**    I'm sorry. I'm sorry. It's my understanding 14 is  
19 not in evidence?

20                  **MR. MAYE:**       Yes, sir. I'm going to withdraw it.

21                  **THE COURT:**       Exhibit 14 has been withdrawn ---

22                  **MR. JOHNSON:**    Yes, sir.

23                  **THE COURT:**       --- and the receipt had already been previously  
24 pre-marked, so, 14 is out; there will not be a 14 exhibit ----

25                  **MR. JOHNSON:**    Yes, sir.

1                   **THE COURT:**       ---- and 25 is the exhibit number we're receiving.

2                   **MR. JOHNSON:**   Yes, sir.

3           **Q.**        (By Mr. Maye) Please publish what that receipt is for, what — where  
4 it's from, just publish it.

5           **A.**        Yes, sir. It's from the CVS pharmacy at 1079 South Lake Drive  
6 (phonetic) in Lexington. And it's for one pack of AA lithium batteries.

7           **Q.**        Okay. And you all seized that out of the house that night?

8           **A.**        Yes, sir.

9           **Q.**        Okay.

10                   **(Brief Pause)**

11           **Q.**        What else did you do that night, Investigator Padgett, involved in this  
12 investigation?

13           **A.**        (No Response)

14           **Q.**        After securing the scene and obtaining the search warrant and seizing  
15 those items?

16           **A.**        Well, we Mirandized Ms. Norris.

17           **Q.**        Okay.

18           **A.**        Deputy Conkrell did.

19           **Q.**        Okay. Let me ask you this: She initially told you, when you got there,  
20 that there was nobody else in the residence; she was there by herself, correct?

21           **A.**        Right. Initially, when she come to the door, she said no one was there.

22           **Q.**        But, immediately upon her doing that, you heard people run out of the  
23 house?

24           **A.**        Right.

25           **Q.**        Okay. And you were unable to pursue them because they went into

1 the lake, correct?

2 A. Right.

3 (Brief Pause)

4 MR. MAYE: Begging the Court's indulgence.

5 THE COURT: Certainly.

6 (Off-the-Record Discussion)

7 MR. MAYE: Answer any questions the Defense has for you.

8 Thank you. Nothing else.

9 THE COURT: Mr. Johnson, cross?

10 MR. JOHNSON: Yes, sir, thank you.

11 Cross Examination by Mr. Johnson:

2:41 P.M.

12 Q. Officer Padgett, you didn't test anything for fingerprints in that house,  
13 did you?

14 A. No, sir.

15 Q. And you didn't find anything that tested positive for  
16 methamphetamine, did you?

17 A. No, sir.

18 Q. And the State Law Enforcement Division has got a big old lab that you  
19 can send stuff to, doesn't it?

20 A. Yes, sir.

21 Q. And Lexington has got a lab too, doesn't it?

22 A. I'm not sure. I've never sent anything down to Lexington.

23 THE COURT: Speak into the microphone, please, sir.

24 Q. And you didn't check for any video at WalMart?

25 A. No, sir.



1 Q. And you didn't check for any other videos anywhere else?

2 A. No, sir.

3 Q. And you're not a chemical analyst?

4 A. No, sir.

5 (Brief Pause)

6 Q. And, when you showed up, your eyes were burning, correct?

7 A. Yes, sir.

8 Q. And you were disoriented?

9 A. I wasn't really disoriented.

10 Q. Could you see with your eyes burning?

11 A. Yes, sir.

12 Q. Just like you see now from chemical burns?

13 A. I could see fine.

14 Q. And your eyes are being burned by chemicals and you could see just  
15 fine?

16 A. I'm not sure what you're trying to get at.

17 Q. I think we got to it.

18 MR. JOHNSON: No more questions, Your Honor.

19 THE COURT: Mr. Williams, any cross?

20 MR. WILLIAMS: Yes, Your Honor.

21 THE COURT: Okay.

22 Cross Examination by Mr. Williams:

3:43 P.M.

23 Q. Who were the officers who arrived on scene pursuant to the phone call  
24 to the — to the Saluda Sheriff's Department?

25 A. Myself, Deputy Conkrell, and Constable Mitchell Neese (phonetic).

1 Q. All right. So it's you, Konkrell, and who is the other one?

2 A. Mitchell Neese, a state constable.

3 Q. Did you all come in the same vehicle?

4 A. Myself and Mitchell Neese were riding in the same vehicle.

5 Q. And what was your rank at that time?

6 A. Corporal.

7 (Brief Pause)

8 Q. So you and Neese were in the same car. Did you arrive first, or — or  
9 did Konkrell arrive first?

10 A. We arrived at the same time. The call come out that three people was  
11 going to break into this house.

12 Q. All right. So you got a call saying that three people were going to  
13 break in his house. And you arrived at the scene. When you say at the same time,  
14 did you literally occupy the same space and come exactly at the same time?

15 A. No, sir. He were directly behind us.

16 Q. All right. So you all were — you all were coming in tandem if you will?

17 A. Right.

18 Q. He was follow you from whatever location you came from until you got  
19 to that location?

20 A. Yes, sir.

21 Q. And, when you got to that location, there was one vehicle there; is that  
22 correct?

23 A. Well, when we got there, there was three; one suspect vehicle and our  
24 two patrol cars.

25 Q. I'm talking about the one that was already there.

1 A. Yes, sir.

2 Q. And that particular vehicle that was there, there was no one in that  
3 vehicle; is that correct?

4 A. No, sir.

5 Q. Now, who was the individual — you've made the statement that — that  
6 someone looked out the window. Who was the person who actually observed  
7 anyone looking out the window?

8 A. I seen someone look out the window in the door.

9 Q. All right. So ----

10 A. Pulled — pulled the curtain back and shut it right back ----

11 Q. So ----

12 A. — as soon as they seen the police car.

13 Q. So, the door that you have there, was it a wooden door?

14 A. No, sir. I don't know if it was wood or metal. But, I mean, it was the  
15 exterior door to the ----

16 Q. All right. So it's a door which has a window in the door; is that  
17 correct?

18 A. Yes, sir.

19 Q. So there's obviously some sort of curtain on that?

20 A. Yes, sir.

21 Q. And that you can slide it back and you can see — if you're on the  
22 inside, you can see who is on the outside; is that correct?

23 Q. Yes, sir.

24 Q. Have you ever seen a metal door like that?

25 A. (No Response)

1 Q. You said you didn't know if it was wooden or metal. Have you ever  
2 seen a — a metal door that had a window like that?

3 A. Well, the doors on mobile homes ----

4 Q. Are like that?

5 A. Or if they're covered with metal.

6 Q. Right.

7 A. I don't know if they're completely metal.

8 Q. So, this was a mobile home?

9 A. Yes, sir.

10 Q. Okay. Now, is it a single wide mobile home or — or a double wide?  
11 Or how big is this mobile home?

12 A. It's a single wide.

13 Q. So it's a small mobile home, it's got an aluminum door. It's got a glass  
14 in the front. It's got some sort of covering on it, someone slides it out, and you  
15 observed — where were you when you observed somebody sliding the curtain?

16 A. Going into the drive.

17 Q. So you were outside? You were still in your car?

18 A. Right.

19 Q. So you couldn't observe anything other than the fact that a curtain was  
20 moved at the time that you pulled in; is that correct?

21 A. Right.

22 Q. So you don't know if it was a man, woman, child, or what have you,  
23 correct?

24 A. No, sir.

25 Q. Now, when you get to the door, who is the first person in the — in the

1 trailer?

2 A. Ms. Norris comes out the door.

3 Q. So you don't actually — when you arrive, do you have blue lights

4 going?

5 A. No, sir.

6 Q. Is it clear that there's police who are there?

7 A. Yes, sir. We had our spotlights on.

8 Q. All right. And you were in police cars?

9 A. Right.

10 Q. So Ms. Norris comes out of the — out of the residence; is that right?

11 A. Right.

12 Q. And, when she comes out, who is the person that confronts her or

13 talks to her first?

14 A. All three of us went to the — to the door she's coming out of.

15 Q. So all three of you come up together side-by-side?

16 A. Yes — I don't know if we were side-by-side, but we were ----

17 Q. Well, there's a little landing there, isn't it?

18 A. Right.

19 Q. It's a trailer, it's a single wide trailer?

20 A. Right. She's comes off the step out into the yard.

21 Q. So you're actually in the yard when the three of you all come up there;

22 is that right?

23 A. Right.

24 Q. And, when you're — who — who starts the conversation with Ms.

25 Norris?

1 A. (No Response)

2 Q. Which one of the three of you all starts the conversation with Ms.

3 Norris?

4 A. I don't remember. But she comes out saying that this is -- "This is my  
5 place."

6 Q. Do you speak to Ms. Norris?

7 (Brief Pause)

8 A. We did speak to her. I told Constable Neese to stay with her while we  
9 cleared the house ----

10 Q. Okay.

11 A. ---- due to the fact that it possibly being a burglary. And there was  
12 supposed to be other people there.

13 Q. All right. You used the phrase, "We spoke to her." I want to know did  
14 you speak to Ms. Norris?

15 A. I'm not -- I'm not sure if it was me or Deputy Conkrell. One -- one of  
16 us two.

17 Q. You don't recall saying anything to her; is that correct?

18 A. Not -- not at that time.

19 Q. And you don't recall who said anything to whom; is that correct? You  
20 don't know if one of the other two persons said something to Ms. Norris; is that  
21 correct?

22 A. Well, she was told to stay with Constable Neese ----

23 Q. Who ----

24 A. -- while we cleared the residence.

25 Q. Who told her that?

1 A. I don't remember if it was me or Deputy Conkrell.

2 Q. And the reason — the reason you chose I guess the other individual is  
3 he's not a regular deputy; is that right?

4 A. Right.

5 Q. He's a constable. What's the difference between a constable and a  
6 deputy?

7 A. Deputies have further training. And a constable is a volunteer.

8 Q. So he was — you — you had the constable staying with the lady ----

9 A. Right.

10 Q. — in the yard?

11 A. Right.

12 Q. And, then, what did you do?

13 A. We cleared the residence.

14 Q. No, I want to know what you did. You're the witness on the stand;  
15 what did you do?

16 A. I cleared the residence.

17 Q. Okay.

18 A. With Deputy Conkrell

19 Q. I want to know what you did. Tell me what you did. I don't want to  
20 know what Conkrell did; I want to know what you did. What did you do? Did you go  
21 in the house?

22 A. Yes.

23 Q. All right. So, if you went in the house, who was at the back of the  
24 house where these steps — there — these steps were going or this noise was  
25 going?

1 A. There was no one.

2 Q. So no one went around to the back of the trailer even though that it  
3 was reported to you that there might be a break-in and you had three people so that  
4 you could secure the area and make sure nobody was breaking in? Nobody went to  
5 the back?

6 A. No, sir. I wasn't sending one person in there to get shot.

7 Q. So ----

8 A. Or myself (phonetic).

9 Q. So you and Conkrell went in the front door?

10 A. Right.

11 Q. And, when you went in the front door, what did you see in the front  
12 door when you walked in the front door?

13 A. The door is like in a hallway. And there's a -- there was a bedroom  
14 kind of directly in front of the door. There was another room to the right and there  
15 was a kitchen and living room area to the left.

16 Q. Did you see anyone in the residence?

17 A. No, sir. As we went into the residence, that's when we could hear  
18 people running.

19 Q. I don't want to hear what "we" heard. I want to hear what you heard.  
20 What did you hear?

21 A. People running from the house.

22 Q. All right. You said, "People running from the house." Why did you say  
23 -- did you actually -- you didn't see but one person -- or did you ever see anybody?  
24 Did you see anybody run from the house?

25 A. Yes, I seen -- I seen one person.



1 Q. All right. How did you see them?

2 A. When I went out the back door.

3 Q. So you went out the back door because you heard something; is that  
4 right?

5 A. Right.

6 Q. And what did you hear?

7 A. Someone running.

8 Q. Someone running?

9 (Brief Pause)

10 Q. Correct?

11 A. Yes, sir.

12 Q. So, when you went out the back door, because you heard someone  
13 running, you observed something; is that correct?

14 A. Yes.

15 Q. What did you observe?

16 A. What appeared to be one pot meth cook.

17 Q. A what?

18 A. A one pot meth cook.

19 Q. Is there something distinctive about those — and I'm talking about — I  
20 — I actually am referring to an individual. Did you see an individual when you  
21 walked out the back door?

22 A. Someone was running across the yard.

23 Q. Describe that individual.

24 A. All I could tell was they had on dark clothing.

25 Q. Could you tell how tall they were?

1 A. They also had on a coat (phonetic)

2 Q. I'm sorry?

3 A. They had on like a coat and jeans.

4 Q. Okay. Dark clothing with a coat and they had jeans on?

5 A. That's — that's what it appeared. I mean, it was dark. They had on  
6 long pants.

7 Q. They had on long pants? Of course, it's December; it's cold.

8 A. Yes, sir, and like 14 degrees out.

9 Q. Well, you would be an idiot to be out there without a coat and jeans  
10 on, wouldn't you?

11 A. (No Response)

12 Q. Describe how tall that person was.

13 A. I don't know. They were going over the fence as I come out the back  
14 door.

15 Q. Did they have a hat on?

16 A. I don't know.

17 Q. What color was their hair?

18 A. I don't know.

19 Q. Did you see anybody else running in that yard over a fence?

20 A. No, I didn't see anybody.

21 Q. Now ----

22 (Off-the-Record Discussion)

23 (Brief pause while Exhibit is retrieved.)

24 Q. I'm referring to State's Exhibit Number 12. And this appears to be a  
25 photograph of some grassy area. Can you identify that?

1 (Exhibit handed to the witness.)

2 A. Yeah, that's Little River landing.

3 Q. That's what now?

4 A. Little River landing.

5 Q. All right. And what does that have to do with this particular case? Is it  
6 a picture of something that has something to do with this case?

7 A. Well, that's where Mr. McCraw was arrested.

8 Q. That's where Mr. McCraw was arrested?

9 A. Where he found in the spot, by, you know, over by the residence.  
10 That's where he was arrested at.

11 Q. So this is not a picture of the residence where the trailer was; where I  
12 guess you all went in; is that right?

13 A. No, sir. That's probably a half mile away.

14 Q. And, now, that location is near the lake; is that right?

15 A. Right.

16 Q. It's called a landing?

17 A. It's directly up the shoreline where they found him.

18 Q. When you observed that individual going over the fence, which you  
19 recognized as being in dark clothing, did you see in what direction that person went?

20 A. Towards the landing.

21 Q. Towards this area?

22 A. (Nods affirmatively.)

23 THE COURT: You need to give a verbal response, sir.

24 A. Yes, sir.

25 Q. You never saw another individual run from that location, did you?

1 A. I didn't see anybody, no, sir.

2 Q. You actually got dogs out there, didn't you?

3 A. No.

4 Q. Well, do you all have like someone who is trained to — to put dogs in  
5 — in a search and to find locations where people have gone and where they're  
6 going? Do you all have persons who — who are trained in that ability?

7 A. We have bloodhounds, yes, sir.

8 Q. And who — who was in charge of the dogs that were there?

9 A. Captain Freeman (phonetic) was in charge of everything that was  
10 going on.

11 Q. All right. Well, who had the dogs?

12 A. I'm — I'm not sure if it was Investigator Quartlebaum (phonetic) who  
13 brought the dogs or Chris Crash (phonetic).

14 Q. So, with the dogs, you're certainly able to follow the direction in which  
15 a person leaves that location because obviously, if you're making some sort of  
16 methamphetamine or something — and I think you said you burned your eyes, right?  
17 When you walked in there, right?

18 A. Yeah, it did. The — the smell was strong enough that your eyes  
19 burned.

20 Q. A strong smell?

21 A. Right.

22 Q. And, if you have some dogs and you had somebody qualified with the  
23 dogs, then, somebody is going to be able to come to court and testify that they  
24 followed the location from this trailer to wherever Mr. McCraw was found as well as  
25 wherever my client was found; is that right?

1 A. No, sir. The dogs were never deployed.

2 Q. So you had the dogs there but you never used them, right?

3 A. Right. Mr. McCraw was picked up by the dog team on the way to the  
4 scene.

5 Q. Do you have any pictures of any ground that indicates that there was  
6 more than one person who was walking in the grass, jumping over the fence? What  
7 kind of fence was it?

8 A. It was about 4-foot high cycling (phonetic) fence.

9 Q. Was there an indication that someone had jumped over the fence and  
10 pressed the metal down at more than one location?

11 A. No, sir. You couldn't tell that anybody had went over the fence. It  
12 didn't damage the fence.

13 Q. So, other than the fact that you knew that you were there, in search of  
14 three people and you heard noise, you have no indication that there was anybody  
15 other than Mister — than one person who left that residence, do you?

16 A. Ms. Norris stated to us that she was there with Mr. Warren and Mr.  
17 McCraw.

18 Q. And Ms. Norris didn't say to you, when — when — when my client  
19 would have left because she — she — all she told you was that they had been there  
20 earlier the day — during the day?

21 A. Well, she said that they had just got there, so...

22 Q. Just got there?

23 A. (No Response)

24 Q. So you should have been able to see both individuals; is that right?

25 A. I didn't see but one.

1 (Brief Pause)

2 Q. Can you identify — since you saw the person, can you identify, from  
3 look at this table, whether or not the person you saw is at this table (indicating)?

4 A. I can — I cannot identify him from who I seen running, no.

5 Q. Would it help if my client stood up?

6 A. No, sir.

7 Q. Because you really couldn't tell anything about whoever was, could  
8 you?

9 A. No, sir.

10 (Brief Pause)

11 Q. Now, you said you — I want to make sure — you found the document,  
12 which has been marked as State's Exhibit Number 25, in that residence after the  
13 photographs were taken?

14 A. I'm not sure if I found it, but I was present there when it was found.

15 Q. Well, I — I thought you said on direct examination — oh, you were  
16 present. Did you watch the person find the document?

17 A. I — I don't remember.

18 Q. Well, where was it found?

19 (Brief Pause)

20 A. I believe it was in a grocery bag.

21 (Brief Pause)

22 A. Yes, a CVS grocery bag.

23 Q. So you were there when it was found. Did you see it being pull out of  
24 the CVS grocery bag?

25 A. No, sir.

1 (Brief Pause)

2 Q. So tell me exactly how you were present when that was found.

3 A. I was there in the residence during the execution of the search warrant  
4 and it was — I went inside the residence.

5 Q. Somebody gave you this State's Exhibit Number 25, didn't they? You  
6 didn't see it being found at all, did you?

7 A. I — I don't remember. I don't remember if I'm the one who found it or  
8 who found it.

9 Q. Well, this could just as easily be in that car, couldn't it, because the car  
10 was still on that scene, wasn't it?

11 A. It was.

12 Q. Did you search the car?

13 (Brief Pause)

14 A. Yeah, we did search the car.

15 Q. So you can't this was found in the car or found in the house, can you?

16 A. I would have to look in my report.

17 Q. If you didn't see it, looking at your report is not going to help you if you  
18 didn't see it, is it? It's going to tell you somebody else found it, won't it?

19 A. (No Response)

20 Q. Right?

21 A. I don't remember. I mean, it was three years ago.

22 (Brief Pause)

23 Q. Would you have listed that in your incident report?

24 A. Or either under "evidence," in the evidence report.

25 (Brief Pause)

1           Q.       Do you have a file here that would be helpful for you looking at to tell  
2 you where you found it?

3           A.       Yes, sir, it would tell me who found it (phonetic).

4                   **(Off-the-Record Discussion)**

5           Q.       Is there something other than the incident report that would — that  
6 would have this information for you?

7                   **(Off-the-Record Comments)**

8           Q.       Here, let me hand you this incident report. If there's something else I  
9 can help you with, let me know.

10                   **(Document handed to the witness.)**

11          A.       All our evidence is in our — in our files in the log (phonetic).

12                   **(Brief Pause)**

13          Q.       So it wouldn't be in the incident report?

14                   **(Brief Pause)**

15          Q.       When you call it your evidence log, is that the — would that be your  
16 evidence of stored property record? Is that what it would be located on?

17                   **(Brief Pause)**

18          Q.       Would it be on something called "Evidence Stored Property Record"?  
19 Would that be helpful?

20                   **(Document handed to the witness.)**

21                   **(Brief Pause)**

22          A.       It's not on this either.

23          Q.       Is there some other document that you need that would help you  
24 answer that question?

25          A.       I — I don't know where it's at.



1 Q. Well, let's look at State's Exhibit Number 25, which you've already  
2 published.

3 (Brief Pause)

4 Q. Does this contain the name of my client on that receipt?

5 A. No, sir.

6 (Brief Pause)

7 Q. And this is for what? What item was this purchase for?

8 A. Lithium batteries.

9 Q. And you know it's lithium batteries because there's a notation on the  
10 receipt that says, "LTH."

11 A. Right.

12 (Brief Pause)

13 Q. You did no fingerprints, correct?

14 A. No, sir.

15 Q. No methamphetamine was found?

16 A. No, sir.

17 Q. You have no video from either WalMart or CVS showing any individual  
18 purchasing anything inside of those drugstores?

19 A. No, sir.

20 Q. You watch enough TV to know there's actually cameras inside  
21 drugstores, don't you?

22 A. Yes, sir.

23 Q. And you know the date that supposedly this item was purchased  
24 because you had the receipt, right?

25 A. Right.

1 Q. So there was nothing to prevent you from going to a CVS, checking  
2 that date, the video camera on that date, to see who purchased it and what was  
3 purchased? You could have done that, couldn't you?

4 A. Yes, sir.

5 Q. Is that complicated to do?

6 A. No, sir.

7 Q. Are you the officer in charge of this case?

8 A. Investigator Quartlebaum I believe was the primary investigator.

9 Q. Do you know whether or not it was ever done?

10 A. No, sir, I don't.

11 MR. WILLIAMS: That's all the questions I have, Your Honor.

12 THE COURT: Redirect?

13 MR. MAYE: Yeah, just a little bit.

14 Direct Examination by Mr. Maye:

4:06 P.M.

15 Q. Now, you just testified -- you said you only saw one person, correct?

16 A. Right.

17 Q. But you believe it was two from all that you heard, correct?

18 A. Yes, sir.

19 Q. And you still believe that it was two people ----

20 MR. WILLIAMS: Object to the leading.

21 THE COURT: Try to repeat or rephrase. Don't lead.

22 Q. (By Mr. Maye) How many people do you believe went over the fence  
23 and fled from that residence?

24 A. Two.

25 Q. Okay.

1 (Brief Pause)

2 Q. How cold was it that night?

3 A. Cold, in the teens.

4 Q. In that teens? What kind of bloodhounds do you all have in Saluda?

5 A. (No Response)

6 Q. They're not Newfoundlands, are they?

7 A. No.

8 Q. Are you going to put your bloodhounds ----

9 A. They're regular bloodhounds.

10 Q. Are you going to put them in 14 degree lake water?

11 A. No, not when you already know who it is.

12 Q. Okay.

13 (Brief Pause)

14 Q. Don't go into anything that he said, but you also had a private

15 investigator that was on the scene that night, did you not?

16 A. Yes, sir.

17 Q. Okay. You've also viewed this video tape here, have you not?

18 A. Yes, sir.

19 Q. And you have two individuals going into CVS, correct?

20 A. Yes.

21 Q. Okay. And you have the CVS receipt that made it's way from

22 Lexington County ----

23 MR. WILLIAMS: Objection to leading.

24 THE COURT: Okay. Repeat or rephrase; don't lead.

25 Q. (By Mr. Maye) According to that receipt, when — when was it

1 generated and where was it?

2 A. The receipt is December 2<sup>nd</sup>, 2010 at 5:57 p.m. from the CVS at 1079  
3 South Lake Drive in Lexington, South Carolina.

4 Q. And that CVS receipt was in that house that same night when you  
5 all ---

6 MR. WILLIAMS: Objection, leading.

7 Q. (By Mr. Maye) Where was that receipt?

8 MR. MAYE: I'll withdraw.

9 Q. (By Mr. Maye) Where was it?

10 A. At [REDACTED]

11 MR. MAYE: Nothing else. Thank you.

12 THE COURT: Anything on recross, Mr. Johnson?

13 MR. JOHNSON: Briefly, Your Honor.

14 Cross Examination by Mr. Johnson:

4:08 P.M.

15 Q. You testified about seizing Coleman fuel. And you never had that  
16 tested, correct?

17 A. No, sir.

18 Q. And the same thing for other substances; the Liquid Lightning and  
19 Drain Out, you never had any tests performed?

20 A. No, sir. It was all destroyed.

21 Q. And are you trained to take fingerprints?

22 A. Yes, sir.

23 Q. But you chose not to?

24 A. Yes, sir.

25 (Brief Pause)

**1 MR. JOHNSON:** No more questions, Your Honor.

**2 THE COURT:** Recross, Mr. Williams?

**3 MR. WILLIAMS:** No — no questions, Your Honor.

4 THE COURT: You may step down, sir. Thank you for your  
5 testimony.

**6 THE WITNESS:** Yes, sir. Thank you.

**7 (The witness complied with the request.)**

**8 MR. MAYE:** Thank you.

9                   **THE COURT:**           Let's take a very short, five-minute break for  
10                   anybody who needs it. Mr. Foreman and ladies of the jury, I just remind you  
11                   not to discuss this case among yourselves.

**12** Take a very short break. And we'll get you back out here quickly.

13 (Whereupon, the jury exited the courtroom at 4:09 p.m.)

**14 THE COURT:** All right. This is not on the record.

**15 (Off-the-record discussion regarding scheduling.)**

16 (Whereupon, a brief recess was taken from 4:10 p.m. until 4:26  
17 p.m.)

18 (The jury entered the courtroom at 4:27 p.m.)

19 THE COURT: Okay. Let the record reflect the jury is back in.

20 Solicitor, all your next witness, please, sir.

21                   **MR. MAYE:**           The State would call Investigator Jesse

22                   Quartlebaum now with the Saluda Sheriff's — the Town Police Department.

23 (The witness stepped forward to be sworn.)

24 (Whereupon,

25 JESSE QUARTLEBAUM

1           having been first duly sworn, testified as follows:)

2           **Direct Examination by Mr. Maye:**

4:27 P.M.

3           **Q.**           Investigator Quartlebaum, let me ask you this — let me show you this.  
4 I'm not going to publish it here — and ask if you can identify this aerial map?

5           **A.**           Yes, sir.

6           **Q.**           Does it fairly and accurately reflect an aerial view of the area at  
7 Hollywood Road (phonetic), Harvest — and Harvest Road intersection and an aerial  
8 view of the — the neighborhood where this took place?

9           **A.**           Yes, sir, it does.

10          **Q.**           Okay.

11                       **(Brief pause while document is shown to Opposing counsel.)**

12          **MR. MAYE:**       At this time, I'm going to move to admit this aerial  
13 photograph into evidence, Your Honor ----

14          **THE COURT:**     Okay.

15          **MR. MAYE:**       ---- subject any objection.

16          **MR. JOHNSON:**   No objection.

17          **MR. WILLIAMS:**   No objection.

18          **THE COURT:**     All right. Without objection, it'll be marked as  
19 State's ----

20          **COURT REPORTER:**   Twenty-seven (27)

21          **THE COURT:**     Seven?

22          **COURT REPORTER:**   Twenty-seven (27), 27.

23          **THE COURT:**     Twenty-seven (27)?

24          **COURT REPORTER:**   Yes, sir.

25          **THE COURT:**     Thank you.

1 (Whereupon, State's Exhibit 27 was marked for identification and  
2 admitted into evidence without objection.)

3 Q. (By Mr. Maye) And before you publish this, I'm going to ask you this,  
4 Investigator Quartlebaum, and this is going sound — sound silly to people that live in  
5 Saluda County, but is [REDACTED] the area that you all responded to that  
6 night where you seized all these items, what county is that in?

7 A. It's in Saluda County.

8 Q. That is in Saluda County?

9 A. Yes, sir.

10 Q. Okay. Come down here, if you would, off the stand. A lot of people  
11 are probably going to already know where this is, but show them where this location  
12 is and tell them how you get here from the courthouse. How do you do that?

13 A. This is an aerial photograph of the area we were in on December 3<sup>rd</sup>,  
14 2010. This is Harvest Road (indicating), this is the road you heard about  
15 throughout this trial.

16 This is Little River Landing (indicating). This is Hollywood School  
17 Road (phonetic) (indicating). If you come across the bridge and keep this way  
18 (indicating) you'll go — run into 378 at this point, past the circle.

19 If you go back with way (indicating), it would be Hollywood School,  
20 elementary school. From the courthouse you'd go out 378 and take a left on  
21 Hollywood School Road and go down four, maybe five miles. And Harvest Road will  
22 be here on your left. And right across the bridge is Lake Murray and Little River.

23 Q. Where is the Little River Landing?

24 A. This is Little River Landing (indicating).

25 Q. Okay. All right. Just lay that right there and retake the stand, please.

1 (The witness complied with the request.)

2 Q. The night of December the 2<sup>nd</sup> of 2010, going into December 3<sup>rd</sup>,  
3 where were you employed at that time?

4 A. I was employed with the Saluda County Sheriff's Office.

5 Q. Okay. Did you respond out there at that time? What were your job  
6 responsibilities?

7 A. At that time in my career, I was working on a drug interdiction  
8 (phonetic) team. I was also a member of the Saluda County Sheriff's Office  
9 bloodhound tracking team. And I was called to the scene that night for my  
10 assistance with the bloodhounds.

11 Q. Okay. Did you take the bloodhounds out there?

12 A. I did not personally. I responded directly from my house and arrived  
13 on scene.

14 Q. Okay. Did you all ever deploy the bloodhounds that night?

15 A. The bloodhounds were not deployed that night.

16 Q. Why did you not deploy the bloodhounds that night?

17 A. The call actually came in, it appears by looking at the call log  
18 generated by dispatch, that the first officers were on scene roughly after midnight.

19 Q. Okay.

20 A. I did not get a phone call to respond until almost 2 o'clock. And it was  
21 after 2 o'clock before I arrived. So there had been a two-hour gap between the time  
22 that the deputies first responded on scene and seen somebody run.

23 And, by the time the bloodhound team was called and on scene, there  
24 had been a roughly two-hour gap. With that gap, a lot of things happen when you  
25 have a scene like that.



1 As you've already heard testimony, officers went through the  
2 residence. They came out the back door allegedly where somebody else had  
3 already ran through.

4 That all creates scent. And — and there had been a lot of cross  
5 contamination being where what the deputies believed at that time to be a one-pot  
6 meth cook was located, was right there out the back door.

7 There had been a lot of foot traffic there, not to mention, as you heard,  
8 it was cold. A deputy said he heard a splash. I'm not going to risk any of my men or  
9 my well-trained dogs to go chase somebody we already knew the name of through  
10 the lake when it's down in the teens.

11 Q. What did you do once you got on the scene?

12 A. Once I arrived on scene, I began assisting in any way I could.  
13 I responded to a call for assistance and to identify a subject that was located at Little  
14 River Landing.

15 Q. Okay. Let me show you State's Exhibit 12; it's already in evidence  
16 here. Where is that?

17 A. This is Little River Landing located in Saluda County.

18 Q. Okay. That is Little River Landing?

19 A. Yes, sir.

20 Q. Okay. Where would that be on this map? Let me hold this map; show  
21 where me that would be on this map.

22 A. This area here (indicating).

23 Q. Right in here (indicating)?

24 A. Yes, sir.

25 Q. Okay.

1           A.           This is the store (phonetic) and this is a boat ramp and this is the old  
2 rest home (phonetic).

3           Q.           Where did you encounter one of the people that was involved in this  
4 case?

5           A.           I left Harvest Road and responded to Little River Landing per a request  
6 for assistance. Mr. Mike McCraw was standing in this area (indicating), right there  
7 (indicating).

8           Q.           Okay. What condition was he in at that time?

9           A.           Mr. McCraw was wet. His pants were almost frozen. He had piled a  
10 pile of leaves up underneath an oak tree and, at the time we got there, was  
11 attempting to light a fire with a wet lighter.

12          Q.           Okay. But his pants were nearly frozen; it was that cold?

13          A.           Yes, sir.

14          Q.           Okay. Where — well, did you take him into custody at that point in  
15 time?

16          A.           He was taken into custody.

17          Q.           Okay. Was he ready to go in that condition?

18          A.           He was ready to go. He asked us to, please, put him in the car ----

19                   MR. JOHNSON:   Objection, Your Honor, hearsay.

20                   MR. MAYE:       It's a statement from the Defendant himself, Your  
21 Honor. It's not hearsay.

22                   THE COURT:     Well, you know, he was already arrested and put  
23 into custody. There has been no evidence of any *Miranda*. So I would have  
24 to — at this stage, I would have to sustain the objection.

25                   MR. MAYE:       Okay.

1 Q. (By Mr. Maye) This is State's Number 12. Take this photograph  
2 down here and go to the jury and show them where you — where he was standing  
3 when you found him.

4 (The witness complied with the request.)

5 A. Mr. McCraw was standing next to Cedar Corner (phonetic) through  
6 here (indicating). There's a large oak tree. He was standing under that tree.

7 (Brief Pause)

8 THE COURT: Now, of course, let — let me kind of reiterate just a  
9 little bit on my prior ruling. If it was a voluntary statement, and not subject to  
10 any questioning or interrogation by this officer or any other officer, then, I  
11 might have to revisit my ruling on -- on your objection. And I don't know ----

12 MR. MAYE: I'll move on.

13 THE COURT: Okay. All right. That's fine.

14 MR. MAYE: I'll move on.

15 THE COURT: Thank you, Solicitor.

16 MR. MAYE: Thank you.

17 (Brief pause while exhibit is retrieved.)

18 Q. (By Mr. Maye) Let me show you what's been marked as -- and I'm  
19 going to show it to the Defense in this case.

20 (Brief Pause while exhibit shown to opposing Counsel.)

21 (Off-the-Record Comments)

22 Q. (By Mr. Maye) I'm going to show you what's marked, for identification  
23 at this point, as State's Exhibit Number 5. And ask me -- let me ask you, if you can  
24 look at that and tell me what that's a photograph of?

25 A. Yes, sir, I can.

1 Q. You — you recognize that?

2 A. Yes, sir.

3 Q. Were you present when that photograph was taken there at the scene  
4 at Harvest Lane [sic]?

5 A. Yes, sir.

6 Q. Okay. And does it fairly and accurately reflect a vehicle that was there  
7 at the scene?

8 A. Yes, sir, it does.

9 Q. And was that photograph taken in your presence and is that the  
10 vehicle that was parked there at [REDACTED]?

11 A. Yes, sir, it is.

12 MR. MAYE: Okay. At this point in time, I'm going to move this  
13 into evidence.

14 THE COURT: All right. What says the Defense?

15 MR. JOHNSON: No objection, Your Honor.

16 MR. WILLIAMS: No — no objection, Your Honor.

17 THE COURT: Without objection it will be into evidence, State's

18 5.

19 (Whereupon, State's Exhibit 5 was admitted into evidence without  
20 objection.)

21 Q. (By Mr. Maye) Go down there and show them what this tag is, what  
22 kind of tag it is.

23 (The witness complied with the request.)

24 A. This picture shows a Mazda Millennium bearing a South Carolina tag  
25 that's a University of South Carolina specialized tag.

1 Q. Have you reviewed the video tape that's in evidence in this case?

2 A. Yes, sir, I have.

3 Q. I believe it's marked as State's Exhibit Number 26.

4 A. Yes, sir, I have.

5 Q. Is that same tag number, the same vehicle that's in the video tape ----

6 A. Yes, it is.

7 Q. ---- the same individuals at CVS?

8 A. Yes, sir.

9 Q. Okay. All right. You said you were on a narcotics task force at that  
10 time; is that correct?

11 A. Yes, sir.

12 Q. Well, if you all have this stuff there, based on your training and  
13 experience, why didn't you all just take all of it? What did you do?

14 A. The actual cook itself?

15 Q. Yeah, absolutely. You're on a narcotics team, what did you do?

16 A. Through my training that I have had, which has been very limited on  
17 methamphetamine, I know that it's a very dangerous and volatile substance.

18 Therefore, before I approach it or before I handle it, I always have somebody who  
19 has specialized training that can look at it and tell me what state it is in;

20 What type of cook it is, what ingredients were possibly used; have  
21 them look at it, and usually take possession of it and dispose of it because I'm not  
22 trained to do that.

23 Q. Okay. Because of the danger, what did you do? What steps did you  
24 take to protect yourself and the officers that had secured the scene?

25 A. The Lexington County Sheriff's Office was called. They sent out two

1 officers, narcotics officers, who have had specialized methamphetamine laboratory  
2 breakdown training. And they responded to the scene and — and came on scene.

3 Q. Have you used Lexington County in the past when you were with the  
4 sheriff's office?

5 A. Yes, sir, we have.

6 Q. On more than one occasion?

7 A. On more than one occasion. Lexington County has always been good  
8 to us, coming over and helping us out.

9 Q. And they are the individuals with the specialized training ----

10 A. They do.

11 Q. Okay. Who came that night?

12 A. Brandon Slice (phonetic) and Laney.

13 Q. Okay. Officer Laney ----

14 A. Officer Laney.

15 Q. ---- and Officer Slice?

16 A. Yes, sir.

17 Q. Okay. Did you all let them assist you at that point in time?

18 A. Yes, sir.

19 Q. You all had a valid search warrant; is that correct?

20 A. That's correct.

21 (Brief Pause)

22 Q. Let me ask you this: Before you left there that night — you captured  
23 which one first?

24 A. Well, the deputies had already taken Ms. Norris into custody by my  
25 arrival. We captured Mike McCraw at Little River Landing.

1 Q. Okay. Before you left the scene there, did you tell the officers who to  
2 be looking for and individual did you tell them to be searching for before you left the  
3 scene?

4 A. The officers on scene that night, as well as deputies that came in on  
5 the next shift, which would have been at around 5:30, to begin their shift at 6  
6 o'clock, were briefed on the situation that we had on [REDACTED] And they were  
7 advised that there was one person still missing and what his name was.

8 Q. What was that name of the individual who was still missing?

9 A. Travis Warren.

10 Q. Okay. So, before you left, you put out a bulletin to the officers to be  
11 looking for an individual by that name?

12 A. Yes, sir.

13 Q. Okay.

14 (Brief Pause)

15 MR. MAYE: Thank you. Answer any questions the Defense  
16 has for you.

17 THE COURT: Mr. Johnson, Mr. Williams?

18 MR. JOHNSON: Thank you, Your Honor.

19 Cross Examination by Mr. Johnson:

4:39 P.M.

20 Q. Officer, these experts at Lexington County, they've got a lab in  
21 Lexington County, don't they?

22 A. It's my understanding they do, yes, sir.

23 Q. State Law Enforcement Division has a lab?

24 A. Yes, sir, they do.

25 Q. And you could submit substances to those labs, correct?

1 A. Sure.

2 Q. And you chose not to do that, correct?

3 (Brief Pause)

4 A. There were some substances sent to the lab, yes, sir.

5 Q. You got any results positive for methamphetamine or any controlled  
6 substances at all?

7 A. No, sir.

8 Q. Did you take any fingerprints.?

9 A. No, sir.

10 Q. Did you get any video from WalMart?

11 A. No, sir.

12 Q. Did you try to get any video from CVS?

13 A. No, sir. There was a private Investigator on scene who started —  
14 that's been disclosed in this case who had all that information already laid out.

15 Q. So, no?

16 A. No, sir.

17 Q. Okay.

18 (Brief Pause)

19 Q. Did you ever get impressions from the house, any shoe impressions,  
20 to try to check back to get any idea about which shoes matched who?

21 A. Can you — I did hear the shoe impressions. I couldn't hear the  
22 second ----

23 Q. Did you check for shoe impressions ----

24 A. No, sir.

25 Q. — at the scene?



1 A. No, sir.

2 Q. And ----

3 A. There weren't any shoe impressions that I am aware of.

4 Q. Did you search for them?

5 A. Yes, sir. I mean, we obviously looked for a foot trail, in and around the  
6 residence. As I've stated before, by the time I arrived on scene, there had been foot  
7 traffic.

8 Q. What about that surfaces inside the home that could have fingerprints  
9 on them, did you test any of those for fingerprints?

10 A. No, sir. I went in that home very briefly and was overtaken by the  
11 smell myself and exited immediately.

12 Q. So you basically had your eyesight affected by the chemical smell and  
13 burns?

14 A. I would not say my eyesight was affected, no, sir. It -- it's kind of like  
15 when you inhale mentholatum, the old stuff you used to use for a cold. It kind of  
16 makes your eyes water.

17 Q. So you could see just as good with the chemical burn in your eyes as  
18 somebody else?

19 A. I never went to the doctor for a chemical burn in my eye. I would not  
20 say I had a chemical burn. My eyes were affected.

21 I could feel a different sensation in my eyes than normal, but I would  
22 not say they were affected; nor was my sight.

23 Q. Okay.

24 (Brief Pause)

25 Q. Were you there when Ms. Norris changed her story from saying

1 nobody was in the house to ----

2 A. No, sir. As I testified to, I arrived almost two hours after the initial  
3 deputies were there.

4 Q. Okay.

5 (Brief Pause)

6 Q. Did you at least test any surfaces in the house for methamphetamine?

7 A. (No Response)

8 Q. Did you test surfaces where you could test for methamphetamine, on  
9 the carpet or anything? Did you run tests ----

10 A. There was — there was a one-pot cook on that back steps, what we  
11 believed to be a one-pot cook.

12 As I've testified to earlier, I'm no expert; I told you that the chemical  
13 smell in the residence was very bad. I got out of there. So I did not stay in the  
14 residence much at all.

15 The one-pot cook on the back steps, I was told by people who are  
16 trained to handle ---

17 MR. WILLIAMS: Objection to hearsay, Your Honor.

18 A. Okay.

19 THE COURT: Don't ----

20 A. I'm sorry.

21 THE COURT: Don't — don't testify —

22 A. Yes, sir.

23 THE COURT: ---- to what anybody told you.

24 A. Okay.

25 Q. (By Mr. Johnson) But you didn't test any surfaces in the house?

1           A.           No, sir, I did not personally. As I said, I — I couldn't take the smell. I  
2 didn't have the equipment available to me to — to go in there.

3           Q.           Your agency doesn't provide equipment for testing controlled  
4 substances or anything?

5           A.           I did not have a breathing apparatus to safely go into the residence.  
6 And we — at that time, I do not believe we had anything that could test the surface,  
7 so, sir.

8           Q.           But your eyesight was perfect?

9           A.           I'm not saying it's perfect, Mr. Johnson. But it was not affected to the  
10 point that I could not see.

11                   MR. JOHNSON:   No more questions, Your Honor.

12                   THE COURT:       Anything from you, Mr. Williams?

13                   MR. WILLIAMS:   Yes, Your Honor.

14                   Cross Examination by Mr. Williams:

4:43 P.M.

15           Q.           Investigator Quartlebaum, when you arrived at the scene, you said it  
16 was two hours later?

17           A.           Yes, sir.

18           Q.           So, how many officers were on the scene when you got there?

19                   (Brief Pause)

20           A.           I'm going to say roughly four (4) or five (5). I'm not exactly sure. I may  
21 be able to check back on my notes and tell you ----

22           Q.           Four — four to five officers ----

23           A.           Yes, sir.

24           Q.           ---- were there?

25           A.           Yes, sir.

1 Q. And, when you arrived there, obviously was — was the female  
2 Defendant still at the location or had she already been transported?

3 A. She was still at the location.

4 Q. And you did not have Defendant McCraw arrested at that time; is that  
5 right?

6 A. Not whenever I arrived on scene, no, sir.

7 Q. All right. Was she in a patrol car, in the house, or where was she?

8 A. She was in a patrol car to the best of my knowledge.

9 Q. All right. Did you physically walk inside the trailer and observe what  
10 was inside the trailer?

11 A. Yes, sir. I made like — as I stated earlier, I did make a brief walk  
12 through and realized that I could not stay in there.

13 Q. And some — some officer had already been through that scene and  
14 had taken photographs; is that correct?

15 A. I don't know if the photographs had been taken at that time or not. I  
16 can't testify to that.

17 Q. Do you know who took the photographs?

18 A. From inside the residence?

19 Q. Yes.

20 A. No, sir. I wasn't — like I said, I wasn't there; I'm not sure.

21 Q. Well, someone at the Saluda Sheriff's Department would have to know  
22 who took the photographs inside that residence, wouldn't they? Somebody would  
23 know, right?

24 A. I would assume, yes, sir. I'm not sure if detectives from Lexington took  
25 photographs along side from somebody from Saluda. I'm not sure because they did

1 have the breathing apparatuses.

2 Q. Well, if we have photographs from inside the residence, and if there  
3 are pictures of items, which were found in the residence, then, somebody  
4 representing the police should be able to testify that they were the ones that took  
5 the pictures, wouldn't they — shouldn't they?

6 A. Yes, sir.

7 Q. And they would be able to — to testify as to where the items were that  
8 they took a picture of?

9 A. I would assume so, yes, sir.

10 Q. All right. But you don't know who that is?

11 A. I do not.

12 Q. Now, when you walked through the residence, you walked all the way  
13 through and you saw an item on the back step. Then, you just left the residence; is  
14 that correct? Or did you hang around to do anything?

15 A. Time frame? I mean, what —

16 Q. You arrived two hours later, you walk through the residence, what do  
17 you do? Because, at some point in time, you go find Mr. McCraw.

18 A. Right.

19 Q. What do you do?

20 A. We're containing the scene until Lexington County gets there with their  
21 lab tech.

22 Q. So, essentially, you hang around and make sure nobody comes in the  
23 house until after Lexington County gets there; is that right?

24 A. Yes, sir.

25 Q. So, after Lexington County gets there, is when you go to find Mr.

1 McCraw; is that right?

2 A. Mr. McCraw was captured before Lexington County got there. If — if I  
3 was able to refer to my CAD (phonetic) notes, I could tell you times.

4 Q. Well, does the Solicitor have your CAD notes?

5 A. They are in the actual sheriff's office case file.

6 THE COURT: Step down, Officer, for a moment. You can  
7 probably find it quicker than somebody else.

8 (The witness complied with the request.)

9 (Off-the-Record Comments)

10 (The witness returned to the stand.)

11 A. It looks like I got on scene at 2:12 a.m. that morning.

12 Q. Okay.

13 A. And at 2:51 a.m. — I think that's what it says — at 2:51 — it's in the  
14 2 o'clock hour, Mr. McCraw was arrested.

15 Q. All right.

16 A. There is not a note in the CAD where Lexington County came scene  
17 obviously because they would have contacted their dispatch and not ours.

18 Q. All right. So, for the edification of the jury, when you refer to "CAD,"  
19 what you're talking about is radio transmission with the Saluda Sheriff's Department  
20 that kind of tells you what's going on over the radio; is that right?

21 A. That's correct.

22 Q. So based on your documents that you have there you know that you  
23 got there a little bit after 2:00 and about an hour later, there's some sort of  
24 communication that indicates that somebody has arrested or stopped Mr. McCraw?

25 A. Roughly 40 minutes later, yes, sir.

1 Q. All right. So you leave the scene at that time; is that right?

2 A. Yes, sir.

3 Q. And you go to where Mr. McCraw is and you find Mr. McCraw; is that  
4 right?

5 A. That's correct.

6 Q. And how did he appear?

7 A. Cold.

8 Q. Okay. Wet?

9 A. Wet.

10 Q. Describe his clothing.

11 A. I don't remember, Mr. Williams, to be completely honest with you. He  
12 had on a jacket and long pants of some sort I'm sure.

13 Q. Was it dark?

14 A. I honestly do not remember.

15 Q. Did he have on jeans?

16 A. I honestly do not remember. I mean, we're talking three (3) years ago,  
17 Mr. Williams. I've had a lot of contact with a lot of folks. If — if I could remember, I  
18 — I would — I would tell you. I really do not remember.

19 Q. When — when you take him down to the — did you take him to the  
20 Saluda County Detention Center?

21 A. (No Response)

22 Q. Or did someone else take him there?

23 A. I did not take him there.

24 Q. So some other officer put him in the patrol car and took him to the  
25 Lexington County Detention Center, right — I mean, the Saluda County Detention

1 Center?

2 A. Yes, sir.

3 Q. Okay. Do you know if — how many years had you worked with the  
4 sheriff's department as of this date of ----

5 A. Two thousand, ten (2010)?

6 Q. Right.

7 (Brief Pause)

8 A. That was December, roughly four (4).

9 Q. Four years?

10 A. Three (3) or four (4) years, yes, sir.

11 Q. And do you know whether or not it's customary to take pictures of  
12 persons when they're placed into the jail?

13 A. Yes, sir.

14 Q. And those are called booking pictures?

15 A. Yes, sir.

16 Q. For lack of a better term?

17 A. Yes, sir.

18 Q. And is it customary to make a list of the clothing that the individual has  
19 on when they're booked into the Saluda County Jail?

20 A. Yes, sir.

21 Q. So there exists, at least in some record, some description of what the  
22 Defendant McCraw had on as well as how it appeared ----

23 A. Yes, sir. And the ----

24 Q. — in the Saluda County

25 A. The — the amount of detail on it, you know, it — it could vary,



1 depending on which booking officer actually took him in. But, yes, sir, there should  
2 be some kind of detail of what he had on, whether it just be say a pair of jeans and  
3 jacket. It may say that.

4 It may say a pair of tennis shoes. It might say a pair of white Nike  
5 tennis shoes. It's kind of depends on the officer that would have taken him in.

6 Q. Who — who was the officer that took him in?

7 A. The officer that transported Mr. McCraw?

8 Q. Yes.

9 (Brief Pause)

10 A. I'm not exactly sure. I know Chris Crouch (phonetic) was — was out  
11 with me that night at Little River Landing. But all he would have done was taken him  
12 to the jail and a booking officer, detention officer, would have taken over from there.

13 Q. Well, did the officer that took him to the detention center — it wouldn't  
14 have been the officer who was with you, would it? You said Chris Crouch was with  
15 you. Are you saying he rode there with you?

16 A. No, sir. He was — he was the one that asked me for assistance at  
17 Little River Landing.

18 Q. All right. So he would have been the one with the — with the  
19 Defendant, right, with Defendant McCraw?

20 A. I would assume, yes, sir.

21 Q. All right. And was there more than one officer there besides Officer  
22 Crouch at the scene that you showed up at with Defendant McCraw?

23 A. Not to my recollection. I do not believe so.

24 Q. So it's safe to assume that he would have gone ahead and transported  
25 him to the Saluda County Detention Center?

1           A.           I'm not sure if he would done so directly or if he came back to the  
2 scene to notify the supervisor or how that would work. But there shortly after he  
3 would have been taken to the detention center.

4           Q.           Somebody took him?

5           A.           Yes, sir.

6           Q.           Would you have transported him out of Officer Crouch's vehicle to  
7 another vehicle to take him to the detention center?

8           A.           I doubt it, not unless ---

9           Q.           Does he have a patrol car?

10          A.           Who's that?

11          Q.           Crouch.

12          A.           Yes, sir.

13          Q.           It's got a screen in it and got a -- a ----

14          A.           I'm not sure at the time whether or not his did. Some of them did;  
15 some of them didn't.

16          Q.           Okay.

17          A.           I believe, at that time, I was in a K9 vehicle is the reason I did not  
18 transport him.

19          Q.           Do you recall whether or not he was cuffed at the time; McCraw was  
20 cuffed?

21          A.           At the time he was taken into custody at Little River Landing or ---

22          Q.           At the time that you arrived at Little River Landing because you  
23 wouldn't know what occurred before you got there because you wouldn't have been  
24 able to see it.

25          A.           Right. He was not cuffed at the time that I arrived.

1 Q. He was not cuffed?

2 A. No, sir.

3 Q. And the vehicle that Crouch had, do you know whether or not it had a  
4 video camera on the front of it? Was he traffic?

5 A. No, sir.

6 Q. He's not traffic?

7 A. No, sir.

8 Q. And, unless you're traffic, you wouldn't have the video camera, would  
9 you, on the front of the — of the patrol officer's car?

10 A. We try to have videos in every car, but like any small department,  
11 budget constraints, kind of limits that.

12 Q. Do you know or do you suspect ----

13 A. I — I don't know. I do not know.

14 (Brief Pause)

15 Q. So, after you go there, at some point in time he's transported to the  
16 jail. What do you do?

17 A. Stand by with Lexington County as they arrive. I don't know how to  
18 say it without going into hearsay again.

19 Q. I don't want you to go into hearsay.

20 A. Okay.

21 Q. You — you went out to the scene and Lexington County was already  
22 on scene when you went out there?

23 A. No, sir.

24 Q. You went out there and came back and Lexington County was there?

25 A. No, sir. They arrived after Mr. McCraw was taken into custody.

1 Q. Okay.

2 A. After I got back to the scene ----

3 Q. Okay.

4 A. ---- Lexington County arrived.

5 Q. Okay.

6 A. And, then, another agency was called after Lexington County arrived

7 that had to come out of Spartanburg or Greenville I believe.

8 Q. DEA?

9 A. It was a DEA — what's the word —

10 Q. DEA ----

11 A. They contract through DEA.

12 Q. Oh, okay. So, it was not a police officer?

13 A. That came after Lexington County?

14 Q. Right.

15 A. The company?

16 Q. Right.

17 A. They were contracted through the DEA.

18 Q. So it's a civilian company that comes out and does disposal?

19 A. Yes, sir, to my understanding. I have all the paperwork and

20 documentation here in my file, their company name and ---

21 Q. But they're not law enforcement?

22 A. They're contracted through law enforcement.

23 Q. Did you stay on scene until everything was secured from the trailer?

24 (Brief Pause)

25 A. I believe I did.

1 Q. And what time did you leave?

2 (Brief pause while the witness reviews document.)

3 A. I would say roughly around a few minutes after 5:00 a.m. It looks like  
4 most people left the scene.

5 Q. Did you ever see my client?

6 A. No, sir, I did not.

7 (Brief Pause)

8 MR. WILLIAMS: That's all the questions I have, Your Honor.

9 THE COURT: Okay. Redirect, Solicitor?

10 MR. MAYE: Nothing else, Your Honor.

11 THE COURT: Okay. Thank you, sir, for your testimony. Officer,  
12 you can step down.

13 THE WITNESS: Thank you, Your Honor.

14 (The witness complied with the request.)

15 MR. MAYE: And, Your Honor, I do whatever you direct. We —  
16 we can stop now or I got one short witness that wouldn't take long; whatever  
17 you want me to do.

18 THE COURT: When you say it won't take long, of course, you —  
19 you don't know what kind of cross that would be involved?

20 MR. MAYE: I won't take long. I can't speak for everybody else.

21 THE COURT: Let's go ahead and break for the — for the  
22 evening. Mr. Foreman and ladies of the jury, we're going to go ahead and  
23 take our — our break and adjourn for the evening.

24 I want to thank you for your patience today. I want to thank you for  
25 your attention. I've looked at you a — a considerable number of times and

1           you all are paying attention. And that's what you have to do. And I certainly  
2           — I certainly appreciate that.

3                     I remind you, again, don't discuss this case — anything about this case  
4           — among yourselves, with any friends, family members, anybody you come  
5           into contact with.

6                     Be back here at 9:30 and we'll proceed forward. I hope you have a  
7           great evening.

8                     **(Whereupon, the jury was excused for the day and exited at 4:55**  
9           **p.m.)**

10           **THE COURT:**       Anything from the State we need to put on the  
11           record before we adjourn for the evening?

12           **MR. MAYE:**        Your Honor, I don't have anything else. I know  
13           that Mr. McCraw is still not present and we don't have any information about  
14           him to my knowledge.

15                     He's still not present. There's a bench warrant that's been issued for  
16           him.

17           **THE COURT:**       Right.

18           **MR. MAYE:**        And, of course, we'll search diligently for him.

19           **THE COURT:**       Okay.

20           **MR. MAYE:**        He's never, to my knowledge, made no contact  
21           and we've not gotten any subsequent contact after our attempt to  
22           communicate with him.

23           **THE COURT:**       Okay.

24           **MR. MEYERS:**      Yes, I — I followed up with them about 30 minutes  
25           ago and they're still looking for him and haven't found him yet.

1                   **THE COURT:**       Okay. Thank you very much. Anything further  
2 from the Defense on the record before we adjourn?

3                   **MR. JOHNSON:**   Nothing from McCraw, Your Honor.

4                   **MR. WILLIAMS:**   No, sir.

5                   **THE COURT:**       Okay. We'll be adjourned.

6                   **(Off-the-Record Comments)**

7                   **THE COURT:**       Okay. This is not on the record.

8                   **(Off-the-Record Discussion)**

9                   **(Whereupon, court was adjourned for the day at 4:58 p.m.)**

10                  **(Court reconvened at 9:38 a.m. on Thursday, October 10, 2013)**

11                  **(Off-the-Record Comments pertaining to the jury not being able to**  
12 **hear.)**

13                  **THE COURT:**       Okay. Gentlemen, are we ready? Mr. Johnson,  
14 you want to put something on the record before we bring the jury out?

15                  **MR. JOHNSON:**   Yes, sir, thank you. Your Honor, I just want to put  
16 on the record — I — I wasn't sure — I just wanted to — I confirmed with the  
17 court reporter that the medical paperwork was marked as part of the record  
18 regarding the hospitalization of my client, Mr. McCraw, went in the hospital.

19                  I made a motion for a mistrial based on the fact that he was prescribed  
20 Percocet, would not be able to assist in his own defense. And that was  
21 denied.

22                  But I just wanted to make sure that paperwork is part of the record and  
23 I just want that to be clear for the record. That's all.

24                  **THE COURT:**       It was marked yesterday as Court's Exhibit  
25 Number 3.

1                   **MR. JOHNSON:**   Thank you, Judge. That's all I wanted.

2                   **THE COURT:**       Certainly.

3                   **MR. MAYE:**           Your Honor, I was informed yesterday, when I  
4 went back in the back, a person calling and identifying themselves as the  
5 Defendant in this case did call up. And he indicated that he -- he had sent  
6 some kind of paperwork up here.

7                               And the person that identified himself as this Defendant was told that  
8 the trial was ongoing and he needed to come on up here and that we needed  
9 contact information for him and a way to get in touch with him. And that  
10 person would not, again, give any contact information.

11                              But they were apprised that the trial was outgoing and that he needed  
12 to be here. And that was the only communication. But that occurred  
13 sometime during the afternoon when we were in here. I was not aware of  
14 that when we broke yesterday afternoon.

15                   **THE COURT:**       Very good. And I understand that -- I assume  
16 rather that law enforcement is diligently looking for the Defendant, but as of  
17 -- as of now, still unsuccessful in locating him.

18                   **MR. MAYE:**       No, but he was apprised that he needed to be --  
19 whoever called was apprised that they needed --

20                   **THE COURT:**       Right.

21                   **MR. MAYE:**       -- to be here. And -- and the trial was ongoing.

22                   **THE COURT:**       Okay. All right. Thank you very much. Let's bring  
23 the -- the jury out.

24                              And they've indicated, as I've mentioned, they're having a little hard  
25 time hearing, so, we all need to be -- be mindful of -- of speaking loud so



1 that the jury — certainly we want the jury to hear everything that's being said.

2 (The jury was summoned and entered the courtroom at 943 a.m.)

3 THE COURT: All right. Let the record reflect that our jury is  
4 back. Good morning.

5 (Responses of "good morning," heard.)

6 THE COURT: I hope everyone is doing well. Mr. Shealy, how  
7 has it been going so far ----

8 MR. SHEALY: It's going well.

9 THE COURT: ---- with all the women on the jury? Okay. Good,  
10 good.

11 All right. We're ready to — to start back. And the Solicitor was still in  
12 the State's case.

13 MR. SHEALY: Your Honor, some jurors have expressed concern  
14 that they cannot hear the Defense, Mr. Johnson ----

15 THE COURT: Right. And I have talked with everybody and —  
16 and including Mr. Johnson. And everybody is mindful of that and will make  
17 every effort to speak loud enough to where the jury can — can hear and  
18 understand everything being said.

19 And — but, if you have any problems with hearing, all you have to do is  
20 just raise your hand and we'll — we'll certainly address any concerns, okay?  
21 Thank you. Solicitor, you may proceed.

22 MR. MAYE: Thank you, Your Honor. The State would call  
23 Chief Kess Holmes.

24 (The witness stepped forward to be sworn.)

25 (Whereupon,

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**Officer Kess Holmes**

having been first duly sworn, testified as follows:)

**(Off-the-Record Comments)**

**Direct Examination by Mr. Maye**

**9:44 A.M.**

**Q.** Chief Holmes, if you would, identify yourself for the ladies and gentlemen of the jury, tell them where you're now employed and tell them where you were employed back on October [sic] the 3<sup>rd</sup> of 2010.

**A.** My name is Kess Holmes. I'm employed at the Town of Saluda with the Saluda Police Department. December 3<sup>rd</sup>, 2010, I was working for the Saluda Sheriff's Office.

**Q.** When did you come on shift on the morning of October [sic] the 3<sup>rd</sup> of 2010?

**A.** Six (6:00) a.m.

**Q.** Okay. Tell the ladies and gentlemen of the jury what happened shortly after you came on shift.

**A.** Probably midmorning, a little before midmorning, I received a call of a suspicious person walking down Harvest School Road, which is in Saluda County there at Little River Landing. I responded and I located a suspect, which is the Defendant Travis Warren, walking down the road.

**Q.** Who were you looking for that time?

**A.** Travis Warren.

**Q.** Travis? Okay.

**A.** I ----

**Q.** So you were patrolling that area at that time?

**A.** Right.

1 Q. Okay.

2 A. I identified him and took him into custody.

3 Q. Okay. What, if anything, did he say to you -- well, let me first ask you  
4 this: Did you ask him any questions?

5 A. I did not.

6 Q. Okay. What did he state to you when you picked him up? What did  
7 he tell you?

8 A. That -- that he spent the night basically in the woods and he was cold.  
9 He'd been down visiting friends in Saluda ----

10 Q. That's what he said?

11 A. Yes.

12 Q. Okay. Did he tell you about whether or not he knew where he was or  
13 not (phonetic) --

14 (Both speaking at same time, hard to understand.)

15 A. He stated ----

16 Q. Did he state whether he was lost?

17 A. He was lost. He did not know where he was. It came out about  
18 Columbia.

19 Q. All right. Did he give you any information about whether or not he had  
20 been with Norris -- the other two Defendants in this case the night before?

21 A. He said he had.

22 Q. He said that he had been with his ----

23 A. He had been with his friends, yeah, and he identified them as being  
24 Michelle Norris and Mr. McCraw.

25 Q. Okay. What did you do then, arrest him and took him into jail?

1           A.       Correct.

2                   **MR. MAYE:**       All right. Answer any questions that the Defense  
3           has for you.

4                   **THE COURT:**     Mr. Johnson, any questions of this witness?

5                   **MR. JOHNSON:**    Just briefly.

6           **Cross Examination by Mr. Johnson:**

9:46 A.M.

7           **Q.**       Were you involved at all with the investigation down at the incident  
8           location?

9           **A.**       I was not.

10          **Q.**       Okay. And did you question Mr. McCraw?

11          **A.**       I did not.

12          **MR. JOHNSON:**    Okay. No more questions, Your Honor.

13          **THE COURT:**     Mr. Williams, any cross?

14          **MR. WILLIAMS:**   Yes, Your Honor.

15          **Cross Examination by Mr. Williams:**

9:47 A.M.

16          **Q.**       Chief, as I understand it, you went on duty at 6 o'clock the morning of  
17          December the 3<sup>rd</sup> of 2010?

18          **A.**       That's correct.

19          **Q.**       And, obviously, I guess, by the word, "went on duty," is that when you  
20          went down to the sheriff's department and checked in and, then, left ---

21          **A.**       That's right.

22          **Q.**       — did whatever you do for that day?

23          **A.**       That's right, yes.

24          **Q.**       What time was it that you actually met my client?

25          **A.**       It was midmorning. I don't know exactly what time, but I would guess

1 9:00-ish.

2 Q. Around 9 o'clock in the morning?

3 A. That's a rough guess.

4 Q. And do you recall exactly what your conversation was with my client?

5 A. After I took him in, he was basically happy to see me. He looked like  
6 he was freezing cold. It was a very cold night.

7 Q. Do you remember exactly what your conversation was with my client?

8 A. I really didn't have a conversation with him. He — he started talking to  
9 me.

10 Q. Do you remember exactly what he said to you?

11 A. He told me that he was lost and he was trying to get back to Columbia.

12 **(Brief Pause)**

13 A. And, then, on the way to the jail he went on and he said, "Visiting with  
14 friends."

15 Q. Now, since you're the chief of the Saluda Town Police Department,  
16 obviously you've had quite — quite an extensive law enforcement background, in  
17 terms of following up on investigations and attempted crimes and things of that  
18 nature, wouldn't you?

19 A. I have.

20 Q. And what is the purpose of an incident report?

21 A. To document what happened.

22 Q. Can I ask you, please, to look at the incident report involved with my  
23 client being picked up?

24 **(Document handed to the witness.)**

25 Q. Now, do you include in that incident report anything where my client

1 says that he was lost and tired and trying to get back to Columbia?

2 A. It says that he was lost ----

3 Q. Do you ----

4 A. ---- and tired.

5 Q. Do you see anything that he said that he was lost and tired and trying  
6 to get back to Columbia?

7 A. No, sir, but he told me that.

8 Q. All right. Do you see anything in that report which says that he went  
9 to visit with some friends?

10 (Brief Pause)

11 A. Yeah, it said that he told me he was with subjects, which ----

12 Q. Do you see anything in there where it says that he went to visit with  
13 some friends?

14 A. No, sir.

15 Q. As a matter of fact, the only statement that you've recorded has to do  
16 with the fact that he had been with the two individuals that were arrested the day  
17 before?

18 A. That's right.

19 Q. And that's the only statement?

20 A. Well, he told me that he was with them.

21 Q. But am I correct on that?

22 A. I'm not exactly understanding your question as far as ----

23 Q. The point -- the point is -- is that, on the stand here, you have  
24 included a lot of extra information that was not included in your incident report,  
25 haven't you?

1           A.           Well, I didn't say nothing. I told you that he was lost, which he was  
2 lost, and he was with his friends, or with the subjects.

3                   **(Brief Pause)**

4           Q.           Well, he doesn't say he was lost, does he?

5           A.           He told me he was lost.

6           Q.           But you didn't record that statement in your incident report, did you?

7                   **(Brief pause while the witness reviews document.)**

8           A.           I have that I found the subject that fit the description. And that, "The  
9 person of interest in this case was found to be dirty, tired, and lost."

10          Q.           "Was found to be dirty, tired, and lost." Now, normally, when you use  
11 that phrase, "was found to be..." that's an expression of an opinion of the person  
12 who's writing the statement, isn't it?

13          A.           That's correct. But my — my thing is a summary of events that  
14 happened.

15          Q.           But it's not a statement from my client. Isn't there a difference  
16 between what someone says and what you assume to be the situation?

17          A.           He said that he was lost.

18          Q.           Did you record that information anywhere?

19          A.           I put in the — the report that he was lost. I don't know that I put in  
20 quotations that he said he was lost, but I — I documented that he was lost.

21          Q.           Did you record that — did you record that information on the report?

22          A.           No, sir.

23          Q.           Did you read him his *Miranda* warnings when ----

24          A.           No, sir.

25          Q.           So we have absolutely nothing to verify these statements that he made

1 in any type of written form or oral form?

2 A. That's correct.

3 (Brief Pause)

4 Q. Other than your determination that — that you determined him to be  
5 dirty, lost, and tired, did you find anything on his person that would indicate that —  
6 that he was involved in the making of methamphetamine?

7 A. I found him to be dirty and tired. That was my observation.

8 Q. Well ----

9 A. He told me that he was lost, but I did not find anything that ----

10 Q. So being dirty and tired is not something that you would attribute to  
11 making methamphetamine? You didn't find any item on his person, did you?

12 A. No, sir, I did not.

13 Q. And you didn't notice anything about him other than the fact that he  
14 was dirty and tired and appeared to be lost?

15 A. I was already looking for him because he was a suspect. I already had  
16 his name provided to me.

17 (Brief Pause)

18 Q. And that was enough, right?

19 A. Yes, sir.

20 Q. But you found nothing about him ----

21 A. I did not find anything on his person.

22 (Brief Pause)

23 Q. Do you remember what he had on?

24 A. I believe it was a dark colored jacket, sweatshirt, that had a hood on it,  
25 blue jeans I believe.



1 Q. Was he wet?

2 A. He was not wet that I remember.

3 Q. And the location where he was, was not at ---

4 (Brief Pause)

5 Q. — this landing which is reflected in State's Exhibit Number 12, is it?

6 A. No, sir, he was on Hollywood School Road (phonetic).

7 Q. So he wasn't founded anywheres near where Mr. McCraw was found?

8 A. He was probably  $\frac{3}{4}$  of a mile down the road from Mr. McCraw; where  
9 he was located.

10 (Brief Pause)

11 Q. Had he built a campfire?

12 A. Not that I'm aware of. He was walking down the road when I saw him.

13 Q. There was nothing to indicate that he had been in any type of water  
14 whatsoever, was there?

15 A. Not that I can remember.

16 Q. When you got to the Lexington — when you got to the Saluda County  
17 Sheriff's Department, did you observe Mr. McCraw?

18 A. I don't remember seeing him, no, sir.

19 Q. You didn't see the other Defendant?

20 A. He had already been in jail at the time I came in.

21 MR. WILLIAMS: That's all I have, Your Honor.

22 THE COURT: Anything in redirect, Solicitor?

23 MR. MAYE: Just one.

24 Redirect Examination by Mr. Maye:

9:54 A.M.

25 Q. Now, you didn't get on shift til what time?

1           A.       Six (6) o'clock.

2           Q.       Okay. And the person you were looking for left had left the scene at  
3 what time, midnight the night before?

4           A.       Around that ----

5                   **MR. WILLIAMS:**   Objection to that, Your Honor. There's been  
6 testimony ----

7                   **THE COURT:**     Okay. All right. Is your objection that it's improper  
8 redirect?

9                   **MR. WILLIAMS:**   Yes.

10                  **THE COURT:**     Okay. Sustained.

11                  **MR. MAYE:**       Nothing else. Thank you.

12                  **THE COURT:**     Thank you for your testimony, sir. You can step  
13 down.

14                   **(Witness complied with the request.)**

15                  **THE COURT:**     Okay. Solicitor, call you next witness, please.

16                  **MR. ROSS:**       The State calls Sergeant Billy Laney to the stand.

17                   **(The witness stepped forward to be sworn.)**

18                   (Whereupon,

19                                   **OFFICER WILLIAM LANEY**

20                   having been first duly sworn, testified as follows:)

21                  **THE COURT:**     You may proceed, Solicitor.

22                  **Direct Examination by Mr. Ross:**

**9:55 A.M.**

23                  Q.       Sergeant Laney, you are one of the narcotics officers that responded  
24 to the scene; is that correct?

25                  A.       Yes, sir.

1 Q. And you work for Lexington County; is that right?

2 A. Yes, sir.

3 Q. Now, before you tell the jury what you did in this case, can you tell  
4 them a little bit about your background in law enforcement, please?

5 A. I've been employed by the Lexington County Sheriff's Department  
6 since 1994 for the patrol division, traffic division, and got promoted to corporal.

7 And, in 2005, I was promoted to narcotics investigator. From 2005 to  
8 2011, I was a narcotics officer assigned to the bureau of Alcohol, Tobacco and  
9 Firearms as a access (phonetic) officer. And in July of 2011, I was promoted to  
10 patrol sergeant.

11 Q. Now, as a narcotics investigator, what type of cases did you  
12 investigate?

13 A. Anything from — drug related from marijuana to crack cocaine, meth,  
14 to vice, prostitution.

15 Q. And this was in Lexington County?

16 A. Yes, sir.

17 Q. Now, why — why would you assist deputies in Saluda County?

18 A. Lexington County has one of the only meth tech groups in the  
19 Midlands. So, when a surrounding jurisdiction would have meth lab, they would call  
20 and we will respond to help process the lab.

21 Q. And you were certified meth tech on December 2<sup>nd</sup> ----

22 MR. JOHNSON: Objection, Your Honor, leading.

23 THE COURT: Try to rephrase.

24 Q. (By Mr. Ross) Can you tell the jury a little bit about your specialized  
25 training specifically as it relates to methamphetamine and methamphetamine labs?

1           A.       I'm a certified meth tech and I'm certified every year through re-  
2 certification. As far as the lab, I know how to process a lab and render it safe and  
3 for collection.

4           Q.       Okay. Tell me about the certification process to be a meth tech.

5           A.       I went through a 40-hour class in I want to say Pasco County  
6 (phonetic), Florida, through MCTFT (phonetic). And yearly we go through a SLED  
7 re-certification.

8           Q.       Okay. What did you learn in that 40-hour class?

9           A.       What the active ingredients are, the precursors, the active states and  
10 how to successfully break it down and safely.

11          Q.       And who else was at this class? Is it just officers from Lexington  
12 County or other places?

13          A.       No, sir. There are --- officers actually go to the meth tech classes from  
14 all over the country. At this particular lab, I had another assisting agent who was  
15 actually working the lab.

16          Q.       Okay. Who teaches the meth tech class?

17          A.       (No Response)

18          Q.       Who were the instructors?

19          A.       The instructors are from all over the country.

20          Q.       Okay. And you said you are certified. Do you have to get re-certified  
21 every — periodically?

22          A.       Yes, sir. Every year we go through an 8-hour re-certification course.

23          Q.       Okay. And, at this time that this incident occurred, were you certified?

24          A.       Yes, sir, I was.

25          Q.       Okay. Tell me about your field experience as it relates to meth labs.

1 A. I have responded to process probably 50 to 60 labs.

2 Q. Okay.

3 A. From meth trash and/or — meth trash to an active lab. If it's a really

4 big lab, we have to actually don protective suits with full breathing apparatuses.

5 Q. Now, why do you have to put on protective suits?

6 A. It's deadly chemicals that will kill you.

7 Q. Okay. What are the other hazards involved with a meth lab?

8 A. Fire, explosion, fumes. I mean, it's — it's — it's a bad drug.

9 Q. Okay. Now, since December of 2010, you're no longer in the narcotics  
10 unit; is that correct?

11 A. November of — July 2011, I left.

12 Q. Okay. And were you promoted?

13 A. Yes, sir.

14 Q. And what is your rank now?

15 A. Patrol Sergeant.

16 Q. And what do you do now?

17 A. I supervise the south region of the county, Lexington County, which is  
18 Gaston, Swanson, and Gillian in patrol shift (phonetic).

19 Q. Okay. Now, tell me about your response to the scene on December  
20 2<sup>nd</sup> and 3<sup>rd</sup> of 2013 [sic].

21 A. I received a phone call from Agent Slice, who was actually on call,  
22 requesting that I go out and assist him with the processing of the lab in Saluda  
23 County.

24 Q. Now, why would you need — why would you need to be there to help  
25 him?

1           A.           Depending on the lab, you need at least two people. We always send  
2 two, especially out of the County. We don't know the area and, if it's a bad lab, you  
3 actually need to time each other in and out, come inside and out of the lab.

4                   **(Brief Pause)**

5           Q.           Now, you said Detective Slice was the on-call narcotics agent.

6           A.           Yes, sir.

7           Q.           What does that mean?

8           A.           He would be the one who was primarily responsible for that night.

9           Q.           Okay.

10          A.           I'm pretty far out (phonetic).

11          Q.           Okay. How long did it take you to get out to [REDACTED]

12          A.           I live in Lexington. I couldn't tell you how to get there again.

13          Q.           Okay.

14          A.           At least 45 minutes to an hour.

15          Q.           Okay. But you and Detective Slice got there?

16          A.           Yes, sir.

17          Q.           And what happened when you got there?

18          A.           When we got there, we spoke with the officers, who was Major  
19 Freeman (phonetic), who was the in-charge officer, to find out if they had and if they  
20 had secured a search warrant.

21                   We went to assess what we had. Donned our masks, exited — when  
22 around to the rear of that house and immediately no — noticed a one-pot two liter  
23 bottle, which is commonly associated with a one-pot meth cook ----

24          Q.           Okay.

25          A.           ---- with a bottle of lye (phonetic) beside it.

1 Q. Okay.

2 A. From that point, we entered the residence and assessed what we had  
3 inside. Once we assessed that there was not — not an actual lab inside the house,  
4 we came back outside and let the officers from Saluda County know what we had  
5 and went inside and photographed it.

6 Q. Now, prior to seeing this one-pot cook bottle, did you notice anything  
7 unique as far as a chemical smell?

8 A. As you — as you reached the rear portion of the house, you did smell  
9 a chemical odor that was highly — it's — it's hard to explain what a meth lab smells  
10 like. But, once you smell a lab, you know that it's a meth lab.

11 It's a chemical odor that's commonly associated with the manufacture  
12 of methamphetamine. Some people say it smells like ammonia, ether, cat urine.  
13 It's just a pungent chemical smell. And, once you smell it, you know.

14 Q. Now, prior to December of 2010, approximately how many meth labs  
15 had you responded to?

16 (Brief Pause)

17 A. In a five-year period, well over a hundred (100).

18 Q. And, in your response to those over a hundred (100) meth labs, did  
19 you smell that same chemical smell at those labs?

20 A. Part of them, yes, sir.

21 Q. Okay. And what type of — you said you donned your protective mask.  
22 What type of mask was that?

23 A. A — a gas mask basically with a filter. That's — that's what we don.

24 Q. Okay.

25 (Brief Pause)

1 Q. So, you found the Coke bottle, the one-pot lab. You went in the  
2 house?

3 A. Yes, sir.

4 Q. What happened next?

5 A. Once we went in and assessed the residence, we exited, notified a  
6 Saluda County deputy as to what we had. Agent Slice went back in and started  
7 photographing the items we found inside the residence.

8 Q. Okay. Were you with him when he was photographing ----

9 A. Yes, sir.

10 Q. ---- those items?

11 A. Yes, sir.

12 Q. Okay. Was the lab dismantled?

13 A. In a one-pot cook, it's never dismantled because it's -- that's what it is,  
14 it is a one-pot cook. There's not sections or phases of the lab.

15 Q. Okay.

16 A. It is put into a pop bottle and that's where it cooks.

17 Q. So tell me, how were you trained to respond to a one-pot cook?

18 A. If it is under pressure, you have to de-pressure it. What we normally  
19 do, I will take a pin or actually a scalpel, puncture the lab, the -- the bottle, get it  
20 under pressure, open it up. And, if it's not an active state, we will take a sample of it  
21 and, then, separate it.

22 Q. Now, if I have a one-pot cook right here (indicating), and you said you  
23 poke it with a pin, are you standing right above that Coke bottle ----

24 A. No, sir.

25 Q. ---- to poke it?



1 A. No, sir. You are at a distance.

2 Q. How far away are you?

3 A. As far as you can get. I will carry a ten-foot stick, tape it with a scalpel,  
4 and de-pressurize it that way.

5 Q. Okay. Now, this particular one pot, was it under pressure?

6 A. No, sir. The lid was off.

7 Q. Okay. So, again, how does that affect how you responded in this  
8 case?

9 A. (No Response)

10 Q. What — what did you do with this if it wasn't — if it wasn't under  
11 pressure?

12 A. Well, we would normally attempt to take a sample.

13 Q. Okay.

14 A. But, due to the weather being as cold as it was, the condensation from  
15 the actual bottle was on top of the bottle freezing. And there were lithium strips in  
16 the bottle.

17 Agent Slice wanted to pull a sample; I advised him that was not a very  
18 good idea due to the fact that lithium strips and water make fire and that's not a very  
19 good thing to do.

20 Q. Okay. Lithium strips and water make fire?

21 A. Yes, sir.

22 Q. Now, what other ingredient is that Coke bottle that might react with  
23 fire?

24 A. Coleman fuel.

25 Q. And what would happen if fire hit Coleman fuel?

1           A.           It would ignite.

2                   **(Brief Pause)**

3           Q.           So, typically you take a sample, but in this case is it a fair statement  
4 that, for safety reasons, you advised Detective Slice not to?

5           A.           Correct, sir.

6                   **(Brief pause while exhibits are retrieved and shown to opposing**  
7                   **Counsel.)**

8           Q.           Sergeant Laney, I'm handing you photographs that have been marked  
9 as State's Number 19, 22, 20, 6, 9, and 24. If you could, please, take a moment  
10 and review —

11                   **(Exhibits handed to the witness.)**

12          A.           Yes, sir.

13          Q.           --- these photographs.

14                   **(Brief pause while the witness examines exhibits.)**

15          Q.           Have you had a chance to review them?

16          A.           Yes, sir.

17          Q.           Do these photographs — are these the photographs that Detective  
18 Slice took that night?

19          A.           They appear to be, yes, sir.

20          Q.           And do they accurately reflect what you personally saw on the scene  
21 that night?

22          A.           Yes, sir.

23                   **MR. ROSS:**           Your Honor, at this time, I move these items into  
24 evidence.

25                   **THE COURT:**           What says the Defense?

1                   **MR. JOHNSON:**    Object based on a previous motion, Your Honor.

2                   **THE COURT:**       Okay.

3                   **MR. WILLIAMS:**    I have — I have no additional objection, Your  
4                   Honor.

5                   **THE COURT:**       Okay. All right. They'll be admitted into evidence  
6                   as State's 19, 22, 20, 6, 9, and 24.

7                   **(Whereupon, State's Exhibit Numbers 6, 9, 19, 20, 22, and 24 were**  
8                   **admitted into evidence over objection.)**

9                   **Q.**       If you would, please, step down, Sergeant Laney.

10                  **(Witness complied with the request.)**

11                  **(Brief Pause)**

12                  **Q.**       I'm showing you State's Number 7. If you could, stand so everybody in  
13                  the jury can see the picture. Tell me what this is a photograph of.

14                  **A.**       It's a Pepsi bottle, cap off, and right beside it is a one-pot — a one-pot  
15                  meth cook.

16                  **Q.**       Now, you said a one-pot meth cook; is that the same as a shake 'n  
17                  bake meth lab?

18                  **A.**       Yes, sir.

19                  **Q.**       Okay. Is there any difference between the two?

20                  **A.**       No, sir, just terminology.

21                  **Q.**       All right. And what is this item right here (indicating) beside the one  
22                  pot?

23                  **A.**       Household lye.

24                  **Q.**       And how is that relevant to a meth lab investigation?

25                  **A.**       That is a — that's an ingredient that is used. I'm not a chemist; I

1 cannot tell you how it's done, but, you take all those samples and put it in a bottle,  
2 and it manufactures methamphetamine with that lye.

3 Q. Okay.

4 (Brief Pause)

5 Q. I'm going to show you State's Number 3. Do you recognize this  
6 photograph?

7 A. Yes, sir.

8 Q. And what is that a photograph of?

9 A. That would be a gallon can of camp fuel.

10 Q. And how is that relevant to a meth investigation?

11 A. Again, that is what is used to put in the one-pot cook and saturate and  
12 break down the pills.

13 Q. Now, you mentioned a safety hazard involved with taking a sample.  
14 And what's in this can, does that present a safety hazard if that was in the Coke  
15 bottle?

16 A. It's all in the Coke bottle.

17 Q. Okay. And, if a spark were to ignite from the lithium and the water  
18 mixing ---

19 A. It could cause a boom.

20 (Brief Pause)

21 Q. Now, I'm going to show you State's Number 4. What is that a  
22 photograph of?

23 A. Drain cleaner.

24 Q. And how is that relevant to a meth investigation?

25 A. That is also one of the active ingredients that is used for a meth lab.

1 Q. Okay.

2 (Brief Pause)

3 Q. Now, I'm going to show you Number 19. Tell the jury what is that a  
4 photograph of?

5 A. That appears to be an ammonium nitrate pellet from a cold pack.

6 Q. Now, during your prior experience with responding to meth labs, have  
7 you seen ammonium nitrate taken out of cold packs?

8 A. Yes, sir, we have.

9 Q. And what kind of cold pack are we talking about?

10 A. It's the compression. You pop it and it makes a chemical reaction  
11 where it's cold or — or heats, one of those cold packs. It's the same kind you buy at  
12 CVS, a compress.

13 Q. Okay. So if — say I — I've got a bum knee and I need to ice my knee,  
14 is that the ----

15 A. That's the cold compact that you buy from CVS, Walgreens. And you  
16 take it — I'm not sure how the chemical reaction works; I just know it's a chemical  
17 reaction. You pop it and it gets cold and you can use it to ice — to ice your knee  
18 down.

19 Q. And inside that cold pack are pellets?

20 A. Ammonium nitrate, yes, sir.

21 Q. And have you see these before in your —

22 A. In multiple — in multiple labs, yes, sir.

23 Q. And they appear to be just like this?

24 A. Yes, sir.

25 (Brief Pause)

1 Q. Finally, I'm going to show you Number 24. Do you see that?

2 A. Yes, sir.

3 Q. Tell me what's going on in this photograph.

4 A. That is the actual top side of the one-pot shake 'n bake method. You  
5 can see the crystals of ice forming on the top due to condensation and the cold  
6 weather we had that night it started to ice up.

7 Q. So this is what you saw that alerted you that it may be dangerous to  
8 take a sample from this bottle?

9 A. Correct, sir.

10 Q. Now, inside this bottle right here (indicating), what is that white?

11 A. That — what it appears to be, if you look at the other photo, you can  
12 see where the actual bottle is concave and coming in; that's the inside label from the  
13 in — from the outside of the bottle.

14 Q. And, again, going back to Number 7, just to show the jury that. Can  
15 you point out where the bottle has been pressed?

16 A. Right here (indicating), yeah. The bottle around here (indicating) goes  
17 flat and you can see all around inside where it looks like that is the inside of the  
18 label of the bottle being mashed in.

19 Q. Okay. I don't have a Coke bottle, but would it look something like that  
20 (indicating) pressed in?

21 A. Correct, sir.

22 Q. Okay. And, if you were going to take a sample, how would you go  
23 about retrieving the liquid in here?

24 A. You use a pipe-et (phonetic), which is a clear tubing and you squeeze  
25 it and it sucks the water in. But you actually have to roll it to the side to get the liquid

1 close enough to it because the pipe cuts off at like four (4) inches (phonetic).

2 Q. Now, the fact that the bottle is — has been pressed in ----

3 A. Yes, sir.

4 Q. — would that present an additional safety hazard to you?

5 A. With the ice on top, yes, sir.

6 Q. Okay. And, if you can, explain that to the jury, please?

7 A. You have floating lithium strips in water crystallizing on top. If you tilt it  
8 to the side, the lithium could touch the actual icicles and cause a flare.

9 (Brief Pause)

10 MR. ROSS: All right. That's all I have for you, Sergeant.  
11 Answer anything that the Defense has for you.

12 THE COURT: Cross examination, Mr. Johnson?

13 MR. JOHNSON: Thank you, Your Honor.

14 Cross Examination by Mr. Johnson: 10:14 A.M.

15 Q. Officer, you are aware that substances were tested from the scene,  
16 correct?

17 A. No, sir. I didn't do the best kit (phonetic) and it was Saluda's case.

18 Q. So you are — are you aware there was no methamphetamine found?

19 A. I am now ----

20 Q. Okay.

21 A. — since you're telling me. I know we did not pull any samples.

22 Q. But samples were tested from the scene and are you aware that those  
23 were not methamphetamine?

24 A. Okay. I — I am now.

25 Q. Okay. So are you aware that — you're aware about State Law

1 Enforcement, they've got a big lab where they test stuff, right?

2 A. Yes, sir.

3 Q. Okay. Lexington County has a lab, correct?

4 A. Yes, sir.

5 Q. Okay. And all the ingredients you've talked about, when you went  
6 through the list with the Solicitor; drain cleaner, camp fuel, and all of this, you didn't  
7 test any of that?

8 A. No, sir.

9 Q. And you didn't testify there was no risk about testing those items, were  
10 there?

11 A. Repeat the question.

12 Q. There was no risk to testing those items, was there?

13 A. No, they're household items. I know what they are because they were  
14 clearly marked.

15 Q. But you didn't test them?

16 A. No, sir, I didn't test any items.

17 Q. Okay. And you're in law enforcement, but to your knowledge, nobody  
18 took fingerprints, correct?

19 A. Correct.

20 (Brief Pause)

21 Q. When a lab produces even waste, the waste can contain  
22 methamphetamine, correct?

23 A. Yes, sir, it can.

24 (Brief Pause)

25 Q. How many times did you fail to take samples on all those labs which



1 you tested?

2 A. Failed to take samples — if it's not a safe environment, I wouldn't pull  
3 a sample.

4 Q. How many times?

5 A. I can't tell you. I — I don't know.

6 MR. JOHNSON: No more questions, Your Honor.

7 THE COURT: Mr. Williams, any cross?

8 MR. WILLIAMS: Just a few, Your Honor.

9 Cross Examination by Mr. Williams:

10:17 A.M.

10 Q. Tell me, what time did you get there?

11 A. It was after 1 o'clock, sir. I — I couldn't tell you an exact time.

12 Q. One o'clock in the afternoon?

13 A. No, it was in the morning.

14 Q. Okay.

15 A. After midnight, early morning hours.

16 Q. Okay. And you're — you got there with — with Brandon Slice?

17 A. He arrived and I arrived, yes, sir.

18 Q. Is that the same or separate ---

19 A. A separate vehicle, yes.

20 Q. Who got there first?

21 A. I believe he did.

22 Q. So, when you got there, he was already there?

23 A. Correct, sir.

24 Q. Had he already taken any photographs of the scene?

25 A. No, sir. We go in as a team to assess.

1 Q. And, after you donned your protective clothing and you went in, and  
2 you looked at the area, you didn't take the photographs, but you were standing next  
3 to him when the photographs were taken; is that right?

4 A. I went with him, yes, sir.

5 Q. And the photographs were taken in the location where they were  
6 found?

7 A. In the kitchen area, yes, sir.

8 Q. And nothing was moved in regards to that?

9 A. No, sir.

10 (Brief Pause)

11 Q. Did you find any identifying information that had my Defendant's name  
12 on it?

13 A. No, sir. I didn't know who the Defendants were at that time.

14 Q. So you didn't — you did no discovery or searching in regards to  
15 identifying any party that may or may — may not have been there or identifying who  
16 may or may not have touched those items?

17 A. No, sir. I — I was there to process and assist in processing a possible  
18 active lab.

19 Q. I note that in State's Exhibit Number 9 there appear to be some red  
20 rubber gloves?

21 A. Yes, sir.

22 Q. Were you able to determine if they had been used or not?

23 A. No, sir, they -- what the picture looks like, they were still fresh, not  
24 been used.

25 Q. So they had not been used to prepare any type of ---

1 A. Not to my knowledge, sir.

2 Q. Now, it appears, in State's Exhibit Number 6, that — can you tell me  
3 where this was found? It — it appears to be drain cleaner or something like that.

4 (Exhibit shown to the witness.)

5 A. Yes, sir. Drain cleaner with the one-pot ----

6 Q. The ---

7 A. ---- lab on the outside ----

8 Q. So that was actually found outside?

9 A. Yes, sir.

10 Q. Was there an outside light?

11 A. There may have been. I'm — I'm sure there was one once we got  
12 inside and turned the lights on.

13 Q. Inside the house?

14 A. The power was on, yes, sir.

15 Q. Inside the house?

16 A. Yes, sir.

17 Q. But was there — was there an outside porch light I guess is what I'm  
18 asking?

19 A. At the time, when we arrived, no. I couldn't tell you if we turned the  
20 light on or not.

21 Q. Well, clearly, you're showing a flashlight ----

22 A. Yeah, that's a flashlight.

23 Q. So it would have been dark on the back porch?

24 A. Correct.

25 (Brief Pause)

1 Q. As I understand your testimony, that there was no risk at — insofar as  
2 combustion based on pressure at this point in time ----

3 A. Correct.

4 Q. ---- because the item which you found ---

5 (Brief Pause)

6 Q. — which is a Pepsi-Cola bottle, did not have a lid on it; is that right?

7 A. Yes, sir.

8 Q. And State's Exhibit Number 7 is what you're referring to as being the  
9 — the shake 'n bake, the one-pot method?

10 A. Yes, sir.

11 Q. And that is determined on the back porch of this trailer?

12 A. Correct, sir.

13 Q. Now, are you saying that the white items that appear on the inside of  
14 the Pepsi-Cola bottle is ice?

15 A. I'm saying, at the very top they were crystallizing; crystallizing from the  
16 condensation and it was cold that night.

17 Q. The — the white spots on the inside of the bottle, is that ice or is that a  
18 — some sort of substance?

19 A. Where on the inside of the bottle, sir?

20 Q. Right above the label.

21 A. That's early on. Right above the label, that --- that appears to be  
22 condensation.

23 Q. Now, condensation is what?

24 A. Liquid.

25 Q. Liquid which is condensing, becoming ice?

1 A. Yes, sir.

2 (Brief Pause)

3 Q. What did you do with the Pepsi-Cola bottle?

4 A. The clean-up crew that was -- the DEA clean-up crew came and  
5 retrieved it.

6 Q. What time did the DEA crew show up to clean it up?

7 A. I couldn't tell you the exact time. It was morning hours, almost sunrise.

8 Q. So that's ----

9 A. We got there after 1 o'clock. They were coming out of Spartanburg. I  
10 couldn't tell you what -- the exact time they showed up.

11 Q. Five (5) o'clock in the morning?

12 A. Possibly.

13 Q. Six (6) o'clock?

14 A. It's very possible. They got there before it was daylight.

15 Q. And this was December so daylight in December is what 6:30, 6:15?

16 A. I'm normally asleep at 6:30.

17 Q. Okay.

18 A. I'm getting home from work and going to sleep.

19 Q. All right. Looking at State's Exhibit Number 13 ----

20 A. Yes, sir.

21 Q. -- which you've identified as the Coleman camp fool -- fuel?

22 A. Yes, sir.

23 Q. Is there any evidence that any of that had been actually used?

24 A. I didn't take any samples.

25 Q. Well --

1           A.           I mean, it's in the trash can with the top open.

2           Q.           As a matter of fact, though, there's no spill on — on the top of the can  
3 to indicate that it had been open. There's here to indicate it had been opened,  
4 correct?

5           A.           Correct.

6                    **(Brief Pause)**

7           Q.           Did you dispose of a — camp oil?

8           A.           No, sir. The clean-up crew did.

9           Q.           So this DEA crew, coming from Spartanburg, comes down, takes this  
10 equipment. And they would be the ones who would be able to testify, in regards to  
11 whether or not anything had actually come out of this can or not; whether or not it  
12 had been used in any way, right?

13          A.           Yeah.

14          Q.           And they would be able to testify in regards to whether or not there  
15 was still condensation on the inside of that Pepsi-Cola bottle, right?

16                    **(Brief Pause)**

17          A.           Sure.

18          Q.           Because, if there was no condensation on the inside of that Pepsi-  
19 Cola bottle, then, someone could have taken a sample of whatever you suspected  
20 was inside the Pepsi-Cola bottle?

21          A.           Yes, sir, that's correct. If it was not icing up, I would have taken a  
22 sample or some — or Agent Slice would have.

23          Q.           Or the persons who arrive [sic] — who got there five hours later to  
24 dispose of the stuff would be able to testify as to what the condition was at that  
25 time?

1 A. Sure, yes, sir.

2 Q. Because they're the ones that took possession of the Pepsi ----

3 A. They're the ones who took possession of it to properly and disposed of

4 it, yes, sir.

5 Q. All right. Now, do you — do you recall what the Pepsi-Cola bottle

6 looked like five hours later when the DEA people showed up?

7 A. No, sir.

8 (Brief Pause)

9 Q. So conceivably, at 5 or 6 o'clock, when the DEA people get there, and  
10 there's no condensation, then, you could have taken a sample, couldn't you?

11 A. I would say no, sir, because it's — it did not warmer; it got colder. It's  
12 always cold before sunrise.

13 (Brief Pause)

14 Q. Well, the person who would actually be able to testify to the condition  
15 of the Pepsi-Cola bottle, at that time, would be the DEA people ---

16 A. Correct, sir.

17 (Brief Pause)

18 MR. WILLIAMS: That's all I have, Your Honor.

19 THE COURT: Anything in redirect, Solicitor?

20 Redirect Examination by Mr. Ross:

10:25 A.M.

21 Q. There was condensation in that Coke bottle?

22 A. Yes, sir.

23 Q. And that is the reason you didn't take a sample?

24 A. Correct, sir.

25 MR. ROSS: That's all I have, Sergeant.

1 THE COURT: Anything on recross?

2 MR. JOHNSON: Nothing for the Plaintiff — nothing for the  
3 Defendant.

4 THE COURT: Thank you for your testimony, Sergeant.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: You may step down.

7 THE WITNESS: Thank you.

8 (Witness complied with the request.)

9 THE COURT: All right. Call you next witness.

10 MR. MAYE: Your Honor, I think the next witness will be fairly  
11 lengthy. If we could have a short break before we started up on that,  
12 please ---

13 THE COURT: Sure. We'll take about a 10-minute break. Mr.  
14 Foreman and ladies of the jury, we're going to take a mid-morning break. I  
15 remind you not to discuss this case among yourselves. And we'll get you  
16 back out soon. Thank you.

17 (The jury exited the courtroom at 10:27 a.m.)

18 (Whereupon, a recess was taken from 10:27 a.m. until 10:42 a.m.)

19 (Off-the-Record Comments)

20 THE COURT: Gentlemen, are we ready?

21 MR. MAYE: The State's ready, Your Honor.

22 MR. JOHNSON: Yes, sir.

23 MR. WILLIAMS: Yes, Your Honor.

24 THE COURT: All right. Bring the jury out, please.

25 (The jury entered at 10:43 a.m.)



1                   **THE COURT:**     Let the record reflect the jury is back in. Solicitor,  
2                   call your next witness.

3                   **MR. ROSS:**       Thank you, Your Honor. The State calls Detective  
4                   Nick Schifferle to the stand.

5                   **THE COURT:**     Okay. Come around, sir.

6                   **(The witness stepped forward to be sworn.)**

7                   **(Whereupon,**

8                                   **Detective Nick Schifferle**

9                   having been first duly sworn, testified as follows:)

10                  **MR. SHEALY:**     Your Honor, members of the jury would like, when  
11                  Mr. Johnson examines the witness, to stand closer to us.

12                  **THE COURT:**     Okay. I think Mr. Johnson will do that.

13                  **MR. JOHNSON:**   Yes, sir.

14                  **THE COURT:**     Okay. Thank you.

15                  **Direct Examination by Mr. Ross:**

**10:44 A.M.**

16                  **Q.**       Detective Schifferle, you're with the York County Sheriff's Office; is  
17                  that right?

18                  **A.**       That is correct.

19                  **Q.**       And you were asked to give an excerpt — an expert opinion in this  
20                  case; is that true?

21                  **A.**       That is correct.

22                  **Q.**       Before you tell the jury what your expert opinion is in this case, can  
23                  you, please, tell them your background and training in law enforcement, please?

24                  **A.**       Yes. I'm assigned to the York County Sheriff's Office. I'm a deputy.  
25                  I'm in the detective division, part of criminal investigation division.

1 And, prior to that, I was assigned to the York County Multi-jurisdictional  
2 Drug Enforcement Unit, which is basically your narcotics unit. In that capacity, while  
3 working for the narcotics unit, I became clandestine lab certified, basically a meth  
4 and scientist specialized team that investigated meth labs, distribution, and  
5 investigation of methamphetamine in York County.

6 Even, after I left the drug unit and became a detective now  
7 investigating property crimes, I still continue to maintain my certification. I still  
8 continue to respond to meth labs as needed basis and still aid in the drug unit in  
9 investigations, evaluations of meth labs. And I still respond to scenes and dismantle  
10 with them.

11 Through that capacity, I also received specialized training. To go over  
12 some of the specialized training that I received, my training in methamphetamine  
13 started early in my career.

14 In July of 2005, I obtained a three-hour class in drugs and  
15 methamphetamine and meth labs. In January of 2008, I went to a clandestine lab  
16 awareness class. It was eight (8) hours.

17 In December of 2008, I attended a 24-hour class. And it was in a  
18 South Carolina Forensic Review Conference. And, then, in March of 2010, I  
19 continued my training and I attended a meth lab awareness class. It was only a  
20 one-hour class.

21 I continued my training further. I went to the Regional Counter Drug  
22 Training Academy in Meridian, Mississippi. And that was in June of 2010. It was a  
23 40-hour class in clandestine lab investigations.

24 I further continued my training ---

25 Q. Detective, let me — let me interrupt you and ask you some questions

1 about that class, that clandestine meth lab class. How long was that class?

2 A. That was a 40-hour class.

3 Q. And who attended that class, what type of officers, law enforcement  
4 officers? Is it just from York County or — or where did these officers come from?

5 A. These officers come from all over, several different states.

6 Q. And who teaches the class?

7 A. It's some instructors from the Regional Counter-Drug Training  
8 Academy.

9 Q. Okay. And what did you learn during this 40-hour instruction period?

10 A. Well, this is Stage 1 of a larger — of a group of classes. In this class,  
11 you basically learn the basics of investigating clandestine labs; what to look for,  
12 hints and tips of how to investigate it. And it's basically some of the hazards  
13 association — associated with clandestine labs.

14 (Brief Pause)

15 Q. Now, you said there was a certification process; is that correct?

16 A. That is correct.

17 Q. And are you certified?

18 A. I am.

19 Q. And do you have to get annually or periodically re-certified?

20 A. That is correct.

21 Q. And have you done that?

22 A. I have.

23 Q. Okay. And what is agency that actually certifies you?

24 A. The agency I originally certified through was the Regional Counter-  
25 Drug Training Academy. And, then, after that I attended classes through the State

1 Bureau of Investigation in North Carolina to continue my re-certification.

2 Q. Okay. Continue on with your subsequent training, please.

3 A. Okay. After that, November of 2010, that same year, I went back to  
4 the Regional Counter Drug Training Academy in Meridian, Mississippi, attended the  
5 clandestine lab and weapons of mass destruction class, the CLAW (phonetic) class  
6 basically. I got my certification to be a hazmat technician in clandestine labs. And  
7 that was 52-hour class.

8 Beyond that, in November, of 2010, I attended a four-hour class on the  
9 ampro (phonetic) system and methamphetamine chemical training. And that's  
10 through the State Law Enforcement Division of South Carolina.

11 Beyond that, I attended a methamphetamine lab awareness class in  
12 April of 2011, which is a simple one-hour class. And, then, after that, in October of  
13 2011, I attended an eight-hour class on methamphetamine labs in South Carolina  
14 that was sponsored by the Sheriff's Office Association of South Carolina.

15 Then, beyond that, in November of 2011, I attended a 16-hour class  
16 on clandestine lab research at the State Bureau of Investigations. I continued that  
17 in 2012, in November, I attended an eight-hour class and was re-certified again.

18 Q. Now, you've mentioned all these classes. Do you have a college  
19 degree too?

20 A. I do.

21 Q. And where is that from?

22 A. I have a four-year degree through Winthrop University in sociology with  
23 a concentration in criminology.

24 Q. Do you instruct or are you an instructor in any types of drug or  
25 methamphetamine training?

1           A.           I am. I am a licensed instructor through the State of South Carolina.  
2           And I also instruct classes. The groups I particularly instruct, I have instructed  
3           classes on methamphetamine awareness to the York County Sheriff's Office, the  
4           Clover Police Department, the York City Fire Department, Clover City Fire  
5           Department, the Bethlehem — the Beth-Santiago (phonetic) Police Department, the  
6           Flint Hill (phonetic) Fire Department, the Newport Fire Department, the Bethesda  
7           Fire Department, and the York County Hazmat team, and the York County Hotel-  
8           Motel Group, which is a group of civilians.

9                       They're — it's a group that — of motel owners and managers came  
10           together to address the issues in York County, one being meth labs that occur in  
11           motel/hotel rooms.

12           Q.           Tell me about your field experience as it relates to meth and meth  
13           labs.

14           A.           Well, in my capacity as a drug investigator, I investigated several  
15           cases. In those cases, there are several celebrated cases, such as the Jason  
16           Johnson case, which resulted — which was a historical investigation into  
17           manufacturing and trafficking of methamphetamine, which resulted in a 28-year  
18           conviction of an individual.

19                       Beyond that, I organized several operations or executed search  
20           warrants at meth labs. We've also — beyond just the manufacturing part, I also  
21           investigate cases where people would distribute meth.

22                       And I also investigate cases where people would possess it. In those  
23           capacities, I also gained further experience into interviewing those people where I've  
24           spoke with methamphetamine cooks or basically people who manufacture  
25           methamphetamine.

1 And they informed me of their recipes, their techniques that they used  
2 to manufacture meth. And beyond that, I've interviewed people who have  
3 distributed meth, learned their tech — their techniques.

4 And, then, I even spoke to the people that are possessing it; the  
5 people who actually use it. So I have all aspects of that.

6 I've also investigated people who gather the supplies, which, you  
7 know, the street name for that is smurfing (phonetic). And I've interviewed the  
8 people that have actually, you know, gathered the supplies for the meth cooks.

9 And, in that capacity, of investigating those cases, I've also responded  
10 to 27 meth labs and have been the lead investigator on many of those meth labs.

11 Beyond that, there's also been a lot of meth labs and calls that I've  
12 been to where officers or police officers have called me to respond to a scene where  
13 they believe they had a meth lab.

14 And, in that capacity, I use my training and experience to deduce if  
15 those incidence were not meth labs. So not every call that I go to is an actual meth  
16 lab. A lot of times, when I get there, I determine it's not a meth lab because there's  
17 — sometimes there's a lot of confusion of the materials used in manufacturing meth.

18 **MR. ROSS:** Your Honor, at this time, we would offer Detective  
19 Schifferle as an expert in the manufacture, distribution, and disposal of  
20 methamphetamine.

21 **THE COURT:** Okay. As to the issue of qualifications to be  
22 declared an expert in those areas, any questions, Mr. Johnson?

23 **MR. JOHNSON:** Your Honor, I would ask about any experience  
24 he's had in General Sessions Court testifying.

25 **THE COURT:** I'll be glad for you to ask that question.

**Voir Dire by Mr. Johnson:**

**Q.** Have you ever testified in General Sessions ----

**THE COURT:** And — and you need to get close to the jury.

**Q.** (By Mr. Johnson) Sir, have you ever testified in General Sessions Court before?

**A.** I have.

**Q.** How many times?

**A.** Over 20 times approximately.

**MR. JOHNSON:** Thank you.

**THE COURT:** Mr. Williams, any questions concerning qualification?

**MR. WILLIAMS:** Yes, Your Honor.

**Voir Dire by Mr. Williams:**

**Q.** In those 20 times that you've testified in General Sessions Court, did you testify as an expert those 20 times?

**A.** I have not.

**Q.** So how many times have you testified as an expert in General Sessions Court?

**A.** I have not testified as an expert.

**Q.** So you've never testified as an expert in General Sessions Court?

**A.** That is correct.

**Q.** Now this — it was suggested or — or you were put forward as an expert in manufacturing of methamphetamine, distribution of methamphetamine, and what was the third area in which you were being qualified for?

**A.** Disposal.

1 Q. Disposal?

2 A. Yes, sir.

3 Q. Do you have any certification dealing with the disposal of hazardous  
4 waste, which you possess?

5 A. I have certifications based on the removal and basically where we're  
6 sent out to the site and a cleanup crew comes out and picks them up.

7 Q. So your certification is not in the disposal of methamphetamine,  
8 meaning removing it from the environment; your — your certification would be in  
9 terms of segregating the methamphetamine for some other agency to dispose of it;  
10 is that correct?

11 A. That is correct.

12 Q. So you would not — you don't feel that you would be a proper expert in  
13 the disposal of methamphetamine, do you?

14 A. I — I believe that would be correct in disposal.

15 Q. Now, in terms of the expert, as far as distribution of  
16 methamphetamine ---

17 A. Yes, sir.

18 Q. — it's my understanding that you seek to be qualified as an expert on  
19 that based on your interviews with person who sell methamphetamine?

20 A. And the investigations I've conducted where I've used confidential  
21 informants to purchase methamphetamine.

22 Q. So it's — it's your — it's your understanding, that based on you being a  
23 police officer and being involved in cases involving methamphetamine, that, that  
24 should be sufficient for you to be qualified as an expert in regards to the distribution  
25 of methamphetamine?



1 A. Yes, sir.

2 Q. All right. Obviously — and I say this obviously without — without  
3 attempting to embarrass you in any way, you've never been involved in the  
4 distribution of methamphetamine in any way whatsoever because you're a police  
5 officer?

6 A. That is correct.

7 Q. So your information that you gleaned would have been based on your  
8 arrest of individuals who sold methamphetamine?

9 A. And the interview based on their information and also the investigation  
10 I've conducted in the distribution of methamphetamine.

11 Q. Do you have any chemistry degree?

12 A. I do not.

13 Q. Your degree is in sociology; is that correct?

14 A. That's correct.

15 Q. And the experience you have, in regards to the making of meth, is  
16 from on-the-job training and in regards to I guess groups and schools that you've  
17 attended as a result of being a police officer?

18 A. That is correct.

19 Q. Have you ever made meth?

20 A. I have not. I have participated in several portions of the production of  
21 methamphetamine, but the reason why I haven't actually done that is there aren't a  
22 lot of classes and schools that are willing to teach someone to go through the whole  
23 process because of the volatile nature of manufacturing meth. It's hard to control in  
24 the laboratory environment without accidents.

25 Q. So, to just go over what we've just covered, you've never made meth,

1 you've never sold meth. Your — your understanding of the distribution of — of meth  
2 is based on your experience as a police officer arresting individuals who sold meth.  
3 And you have no chemical background. And you've -- you've never dealt with the  
4 actual disposal of meth?

5 A. No, I don't actually dispose of the meth.

6 MR. WILLIAMS: That's all the questions I have, Your Honor.

7 THE COURT: Okay. Any objections, Mr. Johnson and Mr.  
8 Williams, concerning this witness being qualified in the — as an expert in the  
9 area of manufacturing and distribution.

10 And I think initially he was offered as disposal ---

11 MR. ROSS: Yes, sir.

12 THE COURT: — but I think, based on his testimony, I think it  
13 would be removal of such substance. Any objection?

14 MR. JOHNSON: I object to it based on his testimony, Your Honor.

15 THE COURT: Okay.

16 MR. JOHNSON: There wasn't any experience. And based on that  
17 lack of further training, in both manufacturing and disposal, that the — related  
18 to distribution, it doesn't seem to apply to anything he's actually been trained  
19 in. And I would object.

20 THE COURT: Mr. Williams, do you join in objection?

21 MR. WILLIAMS: I'll — I'll join in the objection.

22 THE COURT: All right. I will qualify the — Officer Schifferle as  
23 an expert in the manufacture and distribution and removal of  
24 methamphetamine, but not disposal based upon his — his testimony.

25 MR. ROSS: Thank you, Your Honor.

1                   **THE COURT:**       Can you spell your last name, Officer.

2                   **THE WITNESS:**    My last name is spelled S-c-h-i-f-f-e-r-l-e.

3                   **THE COURT:**       Okay. Thank you. You may proceed.

4                   **Direct Examination by Mr. Ross Continued:**

5                   **Q.**       Detective Schifferle, are you aware or are you familiar with the shake  
6                   'n bake or one-pot method of manufacturing methamphetamine?

7                   **A.**       I am.

8                   **Q.**       And can you tell the jury how exactly you go about making  
9                   methamphetamine via this method?

10                  **A.**       Okay. Well, there are over 30 different ways of manufacturing meth.  
11                  In this particular case, the one-pot method is the method that I believe has been  
12                  used.

13                  The one-pot method is a particular method that's used. And it's just a  
14                  --- the one-pot nickname is --- it's just a nickname for it. What an individual does is  
15                  they take precursor substance.

16                  And all that precursor substance means, it basically just means it's a  
17                  substance that is going to be transformed into another substance. In this particular  
18                  case, when you're using the one-pot method, the particular precursor substance  
19                  you're using is ephedrine or pseudoephedrine.

20                  Now ephedrine or pseudoephedrine, those are basically a nasal  
21                  decongestant or bronchodilator. They're legitimate --- legitimate --- legitimate  
22                  medical --- they have a legitimate medical use; basically as cold medicine.

23                  What an individual does is take this cold medicine and puts it inside a  
24                  container. You can do several different things. Some people grind up the pills.  
25                  Some people just put the pills straight inside the container.

1 And what is going to happen with this precursor, is through the process  
2 of this cook, as the officers have explained, they're going to take this precursor  
3 substance and turn it into — from the ephedrine or pseudoephedrine product into  
4 methamphetamine.

5 The easiest example I can do with this is, if you can imagine ephedrine  
6 as a doughnut with frosting and sprinkles on it, okay, imagine that as your ephedrine  
7 molecule. And, then, what is going to happen is, methamphetamine is so close in  
8 the chem — in the molecule of ephedrine, it looks like a doughnut with frosting on it.

9 So, through the process of cook, all you have to do is reduce this  
10 doughnut down to a doughnut without the sprinkles. And that makes it the  
11 methamphetamine.

12 All right, so, through the process of the cook ----

13 Q. Let me inter — interrupt you right there, Detective Schifferle. So the  
14 process essentially is analogous to taking a doughnut and scraping off the  
15 sprinkles?

16 A. That is correct.

17 Q. A doughnut with sprinkles is Sudafed and, if you scrape off those  
18 sprinkles, you have meth?

19 A. That is correct.

20 Q. Okay.

21 A. And that's done through the process of the cook. Now, how an  
22 individual cooks it; they take a container. A lot of times a two-liter bottle, such as a  
23 Pepsi bottle, Coke bottle. That's — that's a pretty common choice. But there's other  
24 containers that you can utilize in this process.

25 What an individual does is, he takes the pseudoephedrine, which is

1 that cold medicine, and puts it inside this container. Now, they're going to add some  
2 more chemicals to it.

3 Chemicals you're going to add to it, Coleman camp fuel. You don't  
4 need specifically Coleman camp fuel, but you need some sort of organic solvent.  
5 So you can use other things like ether or other substances such as that.  
6 And you pour some of that Coleman camp fuel inside this container with the  
7 pseudoephedrine pills.

8 Now, what they're going to do is, they're going to take a cold pac. And  
9 a cold pac — those are those one-time use only once that you buy, you know, at  
10 most of the pharmacies or at Walmart. And you're going to take it and you break  
11 the capsule inside and it's really cold.

12 Well, before you break the capsule, you take those and you cut open  
13 the package. There's a little water packet inside of it and you remove that.

14 Inside it there's some white little beads. And, you know, I say white  
15 beads because the majority that I've cut open had white beads in there.

16 And what they do is, they take those beads and they pour those beads  
17 inside this soda bottle that contains the Coleman camp fuel and the  
18 pseudoephedrine. So now you have those substances. They're sitting inside the  
19 container.

20 Now the next process is, you're going to need to get lithium. And you  
21 can get lithium from several different substances, but one of the most common ones  
22 that you can find is people will extract lithium from lithium batteries.

23 And that is done fairly simply. You basically use a set of pliers and  
24 you can pull off the ends of the battery. And, when you rip off the label of the  
25 battery, inside there, there's a little coil.

1           The coil has a wrapper around it. And that coil contains the lithium  
2 strips inside of it. The lithium strips, they kind of look like carbon paper, if you're  
3 familiar with that, the old checkbooks that used to have carbon paper or a lot of  
4 receipt books used to have carbon paper.

5           It's the same — it looks a lot like that. It's a very loose metal. And  
6 what they do is, they take that metal and they tear it. And they put it inside that  
7 solution.

8           One of the reasons why you don't want to leave it sitting out on the  
9 counter is because lithium is a volatile substance. It can catch fire really quickly if it  
10 comes into contact with water.

11          So a lot of people, they don't want to tear it apart and leave it laying  
12 around. They — they take — they deal with it very quickly and put it inside of some  
13 sort of fuel so as to eliminate all water from getting to it.

14          So they'll put that inside the bottle. Then, in addition to that, they'll  
15 have some sort of lye. Some people use Red Devil Lye, but you can use other  
16 things like Drano and other chemicals.

17          You add that inside the container. Now, you have everything pretty  
18 much set. A lot of people, they'll take a small pan full of water and they'll just put a  
19 little bit of water inside the container. And that speeds up the reaction that's is going  
20 to occur. And what they're going to do is, they're going to seal off this bottle.

21          Now, during this process of manufacturing meth, they're going to sit  
22 there and, you know, what they'll do is they will shake it up and hold it. But every  
23 once in a while there is going to be gas that's going to be built up inside this  
24 container. And that's ammonia gas that's being built up.

25          So, every once in a while, someone is going to have to break the seal

1 but just slightly and release some of this gas because, if you don't, there's been gas  
2 produced inside this container, it's full of fuel. And, then, when the lithium, you  
3 know, comes into contact with the little bit of water in there, it sparks it.

4 And there's little sparks going on. When you're looking at this bottle,  
5 it's going to look like a hurricane in a bottle. It's going to look like it's storming up.  
6 You can see lithium strips rolling around. There's going to be all kinds of — you  
7 know, it almost looks like it's internally boiling.

8 And, when the person is holding this, they're going to burp it once in a  
9 while. Now, when I say they "burp it," what does that mean? What I mean by  
10 burping basically means they're — they're going to release the pressure off of the  
11 cap.

12 They're just going to ease it off just a little bit and release it because, if  
13 not, the bottle — the bottle can bulge. And, if it ruptures, you know, you have a large  
14 possibility of exploding of the bottle.

15 So what is going to happen is that is going to cook for several hours.  
16 And eventually the solution is going to settle. Now, it's going to divide up to, you  
17 know, your usable or the usable methamphetamine and, then, all the other junk  
18 that's in the bottle. And what I mean by "junk" is all the leftover ingredients that's  
19 inside the bottle.

20 Now, that fluid that's in there, that's actual methamphetamine base.  
21 And it will test positive for meth if it's done right. And that's the stuff that you want to  
22 extract out of the bottle.

23 A lot of people use several different techniques, you know, for getting  
24 the meth out. Some people use eye droppers. Some people will use turkey  
25 basters. Some people just pour off the solution. It just kind of depends on the

1 person's experiences.

2 And, in that capacity, so they have that one container. They're going  
3 to pour off that fluid into another container. And that container can be anything. It  
4 can be little Pyrex glass dish. And that fluid is going to be sitting inside there.

5 Now, that meth that's there is not usable; it's not ingestible meth  
6 (phonetic). That meth there is in — it has salt all over it. So that's not something  
7 you can readily use yet. But if ---

8 Q. So the stuff that's made in the Coke bottle is meth in a solution? Is  
9 that what you're saying?

10 A. That is correct. It is actually pseudoephedrine that has been  
11 converted into the methamphetamine.

12 Q. Okay. All right.

13 A. So that's going to be sitting there. Now, what an individual is going to  
14 do, is they're going to want to use another container. And this is kind of the next  
15 step with it. With another container separate from that — you know, I've seen  
16 containers, you know, that people — these — they've improvised; you know, Coke  
17 bottles, glass bottle, gas cans.

18 I've seen where people have even used pizza sauce containers and  
19 pickle jars for this next process. But what an individual will do is they'll take salt, put  
20 it inside this container. And, then, they'll take some drain cleaner. A lot of times  
21 you'll have people use different things. Drain cleaner has sulfuric acid in it.

22 And they'll pour it inside the container with the salt. What they're doing  
23 is they're creating what's called a gas generator. And what I mean by gas  
24 generator, I don't mean, you know, something that produces electricity; I'm meaning  
25 something that produces the gas.



1                   The gas that they're trying to get is called hydrochloric gas, or HCL  
2 (phonetic) gas.

3                   And what they're going to do is, in the cap of that is one, either attach  
4 a straw or some sort of pipe or tubing. And they're going to set that — you know,  
5 put a hole in the top of the container and they're going to basically put the lid on it.  
6 And they're going to pipe that gas that's produced from those chemicals reacting.

7                   And they're going to take that straw or that tube all the way over to  
8 where that mixture is, what they've already pulled out of the two-liter bottle is, and  
9 you're going to put it and you're going to — a lot of people have actually described it  
10 to me as you're going to make it snow.

11                  And what I mean by "snow" means is, whenever that HCL gas hits that  
12 solution, little bit of flakes are going to form and they're going to fall to the bottom of  
13 the container. That little bit of flakes that form, that is going to be your usable  
14 smoke-able meth.

15                  After this process is complete, you know, depending on how well you  
16 do it and the — the more you do it, the more meth you actually convert to that white  
17 powder substance.

18                  After you're done with that, you put your gas generator that you made  
19 to the side. And, then, what you're going to do is, you're going to take that container  
20 of fluid and you're going to let it evaporate.

21                  Some people added a little bit of heat to speed up the process of it,  
22 but it's not necessary. Actually, it'll evaporate in the air. And, then, that right there,  
23 what forms in the bottom of that container, is a little — it'll be a powdery substance.  
24 It could be, you know, several different colors, but that — that right there, that is your  
25 usable smoke-able, inject-able meth.

1 Q. So where do you typically find people making meth?

2 A. In my experience, you know, we have found meth in everywhere. We  
3 have seen it in three hundred thousand dollar (\$300,000) lake houses. We've seen  
4 it in two hundred thousand dollar (\$200,000) residential houses in neighborhoods.

5 We've seen methamphetamine --- methamphetamine labs in cars.  
6 We've seen them in sheds.

7 Q. Wait a second. You've seen a meth lab in a car?

8 A. Yeah.

9 Q. Okay.

10 A. And, you know, it's --- I hate to say it, but this process isn't that difficult.  
11 Compared to all the other methods of making meth, this is one of the easier ones  
12 that you can --- you can do. And you can transport it in a car.

13 Q. Now, let me ask you this: When you're doing this process, you're  
14 putting all these ingredients in that Coke bottle, does this produce any type of fumes  
15 or smells associated with manufacturing meth?

16 A. Yes. There's --- there's several hazards associated with it. There --  
17 there is the ammonia gas that's released. And usually, whenever you open up the  
18 container to release the pressure, those gases are released.

19 But, you know, I haven't actually smelled them myself. I mean,  
20 whenever I go into these labs, I usually wear protective equipment. But the smell  
21 that's released has been described as a heinous smell.

22 Q. Okay. You mentioned some of the dangers involved with cooking  
23 meth. Can you tell the jury a little bit about those dangers?

24 A. Yes. In this particular style of cook, there's several dangers  
25 associated with it. One, there is the hazard as to the materials you're using.

1                   The — the lye that you're using is an extreme --- you know, it's a base.  
2                   The acid that you're using, those are hazardous to your health. You don't want to  
3                   pour this on your skin.

4                   And, in addition to that, whenever you're cooking these one-pots, it's  
5                   basically like a small bomb inside the container because there's already fuel for a  
6                   possible fire. You have lithium strips, which is a source of ignition, and it's only  
7                   contained inside a small little container.

8                   One of the big reasons why it doesn't kind of blow up is there is not a  
9                   whole lot of air that's in there. But, you know, if the container is, you know, nicked  
10                  (phonetic) , ruptured, somebody doesn't pay attention to it, it'll explode, you know,  
11                  and you'll have a large fire.

12                  And it's not just the fire that you have to worry about. It's — it's the  
13                  extreme acids and extreme bases. They're going to leak out of that fire and they'll  
14                  burn not just from the heat from the fire but also you have acids or bases that can  
15                  burn as well.

16                  To give you an example of the dangers of this, you know, over the  
17                  years I've investigated methamphetamine, I've been to several house fires and  
18                  trailer fires.

19                  The most recent one was about three weeks. I went to a trailer fire  
20                  where — where someone had a — several one-pot meth labs going at the same  
21                  time. And it blew up the trailer and the trailer caught on fire. Of course, he had  
22                  extreme — the individual had extreme burns on his hands.

23                  Q.           How much damage did that do to the area surrounding those one-pot  
24                  cooks?

25                  A.           It — it — it totaled the trailer.

1 Q. Have you investigated other cases where the cook has exploded?

2 A. Yes. There was one in particular I investigated where the individual,  
3 where he initially started ---

4 MR. WILLIAMS: Your Honor, I would — I would object to this line of  
5 questioning with regards to what other episodes he's had unless it directly  
6 bears on this case with regard to how things are manufactured in this  
7 particular case.

8 THE COURT: I would overrule your objection. I think it goes to  
9 providing a foundation for his expertise and knowledge in stating opinions in  
10 this case. So noted, overruled.

11 MR. WILLIAMS: Thank you, Your Honor.

12 Q. (By Mr. Ross) Sir, if you could, please, explain to us what you were  
13 talking about, the dangers and the cases you've investigated where the one-pot  
14 went boom.

15 A. Yeah. It was in a — a shed. And this individual has been arrested  
16 before for manufacturing meth. And, when we went back out there — well, his shed  
17 blew up. One of his neighbors called in the fire and the explosion.

18 And that he --- that particular individual was severely burned and also  
19 his — the walls of his shed, from what the witnesses said, they just blew down. And  
20 all the debris field was actually pretty large, but it was a total loss on the shed.

21 Q. What about environmental damage? Do — does this process create  
22 damage to the environment as well?

23 A. Typically, the environmental damage that we see is basically from an --  
24 an individual pouring out the trash, the waste product, because, you know, once you  
25 make this, you know, it's useless afterwards. All that sludge that's created, it's

1 hazardous waste.

2 So, you know, people aren't going to turn it over to hazardous waste  
3 bin. You know, they basically just get rid of it because it's evidence against them.

4 The bad part of it is a lot of people — some people flush it down the  
5 toilet, from what other people have told me, which that puts it back into the water  
6 system.

7 Some people pour it out on the ground, which is extremely hazardous  
8 because when you think of the pH scale, going from zero to 14, zero being extreme  
9 acid; 14 being extreme base, some of these can be in the zero range where it's  
10 extreme acid. Some of the stuff can be, you know, a strong base; you know, being  
11 up there in 12 — you know, in the 12 or 13 range.

12 In my own experience, I've seen where an individual just throwing it  
13 into the trash and, then, when we're sorting through this trash, I picked up his gas  
14 generator, which had HCL — you know, it was where his HCL generator.

15 And that substance leaked out onto my glove and it actually started  
16 dissolving the outside of my glove. So it is extremely hazardous to the  
17 environment, to the atmosphere, the gases.

18 Q. What about breathing the fumes?

19 A. Breathing the fumes are also hazardous as well.

20 Q. Okay. And you said, when you go into a meth lab, you wear some sort  
21 of protective gear?

22 A. Yes. A lot of times, when I respond to a meth lab, depending on the  
23 lab, depending on the --- the state of the cook, a lot of time it depends on my  
24 response.

25 I always wear some sort of protective chemical suit. I have gloves and

1 boots, a mask. Sometime I wear an air pad (phonetic) depending on the situation.  
2 But most of the time it's a gas mask or the filter.

3 Q. Now you were asked to provide an expert opinion in this case; is that  
4 correct?

5 A. That is correct.

6 Q. And what information did you rely upon in coming to your expert  
7 opinion here?

8 A. Well, I relied upon the information that was provided by speaking with  
9 the officers that were present on the scene; speaking with Officer Laney who's  
10 actually a technician in the dis — or that went out there and investigated this and  
11 actually saw the one — the one-pot lab.

12 And I've also looked at the pictures. And the pictures told me a lot  
13 about what happened — what happened there and what was going on there. And,  
14 then, I also, based on my training and experience, was able to deduce a lot about  
15 what was going on.

16 Q. Did you review the incident reports as well?

17 A. I did. I also looked at the incident reports as well and the chemicals  
18 that they had listed on there.

19 **(Brief pause while exhibits are retrieved.)**

20 Q. (By Mr. Ross) Detective Schifferle, I'm handing you some  
21 photographs that are already into evidence. If you could, please, take a second to  
22 review those.

23 **(Brief pause while witness reviews exhibits.)**

24 Q. Have you had enough time?

25 A. I have.

1       Q.       Are those the photos that you relied upon in coming to your  
2 conclusions?

3       A.       They are.

4       Q.       And do you have — what is your expert opinion, within a reasonable  
5 degree of professional certainty, in this case?

6       A.       That somebody was manufacturing meth.

7       Q.       Okay. And, if you could, please, step down and let's go over these  
8 photographs.

9               **(Witness complied with the request.)**

10       THE COURT:       Those have already ----

11       MR. WILLIAMS:    Yes, Your Honor.

12       THE COURT:       Okay.

13       Q.       (By Mr. Ross) If you could, please, stand right here (indicating).

14               **(The witness complied with the request.)**

15       Q.       All right. Now I'm going to show you State's Number 1. Could you,  
16 please, tell the jury that — tell the jury what's — what's in this photograph and what  
17 — what you deduced.

18       A.       All right. This being in the kitchen area and this is a trash can. And  
19 you actually have a can of Coleman camp fuel that's right in here (indicating).

20               And one of the things I noticed about this picture, and a lot of things  
21 that I have learned about meth lab is about where the materials are. And you have  
22 to remember, you know, is this a normal location for Coleman camp fuel to be  
23 stored?

24               You know, in my training and experience, it is not. You know, this is ---  
25 this obviously is strange being in the kitchen. It doesn't make any sense for

1 Coleman camp fuel to be in there. You would think it would be something that  
2 would be stored outside. And this is an ingredient that is used in the process of  
3 making a one-pot meth lab.

4 (Brief Pause)

5 Q. Now I'm going to show you State's Number 19. If you could, please,  
6 show that to the jury and explain what you believe that's a photograph of.

7 A. Okay. When I look at this picture, I see — and this is in — on the  
8 kitchen counter, there is this strainer that's sitting here inside this dish. And it's got  
9 this substance that's on the inside of it, the little white beads, is the best way I can  
10 describe it.

11 Those white beads, in my opinion, they look like — they — they look  
12 like the inside of a cold pack, all right? I can tell because this is obviously in the  
13 kitchen and I don't remember any food product that looks similar to that in nature,  
14 you know. So to me that looks like it would be the insides of the cold pack, which is  
15 also an ingredient used in manufacturing methamphetamine.

16 Q. Now, is there any lawful or an legitimate reason to take the pellets out  
17 of a cold pack that you would put on an injured shoulder?

18 A. No, if you remove the cold pack — if you remove the pellets from the  
19 cold pack, and you break a water capsule inside of it, even if you're able to reseal it,  
20 you wouldn't get that cold effect that you would use for the healing (phonetic).

21 Q. Okay.

22 (Brief Pause)

23 Q. I show you State's Number 20. If you could, please, tell the jury about  
24 that one.

25 A. Okay. This right here is on the kitchen counter. And it looks like a



1 measuring cup containing some white granule substance in it. Through speaking  
2 with the officers, and the way it kind of looks, it looks like salt, which is also another  
3 ingredient you use in manufacturing of methamphetamine.

4 Q. Okay. Now I'm going to show you State's Number 4. If you could,  
5 please, tell them what's in that photograph.

6 THE COURT: Solicitor, hold that thought one second. I've got a  
7 note from the clerk. We need to take a short recess.

8 MR. ROSS: Yes, Your Honor.

9 THE COURT: I hate to interrupt in the middle of ----

10 MR. ROSS: I understand.

11 THE COURT: ---- your direct examination, but the clerk has  
12 requested a short break.

13 Mr. Foreman and ladies of the jury, we're going to take a very short  
14 break for a matter to be attended to and we'll start back again. Solicitor, I  
15 apologize for interrupting your direct examination.

16 MR. ROSS: I understand, Your Honor.

17 (The jury exited at 11:20 a.m.)

18 (Off-the-record discussion regarding someone parking in  
19 museum parking lot.)

20 THE COURT: Bring the jury out, please.

21 (The jury was summoned and entered at 11:32 a.m.)

22 THE COURT: Okay. Let the record reflect that the jury is back  
23 in. Solicitor, you may proceed with your direct examination of this officer.

24 MR. ROSS: Thank you, Your Honor. May it please the  
25 Court?

1 Direct Examination of Detective Schifferle Continued: 11:32 A.M.

2 Q. Detective Schifferle, we were going over the photographs in this case.  
3 And, if you could, take a step or two back this way.

4 (The witness complied with the request.)

5 Q. I'm showing you State's Exhibit Number 4. If you could, please, show  
6 this to the jury and explain the significance of that picture.

7 A. In this picture here I see several things. One, I see the Liquid  
8 Lightning drain opener that's inside that plastic container. And I also see this quart  
9 or two (phonetic), as it was described to me, in this — in this bag here.

10 And what's significant about this is this container contains sulphuric  
11 acid, which you actually see on the label in this picture. It says that the drain  
12 cleaner contains sulphuric acid, all right, which would be used in the second stage  
13 where you would use the gas generator.

14 And you also need some sort of tube or piping for the gas generator.  
15 That's the significance of that picture that I see.

16 (Brief Pause)

17 Q. Now, I'm going to show you State's Number 7. If you could, please,  
18 tell the jury what's in this picture.

19 A. In this particular picture what I see tells me a lot. When I look at this  
20 picture, I see two items on the back patio here, one being a two-liter bottle with  
21 some substances on it and, then, a container of Drain Out (phonetic), another drain  
22 cleaner.

23 And this — this container doesn't contain sulphuric acid like that other  
24 drain cleaner. This one contains something else. And that something else is  
25 sodium hydroxide, which you're going use in the first stage with this bottle.

1 And you add in — and that's basically a substitute for lye, Red Devil  
2 Lye. And you use that as a substitute for Red Devil Lye. So that tells me, number  
3 one, these two items probably have a connection to one another and found close in  
4 proximity to each other.

5 Also it's strange to me. Why is there drain cleaner on the back patio?  
6 And why would anybody have the location of objects as unusual as this. That's one  
7 location that is unusual to me.

8 Two, or another aspect that is unusual to me, is the Drano, in the other  
9 picture that I showed you the drain cleaner, the Liquid Lightning, in my experience,  
10 I've found those two in combination at other meth labs I've been to where they were  
11 using those in the manufacturing process.

12 Then, when I looked at this bottle, I looked at the bottle and it's actually  
13 kind of caved in, as you can see on this side. The picture is not very clear and it  
14 doesn't show a whole lot, but it shows that there's a substance in the bottle there,  
15 down at the bottom here, that has that greenish, kind of blue tinge.

16 And I've seen that tinge before at other meth labs that I've went to  
17 that's a one-pot. You can't see a whole lot of activity in here, but you see there's,  
18 you know, some sort of material on the inside.

19 So that's --- that's kind of hard to see from that picture. But it looks  
20 very suspicious because it's not something you would see outside on the back patio  
21 either. And it does have that appearance of a — a one-pot meth lab.

22 Q. So, in your professional opinion, this picture shows a meth lab?

23 A. Yeah, it shows a — a one-pot meth lab.

24 (Brief Pause)

25 Q. Now, I'm showing you State's 24. Tell me about this picture and the

1 significance in the case.

2 A. Well, when I look at this picture, it looks like a downward view inside  
3 that bottle. The picture is not very clear, but you see here there's a one white, which  
4 I — I imagine to be where that other bottle is kind of caved in ---

5 Q. You said a white part, are you talking about this right here (indicating)?

6 A. Yeah, kind of where the bottle has been caved in a little bit.

7 Q. Okay.

8 A. And I can also see down inside the container and I see what appears  
9 to be more of that blue/green substance on the inside.

10 Then, when I look over here (indicating), I see that there's some sort of  
11 frost or something that's on this container. And I also see that the cap is off, which  
12 causes me some concern.

13 Q. Well, let me ask you this: You said you've been to numerous other  
14 meth labs in your professional experience.

15 A. That's correct.

16 Q. And, in your experience, you have been able to take samples from the  
17 Coke bottle meth labs?

18 A. That is correct.

19 Q. Now, in this case, would you say it would be a reasonable decision not  
20 to take a sample from this Coke bottle meth lab?

21 A. Well, when I look at this picture, I can't see a lot, but through talking  
22 with the officer, I found out that there were lithium strips that were at the top, and  
23 that causes me a lot of concern. As I told you before, lithium is a volatile substance  
24 (phonetic – coughing) and it reacts with water. It catches fire.

25 Now, if this container has Coleman camp fuel in it, that's a fuel, so you

1 get fire or you get the water mixed with the lithium, which can cause fire and fuel,  
2 which would cause it to, you know, explode or catch fire.

3 All right. Then, you see the frost, you know, and that concerns me  
4 because that means that there's, you know, some sort of buildup. Or there could be  
5 water.

6 Lithium can be ignited by the humidity in the air. So that concerns me  
7 a lot. And in taking a sample here, at -- at this stage of this lab, as it's sitting right  
8 here, as far as we know is -- it is not on fire. It is not -- you know, there's -- it's  
9 settled for right now.

10 Now maybe in a little bit it could, you know, catch on. But, for that  
11 moment, that this picture was taken, there's no explosion; there's no reaction  
12 happening that I can see.

13 However, if you stick a pipe in it, down inside this solution, to draw the  
14 sample, you're going to disturb the settled station -- or the settled nature of this  
15 container, which could alter it. And that's what would be concerning for me.

16 Q. And what would be the risk involved if you alter the state of a pot meth  
17 lab?

18 A. It could cause a fire or an explosion.

19 (Brief Pause)

20 Q. If you would, please, have a seat.

21 (Witness complied with the request.)

22 Q. Tell me about gathering fingerprints off of one of these suckers  
23 (indicating).

24 A. Well, one of the hazards associated with this is, when you introduce  
25 something that -- the fingerprint dust onto that, you don't know one, that, that's a

1 bomb and it could go off.

2 Number two, you're also putting in the fingerprint powder, on a  
3 container that has — could have hazardous residue on it. So, typically, we — we  
4 don't fingerprint one-pot meth labs.

5 In my experience, we have fingerprinted some things from the crime  
6 scene such things as like a digital scale or other items like that.

7 Q. But fingerprinting the bottle itself would disturb the chemical state of  
8 what's in that bottle?

9 A. Yeah, when you fingerprint things, you know, it may shift the bottle or  
10 rotate it, things like that. And that's a lot of stuff that you don't want to do. Plus,  
11 introducing a — another substance to that container, you don't know what's going  
12 on the outside it's really dangerous. So we typically do not ----

13 Q. And you said this ----

14 A. — take fingerprints of meth labs (phonetic).

15 Q. — one of these bottles can potentially be a de facto bomb, right?

16 A. That's correct.

17 Q. And, if you're taking fingerprints, you'd have to get down close to this,  
18 like close to a bomb ----

19 MR. JOHNSON: Objection, Your Honor, leading.

20 THE COURT: Okay. Rephrase — rephrase your question,  
21 Solicitor.

22 Q. (By Mr. Ross) Physically, where would you have to be to get  
23 fingerprints off of this de facto bomb sitting here on the back step of a trailer?

24 A. You would have to be in close proximity to do it.

25 Q. I mean ---



1 Q. And they keep a record of it?

2 A. Depending on the location, they do.

3 Q. How many samples have you taken at meth labs?

4 (Brief Pause)

5 A. I would estimate 15, maybe more.

6 Q. A meth bottle or a container that is -- that's used to process  
7 methamphetamine, that can contain methamphetamine residual, correct?

8 A. That is correct.

9 Q. And a person's clothing can contain residual that would test positive  
10 for methamphetamine, correct?

11 A. I'm not sure about the nature of -- of the clothing.

12 Q. Clothing cannot contain methamphetamine if it comes in contact with  
13 it?

14 A. I imagine, if it was spilled on it, the liquid on methamphetamine could.  
15 But I have not experienced it.

16 Q. Carpet can contain methamphetamine, can't it?

17 A. That is correct.

18 Q. Surfaces on counter tops can have methamphetamine?

19 A. Yes.

20 Q. Okay. And Coleman camp fuel bottles can be checked for fingerprints,  
21 can't they?

22 A. They can, if -- if they haven't been mixed with any other hazardous  
23 substance.

24 Q. And every bottle or container you talked about can be checked for  
25 fingerprints, correct?



1           A.       Yeah, they could be.

2           Q.       Okay. And you said waste is evidence of a meth lab; waste is  
3 evidence. You said that, right?

4           A.       Yeah. The hazard — the bad part about a methamphetamine lab is  
5 one, the things that we would normally deem evidence ---.

6           Q.       Is the answer "yes"?

7           A.       Yes.

8           Q.       Okay.

9           **THE COURT:**       But he can explain his answer.

10          Q.       You can explain.

11          **THE COURT:**       Go ahead and explain your answer.

12          A.       Okay. That — one of the complications with a methamphetamine lab  
13 is a lot of the stuff that's found is considered hazardous waste. And it's gathered up  
14 by a hazard waste removal company.

15                   And they actually take it and they dispose of it and dismantle it. So  
16 unlike, if someone was growing marijuana, there would be all the evidence; the  
17 lights, the pot, the watering, you know, cup and fertilizer. And all of that can be  
18 brought into court.

19                   However, in a meth lab, a lot of it is deemed hazardous waste and it  
20 gets collected up and sent off for destruction.

21          Q.       Once it's destroyed you can't test it, correct?

22          A.       That is correct.

23          Q.       And you didn't go to the scene where this took place, correct?

24          A.       No.

25          Q.       And you can't tell from the photographs you viewed whether a man or

1 woman set this up, correct?

2 A. That is correct.

3 Q. And you can't tell what time it was set up, correct?

4 A. I cannot.

5 Q. And you are aware that the State Law Enforcement Division has a big  
6 lab that will test anything, analysis for compounds, sent to them by law  
7 enforcement? You're aware of that lab, right?

8 A. I am.

9 Q. Okay. And you didn't examine any actual physical evidence from this  
10 case that were in these photos, did you?

11 A. I — I did not.

12 Q. Okay.

13 (Brief Pause)

14 Q. But you are aware that the stuff tested — that came from the scene  
15 tested negative for methamphetamine, correct?

16 A. Correct. The substance that they extracted from inside the house I  
17 was informed that it did test negative.

18 Q. Okay.

19 (Brief Pause)

20 MR. JOHNSON: No more questions.

21 THE COURT: Cross, Mr. Williams?

22 MR. WILLIAMS: Thank you, Your Honor.

23 Cross Examination by Mr. Williams:

12:05 P.M.

24 Q. Officer, as I — as I understand your testimony, you're here, if you will,  
25 as an expert to talk about meth; is that correct?

1 A. That is correct.

2 Q. You have no personal knowledge of this case whatsoever?

3 A. I — I do not.

4 Q. You've — you've never been to the scene?

5 A. That is correct.

6 Q. You've never seen my client nor the co — the co-defendants, who —

7 you've never seen any Defendant who is on trial — let's put it that way — in this

8 case?

9 A. That is correct.

10 Q. The — when were you first contacted by the solicitor's office to be an

11 expert on this case?

12 A. I believe several months ago.

13 Q. Do you remember when you were contacted?

14 A. I apologize; I do not.

15 Q. Was it this year?

16 A. It was this year.

17 Q. Was it before this year?

18 A. No.

19 Q. So this event occurred in December of 2010. And sometime in 2013

20 you were informed that you needed to be called as a witness to testify about what

21 makes up a meth lab; is that right?

22 A. That is correct.

23 Q. You didn't examine any items that were taken out of the residence; is

24 that correct?

25 A. That is correct. I did not physically examine the items that were

1 removed.

2 Q. The ---

3 A. I examined pictures of those items.

4 Q. Now, in — in your explanation to the jury about what constitutes a meth  
5 lab, some of your explanation dealt with what items are — are normally used in a  
6 meth lab.

7 And, on several of the items, you talked about the location where it  
8 was found, such as you wouldn't expect to find this here or you wouldn't expect to  
9 find these two items together unless there was some connection. Is that an  
10 accurate depiction of your testimony about location?

11 A. Yes, sir.

12 Q. So, in — since you didn't go to the location where these items were  
13 found, and since your testifying from the pictures that you've looked at, the best  
14 evidence of where these items were actually found would be from the person who  
15 took the pictures, wouldn't it?

16 A. Yes, from the officers that were on scene that I spoke to.

17 Q. And did you talk to the officer who took the pictures?

18 A. I did not.

19 Q. So, in terms of where these items are found in the house, the person  
20 who took the pictures you didn't talk to that person?

21 A. I did not.

22 Q. And it's important to you — correct me if I'm wrong — that location is  
23 important, in regards to what type of item you have; and that is the fact these two  
24 items were found close together, which is State's Exhibit Number 7, which a Pepsi-  
25 Cola bottle and a — what is that, Drano?

1 A. It's Drano.

2 Q. And that's important to you, right?

3 A. It is.

4 (Brief Pause)

5 Q. Now, referring to State's Exhibit Number 4, what did -- what did you  
6 call that?

7 A. Liquid drain cleaner (phonetic).

8 Q. All right. And that appears to be in a plastic bag just like it came from  
9 the grocery store?

10 A. That is correct.

11 Q. Is there any appearance that it had actually been used?

12 A. No, it does not appear that it has been used yet.

13 Q. So we know that, at least in that part of the stage of the  
14 methamphetamine, they hadn't gotten to that stage; wouldn't you say that's true?

15 A. Yes, sir.

16 (Brief Pause)

17 Q. Looking at State's Exhibit Number 2, what is in State's Exhibit Number  
18 2?

19 A. In that picture, it's a picture of a bagful of alkaline batteries.

20 Q. Now, do you use alkaline batteries when you make meth?

21 A. No, you do not.

22 Q. So you couldn't use these batteries to make any meth?

23 A. That is correct; you cannot use those.

24 Q. So what do you think the relevance -- well, I won't ask you to  
25 speculate. It -- it certainly isn't useful in making meth? It's -- it's like a battery --

1 the batteries at your house to put in your flashlight, right?

2 A. That is correct.

3 (Brief Pause)

4 Q. Now, State's Exhibit Number 20, what did you call that?

5 A. Well, from what the officers described — I think they described it as  
6 salt.

7 Q. Okay. So you just said the officers described it as salt; is that correct?

8 A. That is correct. And ----

9 Q. And — I'm sorry?

10 A. And it did have the appearance of salt as well.

11 Q. And it has the appearance of salt because it's what?

12 A. White and granular.

13 Q. How big do you think those grains are? Does it look like salt that  
14 comes out of your shaker?

15 A. No, not out of my salt shaker.

16 Q. Because it's a lot bigger, isn't it?

17 A. Yeah.

18 Q. And, if it's in this measuring cup, it would be an indication that it hasn't  
19 been used yet, right?

20 A. Not that particular salt.

21 Q. Okay.

22 (Brief Pause)

23 Q. State's Exhibit Number 19, that — is that the stuff that comes out of  
24 the cold packs that you use if you hurt your shoulder and you want to put the cold  
25 thing? Is that what you described that as?

1 A. Yes.

2 Q. Again, you didn't test this to see if that's what it was, did you?

3 A. That is correct.

4 Q. And there's — there's no appearance that it's actually been used at all,  
5 is there?

6 A. (No Response)

7 Q. It's — it's out of the container?

8 A. That is correct.

9 Q. But it hasn't been used with the — in the making of any meth yet, has  
10 it?

11 A. Well, from my experience, there's actually more in the actual quantity  
12 would be found in a cold pack (phonetic). So that's part of the cold pack ----

13 Q. Well, did you find any ----

14 A. ---- in my experience.

15 Q. Did you find any other --- any more of this to indicate there was more  
16 of this?

17 A. I did not.

18 (Brief Pause)

19 Q. Now, looking at State's Exhibit Number 13, what did you say that was?

20 A. Coleman camp fuel.

21 Q. Is there any evidence that, that Coleman camp fluid has been  
22 opened?

23 A. Not — not that I know of.

24 (Brief Pause)

25 Q. As a matter of fact, the trash can looks pretty clean, doesn't it?

1 A. It looks like there is some trash at the bottom.

2 Q. Does your trash can look that clean?

3 A. Only after it gets changed.

4 (Brief Pause)

5 Q. Now, looking at State's Exhibit Number 18, what is that?

6 A. That looks like a small propane tank.

7 Q. A propane tank? And what do you use the propane tank for?

8 A. Some people use it as a heating source.

9 Q. A heating source in regards to the making of meth?

10 A. You could use it as a heating source. I don't commonly find it at one-  
11 pot meth lab scenes.

12 Q. So really this heating source, this bottle sitting in the middle of the  
13 floor, from the photograph, has probably no manifestations or any type — anything  
14 to do with the making of meth?

15 A. That is correct.

16 (Brief Pause)

17 Q. It's unusual, though, that it would be sitting in the middle of the floor for  
18 a nice photograph, isn't it?

19 A. Yes, sir.

20 (Brief Pause)

21 Q. Now, I'm almost through. When you — when you gave your initial  
22 testimony, about how to make meth, you were going through those — your  
23 testimony appeared to be stages; that you did things in stages;

24 That you don't just put it altogether at one time. Is — is that an  
25 accurate depiction of your testimony in regards to how you make meth?



1 A. That is correct.

2 Q. And I want you to stop me, if I'm wrong, if I'm out of order in any way  
3 whatsoever. You said first — we talked about a two liter bottle. You take cold  
4 medication, either the whole pills or you grind them up, and you put those in the  
5 bottle — or you would put those in the bottle if you were making the one-pot  
6 method, one-shake method, correct?

7 A. Correct.

8 Q. Then, you would add to it camp fluid, which is — would be the stuff that  
9 we saw in State's Exhibit Number 13, right?

10 A. Yes, sir.

11 Q. And, since State's Exhibit Number 13 indicates that it hasn't been  
12 used, then ----

13 (Brief Pause)

14 (Off-the-Record Comments)

15 Q. ---- in this Pepsi-Cola bottle, which is referred to in State's Exhibit  
16 Number 7, which has the condensation in it, there would have to be another  
17 container somewhere of this camp fluid if, indeed, this was being used as a one-  
18 pot method of making methamphetamine. You would have to have some more,  
19 wouldn't you?

20 A. Yeah, if, you know, it was not used, you know, then, there would have  
21 to be Coleman camp fuel somewhere else that they would use.

22 Q. To your knowledge, was there another pot found in this residence?

23 A. Another pot?

24 Q. Another container of — of camp fuel found.

25 A. No, not to my knowledge.

1 Q. Now, I want to make certain I understand that — that you did no testing  
2 on any substances were found at that location?

3 A. That's correct.

4 Q. And the only reports from SLED of substances that were found at that  
5 location was that it was negative to methamphetamine, correct?

6 A. That's correct.

7 Q. As you were going down your preparation of meth, you said, after you  
8 put the solvent on top of the Sudafed, then, you take the cold pack or the beads and  
9 you put them inside the container, correct?

10 A. Correct.

11 Q. And, then, you put the lithium strips on top of that?

12 A. Yeah, mix it in that.

13 Q. To your knowledge, did anyone find or do you have a picture of any of  
14 any lithium containers?

15 A. No. The only information I have was there was a receipt for lithium  
16 batteries.

17 Q. Well ----

18 A. And the lithium batteries were not found.

19 Q. And that was information from the police — that the police gave you,  
20 right?

21 A. Yes.

22 Q. You didn't — you didn't look at any lithium batteries?

23 A. That is correct.

24 (Brief Pause)

25 Q. And referring to what has been marked as State's Exhibit Number — is

it 25?

**COURT REPORTER:** (Nods affirmatively.)

**Q.** Twenty-five (25), can you look at that exhibit and tell me if that fits with what you were told about the receipt for lithium batteries?

**(Brief pause while the witness reviews exhibit.)**

**A.** Yes.

**Q.** So, based on what you had been told about the lithium batteries, you felt that there probably was lithium strips inside that container; is that correct?

**A.** Well, that and on top of the officer's testimony, what he told me.

**Q.** But you weren't shown anything to indicate that lithium batteries were actually on the scene?

**A.** No, I didn't see any pictures of it.

**Q.** How many lithium batteries were bought according to this receipt?

**(Brief pause while the witness reviews exhibit.)**

**A.** I apologize. I'm not good at reading what all the store codes are. I do not know the quantity. But I see where it says AA four (4). But I'm not sure if that indicates that there were four double "A" batteries or that's just another store code.

**Q.** What was the total purchase price of the lithium batteries?

**(Brief Pause)**

**A.** The total purchase price, which was cash, was ten dollars and seventy-six cents (\$10.76).

**Q.** For the batteries, correct?

**A.** Correct.

**(Brief Pause)**

**Q.** The lithium strips that you've referred to, in your one-cook method, you

1 pull the strips off of the lithium, don't you? Is that right?

2 A. You actually remove the lithium strips from the battery.

3 Q. From the battery? You open up the battery?

4 A. Yes, sir.

5 Q. All right. Described to the jury exactly how you open up the battery.

6 A. All right. Well, what you could do, you can use pliers, just basically  
7 open up — you basically kind of like tear off the label of the battery. And there's a  
8 coil. And that's where the strips are wrapped in (phonetic). And you unwrap it and  
9 pull the strips out of the side of that and remove that. And that's what you add in.

10 Most times I — I've seen they use pliers and tools to do that. I would  
11 imagine it would be extremely difficult to do with your hands.

12 Q. All right. Were you aware or did you examine any type of pliers that  
13 were found on the scene or were there pictures of pliers that were found on the  
14 scene?

15 A. Yeah, there were pictures of pliers. It's in the picture with — with the  
16 rubber gloves — or with the gloves.

17 **(Brief Pause)**

18 Q. And, when you refer to that, you're referring to State's Exhibit  
19 Number 9; is that correct?

20 A. That is correct.

21 Q. And the pliers that you're referring to are — if you want to step down  
22 here and you can show the jury good.

23 **(The witness complied with the request.)**

24 Q. The pliers you're talking about are the needlenose pliers?

25 A. (No Response)

1 Q. Aren't they called needlenose pliers?

2 A. Yes, sir.

3 Q. Because they're real skinny?

4 A. Yes, sir.

5 Q. Do you see any evidence of batteries be broken up on the table?

6 A. I — I don't see any wrappers, which would be an indicator of that.

7 (Brief Pause)

8 Q. There does appear to be a battery there. Is that a battery there?

9 (Brief Pause)

10 A. I apologize. It's not as — as present — yes. There's a Dollar  
11 General battery.

12 Q. So — now, is it a lithium battery?

13 A. I can't tell you that. I don't believe Dollar General makes an off-brand  
14 lithium battery.

15 Q. Okay. You can have your seat. Thank you.

16 A. Thank you.

17 (The witness returned to the witness stand.)

18 Q. So, the battery that you did find in there, you don't believe that to be a  
19 lithium battery, do you?

20 A. The battery that I did find...?

21 Q. From Dollar General, the one we just — we both found it together.

22 A. Yes, sir. I -- I don't believe that one to be a lithium battery. I can't say  
23 for sure, so....

24 Q. And that — and that wouldn't have been purchased at CVS  
25 pharmacy?

1           A.           In that Dollar Tree [sic] brand battery, you probably wouldn't have it  
2 sold at CVS.

3                       (Brief Pause)

4           MR. WILLIAMS:   That's all I have, Your Honor.

5           THE COURT:       Any redirect, Solicitor?

6           MR. ROSS:        Yes, Your Honor.

7           Redirect Examination by Mr. Ross:

12:14 P.M.

8           Q.           Mr. Johnson asked you about obtaining Sudafed and tracking Sudafed  
9 purchases. It was one of the first questions he asked you, Mr. Johnson, this  
10 gentleman over here (indicating). Can you obtain Sudafed without having to hand  
11 your license to the pharmacist?

12          A.           Well, from my experience in investigating this, now that there is  
13 actually, you know, a new program that is done through Atlas (phonetic) — it's  
14 actually NetCheck (phonetic) — when, when you buy pseudoephedrine now, you  
15 hand your ID, and the person scans your ID or enters your information into a  
16 computer. And it basically tracks your pseudoephedrine purchases all across the  
17 state.

18                       Now, with this system, if — other states do participate in it, so  
19 sometimes, if — if you show the records, it will show other states that part — that  
20 participate in this.

21                       However, that program did not come online for a lot of pharmacies  
22 until I believe 2011 is when the South Carolina law was passed on all of that, which  
23 predated this case.

24                       Prior to that, I know from my own personal experience in investigating  
25 methamphetamine, that old way of doing it, whenever I wanted to investigate

1 someone that was possibly purchasing pseudoephedrine, I would have to go to  
2 each individual pharmacy and check the records.

3 Very few of the pharmacies had computerized records. In my  
4 experience, even Walmart, they had their own internal store record system, but they  
5 didn't communicate with the other Walmart down the street.

6 So, to give you an sample is in York County there are several  
7 Walmarks. Some within four or five miles of each other.

8 So an individual, from my investigation and from my experience, I've  
9 learned that an individual back then could go to one Walmart and purchase their  
10 legal limit on pseudoephedrine.

11 And, then, they could travel from that Walmart and go to the next  
12 Walmart down the street and purchase their legal limit of pseudoephedrine, which  
13 would put them beyond the legal limit for purchasing that day, and, then continue to  
14 do that. And, then, they could go to CVS and do the same thing.

15 And that is one of the big reasons why we have that new system now  
16 is now all the pharmacies communicate. Well, the problem is, that system didn't  
17 come online until after this case. So, when you ask me if, you know, the  
18 pharmacist, you know, had an ID, a lot of it was based on the store.

19 I've been to gas stations that sold pseudoephedrine. And, when they  
20 would sell the pseudoephedrine, the store employee wouldn't log the  
21 pseudoephedrine purchase. Or sometimes they would do an inadequate job of  
22 documenting it.

23 For example, they would write — on the date block they would put  
24 "today," the actual word would be "today." So there was an inadequate logging  
25 system of the purchases of pseudoephedrine.

1 Q. Are you familiar with the term "smurfing"?

2 A. Yes.

3 Q. What does that mean?

4 A. Smurfing basically is the concept of individuals who are known as —  
5 the street name is "Smurf," would go to areas and — and basically shop for  
6 methamphetamine cooks. The whole concept is basically, whenever you're limited  
7 in what you can buy, especially when it comes to pseudoephedrine, when you're —  
8 you can only to buy 3.6 grams per day, you know, you are limited to how much  
9 methamphetamine you can produce.

10 However, if I have a friend and that friend has a friend, then, we now  
11 have four people who can go out and buy, you know, their legal limits for the day of  
12 pseudoephedrine. Now, we can have a mass sum of pseudoephedrine to produce  
13 into methamphetamine.

14 Q. I'm going to change gears and I'm going to show you a — a picture of  
15 the Coleman camp fuel that Mr. Williams got into. And he — I believe he asked you  
16 the question whether you can tell whether this can has been open. So there's a  
17 possibility that it could not have been opened, right?

18 A. No, sir. I can't tell if the seal is intact or if the top of it has been  
19 removed.

20 Q. So it's possible that it could have already been opened and drained,  
21 right?

22 A. It is possible.

23 Q. You just can't tell from looking at the picture?

24 A. That is correct.

25 Q. Okay.



1 (Brief Pause)

2 Q. He also discussed the Liquid Lightning drain opener, State's Number  
3 4. I'm going to show that to you in just a second.

4 (Brief Pause)

5 Q. And he asked you whether or not it appeared that it's — it was still in  
6 the bag at the time.

7 A. That is correct, which that actually makes sense. I mean, if the person  
8 who is manufacturing still has the substance inside of the one-pot, there would be  
9 no need to open up this package because this particular substance is going to be  
10 used in creating the gas generator, which you also use the salt that is laying out on  
11 the counter.

12 You combine those two substance and that creates your gas  
13 generator. But there's no evidence of the gas generator being found.

14 Q. So you would only need this product until after you had gotten the  
15 meth solution out of this bottle (indicating)?

16 A. That is correct.

17 Q. All these ingredients that you use to make meth, what can — what can  
18 you put them in? If you were going to transport your ingredients, what size of bag,  
19 what type of bag would you need to do that?

20 A. Well, in my experience investigating meth labs and going to scenes,  
21 several of the meth labs we went to, some of them had suitcase meth labs, a  
22 different term. Basically what it means is, an individual has all of the ingredients in  
23 containers inside a suitcase.

24 The reason why people do this is one, it's easily portable. Two, if you  
25 go inside a motel room or some place else where there's people, you might be

1 carrying chemicals used in manufacturing meth and people see that.

2 But you can conceal it inside a container. A lot of times, when we go  
3 into a meth lab, in my experience I've seen book bags, duffel bags, that have  
4 contained all ---

5 Q. You said duffel bags. Could you put this in an army duffel bag, all  
6 these items?

7 A. Yes.

8 Q. Okay. I didn't mean to cut you off.

9 A. Oh, that's not a problem. And, you know, you can put it in, you know,  
10 other containers and carry it with you. A lot of times, you know, in these  
11 investigations, we have seen where the materials used in manufacturing were inside  
12 bags inside the houses and cars.

13 Q. Now, is it uncommon for you to respond to a scene with a meth lab  
14 and find that a suspect has fled with some of the evidence?

15 A. It is not common. I haven't had a whole lot of it, but we have had ---  
16 found where we've there and a suspect has left.

17 Q. But these items are portable enough to where somebody could put  
18 them in a bag ----

19 MR. WILLIAMS: Objection, leading.

20 THE COURT: Okay. Rephrase.

21 Q. (By Mr. Ross) Are these items portable enough so that somebody  
22 could put them in a bag and run away?

23 A. They are portable. The problem is I can't tell whether someone has  
24 removed evidence from the scene unless I can actually see it. If they took  
25 something and I never find what they took, I can't testify to what they did take.

1 (Brief Pause)

2 MR. ROSS: Thank you, Detective. If you would, please  
3 answer questions ----

4 THE COURT: Recross?

5 MR. JOHNSON: Briefly, Your Honor.

6 Recross Examination by Mr. Johnson: 12:17 P.M.

7 Q. Officer, is there anything in these photos that tell you whether or not a  
8 jealous husband involved in a custody dispute set up the bottle you found?

9 A. I don't see any evidence of that.

10 MR. JOHNSON: Okay. No more questions, Your Honor.

11 THE COURT: Recross?

12 Cross Examination by Mr. Williams: 12:18 P.M.

13 Q. Officer, the Solicitor was asking you about Sudafed registration.  
14 You're certain of the date that it occurred, after 2010?

15 A. Yeah, I believe so. I believe it was the beginning of 2011.

16 Q. And these pictures that he was asking about I guess Defendants  
17 removing items from a meth scene. And you said you didn't normally see that  
18 happen; is that correct? Is that a characterization of your testimony?

19 A. That is correct. If they were, you know, removing the items and fleeing  
20 from the thing and I didn't recover them, I wouldn't be able to see them actually  
21 removing them.

22 Q. So you'd have no basis to think that a Defendant would remove meth  
23 items from a meth scene is what you're saying?

24 A. Well, we actually have found the bag that — where someone fled  
25 from the scene in the woods, you know, the way the person fled to. So that's what

1 I'm basing that knowledge off of; wherever they fled out I would, then, find their bag  
2 that they took with them.

3 Q. And there was no pictures in here of any Sudafed, was there?

4 A. That is correct. I did not see any pseudoephedrine.

5 Q. There were no boxes of Sudafed here, were there?

6 A. I did not see any pictures of that.

7 Q. There was no receipt of Sudafed, was there?

8 A. I did not see a receipt, no.

9 Q. There was no torn up packages of Sudafed?

10 A. That is correct.

11 Q. Would you expect the Defendant to police the area of the meth lab to  
12 pick up all the items that he had before he tore out and ran and jumped a — a fence  
13 and into the lake?

14 A. I would not. In my experience, I've seen, through investigating meth  
15 labs, we have actually — you know, as law enforcement, you know, people getting  
16 tried, people getting smarter, they're destroying; they're burning their waste product.  
17 They're getting rid of it to prevent us from finding it.

18 And at lot of times it's — I can look at a lot of the waste product and  
19 the trash that's thrown out and I can calculate how many one-pot labs they've made  
20 or how many times they've cooked in the past through that trash.

21 So, in my experience, I've seen an increase of, you know, the waste  
22 product being gone from the scenes.

23 Q. Was there any meth waste here?

24 A. No, not that I ever saw pictures of and not that anyone told me.

25 MR. WILLIAMS: That's all I have, Your Honor.

1                   **THE COURT:**       Anything further from the Solicitor?

2                   **MR. ROSS:**           Negative, sir.

3                   **THE COURT:**       Okay. All right. You can step down. Thank you  
4 for your testimony.

5                   **(Witness complied with the request.)**

6                   **THE COURT:**       Any other witnesses, Solicitor?

7                   **MR. MAYE:**           The State rests at this time, Your Honor. Thank  
8 you.

9                   **THE COURT:**       All right. Mr. Foreman and ladies of the jury, I'll  
10 ask that you go back to your jury room. We'll have — I have a matter of law  
11 to take up with the lawyers. And we'll get you back out in just a few minutes.

12                   **(The jury exited at 12:13 p.m.)**

13                   **THE COURT:**       Anything from the Defense?

14                   **(Brief Pause)**

15                                           **Motions & Matters**

16                   **MR. JOHNSON:**    Your Honor, at this time, I would make a directed  
17 verdict motion based on previous motions and arguments.

18                   Taking the evidence, in a light most favorable to the State, specifically  
19 under 44–53–110, starting with the definition of manufacturing, I don't believe  
20 it would fit. In this, the actual definition listed under I believe it's Subsection  
21 — excuse me, Your Honor — it says (d), and it gives the definition and talks  
22 about actual manufacture for distribution.

23                   And there's no evidence here of that. So I would based it on that , as  
24 well as previous motions that I already made, Your Honor.

25                   **THE COURT:**       Mr. Williams, do you join in that motion?

1                   **MR. WILLIAMS:**    I — I would join in that motion, Your Honor.

2                   **THE COURT:**       Okay. All right. Solicitor, any response to that?

3                   **MR. MAYE:**           Your Honor, I think there's clearly jury issues in  
4 this case. The methamphetamine statute encompasses aids, abets,  
5 conspire, attempts to manufacture.

6                   In this we've got direct expert testimony in this case that, in fact,  
7 manufacturing was taking place. But I think there's a wealth of evidence in  
8 this case that there was an ongoing conspiracy .

9                   They were attempting to manufacture meth. And, in fact, they were in  
10 the process of actually producing it.

11                  I — I know in some cases they talk about, "Well, they just went out and  
12 gathered the precursor chemicals," but in this case we've got far more than  
13 that.

14                  There's — obviously, what the State would submit is there is  
15 overwhelming evidence that these items were mixed up with the intent to  
16 manufacture it. There's just no requirement for any testing or finished  
17 product in a manufacturing case.

18                  **THE COURT:**       Thank you very much. Mr. Williams, you're  
19 standing up. Do you have anything ----

20                  **MR. WILLIAMS:**    I — I had additional motions that I would like to  
21 make, Your Honor, aside from the motion that was made by ----

22                  **THE COURT:**       All right.

23                  **MR. WILLIAMS:**    The additional motion, Your Honor, has to do with  
24 the evidence that was presented in regards to my client. And we would move  
25 for a directed verdict, in regards to the evidence against my client, not just

1 based on the motion made by — by co-counsel, or I guess co-defendant's  
2 counsel.

3 If you believe what the State — if you believe what the State has  
4 attempted to put up, the evidence, in a light most favorable to the State, is  
5 that my client drove an individual to the CVS.

6 My client drove an individual and his girlfriend to his girlfriend's  
7 husband's res — lake property; that he remained in the car, tooted the horn,  
8 and tried to encourage his girlfriend to come on.

9 And that he left. And that he was found was walking down a road.

10 **(Brief Pause)**

11 **MR. WILLIAMS:** The girlfriend even -- no one has shed a light on  
12 the intent yet in regards to whether or nor my client intended to help in the  
13 manufacture of meth.

14 Your Honor, it's my understanding of conspiracy you have to do things  
15 to help a conspiracy to progress, but there's got to be a little showing of intent  
16 too. I mean, how are you going to prove that they were in it together?

17 How are you going to prove that he didn't stop the conspiracy as soon  
18 — as soon as he left?

19 It — you know, I know, it's — it's — it's often hard to ask a Circuit Court  
20 judge to make the call because, I mean, you see it — you see it in Supreme  
21 Court cases where they say any evidence is not enough, but it must — you  
22 know, but there's some standard or there has to be -- you know.

23 And I'm sure that's a judgement call based on how the Circuit Court  
24 judge looks at it.

25 There's almost nothing against my client, Your Honor. I would ask the

1 Court to consider directing a verdict in this — at this stage because there's  
2 almost nothing other than the fact he drove somebody somewhere. But I'm  
3 not sure he's denied that.

4 **THE COURT:** All right. Thank you very much.

5 **MR. WILLIAMS:** Thank you, Your Honor.

6 **THE COURT:** But there was evidence from this officer here —  
7 and I can't remember your name, and I apologize for that — that, when he got  
8 to that scene — and he was one of the first officers at the scene --- that your  
9 client was not in the car, okay?

10 And that was just the evidence. And I realize it conflicts with what Ms.  
11 Norris said. But, nonetheless, that is evidence that your client was not in the  
12 car when he arrived at the scene.

13 Certainly, as you all are aware, I'm only concerned with the existence  
14 or — or nonexistent of — of evidence and not as to the weight. I will  
15 respectfully deny those motions for a directed verdict.

16 **MR. WILLIAMS:** Thank you, Your Honor .

17 **MR. JOHNSON:** Thank you, Your Honor.

18 **THE COURT:** All right. At this time, I need to instruct your client,  
19 Mr. Williams, concerning the right to testify or to not testify. So, Mr. Warren, if  
20 you will stand, I'll ask Madam Clerk to swear this gentleman in, please.

21 (Whereupon,

22 **TRAVIS SAMUEL WARREN**

23 first being duly sworn, testified as follows:)

24 **THE COURT:** Mr. Travis Samuel Warren, at this time, I'm going  
25 to explain to you some of your rights. Again, if you do not understand



1 anything that I say, please, let me know. If you want me to explain anything  
2 in more detail, please, let me know that as well. Do you understand that, sir?

3 **DEFENDANT WARREN:** Yes, sir.

4 **THE COURT:** Okay. We've now reached the stage of the trial  
5 where you may — you may present a defense. You have a right to claim the  
6 protections given to you by the Fifth Amendment to the Constitution of the  
7 United States. And this amendment states in part, "No person shall be  
8 compelled in any criminal case to be a witness against himself."

9 This means that you cannot be required to testify in this case. You  
10 have the right to testify on your own behalf; however, no one can make you  
11 testify. This is a personal right and no one can waive this right except you.

12 If you decide to testify, you will be subject to the same rules that  
13 govern other witnesses. And you may be examined and cross examined on  
14 any relevant issue in this case.

15 In addition, if you have any convictions, prior convictions, involving  
16 dishonestly or false statement, or a crime punishable by imprisonment for  
17 more than one year, and this Court determines that the probative value of  
18 admitting this evidence outweighs its prejudicial effect to you, the Solicitor  
19 would be able to introduce your record to attack your credibility.

20 If you decide to testify, this decision on your part must be freely,  
21 voluntarily, and intelligently made with knowledge of the protections given to  
22 you by the Fifth Amendment and the consequences of your decision to  
23 testify.

24 If you decide not to testify, I will instruct the jurors that they cannot give  
25 the fact that you did not testify any consideration whatsoever and that there's

1 to be absolutely no prejudice to you because you did not testify.

2 It is left entirely up to you whether or not you testify. I'll give you time  
3 now to talk with your attorney. I think maybe you have a — a lady that is with  
4 you, family members, friends, anyone you would like to talk to before you  
5 make a final decision. And that final decision is left up to you and you alone.

6 Mr. Warren, do you understand what I've explained to you thus far?

7 **DEFENDANT WARREN:** Yes, sir.

8 **THE COURT:** Do you have any questions about what I've  
9 explained to you?

10 **DEFENDANT WARREN:** No, sir.

11 **THE COURT:** Okay. Have you discussed with your lawyer  
12 whether or not you should or should not testify?

13 **DEFENDANT WARREN:** Yes, sir.

14 **THE COURT:** Do you need any more time with Mr. Williams to  
15 discuss this issue?

16 **DEFENDANT WARREN:** No, sir.

17 **THE COURT:** Okay. And are you to ready to tell the Court  
18 whether or not you wish to testify or wish not to testify?

19 **DEFENDANT WARREN:** Yes, sir.

20 **THE COURT:** Okay. What is your decision?

21 **DEFENDANT WARREN:** I wish not to testify.

22 **THE COURT:** You're not going to testify? Very well, sir. You  
23 may have a seat.

24 **(The Defendant complied with the Court's request.)**

25 **THE COURT:** Mr. Johnson, do — do you plan to put up any

1 defense on behalf of your client?

2 **MR. JOHNSON:** No, sir. The Defense would proffer none  
3 (phonetic).

4 **THE COURT:** Excuse me?

5 **MR. JOHNSON:** No, sir, none.

6 **THE COURT:** Okay. All right. I'll let you state on the record in  
7 the presence of the jury that your defense rests. Mr. Williams, the same  
8 question to you. Do you intend to put up any defense?

9 **MR. WILLIAMS:** We do not, Your Honor.

10 **THE COURT:** Okay. All right. I'll ask you as well to state the  
11 defense rests when the jury comes out.

12 I think the plan would be — is to break for lunch; bring the jury out and  
13 break for lunch. And — and we can submit to you a draft of our charges and  
14 you can spend part of your lunchtime looking at that.

15 And, then — during the lunch break and, when we get back, we can  
16 discuss and finalize the— the charge. And, then, we can move this case to  
17 give to the jury.

18 Anything else on the record before I bring the jury out? Anything from  
19 the State?

20 **MR. MAYE:** Not from the State, Your Honor. Thank you.

21 **THE COURT:** Mr. Johnson?

22 **MR. JOHNSON:** Nothing from McCraw, Your Honor.

23 **THE COURT:** Mr. Williams?

24 **MR. WILLIAMS:** Nothing for the Defendant Warren, Your Honor.

25 **THE COURT:** Okay. Thank you very much. Bring the jury out,

1 please.

2 (The jury was summoned and entered at 12:20 p.m.)

3 THE COURT: Okay. Let the record reflect the jury is back out.

4 At this time, we're going to break for lunch. Just to give you a little heads up  
5 of what we're going to do after the lunch break — before I tell you that, Mr.  
6 Johnson, anything from the Defense?

7 MR. JOHNSON: The Defense rests, Your Honor.

8 THE COURT: Okay. Anything, Mr. Williams?

9 MR. WILLIAMS: No, Your Honor.

10 THE COURT: Okay. So, after you return from lunch --- I'll give  
11 you a heads up of what we're going to do. The — the lawyers will make their  
12 closing statements or arguments. And I'll explain a little bit about that when  
13 you all get back.

14 And, then, after the closing arguments, the Court will give you the  
15 charge on the law in this case. At which time, then, you'll be in a position to  
16 deliberate and make a decision in this case.

17 So we're going to break for lunch. And we'll be back at 1:30. Again, I  
18 remind you not to discuss this case among yourselves or discuss the case  
19 with anybody you may come into contact with during your lunch break. Have  
20 a good lunch and we'll see you at 1:30.

21 (The jury was excused for lunch and exited the courtroom at  
22 12:25 p.m.)

23 (Off-the-Record Discussion)

24 THE COURT: If you guys will hang around for a few minutes so  
25 we can make some — some copies. Again, this is a draft charge. Now,

1           certainly, if you can look at it, and you've got any — any problems what I've  
2           put in, we certainly will discuss it.

3           If there's any -- I think I probably — hopefully, I've covered everything,  
4           but there may be — if you think of something else, we can certainly discuss  
5           that.

6           **MR. WILLIAMS:**   Your Honor, I do have one query. It would be my  
7           understanding that the State would go first in argument and, then, Mr.  
8           Johnson, and then, myself ----

9           **THE COURT:**       Right.

10          **MR. WILLIAMS:**   — in that we did not introduce any evidence.

11          **THE COURT:**       That's — that's exactly right. And it will be up to  
12          the two of you all — and I know you slipped and said co-counsel, and did not  
13          mean that.

14          **MR. WILLIAMS:**   I did not.

15          (Laughter)

16          **THE COURT:**       You all can get along pretty well and you all can  
17          decide among yourselves who will go first between the two of you.

18          **MR. WILLIAMS:**   All right. Thank you, Your Honor.

19          **THE COURT:**       All right. Thank you very much. We'll be in recess  
20          until 1:30.

21          (Off-the-Record Comments)

22          (Whereupon, a lunch recess was taken from 12:29 p.m. til 1:30  
23          p.m.)

24          (Off-the-Record Discussion)

25          **THE COURT:**       All right. Let's go on record and let the record

1 reflect that the State had no objections or exceptions to the proposed jury  
2 charge provided to both sides previously.

3 And the only thing the Defense had was just a couple of clarification  
4 points.

5 **MR. JOHNSON:** Yes, sir.

6 **THE COURT:** And, of course, certainly I will ask both sides  
7 again, after the — the charge naturally, if there are any exceptions or  
8 objections, even though I will follow this script very, very closely.

9 And are both sides okay with the verdict form? I think I heard from the  
10 Defense that you were. Is the State okay?

11 **MR. MAYE:** The State is satisfied. Thank you.

12 **THE COURT:** All right.

13 **MR. WILLIAMS:** The Defense is satisfied, Your Honor.

14 **THE COURT:** Okay. All right. Anything else we need to take up  
15 before closing?

16 And since the Defense offered no evidence, they're — the State is  
17 going to open. And — and, then, you all can decide. It doesn't matter to me  
18 who goes first between the two of you, but you all close.

19 **MR. JOHNSON:** Yes, sir.

20 **THE COURT:** Okay. Bring the jury out, please.

21 **(The jury was summoned and entered the courtroom at 1:33 p.m.)**

22 **THE COURT:** Okay. Let the record reflect that the jury is  
23 present. Mr. Foreman and ladies of that jury, we're now at a stage — as I told  
24 you before the lunch break, we're now at the stage where the lawyers will  
25 make their closing arguments.

1           The State will go first. And, then, each Defense lawyer will go after the  
2           State. I would ask that you pay both sides --- during their closing arguments,  
3           pay very close attention to what they have to say.

4                    These lawyers on both sides have worked extremely hard in this case.  
5                    And they certainly deserve your undivided attention as they give their closing  
6                    arguments.

7 I would tell you, however, that the closing arguments are not evidence.  
8 All of the evidence is in. And they may state something -- unintentionally  
9 state something that you don't remember or you disagree with. And, of  
10 course, you go on what you remember the -- the evidence to be in this case.

11 And I — I say unintentionally. Neither — none of these lawyers would  
12 intentionally misstate something to you, but sometimes getting wrapped in  
13 the closing argument, they may say something unintentionally that you  
14 disagree with. You go on what you — what you remember, okay?

**15** Solicitor, you may proceed.

**16 MR. MAYE:** May it please the Court, Your Honor?

17 Closing Arguments

18 **MR. MAYE:** At 1:36, on Thursday, everyone that's involved in  
19 this process is obviously very cognitive of the fact that you've been taken  
20 away from what you would have normally been doing this week.

21 I submit to you, when you all went down to the mailbox, on whatever  
22 day it was when you got the notice from Ms. Doris over here, that you were  
23 being compelled to come down here for jury duty, I doubt anyone skipped  
24 and leap for joy when you went back from the mailbox.

25 | But this is vitally important because, just as surely as Judge — Judge

1 Hocker is seat up here, as the judge that's presiding over this case, the  
2 twelve of you that are going to go back into that jury room to deliberate are  
3 going to sit as the judges of the facts in this case.

4 And you got the facts. The facts came right here from this witness  
5 stand; from every exhibit, from every photograph, and every word out of  
6 witness' mouth that you heard up there.

7 And it's kind of interesting, when you start to look at this, and keep  
8 pointing out things, one is thing is constant; the collective wisdom of the  
9 twelve of you that go back into that jury room and deliberate outstrips that of  
10 any one person because you bring into this courtroom the sum total of all  
11 your life experience.

12 And you all have been sitting here paying close attention, listening to  
13 witnesses, looking at these exhibits. And you're going to have all of this.

14 The twelve of you, as you all sit collectively and look at this, are going  
15 to pick out a thousand things that I didn't think about, State's witnesses or  
16 anybody said, all of these things, the nuances, and what the testimony was in  
17 this case.

18 I submit to you that this is a classic example of how things are just  
19 detected when you don't think anybody is looking.

20 People from the city coming and going in apartments and busy places,  
21 they don't pay much attention to what their neighbors are doing. But, when  
22 you load up and go out into the country, people do pay attention. And that's  
23 a classic example of what happened here; they got out of their environment.

24 They trucked over here from west Columbia and Columbia out here to  
25 Saluda thinking they were going to get out here where nobody was going to



1 see what was going on.

2 As they're collecting them items out there at CVS, they weren't  
3 shopping for Christmas presents in December and wanting to come back  
4 here and wrap Christmas presents at that trailer that was already sealed up  
5 for the wintertime, closed up, that they had no business in to start with.

6 They weren't coming out here to ride jet skis. They weren't coming out  
7 here to avail themselves of the lake in Saluda like so many people do from  
8 other areas. They came out here to have a place where they thought nobody  
9 would be looking so they could make methamphetamine.

10 You got all of this to look at in this case. Like I said, an interesting  
11 case. You heard from the first witness, Mr. Norris, up here and how this thing  
12 started to unfold.

13 Michelle Norris — and you can tell. You could look up here, how  
14 people appear, their demeanor, everything. And what did he tell you? He  
15 said that his wife was ravished by methamphetamine. She's an addict;  
16 having marital problems with her husband, running wild. She had a  
17 boyfriend.

18 And Mr. Warren over here, he's going to be significant in this case  
19 because you heard up here with all her testimony, she sought to try to  
20 minimize her involvement, but she's also trying to pull her boyfriend, Mr.  
21 Warren's, fat out of the fire in this case. "Well, we'll just blame it on him."  
22 He was sitting in the car and never got out and didn't want to be there.

23 Apply your collected wisdom to that. Listen to what she said. Some of  
24 what she said was that truth. They'll tell you, "Oh, she lied. You can't believe  
25 anything."

1                   She admitted to what she had to in this case. And it was absolutely  
2                   obvious because they were getting nailed. Somebody was taping their  
3                   events. You've gotten in this case one of the most important pieces of  
4                   evidence in this case; this DVD from CVS.

5                   And you can see Mr. McCraw and Mr. Warren in this videotape  
6                   because what they're doing — and all the expert testimony — boy, you all  
7                   don't have to watch any more episodes of *Breaking Bad* to know about how  
8                   to make methamphetamine; you all had it all laid out for you; smurfs and  
9                   shake 'n bake and all it takes to make meth. Everybody's got a clear picture  
10                  of all the ingredients it takes to do all of this.

11                  What were they doing in the hours proceeding this? Well, one thing is  
12                  for sure: You can look at the times on this tape when you go in there and  
13                  play it. You can look at this receipt right (indicating) here for lithium batteries,  
14                  which is one of the ingredients in this case.

15                  What are these two doing? They're shopping at CVS. Look at the  
16                  time on this receipt that miraculously made its way all the way from west  
17                  Columbia to trailer out here on Harvest Road in Saluda County; 5:57 p.m. is  
18                  the time on this tape.

19                  Look where the tape starts. Look who comes out carrying the bag in  
20                  this case. All the individuals that, "Oh, he didn't have anything to do with it.  
21                  He's anxious to get out of there, he wants to blow the horn and leave. He  
22                  doesn't want to have anything to do with this meth operation."

23                  And what does he do? He comes be bopping out. Ms. Norris told you  
24                  he was the one that had the driver's license and could drive the car in this  
25                  case; take them in and drive to the CVS just a couple of moments after this.

1           You look and you see them come out of CVS, carrying the CVS bag in  
2           this case. And gets in the automobile, as his co-defendant stands and keeps  
3           watch, looks at his cell phone, walks around and all outside.

4           He standing outside. Mr. Warren is the one carrying the CVS bag  
5           when he comes out. There's a lithium battery receipt at 5:57, a couple of  
6           moments before.

7           He's in this up to his eyeballs. All of them are in it up to their eyeballs  
8           because, when we get through talking to you, the judge is going to charge  
9           you on what the law of this case is.

10          And you're going to hear a thousand things coming out about how they  
11          didn't have this; they didn't do this, don't have any test results. They'll go on  
12          and on and on.

13          And the judge is going to charge you on what the law is. And when  
14          we're talking about manufacturing methamphetamine, they don't need any  
15          test results: "A person who manufactures, distributes, dispenses, delivers,  
16          purchases, or otherwise aids, abets, attempts, or conspires to manufacture  
17          methamphetamine."

18          If you go around and gather up the grocery list of things that you need;  
19          lithium batteries, Sudafed, all of these you do, if you go out and gather those  
20          up, if you help, if you drive, the hand of one is the hand of all in this case. All  
21          of them are in it together.

22          Whether or not somebody is there, if somebody goes in and robs a  
23          bank, and one guy sits outside, he's the lookout and drives the car and the  
24          other two pick up the guns and go inside, well, the hand of one is the hand of  
25          all. The guy sitting out there just driving the car and acting as a lookout, he is

1 just as guilty as the one that picks up that gun and goes in there and puts it in  
2 the clerk's face.

3 And that's exactly what the law is on manufacturing  
4 methamphetamine. And they're all in it up to their eyeballs.

5 Mr. Warren went shopping. Mr. Warren doing all the driving. Ms.  
6 Norris provided them with the place. They all knew what they were doing.

7 To think that anybody would leave over there in the middle of the night  
8 from west Columbia and drive all the way out here into Saluda to this trailer —  
9 and you've got the video.

10 You've got the photos in this case. And you can go and look and you  
11 can see what a remote place this is; a trailer all sealed up in December  
12 winterized that nobody is even going to.

13 She thought that, that would be the perfect place for them to go and  
14 manufacture meth. They weren't going to do it there in the hotel room in west  
15 Columbia because it makes such a stink. It's so dangerous.

16 It stinks so that officers that went inside were throwing up in the yard  
17 from walking through there. They needed a place to hide to bring this bag of  
18 poisons into Saluda County where they thought nobody would be looking.  
19 And Ms. Norris had the perfect place.

20 You heard her up here on the stand. "Well, what were you going to  
21 get out of this, providing this place?" And she told unequivocally, "We all  
22 knew what's was going on."

23 And she told you that. She's trying to pull her own fat out of the fire  
24 and Mr. Warren. She's on piling it all on Mr. McCraw, "Oh, that was Mr.  
25 McCraw. He — he had that bag and he knows what was in there."

1           They all knew exactly what they were doing. There's no other reason  
2           for them to come over here to Saluda County. They brought this bag of  
3           poison, this potentially explosive material, over here to a residential  
4           neighborhood around the lake where people got to live; be outside the light of  
5           day where they thought nobody would see them. They never had anything  
6           inkling that they were being followed, they were being videotaped,

7           They bought the lithium batteries. They went to Walmart. They  
8           bought camp fuel. They came out here.

9           Ms. Norris has already told you that Mr. McCraw said that he had  
10          enough pseudo to make four grams. He had the pseudoephedrine. And look  
11          at all of the ingredients. My goodness, you go through all the list of the things  
12          it takes to make it in this case.

13          All of the ingredients that it takes: lithium, pseudoephedrine, salt, the  
14          cold pack, all that; just look in there. One of the interesting things in this is it's  
15          all laid out on the counter like somebody is baking a cake.

16          It's all laid out on the counter. They didn't just arrive there. Mr.  
17          Warren wasn't sitting out there in the car and patiently waiting. They were all  
18          there in the house and they had been there for a while.

19          Because you can look; it's all laid out on the counter where they were  
20          baking a cake, cooking up this nauseous meth that destroys people's lives;  
21          methamphetamine, what a scourge.

22          And it's exactly what they were doing. And the evidence is  
23          overwhelming and speaks for itself.

24          The officers that walked in from the start, when they threw the door  
25          open, they knew they had a meth lab. Coleman fuel, all of these different

1 chemicals, the salt. Somebody measuring it out.

2 You can see funnels on the counter. It's all out there. Somebody had  
3 time to get all of these items out and measure these things out. Lord knows,  
4 somebody knew what they were doing.

5 They were mixing it up in a measuring cup. They knew what was  
6 where and when.

7 Oh, and you're going to hear a thousand attacks: "Oh, there's no  
8 evidence this bottle was open." Look at it. The lid's eschewed. You can see  
9 where the material has been out there on top of the bottle. Like I said, there  
10 are a thousand of things that the State won't catch in this when you all look at  
11 all of this you can see it; tell that the bottle has been open, just like the  
12 gasoline shimmering on a shiny surface when you spill it at a service station.  
13 It's up on here on the top of this thing and it's dry.

14 That bottle has been opened. Sure because it's the ingredients you  
15 need to make meth. The expert witness came in here and said, "I looked at  
16 everything," all that officers came in, all the ingredients are present.

17 They're going to tell you, "Oh, they're missing some little piece of  
18 something." Well, they've got an active cooking meth lab going on.

19 And the officers have told you in this case it's so dangerous they went  
20 through three layers of police. All these cops that went out there, they had  
21 some degree of training.

22 They had narcotics officers from Saluda County that went out there.  
23 They knew better than to touch this stuff. They knew it would blow up on you,  
24 that it blows houses apart, kills people, the gases and the fumes. In fact, it  
25 had already made officers sick.

1           They brought the experts in from Lexington County. You heard Billy  
2           Laney came in there. He says that, when he goes to poking holes in this  
3           stuff, he gets a ten-foot long stick and pokes to try to relieve the pressure in  
4           this thing. He's ten feet away from it so it doesn't blow up on him.

5           But you'll hear from that Defense in this case, "Oh, you should have  
6           pulled you a sample out of that. You should have stuck a pipe in there and  
7           put their lives at risk in this case and go and test this."

8           Well, it doesn't make a nickel's worth of difference in the law. It would  
9           have been a silly risk of life and that's not even what's required for  
10          manufacturing.

11          They didn't have to have one bit of finished methamphetamine in  
12          there. They just had to be either attempting to make it or working on it.

13          And this wasn't a case just where they went out and gathered up the  
14          ingredients where people try to explain away each and every ingredient,  
15          which you'll hear from the Defense. "Oh, well, you know, a lot of people have  
16          batteries."

17          I guess Mr. Warren on that night suddenly had a need to — I guess his  
18          smoke detector was beeping and he suddenly needed some lithium batteries  
19          that night. What nonsense to try to explain away all these things being out  
20          there in this trailer.

21          They weren't left behind there. Nobody was out there and set up or  
22          staged this. They purposely gathered each and every ingredient. An any  
23          attempt to explain away each of these ingredients — and this is, "Oh, you  
24          know, you all have salt in the kitchen," and, you know, "I guess you could  
25          have batteries here and there."

1           That's absolutely ridiculous; absolutely and utterly ridiculous to think  
2           that all of these things are going to be gathered together for any other  
3           purpose other than to make and manufacture methamphetamine or attempt  
4           to make or manufacture methamphetamine.

5           So, if any or all of them are involved in it — and they were — all are  
6           guilty of manufacturing, whether they helped, whether they drove, whether  
7           they collected materials, whether they provided the place, or whether they  
8           stood shaking up this Coca-Cola bottle or a bottle like this, making that shake  
9           'n bake meth.

10           It's absolutely ridiculous who was the cook, who provided a place, or  
11           who helped them get there; they were all in it up to their eyeballs. And  
12           they're all guilty of manufacturing methamphetamine.

13           **(Brief Pause)**

14           **MR. MAYE:**           One of the things that is so interesting in this case  
15           is, when the police came up, they went in, and they told you this, Ms. Warren  
16           [sic] initially — or Michelle Norris in this case initially told the — or told the  
17           officers that night there wasn't anybody there.

18           When they first went up and confronted her, nobody there. There was  
19           nobody in the car. The officers went in and they heard people run out the  
20           back door.

21           Well, officers weren't going to try to tell you something they absolutely  
22           didn't see. But you heard Russ Padgett in this case. He said, 'I think two  
23           people were running. Everything and my senses told me there were two  
24           people running, but I didn't see but one person."

25           You're going to hear in this case, "Oh, only one person ran. Only one



1 person was involved in this." You're going to hear this from Mr. Warren in  
2 this case, "Oh, he was just sitting out there in the car minding his own  
3 business, blowing that horn and not wanting to be there," never mind what he  
4 was doing at CVS and driving all the way over here.

5 But he didn't have anything to do with it. He was just merely present.  
6 And the judge is going to charge you, at the conclusion of our arguments in  
7 this case, that mere presence, it's not enough to just merely be present at a  
8 crime. Well, we certainly don't have mere presence here.

9 We've got far more than that. Mr. Warren was involved in this up to  
10 his eyeballs. He was helping to collect the ingredients, he drove, and he  
11 wasn't sitting out there in the car blowing the horn.

12 The bottom line is, they went in there. They were cooking this stuff.  
13 Michelle Norris was getting the heater ready. She was in there going  
14 through — there are pieces and kernels of the truth in what she said.

15 They were settled in for however long it takes. And the expert said  
16 what, it takes a couple of hours for this stuff to cook off? They were settling  
17 in.

18 She wouldn't have been in there getting the heater ready. They were  
19 in that house and they were in there for the duration. And she certainly had  
20 an anticipation that she was going to get some methamphetamine out of this.

21 She was an addict and she had no other reason; it was either money  
22 or drugs. One of the two she thought she was going to get.

23 Mr. Warren, what he was going to get who knows. But he wanted to  
24 help enough that he drove and he helped and he assisted. And you can bet  
25 he ran and jumped in the lake as sure as Mr. McCraw did.

1 Now, he got caught early. He got caught just a short period of time  
2 over there at the landing — and you can look at the pictures — with his  
3 britches still frozen from jumping in the lake at 14° in December.

4 What kind of scene do people flee from with such reckless abandon?  
5 They go charging down and jump a fence and jump into Lake Murray on  
6 December the 2<sup>nd</sup> going into December 3<sup>rd</sup> when it's 14°? They're fleeing a  
7 crime scene. They've got guilty knowledge.

8 Mr. Warren didn't suddenly have an epiphany and go, "Yeah, I'm  
9 going to get away from these old bad people that are manufacturing  
10 methamphetamine, this terrible old Ms. Norris and Mr. McCraw, this terrible  
11 cook. You know, I think I'm just going to abandon this and I'm going to rush  
12 down into the lake and run."

13 Lord knows they about froze to death. They jumped in the car when  
14 Jeff Quartlebaum came over there, Mr. McCraw did because he's caught in  
15 short order. He's over there trying to build a fire.

16 They should have spent less time over there in west Columbia  
17 gathering up this poison and more time watching *Man Versus Wild* with old  
18 Berry Grillis (phonetic) to show them how to survive out there freezing cold  
19 and jumping into a lake in December.

20 But, oh, no, they weren't worried about that. They were fleeing a crime  
21 scene with guilty knowledge, both of them.

22 They wouldn't even bring the dogs out after them on that night, but  
23 they didn't need to because they knew who they were looking for from the  
24 videotapes and the private investigator and from having Michelle Norris there.

25 They knew who they were. They had Mr. McCraw in short order. They

1           took him on the next morning, when the next officer, Ted Holmes, from the  
2           sheriff's office went on shift. He knew what he was looking for; Mr. Travis  
3           Warren.

4                     He knew exactly who he was searching for and it didn't take him long  
5           to get found.

6                     But that was some six hours later. And you'll hear, "Oh, his pants  
7           weren't wet." Well, when was it? Sometime around midnight by the time they  
8           ran out into the lake. They didn't find him til — the officer didn't go on shift till  
9           6 o'clock. It's because he had dried out. It's a wonder he survived with it 14  
10          degrees.

11                    But he dried out, but he was ready to go too. And he told you that he  
12          had come to visit with the two other individuals that night. They knew what  
13          was going on, he just walked (inaudible).

14                    They came here, the police came. They got caught. They ran. And  
15          they were here to make meth.

16                    And there's no other reasonable explanation that these three people  
17          would come over here from Lexington County, from west Columbia, out there  
18          at that trailer other than the fact that they were making methamphetamine.

19                    You don't leave your common sense at home when you come up here  
20          to the courthouse; no other possible reason they were here other than  
21          manufacturing meth, whether or not they were aiding, abetting, or conspiring  
22          or if they were just agreeing, going along with it.

23                    And they weren't just going along. Each one of them had their own  
24          role. Michelle Norris provided the place, her ex's — soon-to-be ex-husband's  
25          spot.

1           They needed transportation and needed Mr. Warren. He went around  
2           and shopped for the ingredients. And he knew what was going on there.

3           There's been all this talk about, "Oh, you have to sign for pseudo, you  
4           got to do this, certain ingredients."

5           Well, certainly an experienced cook like Mr. McCraw, he's going to  
6           want other people to be assisting him and buying things; lithium batteries,  
7           going with him shopping.

8           And you're going to hear from the Defense in this case, "Oh, but they  
9           didn't go into CVS and they didn't get a video. They didn't go Walmart and  
10          they didn't get a video." That's because it's not a whodunit kind of mystery.

11          "They didn't take fingerprints out here at this scene." It's not a  
12          whodunit. It's not a mystery. It's the three of them.

13          They have videotapes. They've got an private investigator following  
14          them. They run. They capture them when they fled. And flight is evidence of  
15          guilt;

16          Flight is evidence of guilt. It is not mere presence. Mr. Warren was  
17          not merely present. Ms. Norris was not merely present. They were all in it up  
18          to their eyeballs.

19                   **(Brief Pause)**

20               **MR. MAYE:**       Ladies and gentlemen, you've got all the evidence  
21               in this case. Look at that videotape, look at the receipt, look at the  
22               photographs. Think about all the testimony you heard from the officers who  
23               went out there.

24               They all knew what they had, a meth lab. You don't need an expert for  
25               that, but you got it in this case. All the evidence is there for you. Mr.

1 McCraw, Mr. Warren, the State submits are guilty of manufacturing  
2 methamphetamine.

3 They brought this brutal poison over here thinking they were getting  
4 outside the light of day. And they came to the country and they learned  
5 quick; they got caught.

6 They're manufacturers of methamphetamine and the State submits to  
7 you that a guilty verdict is appropriate. I appreciate your close attention.

8 **THE COURT:** Thank you, Solicitor. Defense?

9 **MR. JOHNSON:** Thank you, Your Honor.

10 **THE COURT:** Okay. Mr. Johnson?

11 **MR. JOHNSON:** Well, ladies and gentlemen, this is a whodunit until  
12 they prove otherwise. And they've got to prove it beyond a reasonable doubt.  
13 And all the little things that the Solicitor indicated might not be that important ,  
14 but when he talks about fingerprints and he talks about test results; well,  
15 those are called evidence.

16 They are important. They're important when you have them and  
17 they're important when the State fails to bring them.

18 I think that, when you review everything that he talked about, it's going  
19 to point to certain directions that might be a little different than what were just  
20 mentioned to you.

21 The State talked about the facts of the case; talked about lithium  
22 batteries. Well, the facts are you didn't have any evidence that lithium  
23 batteries were present. There were batteries that the expert testified about  
24 were not lithium batteries and could not be used to make meth.

25 Fingerprints; the Solicitor downplayed that. But fingerprints are

1 evidence. They're used every day in this country in every state in the union.  
2 Police officers are trained to take them. And they take them for a reason;  
3 that's evidence.

4 You can find out who was handling what. No fingerprints were taken in  
5 this case. They failed to do that.

6 He talked about samples. You heard about camping fuel. You heard  
7 about different substances that were never tested. Well, that's important.

8 And every witness said the same thing when I asked them: "Does  
9 State Law Division have a big lab in Columbia where things can be tested?"  
10 The answer is "yes." "Does Lexington have a lab?" "Yes." "Was anything  
11 tested?" "No."

12 Until upon on cross-examination I asked one officer, "Wasn't  
13 something tested?" "Well, something was tested." I said, "Didn't it come  
14 back negative for methamphetamine?" "Yes." And, then, it came out, not  
15 from the State, but on cross-examination.

16 But all these items that they failed to test, we don't know what they  
17 are. That's part of the State's burden. They have to prove that beyond a  
18 reasonable doubt.

19 They want to talk about ingredients and they're relying upon this to  
20 prove that a meth lab was being set up. Well, they've got to show you what  
21 was being used instead of pointing at something and saying, "Well, this is  
22 evidence. We looked at a label." They've got to prove that. They've got the  
23 burden.

24 This is most important day for my client, Mr. McCraw. This is a very  
25 important — important day, the most important day. And I would ask all of

1           you to, please, consider these things because it's easy to brush over them  
2           without focusing on what you're not seeing and what you're not hearing  
3           because the Solicitor is not going to remind you about that. But that's what  
4           I'm trying to do because that is evidence they failed to bring.

5           When you look at — well, let's talk about the witnesses. They talked  
6           about Ms. Norris. And this one of those rare events where I sat and listened  
7           to the Solicitor testify about his own witness.

8           And it's kind of an interesting point. Ms. Norris is a liar. She said  
9           she's a drug addict, but she's not interested in drugs. And she said she was  
10          in a relationship with the co-defendant. But, when the Solicitor talks about  
11          the set up on this counter, who owned the counter? Who owned the house?

12          Well, Mr. Norris testified. Who is Mr. Norris? You saw him briefly at  
13          the beginning of the trial, a jealous ex-husband, a jealous ex-husband. We  
14          know there's a custody dispute at the time of this event.

15          Who had access to the house? Mr. Norris made it very clear: "I have  
16          access to that house."

17          Let's talk about the timing. What did the witnesses — the State's  
18          witnesses, what did they say? Well, there was a phone call placed by Mr.  
19          Norris. "Get down there; my house. I'm worried about a break-in. Get down  
20          there right away."

21          The police respond. Now, if somebody is setting up a lab, is timing an  
22          issue? The State's own witnesses talked about this bottle and talked about  
23          things being set up. And the State's theory about the state of the meth, about  
24          the shake 'n bake.

25          Well, who had time to set that up? If the police were called while the

1 suspects were in transit, who had time to set that up? Who had access to the  
2 house? That's all evidence too. I'd ask you to consider all of that.

3 Now, let's talk about some other things that the Solicitor mentioned.  
4 He talked about the video. Well, once again, they're relying upon this video.  
5 But what is the evidence that my client went into this house?

6 The testimony of a drug addict, liar, and where is the video from CVS?  
7 Where's the video from Walmart? Do they have video cameras? I think  
8 that's common sense.

9 They talk about the receipt. They talk about lithium batteries and they  
10 talk about the receipt. They brush over the idea of records being kept when  
11 people buy ephedrine, but that's something developed and used by law  
12 enforcement so they have records.

13 Have you seen those records? Well, if they don't have those records,  
14 that's something for you to consider. They talk about the importance of  
15 pseudoephedrine and it's a precursor, so, that makes it important.

16 Well, the manufacturing, the actual process would require someone to  
17 touch all of these items according to the expert. And you got to prove that  
18 with fingerprints and they failed to do it.

19 They talked about what — what manufacturing is. Did you hear any  
20 evidence about attempts to distribute, move this methamphetamine if it was  
21 methamphetamine?

22 Think about the expert. They said they brought an expert. He's never  
23 been an expert before in General Sessions. Well, today he is despite being  
24 disqualified as an expert in one field.

25 When he testified, they said, "Well, let's talk about the presence of



1 methamphetamine and the danger of a lab." Well, on cross-examination,  
2 what did he say about the presence of methamphetamine? It can be found in  
3 the carpet. It can be found on clothing. It can be found on surfaces.

4 "Were there any tests performed?" No information about that, no  
5 evidence of that, no trace of methamphetamine at this location. No trace of  
6 methamphetamine on clothing. They talked about clothing seized of my —  
7 my client and the co-defendant were seized by that police and no testing  
8 performed.

9 So you got no fingerprints, no testing on clothing, no testing on  
10 surfaces, no testing on carpet. You got no testing of all these substances  
11 that are supposed to be ingredients.

12 You got no testing on the shake 'n bake bottle that's supposed to be a  
13 portable mini meth lab that's going, let alone who put it there. But your expert  
14 says, "I have no idea when — I don't know when it was put there. I don't  
15 know if a man or woman put it there."

16 (Brief Pause)

17 MR. JOHNSON: Timing is important. Evidence is important. And I  
18 ask you to remember all those things.

19 Now, Ms. Norris, like the Solicitor said, Mr. Ross in opening, "You don't  
20 know what she's going to say." They didn't know what she was going to say  
21 and he's right. She said a lot of things. She lied, but she was caught.  
22 That's their witness.

23 And, then, they progressed on to call police officers. And there is  
24 some confusion from the police officers about who was where, who did what,  
25 who took photos. And the police officers testified, "Well, I don't know."

1 And, then, when the officer showed up from Lexington and said, "We  
2 came out and his other officer, he took photos." Well, he's got a limited ability  
3 to testify about things because, once again, testing was not performed.

4 Question: "Does Lexington have a lab?" "Yes." "Does the State Law  
5 Enforcement Division have a lab?" "Yes." "All these labs you've gone after  
6 and you've gone after meth labs, how many times did you take samples?" "I  
7 don't know."

8 And everybody had to answer the same way when I asked about,  
9 "Well, wasn't there a sample taken?" On cross-examination, once again, I  
10 asked, "What was — what was the result?" "I — I don't know."

11 Mr. Laney said, "Well, I don't know." But the other officers say, "Well,  
12 you know, they came back negative for methamphetamine," upon cross-  
13 examination by me; not evidence from state.

14 But that's important. They conducted a test. They pulled a sample out  
15 of the house and it was negative. They can't come up here and say that's not  
16 evidence. It is; that's evidence. In came in through testimony on cross-  
17 examination.

18 I ask you to consider that, the absence of the other evidence that  
19 could have been pulled from CVS. They failed to do that.

20 The evidence that you have is photographs that actually help illustrate  
21 the point. When Mr. Williams asked questions about substances from these  
22 photographs and what are they, there seemed to be a little confusion, when  
23 Mr. Williams started asking police officers: "Is that salt?" "What is this?"  
24 "What came out of this container?" "Was this container open or closed?"

25 There really wasn't a lot of consistency there...

1 I ask you to focus on that. And the fact that two witnesses that --  
2 several witnesses said, "Oh, I was never there." "Well, I looked at photos, but  
3 I was not there." "I looked at the photos but I did not handle the items."

4 "I looked at the photos but I came in and I don't who took these photos  
5 over here, but I looked at these items, but I don't remember where they are."  
6 Every officer wanted to have their specific job, but they just couldn't quite  
7 come together.

8 And you have to consider the gaps that are left. There are some  
9 things that are quite easy. Did somebody walk through and try to take prints?  
10 There's no testimony that it was some sort of lethal area where they could  
11 never go in and take prints. And that it was forever barred for — you know,  
12 for law enforcement to ever take prints. They didn't say that.

13 And they talked about the danger, "We can't take samples," but  
14 samples were taken from somewhere upon cross-examination that came  
15 back negative. If it is so dangerous, a sample wouldn't have been taken. It  
16 came back negative.

17 I mean, when you look at all this evidence together, it says really one  
18 thing. As the judge will instruct you, mere suspicion is not enough. Mere  
19 suspicion is not enough. They've got to prove their case beyond a  
20 reasonable doubt. If they fail to do it, they failed; the answer is not guilty.

21 They've got some things they can testify might would be included in  
22 an meth lab by someone, according to their testimony, but they've got to put it  
23 all together.

24 And you've also got to consider timing, access to the residence  
25 because this is where the plan took place, motive.

1 Well, as I mentioned, Mr. Norris; let's — let's remember the motive. I  
2 think all of those together will result in not guilty. And I appreciate your  
3 attention. Thank you.

4 **THE COURT:** Thank you, Mr. Johnson. Mr. Williams?

5 **MR. WILLIAMS:** May it please the Court?

6 **(Brief Pause)**

7 **MR. WILLIAMS:** I know you're probably getting tired when you  
8 have three lawyers stand up here and, to a certain extent, I assume that —  
9 that they have to repeat themselves. But the reason for that is, is that we  
10 have three different interests.

11 I represent Travis Warren, the gentleman over there in the light  
12 colored shirt. The other gentleman at the table is the — is the attorney for the  
13 co-defendant. And the Solicitor, obviously, is trying to convict I guess both of  
14 them at one time. But we all have different interests.

15 And the judge has a different interest. His interest is to determine  
16 what evidence comes before you and determine if it's appropriate for you to  
17 hear it. And, then, he gives the law on what the charge is of manufacturing  
18 methamphetamine.

19 You're the jury. You have the obligation not — I don't just want you to  
20 do it; it's your job. You have the obligation to listen to the evidence and  
21 determine what the truth is; what has been proven.

22 You know what the evidence is not? The evidence is not what we  
23 lawyers say the evidence is. You're supposed to listen to the evidence and  
24 you're supposed to remember what was said from the stand and to observe.

25 And as much as I'm sure the State would like to combine all of these

1 matters and you all just assume that somebody is guilty and that obviously  
2 that Mr. Warren must be guilty because the other Defendant is guilty or — or  
3 the other Defendant is guilty because Mr. Warren is guilty, you don't have the  
4 right to just say that.

5 You have to pick and choose. You got to make an independent  
6 decision on each defendant based on the evidence as to whether or not  
7 either one or two Defendants are guilty or if one Defendant is not guilty or if  
8 both Defendants are not guilty.

9 Now, as I was listening to I guess the closing argument for the State, I  
10 noted that there was great concern in changing the theory. You know, when  
11 you start off with a case, in the trial of a case, you kind of have a theory. I  
12 think most people do.

13 And we've heard about I guess la mis over here; that he was — he was  
14 tired and sleepy and hungry. And, you know, you set up a stage sometimes  
15 in opening arguments.

16 And, then, in closing argument, you bring those words back or words  
17 that create an emotion to the jury because what people want to do with jurors  
18 is to do anything that changes their ability use their cognitive, to use their  
19 independent thinking because, you know, a lot of times, if you're emotional  
20 about stuff, you're not really thinking clearly about stuff.

21 So that's why, when you start talking in closing argument about  
22 bringing that poison into Saluda County, "Oh, it's the only place to do it, you  
23 had to do it under dark some night, in a residential area. And you know how  
24 dangerous these things are. They can blow up."

25 Well, that's interesting. It's very theatrical. It gets your attention. But

1 think about what was said and think about what was proven.

2 And let me tell you right now our Constitution has not changed. It  
3 hasn't changed since it was written. And that means that a defendant is  
4 innocent until proven guilty. And the burden of proof in every criminal case is  
5 on the State.

6 The defendant doesn't have to prove anything. He doesn't have to  
7 defend anything. So you don't get to clean up everything by saying, "We  
8 don't need to know that." "We don't need to have evidence of that." "We  
9 don't need to show that." "Who's going to do that?" "Who is going to put  
10 their dogs in the lake?"

11 Well, of course, you don't want to hurt your dogs. But you have to  
12 prove certain facts.

13 **(Brief Pause)**

14 **MR. WILLIAMS:** Let's talk about how we changed this theory. See,  
15 the theory was that my client drove the other gentleman to CVS and he  
16 bought lithium batteries; not referring to my client, but referring to Mr.  
17 McCraw.

18 And the reason — the reason I say that was their initial theory is  
19 because, if you look at the CVS pharmacy, State's Exhibit Number 25, it says  
20 Mr. Michael McCraw on it.

21 He's got a CVS deal. He's got a little deal where, you know, you save  
22 a little extra money if you've got a CVS care card. You save a little extra  
23 money if you go here and it keeps up with the amount of savings that you  
24 have because you've got that example which is introduced into evidence to  
25 prove to you — the point of this is to prove to you that the lithium batteries

1           were purchased by Mr. McCraw.

2                     And it was used in the production of methamphetamine because we  
3           know that you cannot create methamphetamine without lithium batteries.  
4           We know that, right?

5                     In closing argument we hear, "Well, Mr. Warren had that CVS bag  
6           when he came out of the store. And Mr. McCraw was standing out there for  
7           an extended period of time by the car."

8                     I got a feeling that somebody had to have Mr. McCraw's card to  
9           purchase the four lithium batteries. See, what I'm kind of indicating to you is,  
10          if you look, both gentlemen had a bag in their hands.

11                    You don't get to shake the evidence to suit you. You don't get to play  
12          with the evidence to suit you. The evidence is, if you believe anything that  
13          Mr. McCraw purchased four lithium batteries.

14                    Okay. So he bought four lithium batteries. But, again, I mean, co-  
15          defendant's Counsel has a valid point. You — if that's going to be your  
16          argument, if your argument is going to be, "Well, we get to pick or we're going  
17          to say both of them did it," or "We get to change our theory in regards to how  
18          these batteries are bought." "And I'm going to represent the other individual."  
19          Well, you know, the way to prove that would be a videotape from CVS.

20                    But we don't want that. We like it all kind of murky. We like it where,  
21          you know, when we're not really sure. And that's why you have testimony  
22          from officers that says, "Well, I heard two people leave the building." "I heard  
23          two people running."

24                    But, when you finally get to cross-examine the person, it turns out that  
25          they can only identify one of them. He only sees one person. That person

1           went into the lake; only the one person.

2                   But e got to murky it up because we got to keep both of those guys in  
3 this case. We got to keep them both in there.

4                   So how do we do that? When my client is finally arrested, he said,  
5 "Well, he had dark clothing on; he had a jacket and jeans on." And I said,  
6 "What did the other guy have on?" "Well, we don't know that. We don't know  
7 that."

8                   Well actually we do. It's a clever (whispering, inaudible). The — the  
9 point of it is, is that you don't get to just suggest things.

10                  Where was there any suggestion that my client had been in the lake;  
11 was wet? There's none.

12                  Well, here's the theory: We have all these the things set up inside  
13 this trailer. You know, it's — it's — it's a single wide. It's not a double wide.  
14 It's a single wide. It's not real big, it's not real fancy. It's nice. It's on a good  
15 piece of property.

16                  And, if you believe what the State has said, or what the evidence is  
17 that they presented, you have a — a police officer that arrives on the scene.  
18 He sees somebody at the window in the door; doesn't know if it's a man or a  
19 woman.

20                  He comes up to the door. He knocks on the door. A woman comes  
21 out. He hears someone leave. What's the most important thing about that is  
22 that he said, when he came up, there was no one in the car; no one in the  
23 car.

24                  Okay. So, if there's no one in the car, I guess that means that my  
25 client has got to be in residence, right? But, again, we only see one person



1 run from the area, the trailer.

2 You have the actual exhibits to show how this property looks. And,  
3 you know, it's kind — there's no really trees or anything that would keep you  
4 from seeing anything.

5 I would kind of like for you to tell me where that fence is, though, when  
6 you look at those exhibits, the one that was supposedly jumped over. But we  
7 don't have to prove that, again, because we don't have to give you pictures  
8 showing the fence where it was bent down.

9 We don't have to put our dogs up because it's too cold. We get to say  
10 that we think there were two people there. And we get to say, in closing  
11 argument, that they had been there for two hours and it had been set up.

12 What evidence is there? Which witness said that they had been there  
13 for two hours? What I say is not evidence. I don't know; I wasn't there. I  
14 would be willing to bet that the co-defendant's Counsel wasn't there and the  
15 Solicitor wasn't there.

16 None of us knew what actually happened there. We don't get to say  
17 what actually happened there. So let's look at the witnesses who have  
18 testified.

19 The first witness came on the scene and he testified as I told you.  
20 And, then, he calls --- he calls out I guess narcotics or someone to come out  
21 there to check the area out.

22 Here's all the evidence that they found in this location (indicating). I  
23 want you to find me something that has my client's name on it. I want you to  
24 me a receipt. I want you to find me that fingerprint. "Well, we can't do  
25 fingerprints on these things right here because they'll blow up and they'll — in

1 your face.”

2 You’d think they could do fingerprints on, I don’t know, a can, a paper  
3 plate, a plastic bag.

4 Well, maybe the argument is that he had these big rubber gloves on.  
5 Well, who had the rubber gloves on? I assume it was — both of them were  
6 sharing the rubber gloves and they were touching things inside the house, the  
7 rubber gloves that look like they haven’t been used.

8 (Brief Pause)

9 MR. WILLIAMS: I don’t understand why you’re expected to convict  
10 somebody, to convict somebody, without evidence. I just don’t understand.

11 I want to know from the witness who found these items. I want to — I  
12 want to hear from him where he found these items.

13 You know, what’s really interesting is that, while we had the expert on  
14 the stand, and he was testifying about the fuel oil which was found in the  
15 middle of floor and he thought that was right peculiar, right here the — the  
16 propane, State’s Exhibit Number 18.

17 “Well, that’s kind of unusual. You don’t normally see it sitting in the  
18 middle of the floor.”

19 (Brief Pause)

20 MR. WILLIAMS: But we don’t need the person who found the stuff.  
21 We don’t need the person who took the pictures because, if we had those  
22 people here, they could tell you where they found the stuff. They could tell  
23 you what the condition was of it.

24 Let me tell you what — what else you don’t need. You don’t need the  
25 waste disposal people here, the people who came on the scene and did

1 something with the waste disposal. Do you think they might know if there  
2 was some sort of methamphetamine in the waste disposal?

3 Well, you don't have people here unless they help you. We don't even  
4 know who they are, do you? You don't even have the name of those people.

5 No, what you do is, you find some guy who has been to a lot of  
6 classes and testified — well, maybe not been certified — from another  
7 county. And he makes an appearance and he can tell you all about  
8 methamphetamine; a nice guy, can tell you about methamphetamine. But  
9 what does he know about our case?

10 (Brief Pause)

11 MR. WILLIAMS: When he looks at these pictures, he's honest  
12 with you. He tells you, "Yeah, that salt looks a little big from the kind of salt  
13 that I use." It obviously hadn't been used.

14 He shows you the drain opener and said, "Well, that hasn't been  
15 used." Of course, then, we got to jump back up here. Well, of course, we  
16 haven't used it yet because that's the second part of the step.

17 But what's the theory? It's like I'm playing badminton or something.

18 Then, we look at State's Exhibit Number 1, the witness on the stand,  
19 who is the expert, testified, "Well, that doesn't look like it's been opened." I  
20 can't tell that any has been used out of it."

21 And I take him through, "Well, maybe there's another can of this stuff.  
22 You know, maybe they got rid of it."

23 And the Solicitor would argue, "Oh, it's nice and shiny. You know how  
24 when you get gasoline and you pour it out and it looks shiny."

25 I forgot who the witness was. I'm kind of confused. The witness who

1 testified under oath said there was no evidence that this had been open.

2 (Brief Pause)

3 MR. WILLIAMS: I'm just about through.

4 (Brief Pause)

5 MR. WILLIAMS: You know, the only people that have testified in  
6 this case so far, Michelle Norris, who said that she had been split up — that  
7 she knew McCraw actually for six months before.

8 And, then, she did give the keys to my client to drive because she  
9 wanted — she wanted the other guy out of her house or out of the hotel I  
10 should say.

11 And the argument from the Solicitor was that, "Well, why were they  
12 coming to Saluda in the darkness of night?"

13 Do you remember what she also said on cross-examination? She  
14 wanted him gone number one. Number two, he had relatives living nearby in  
15 Saluda and he was supposed to leave and go to his relatives' house.

16 You heard her say that he was — that my client was out there honking  
17 on the horn wanting her to go. She was on the phone talking to her ex-  
18 husband.

19 Well, yeah, my guy was there. He was there. And he left. He left  
20 because she's on the phone talking to the ex-husband.

21 I mean, we could spin it, yeah, but somehow I have the burden of  
22 proof and I'm not sure that exists for me. The police officer comes up there.  
23 He's not there. There's nobody there.

24 If you look at it — if you were a betting woman or a betting man, the  
25 odds are more than likely that he was there. He left. The police come. The

1 other guy runs out of the house. I mean, if you bet.

2 But you're not supposed to bet. You're actually supposed to make  
3 decisions based on the facts and the evidence that proves to you, beyond a  
4 reasonable doubt, who the guilty person is.

5 **(Brief Pause)**

6 **MR. WILLIAMS:** And she tells you — I mean, she does. I mean,  
7 she — she tells you that she's a drug addict. She's been sitting in jail. I think  
8 she was asked about the time she was facing and whether or not she would  
9 — you know, I guess change her story or something like that. I guess you got  
10 a make a call; you know, is she telling you the truth or not.

11 I mean, you can't have it both ways. I go out and get --- I guess you  
12 could say the witness is telling the truth about this, but not about that.

13 You got the video to look at. The other — the other thing, which is  
14 interesting to certain extent, is that ----

15 **(Brief pause while exhibits are examined.)**

16 **MR. WILLIAMS:** — none of the physical items that were found in  
17 the place were brought into court for you to see. I mean, everything didn't go  
18 away surely. Everything wasn't disposed by — now I got — what do you call  
19 them — the hazardous waste people who didn't testify.

20 You got pictures to look at. You know, pictures are interesting. You  
21 can make a picture I guess say anything.

22 Russ Padgett, we talked about him. He's the officer who said my  
23 client wasn't there; either he's there or he's not there. But he's not there  
24 when the police get there to be heard running out of the trailer.

25 He didn't take the pictures.

1 (Brief Pause)

2 MR. WILLIAMS: I want to know if — if there was — you see, there's  
3 — there's one thing you've got to have. You got to have this. You — it's  
4 impossible to manufacture meth without this: Sudafed.

5 What evidence do you twelve jurors have of the existence of Sudafed  
6 in this case? Do you have a receipt? Do you have a package? Do you have  
7 a picture? Do you have anything other than somebody saying something;  
8 "Well, that's what we were going to do."

9 Now, you're supposed to make a decision that — that affects a lot of  
10 people based on that.

11 (Brief Pause)

12 MR. WILLIAMS: All right. Mr. Quartlebaum is the one who didn't  
13 want to put the dogs out. He shows up two hours later. And he essentially  
14 finds I guess Mr. McCraw.

15 And he's the one who brings up Brandon Slice as being the one who I  
16 guess took a picture of everything. Has anyone explained why Brandon Slice  
17 is not here? No. You all are just supposed to guess.

18 Chief Holmes testifies that my client kind of — I don't know, he was  
19 driving down the road and ran into this guy, said a little bit (phonetic), they  
20 were friends, and all this other stuff.

21 But, when you show him his incident report, it doesn't say all of that. It  
22 said that he was with these two individuals the night before. Well, why do  
23 you have to embellish that? I mean, it is what it is.

24 Billy Laney, who was the gentlemen from Lexington, is a — I guess  
25 he's kind of like an methamphetamine expert guy. One of the main things he

1 talked about was smell.

2 Well, let's take the proposition that the — that the evidence that was  
3 presented is correct; that the testimony of the officers is correct. And, when  
4 they came in there, there was a terrible smell. It was so — it was so bad that  
5 somebody threw up.

6 Who threw up? Well, we heard about somebody throwing up. Did he  
7 testify? Did the person who threw up come and testify?

8 Okay. So let's assume there's a bad smell, which officer testified that  
9 either one of the Defendants smelled like he had been in a meth lab? Did  
10 you hear anybody say that?

11 (Brief Pause)

12 MR. WILLIAMS: And I'm not going to go through those pictures that  
13 the other expert looked at. You know, I hate being last because you don't get  
14 to talk as much because you all are tired already.

15 I'd ask — the — the main thing I really want you to concentrate on is to  
16 concentrate not on what we lawyers say in our closing arguments. For  
17 goodness sake, don't do that, because we're going to spin it one way or the  
18 other.

19 Look and listen to what the evidence is, what the testimony is. And, if  
20 you believe everything that the State has said, you've got my client driving the  
21 other Defendant to a CVS.

22 There's no evidence of what was purchased. And, then, my client  
23 driving the girlfriend and the other Defendant to a location, then, him leaving.  
24 That's what you got.

25 And, if you think that's enough to convict my client for manufacturing

1 methamphetamine, I guess — I guess you'll just have to do that.

2 But I bet that you're going to require to at least to have the people here  
3 who know what was going on before you make decisions like that.

4 I thank you for your attention. And I ask that you do the right thing.  
5 And I hope that you believe the right thing is that there's been no evidence of  
6 the guilt of my client. Thank you.

7 **(Mr. Williams' closing ended at 2:33 p.m.)**

8 **THE COURT:** Thank you, Mr. Williams.

9 **MR. WILLIAMS:** Thank you, Your Honor.

10 **THE COURT:** We're going to take a very short break before we  
11 — before I charge you on the law, so about a five- or ten-minute break.

12 I'll remind you not to start your deliberations.

13 **(The jury exited the courtroom at 2:33 p.m.)**

14 **THE COURT:** All right. Everybody be at ease for just a little bit.

15 **(Whereupon, a recess was taken from 2:34 p.m. until 2:44 p.m.)**

16 **(Off-the-Record Comments)**

17 **THE COURT:** Is everyone in the courtroom who needs to be in  
18 the courtroom because I'm going to instruct the bailiffs not to let anyone out  
19 or in. Is everybody here?

20 **MR. MAYE:** Yes, sir.

21 **THE COURT:** Is there anybody else ----

22 **MR. JOHNSON:** No, sir.

23 **THE COURT:** ---- that needs to be here?

24 **(Brief Pause)**

25 **THE COURT:** Okay. Just make sure no one leaves or — or



1 comes in during the Court's charge. Anything from the attorneys before we  
2 bring in the jury?

3 **MR. MAYE:** Nothing from the State, Your Honor. Thank you.

4 **THE COURT:** All right.

5 **MR. JOHNSON:** Nothing from Mr. McCraw, Your Honor.

6 **MR. WILLIAMS:** Nothing from Defendant Warren, Your Honor.

7 **THE COURT:** All right. All three lawyers did an excellent job on  
8 your closing.

9 **MR. JOHNSON:** Thank you, Judge.

10 **THE COURT:** All right. Bring the jury in, please.

11 **(The jury was summoned and entered the courtroom at 2:45 p.m.)**

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**Jury Charge****2:45 P.M.**

**THE COURT:** All right. Let the record reflect the jury is back in the courtroom. And, Mr. Foreman and ladies of this jury, I remind you that during this trial you and I have had certain duties and responsibilities to perform.

As the trial judge, it's been my responsibility to preside over the trial of this case. And I've also had the duty to rule on the admissibility of evidence offered during this trial.

You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case during this trial, you must disregard that testimony.

You are to consider only all the testimony which has been presented from the witness stand, any exhibits which have been made a part of the record in this case, and any stipulations of Counsel.

I've also had the additional duty to charge you on the law applicable to this case. As the presiding judge, I am the sole judge of the law in this case. And it's your duty, as jurors, to accept and apply the law as I now stated it to you.

If you have already had any idea as to what the law is or what the law ought to be, and it does not agree with what I now tell you the law is, you must abandon this idea because you are sworn to accept the law and apply the law exactly as I state it to you.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judge of the facts in the case. A trial judge cannot intimate,

1 state, comment on, or make any statement to a trial jury about the facts in a  
2 case.

3 Since you, the jury, are the sole judges of the facts in this case, you're  
4 not to infer from what I have said during the progress of this trial, in ruling  
5 upon the admissibility of evidence or anything that I say now during the  
6 course of this instruction to you, that I have any opinion about the facts in this  
7 case. I do not.

8 The law does not allow me to have an opinion about the facts in this  
9 case. This is a matter solely for you, the jury, to determine. As jurors, it is  
10 your duty to determine the effect, value, weight, and truth of the evidence  
11 presented during this trial.

12 The indictments charges each defendant with manufacturing  
13 methamphetamine.

14 **(Off-the-Record Comment)**

15 **(Brief Pause)**

16 **THE COURT:** I remind you the fact that the Defendants were  
17 arrested, charged, and indicted in this case is not evidence — evidence in  
18 this case and cannot be considered by you as evidence of guilt in this case.  
19 Nor does it create any presumption or inference of guilt.

20 The indictments are simply the formal written instruments which  
21 contains the charge made against each defendant. It is the formal document  
22 by which this case is brought into court and serves no other purpose.

23 I charge you that there are two Defendants, in this case, each of whom  
24 is charged with manufacturing methamphetamine. The case of each  
25 Defendant and the evidence and the law concerning that Defendant should

1 be considered separately and individually.

2 Your verdict does not have to be the same for both Defendants. The  
3 fact that you may find one Defendant guilty or not guilty should not control  
4 your verdict as to the other Defendant.

5 Where more than one person is charged with a crime, if the evidence  
6 warrants it, you may convict one and acquit the other or you may acquit both  
7 or you may convict both.

8 It will depend upon your view of the testimony and the evidence. You  
9 must take each Defendant and consider the evidence as to that Defendant  
10 and my instruction to you on the law. You will, then, write a separate verdict  
11 of guilty or not verdict for each individual Defendant.

12 Both Defendants have pled not guilty to their respective indictments.  
13 And that plea puts the burden on the State to prove each Defendant guilty.

14 A person charged with — with committing a criminal offense in South  
15 Carolina is never required to prove himself innocent.

16 I charge you that it is an important rule of law that the Defendant, in a  
17 criminal trial, no matter what the seriousness of the charge may be, will  
18 always be presumed to be innocent of the crime for which the indictment was  
19 issued, unless guilt has been proven by evidence satisfying you of that guilt  
20 beyond a reasonable doubt.

21 This presumption of innocence does not end when you begin your  
22 deliberations, but it accompanies the Defendant throughout the trial until you  
23 reach a verdict of guilt, based on evidence satisfying you of that guilt beyond  
24 a reasonable doubt.

25 (Brief Pause)

1                   **THE COURT:**       The presumption of innocence is like a robe of  
2                   righteousness placed about the shoulders of the each Defendant, which  
3                   remains with each Defendant, until it has been stripped from each Defendant  
4                   by evidence satisfying you of each Defendant's guilt beyond a reasonable  
5                   doubt.

6                   The presumption of innocence is not mere legal theory. It is not just a  
7                   legal phrase. It's a substantial right to which every defendant is entitled  
8                   unless you, the jury, are satisfied from the evidence of the Defendant's guilt  
9                   beyond a reasonable doubt.

10                  The State has the burden of proving each Defendant guilty beyond a  
11                  reasonable doubt. Some of you may have served as jurors in civil cases  
12                  where you were told by the judge that it is only necessary to prove that a fact  
13                  is more likely true than not true such as by the greater weight or  
14                  preponderance of the evidence.

15                  In criminal cases, the State's proof must be more powerful than that. It  
16                  must be beyond a reasonable doubt.

17                  Proof, beyond a reasonable doubt, is proof that leaves you firmly  
18                  convinced of the Defendant's guilt. There are very few things in this world  
19                  that we know with absolute certainty. And, in criminal cases, the law does not  
20                  require proof that overcomes every possible doubt.

21                  If, based on your consideration of the evidence, you are firmly  
22                  convinced that each Defendant is guilty of the crime charged, you must find  
23                  the Defendant guilty. If, on the other hand, you think there is a real possibility  
24                  that the Defendant is not guilty, you must give the Defendant the benefit of  
25                  the doubt and find that Defendant not guilty.

1 Now, Mr. Foreman and ladies of this jury, there are two types of  
2 evidence which are generally presented during a trial; direct evidence and  
3 circumstantial evidence.

4 Direct evidence directly proves the existence of a fact and does not  
5 require deduction. Circumstantial evidence, however, is proof of a chain of  
6 facts and circumstances indicating the existence of a fact.

7 Crimes may be proven by circumstantial evidence. The law makes no  
8 distinction between the weight or value to be given to either direct or  
9 circumstantial evidence.

10 However, to the extent the State relies on circumstantial evidence, all  
11 of the circumstances must be consistent with each other and, when taken  
12 together, point conclusively to the guilt of the accused beyond a reasonable  
13 doubt. If these circumstances merely portray the Defendant's behavior as  
14 suspicious, the proof has failed.

15 The State has the burden of proving each Defendant's guilt beyond a  
16 reasonable doubt. This burden rests with the State regardless of whether  
17 the State relies on direct evidence, circumstantial evidence, or some  
18 combination of the two.

19 Necessarily, Mr. Foreman and ladies of this jury, you must determine  
20 the credibility of witnesses who have testified in this case. Credibility simply  
21 means believability.

22 It becomes your duty as jurors to analyze and to evaluate the evidence  
23 and to determine which evidence convinces you of its truth.

24 In determining the believability of witnesses who have testified to this  
25 case, you may believe one witness over several witnesses or several

1 witnesses over one witness. You may believe a part of the testimony of a  
2 witness and reject the remaining part of the testimony of that same witness.  
3 You may believe the testimony of a witness in its entirety or reject the  
4 testimony of a witness in its entirety.

5 You may consider whether any witness has exhibited to you any  
6 interest, bias, prejudice, or other motive in this case. You may also consider  
7 the appearance and manner of a witness while on the witness stand.

8 **(Brief Pause)**

9 **THE COURT:** Now, the rules of evidence ordinarily do not permit  
10 witnesses to testify to opinions or conclusions. An exception to this rule  
11 exists for witnesses we call expert witnesses.

12 A witness, who by education and experience, has become expert in  
13 some art, science, profession, or calling, may state an opinion as to relevant  
14 and material matter in which the witness claims to be expert. And they may  
15 also state the reasons for the opinion.

16 You should consider any expert opinion received into evidence in this  
17 case, and like any other evidence, give it the weight you think it deserves.

18 If you decide that an opinion of an expert witness is not based on  
19 sufficient education and experience, or if you conclude that the reasons given  
20 in support of the opinion are not sound or that the opinion is outweighed by  
21 other evidence, you may disregard the opinion entirely.

22 An expert witness's testimony is to be given no greater weight than  
23 that of other witnesses simply because the witness is an expert. Further,  
24 you're not required to accept an expert's opinion even though it is not  
25 contradicted.

1 Now, under the laws of this State, a defendant may be tried even if the  
2 defendant does not attend the trial. But the fact that a defendant is not  
3 present may not be considered against that defendant in any manner  
4 whatsoever.

5 Now, Mr. Foreman and ladies of this jury, I instruct you and emphasize  
6 that the fact that the Defendants did not testify is not a factor to be considered  
7 by you, in any way, in your deliberations and in your consideration on the  
8 question of the guilt or the innocence of the Defendant.

9 It must not be considered by you in any matter whatsoever. A  
10 defendant has the constitutional right to remain silent. And the assertion of  
11 this right must not be considered by you in your deliberations.

12 I repeat, under your oath, you are to draw no conclusion whatsoever  
13 from the fact that the Defendants in this case did not testify. The fact that  
14 these Defendants did not testify should not even be discussed in the jury  
15 room.

16 The burden of proof, as I have stated to you, is on the State. A  
17 defendant is not required to prove his innocence. The burden of proof  
18 remains on the State to prove guilt beyond a reasonable doubt.

19 Each Defendant is charged with manufacturing methamphetamine.  
20 The State must prove, beyond a reasonable doubt, that each Defendant  
21 manufactured or otherwise aided, abetted, attempted, or conspired to  
22 manufacture methamphetamine.

23 "Manufacturing" means the production, preparation, propagation  
24 (phonetic), compounding, conversion, or processing of a controlled substance  
25 either directly or indirectly by extraction from substances of national origin or



1 independently, by means of chemicals synthesis, or by a combination of  
2 extraction and chemical synthesis;

3 And includes any packaging or repackaging of the substance or  
4 labeling or re-labeling of its container, except this terms does not include the  
5 preparation or compounding of a controlled substance by an individual for his  
6 own use or in the preparation, compounding, packaging, or labeling of a  
7 controlled substance by a practitioner as an incident to his administering or  
8 dispensing of a controlled substance in the course of his professional practice;

9 Or by a practitioner or by his authorized agent, under his supervision,  
10 for the purpose of or as incident to research, teaching, or chemical analysis  
11 and not for sale.

12 "Manufacture" means any person who packages, repackages, or labels  
13 any container of any controlled substance except for practitioners who  
14 dispense or com — compound prescription orders for delivery to the ultimate  
15 consumer.

16 Possession of equipment or paraphernalia used to manufacture  
17 cocaine, cocaine base or methamphetamine is prima facie evidence of intent  
18 to manufacture.

19 Mr. Foreman and ladies of this jury, if a crime is committed by two or  
20 more people, who are acting together in committing a crime, the act of one is  
21 the act of all.

22 If a person joins with another to commit an unlawful act, is criminally  
23 responsible for everything done by the other person which happens as a  
24 probable or natural consequence of the acts done in carrying out the common  
25 plan and purpose.

1           Let me give you an example: Two people can be guilty of killing  
2 another person when only one of the two had a gun. There was only one  
3 bullet and only one of the two fired the shot that caused the death.

4           If two or more people are together and acted together assisting each  
5 other in committing the offense, the act of one is the act of all or, as it is  
6 sometimes said, the hand of one is the hand of all.

7           Prior knowledge that a crime is going to be committed without more is  
8 not sufficient to make a person guilty of that crime. Mere knowledge that  
9 another person is going to commit a crime, even if the defendant is present  
10 when the crime is committed, is not sufficient to convict a defendant as a  
11 principal.

12           Guilt as a principal is shown by actual or constructive presence at the  
13 scene as a result of a prior arrangement. Therefore, a finding of a prior  
14 arranged plan or common scheme is necessary for a finding of guilt as a  
15 principal.

16           **(Brief Pause)**

17           **THE COURT:**       The State must prove, beyond a reasonable doubt  
18 by competent evidence, the theory of the hand of one is the hand of all. A  
19 principal in a crime is one who either actually commits the crime or who —  
20 who is present aiding, abetting, or assisting in committing the crime.

21           When a person does an act, in the presence of and with the assistance  
22 of another, the act is done by both. Where two or more, acting with a  
23 common plan or intent, are present at the commission of a crime, it does not  
24 matter who actually commits the crime; all are guilty. The hand of one is the  
25 hand of all.

1 Present at the commission of a crime means to be sufficiently near to  
2 aid and abet and assist in the commission of the crime.

3 However, mere presence at the scene of a crime is not sufficient to  
4 convict one as a principal under the theory of aiding and abetting. Intent is  
5 also a necessary element.

6 But there must have been a common design or intent to commit the  
7 crime and the crime must have been committed pursuant thereto with the  
8 person aiding and abetting by some overt act.

9 "Intent" means intending the result which actually occurs, not  
10 accidentally or involuntarily. Intent may be shown by acts or conduct of the  
11 defendant and other circumstances from which you may naturally and  
12 reasonably infer intent. The State must prove these elements beyond a  
13 reasonable doubt.

14 Mere present — mere presence at the scene is not sufficient to prove  
15 someone guilty of a crime. A defendant's presence where a crime is being  
16 committed or mere association with a person who commits a crime does not  
17 make a defendant an accomplice or an aider and an abettor of the person  
18 committing the crime.

19 The burden is on the State to prove every element of the crime  
20 charged. If you find, after reviewing all the evidence, that the State has  
21 proved that a defendant was only present at the scene of the crime and that  
22 they have not proved, beyond a reasonable doubt, any other participation in  
23 the crime, then, you must find a defendant not guilty or that defendant not  
24 guilty. The law is proof that a person at the scene of a crime is not sufficient to  
25 find someone guilty.

1 Now, Mr. Foreman and ladies and gentlemen of — of the jury, or ladies  
2 of the jury rather, there are four possible verdicts — verdicts which you may  
3 find in this case. And I'm going to come down in just a moment and show you  
4 the verdict form and explain in a little bit more in detail.

5 And there is no significance whatsoever in the order in which I state  
6 these possible verdicts; one just has to be stated before another. Your  
7 verdict must be unanimous among the twelve — the twelve of you.

8 And, Mr. Foreman, when you agree on a verdict unanimously, you'll  
9 write the verdict on the — on the verdict form, let the bailiffs know. And they'll  
10 instruct you how to let them know that you have reached a verdict. At which  
11 time, we'll bring you back into the courtroom to receive your verdict.

12 Now, let — let me come down and show you this verdict form.

13 **(Brief pause while the Court stepped down to explain the verdict**  
14 **form.)**

15 **THE COURT:** It's on — it's one page. And, again, the order that  
16 we have it is of no significance. Number one applies to Michael William  
17 McCraw. And you either check "guilty" or "not guilty." And, then, number two  
18 applies to Travis Samuel Warren, and the same applies, "guilty" or "not guilty."  
19 And you will sign it.

20 And this is the verdict form that you'll use. And, when you're brought  
21 back, we will — I will instruct you to hand it to the — to the bailiff. And the  
22 bailiff will hand it to the clerk to publish your — your verdict.

23 Now, at this time, I'm going to ask you to go to your jury room. Don't  
24 start your deliberations. You can start your deliberations when the bailiff  
25 brings the verdict form, both indictments, and all of the evidence in the case.

1 And, once that is done, then, you are free to begin your deliberations,  
2 but not before that, okay? So I'm going to have you go to your jury room for  
3 just a moment. And, in just short course, they'll — the bailiff will bring you the  
4 — the documents.

5 If there is a need to bring you back for further instructions, we'll do that  
6 too, okay? Thank you very much.

7 **(Whereupon, the jury exited the courtroom at 3:07 p.m.)**

8 **(Brief Pause)**

9 **THE COURT:** All right. For the State, any objections or  
10 exceptions to the Court's charge?

11 **MR. MAYE:** Your Honor, I certainly don't have any objection or  
12 exception, but out of an abundance of caution, at the end of Page 12, where  
13 it said, "Where there is... — I believe it says "...possession or paraphernalia  
14 used in the manufacture of cocaine, cocaine base, or methamphetamine, it's  
15 prima facie evidence of intent to manufacture," have they not said that prima  
16 facie evidence is burden shifting and the language is "permissive  
17 inference"?

18 For example, maybe, "When there's evidence of possession of  
19 equipment or paraphernalia used in the manufacture of cocaine, cocaine  
20 base, or methamphetamine, there is a permissive inference of manufacturing  
21 methamphetamine"?

22 I'm not positive on that, but it seems like to me — I just perked up  
23 when I heard that prima facie, and I thought that they had said that, in — in a  
24 lot of cases, that prima — the evidence, where it was prima facie evidence  
25 was burden shifting.

1 I just don't want it to — if — if that's correct, I'm absolutely fine with it.

2 **THE COURT:** Okay.

3 **MR. MAYE:** I'll leave it to my more learned colleagues of the  
4 Defense bar.

5 **THE COURT:** And I appreciate the State bringing that up. What  
6 says the Defense on that?

7 **MR. JOHNSON:** I don't — I'll ask Mr. Williams to help on the case  
8 law on that.

9 **MR. WILLIAMS:** I — I think, if the Solicitor is correct, we would  
10 certainly request a charge correcting that.

11 **THE COURT:** Okay.

12 **MR. MAYE:** I think —

13 **(Off-the-Record Comments)**

14 **MR. ROSS:** Your Honor, it's — it's a PWID case law. I think  
15 any amount of a substance over a gram. The statute actually says that's  
16 prima facie evidence.

17 But I believe the Court of Appeals has — has held that, that it does  
18 constitute burden shifting.

19 **THE COURT:** Well, if I have an agreement, I'll be glad to bring  
20 the jury out and — and instruct them ----

21 **MR. MAYE:** I know I handled a bootleg (phonetic) case and  
22 that related to the ----

23 **THE COURT:** — and replace permissive inference in place of  
24 prima facie evidence. And we can do that by agreement — if it is by  
25 agreement, the Court has no problem with that.

1                   **MR. MAYE:**           I think that's appropriate, Your Honor.

2                   **MR. WILLIAMS:**    I — I agree.

3                   **MR. MAYE:**           I'm afraid of that language "prima facie." Every  
4 statute that I'm aware of where there is some prima facie inference ----

5                   **THE COURT:**        Okay.

6                   **MR. MAYE:**           ---- they've -- they've said "permissive  
7 inference" ----

8                   **MR. WILLIAMS:**    I would -- I would --

9                   **MR. MAYE:**           ---- was preferable.

10                  **MR. WILLIAMS:**    -- I would agree with that, Your Honor

11                  **THE COURT:**        Okay. All right. Any objections or exceptions to  
12 the charge from the Defense? Mr. Johnson?

13                  **MR. JOHNSON:**   No, Your Honor, I'm in agreement ----

14                  **THE COURT:**        Mr. Williams?

15                  **MR. WILLIAMS:**   No, Your Honor.

16                  **THE COURT:**        Okay. Thank you very much. All right. Bring them  
17 out. And I'll instruct them and -- and I'll say "not prima facie evidence, but  
18 permissive inference," okay? Thank you for bring that to the Court's  
19 attention.

20                               **(The jury was summoned and re-entered the courtroom at 3:10**  
21 **p.m.)**

22                  **THE COURT:**        And let the record reflect the jury is back in. These  
23 smart attorneys determined that I made a mistake in -- in one small portion of  
24 the -- of the charge. And so I need to correct that mistake.

25                               Possession of equipment or paraphernalia used in the manufacture of

1 cocaine, cocaine base, or methamphetamine is — creates a permissive  
2 inference of an intent to manufacture; not prima facie evidence, a permissive  
3 inference of an intent to manufacture.

4 So I'm correcting that mistake. And now I'm going to ask you to go  
5 back because the lawyers need to get with the court reporter to make sure  
6 we have all the exhibits into evidence.

7 So we'll — we'll bring those to you probably in a minute, okay? So go  
8 back to your jury room. Thank you very much.

9 **(Whereupon, the jury exited the courtroom at 3:12 p.m.)**

10 **THE COURT:** Come on up and check.

11 **(Whereupon, the attorneys checked all exhibits)**

12 **THE COURT:** We'll go back on the record. There might be  
13 some additional language concerning this prima facie evidence and  
14 permissive inference.

15 I can — I can look at this case. Lyle (phonetic) just pulled it up, but we  
16 haven't read it yet. State what we agree to or I can look at this and let you all  
17 can decide if you want me to do any more with that.

18 **MR. WILLIAMS:** Is that a manufacturing case you're looking at,  
19 Judge?

20 **THE COURT:** No, it's a — a — a transporting a child out of state.

21 **MR. ROSS:** I know there's a PWID case right on point. I want  
22 — I can't think of the name of it right off the top of my head.

23 **MR. MAYE:** Let me get that book. I — I just know anywhere  
24 they had prima facie, I think they've gone off — I had it come up, in all crazy  
25 things, a bootleg case ----



1                   **THE COURT:**       All right.

2                   **MR. MAYE:**       ---- that said prima facie ----

3                   **MR. WILLIAMS:**    I'm okay with what has been said.

4                   **THE COURT:**       Okay.

5                   **MR. MAYE:**       Okay.

6                   **THE COURT:**       All right. All right, are you okay with what has

7                   been said?

8                   **MR. MAYE:**       I'm — I'm absolutely.

9                   **THE COURT:**       Are we one the record?

10                  **COURT REPORTER:**    Yes, sir.

11                  **THE COURT:**       Solicitor, are you okay with what's ----

12                  **MR. MAYE:**       I'm satisfied as long as it's got permissive

13                  inference ----

14                  **THE COURT:**       Okay, so no further charge on that, on the issue of

15                  prima facie and permissive inference. Okay, Solicitor. How about Defense

16                  Counsel, are you all okay with it?

17                  **MR. WILLIAMS:**    I'm okay with it, Your Honor.

18                  **MR. JOHNSON:**    I'm okay too.

19                  **THE COURT:**       Okay. So no — no additional charge on that

20                  particular point. Very good.

21                  **MR. MAYE:**       Thank you.

22                  **THE COURT:**       But we're still going to take a look at that for

23                  future reference.

24                  **(Brief Pause)**

25                  **THE COURT:**       All right. We're off the record.

1 (Off-the-Record Discussion)

2 (The bailiff retrieved the exhibits and verdict form and took them  
3 to the jury and the jury began deliberating at 3:16 p.m.)

4 (Guilty pleas were taken while the jury was deliberating.)

5 (Off-the-Record Comments)

6 (The jury had a question at 3:24 p.m.)

7 (Off-the-Record Comments)

8 THE COURT: All right. We're back on the record. Two  
9 questions — and I'll certainly let you look at the questions — but number one,  
10 "Please show us exactly where [REDACTED] is on the map." And I have to  
11 assume that's the aerial map that was put into evidence..

12 And the second question is, "Please identify the fence that — and it's  
13 got --- it's got "T-H-E," and, then, that's marked out and "P-H-E (phonetic)  
14 allegedly jumped." Would either side like to look at it?

15 MR. MAYE: Yes, sir. I — I would say to that, you know, they  
16 have all the evidence and we can't comment on it.

17 THE COURT: I mean, the only thing I can do — I mean, is — is  
18 tell them that, you know, to answer their questions, they have to rely on their  
19 memory and their sound judgement as to what was testified to in the  
20 courtroom and all the evidence was in and there's nothing else the Court can  
21 do. I want to make sure you guys are with me.

22 MR. MAYE: Yes, sir, we're in agreement.

23 MR. JOHNSON: Yes, sir.

24 MR. WILLIAMS: Yes, sir.

25 THE COURT: Okay. All right. If you'll can bring them out.

1                   **(Whereupon, the jury was summoned and entered the courtroom**  
2                   **at 3:25 p.m)**

3                   **THE COURT:**       Let the record reflect the jury is back in. Mr.  
4                   Foreman and ladies of the jury, the best answer that I can give you to these  
5                   two questions that you have is you have to rely on your memory as to the  
6                   testimony and evidence presented and your sound judgment as to the  
7                   testimony and evidence presented in order for you, the jury, to answer the  
8                   two questions you have made to this Court, okay?

9                   I would ask that you to go back to your jury room and continue with  
10                  your deliberations. Thank you very much.

11                  **(Whereupon, the jury exited the courtroom at 3:26 p.m.)**

12                  **THE COURT:**       I'll have this marked. I'm going to have this  
13                  marked as Court's Number 4.

14                  **(Whereupon, Court's Exhibit Number 4 was marked for**  
15                  **identification.)**

16                  **THE COURT:**       All right. You all be at ease.

17                  **(Guilty pleas were heard while the jury deliberated.)**

18                  **(A verdict was reached at 4:14 p.m.)**

19                  **(Off-the-Record Comments)**

20                  **THE COURT:**       Okay. We're back on the record in our trial. I've  
21                  been informed the jury reached a verdict maybe about 15 minutes ago, but,  
22                  because of the pleas I have been taking, I was unaware of it.

23                  So is there anything we need to take up on the record before I bring  
24                  the jury out to receive the verdict from the State?

25                  **MR. MAYE:**       Nothing from the State, Your Honor. Thank you.

1                   **THE COURT:**       Mr. Johnson?

2                   **MR. JOHNSON:**    No, Your Honor, nothing from McCraw, Your  
3 Honor.

4                   **THE COURT:**       Mr. Williams?

5                   **MR. WILLIAMS:**   Nothing from Defendant Warren, Your Honor.

6                   **THE COURT:**       Okay. All right. If you would, bring the jury out,  
7 please.

8                   **(Whereupon, the jury was summoned and entered the courtroom**  
9 **at 4:25 p.m.)**

10                  **THE COURT:**       Mr. Shealy, have you reached a verdict — a  
11 unanimous verdict as to both Defendants?

12                  **M/R. SHEALY:**       Yes, Your Honor.

13                  **THE COURT:**       Okay. Would you hand the verdict form to the  
14 bailiff? And, if you'll hand it, Madam Clerk, to me first, I'm not going to  
15 publish it, I just want to see it. And, then, I'll hand it back to you and ask you  
16 to publish it.

17                  **(Foreman complied.)**

18                  **(The bailiff and Madam Clerk complied with the Court's request.)**

19                  **THE COURT:**       You may publish, Madam Clerk.

20                  **MADAM CLERK:**   "The State of South Carolina vs. Michael William  
21 McCraw and Travis Samuel Warren, as to indictment 2013-GS- 41-340, the  
22 charge of manufacturing methamphetamine, we, the jury, find the Defendant  
23 Michael Warren [sic] McCraw guilty. "As to the indictment 2013-GS- 41-345,  
24 the charge of manufacturing methamphetamine we, the jury, find the  
25 Defendant Travis Samuel Warren guilty, Eric B. Shealy, foreperson."

1                   **THE COURT:**       Does either side wish to have the jury polled?

2                   **MR. MAYE:**         The State declines, Your Honor. Thank you.

3                   **THE COURT:**       Mr. Johnson, Mr. Williams?

4                   **MR. JOHNSON:**     I request, yes, Your Honor.

5                   **THE COURT:**       Excuse me?

6                   **MR. JOHNSON:**     I request it, Your Honor.

7                   **THE COURT:**       You would request the jury be polled?

8                   **MR. JOHNSON:**     Yes, yes, sir.

9                   **THE COURT:**       Okay. All right. Madam Clerk?

10                  **(Brief Pause)**

11                  **MADAM CLERK:**   As I call your name, I will ask you, "Is this your

12                  verdict and still your verdict?" And you, then, just reply.

13                  Tonya D. Butler, is this your verdict and still your verdict?

14                  **MS. BUTLER:**       It is.

15                  **MADAM CLERK:**   Brittany A. Waters, is this your verdict and still

16                  your verdict?

17                  **MS. WATERS:**      It is.

18                  **(Brief Pause)**

19                  **MADAM CLERK:**   Eric B. Shealy, is this your verdict and still your

20                  verdict?

21                  **MR. SHEALY:**       It is.

22                  **MADAM CLERK:**   Kyna R. Wallace, is this your verdict and still your

23                  verdict?

24                  **MS. WALLACE:**     Yes.

25                  **(Brief Pause)**

1                   **MADAM CLERK:** Barbara Ann Jones, is this your verdict and still  
2 your verdict?

3                   **MS. JONES:** Yes.

4                   **MADAM CLERK:** Kayla M. Nichols, is this your verdict and still your  
5 verdict?

6                   **MS. NICHOLS:** Yes, ma'am.

7                   **MADAM CLERK:** Bobbie S. Mitchell, is this your verdict and still your  
8 verdict?

9                   **MS. MITCHELL:** Yes, ma'am.

10                  **MADAM CLERK:** Meredith R. Crawford, is this your verdict and still  
11 your verdict?

12                  **MS. CRAWFORD:** Yes, ma'am.

13                  **(Brief Pause)**

14                  **MADAM CLERK:** Essie M. Bledsoe, is this your verdict and still your  
15 verdict?

16                  **MS. BLEDSOE:** Yes, ma'am.

17                  **MADAM CLERK:** Wanda B. Black, is this your verdict and still your  
18 verdict?

19                  **MS. BLACK:** Yes, ma'am.

20                  **MADAM CLERK:** Evelyn S. Crumpton, is this your verdict and still  
21 your verdict?

22                  **MS. CRUMPTON:** Yes.

23                  **THE COURT:** Okay. Thank you, Madam Clerk. Mr. Foreman  
24 and ladies of this jury, I want to first, again, thank you for accepting your —  
25 your civic responsibility and serving on this jury.

1                   It's not an easy job. And I understand that and I appreciate that. But I  
2 do thank you on behalf of everyone for accepting this responsibility and  
3 performing effective jury service.

4                   As I told you at the beginning, serving on a jury is the second highest  
5 civic responsibility that we all have, second only to the military. So, again, I  
6 appreciate it.

7                   And you are free, if you want, to discuss your verdict or anything about  
8 this case with anyone you would like to. But, if someone approaches you and  
9 wants to talk to you about this case and about your verdict, and you don't  
10 want to talk to that person and if they continue to insist and that causes you  
11 some problems or difficulty, then, what you need to do ----

12                   **(Off-the-record comments regarding polling last juror. )**

13                   **THE COURT:**       Okay. All right.

14                   **MADAM CLERK:**   Ms. Blacks, is this your verdict and still your  
15 verdict?

16                   **MS. BLACKS:**       Yes.

17                   **MADAM CLERK:**   I'm sorry. Thank you.

18                   **THE COURT:**       That's all right. Thank you. Then, you need to  
19 immediately notify the Court of that. And I'm not suggesting that's going to  
20 happen. I think that rarely happens, but it could. And I want you to know  
21 that the Court will protect you if that were to happen.

22                   So, again, I thank you very much. You all are good for the remainder  
23 the week. We're almost at the end of the week. We have no further trials  
24 scheduled. So you are excused for the remainder of the week.

25                   **(Off-the-Record Comments)**

1 Mr. Shealy, since you're the foreman, you need stay for just a second to sign  
2 both of the indictments as foreperson. But you all are free to leave.

3 I like to shake the hands of my juries. So, if you'll — as you're  
4 escorted out, you will shake my hand so I can thank you personally, I would  
5 very much appreciate that.

6 (The Court shook the hand of all the jurors as they exited the  
7 courtroom.)

8 (Off-the-Record Comments)

9 (The foreperson signed both indictments before exiting the  
10 courtroom.)

11 THE COURT: All right. We're going to be at ease just a few  
12 minutes before we proceed into the sentencing phase of this case.

13 (Whereupon, court was at ease at 4:35 p.m.)

14 (Off-the-Record Comments)

15 **Post-Trial Motions**

16 THE COURT: Okay. Any post-trial matters that need to be dealt  
17 with by the Court?

18 MR. JOHNSON: I'd like to make a motion, Your Honor.

19 THE COURT: Okay. I'll be glad to hear from you.

20 (Brief Pause)

21 MR. JOHNSON: Your Honor, at this time, I'd move for the Court to  
22 set that aside and — set the verdict aside and grant a new trial based on all  
23 the previous objections, motions, and evidence. I'd argue no reasonable jury  
24 could come to this verdict based on that.

25 THE COURT: Okay.



1                   **MR. JOHNSON:**     And I have a motion for new trial at this time.

2                   **THE COURT:**       Okay. Thank you very much. Mr. Williams?

3                   **MR. WILLIAMS:**    Your Honor, I would move for a new trial  
4 essentially on the same basis, and that is the prior arguments that I've  
5 made at the end of all the evidence.

6                   **THE COURT:**       Thank you very much.

7                   **MR. WILLIAMS:**    Thank you.

8                   **THE COURT:**       And your — your motions are respectfully denied.  
9 Okay?

10                  **MR. JOHNSON:**    Your Honor, I have a question about sentencing.  
11 I have a motion about that regarding Mr. McCraw, but since he's not present,  
12 would you hear that at a later date or how would we proceed with that?

13                  **THE COURT:**       You have a motion related to the — the sentencing  
14 of your client? I intend to — to — to sentence your client today and seal that  
15 sentence until he can be brought to Court.

16                  **MR. JOHNSON:**    Well, if I — Your Honor, for the record, it's my  
17 understanding the Solicitor is indicating he wanted to have him sentenced on  
18 third offense.

19                  **THE COURT:**       Okay.

20                  **MR. JOHNSON:**    But, basically, the new — the indictment that they  
21 brought last week has a CDR code for a first offense. And it says, "375  
22 Subsection (b)." It does not specify (b)(1), (b)(2), or (b)(3).

23                         And, since it's 375(b), it doesn't specify a first, second, or third. And it has  
24 the actual CDR code on it. I believe that 319(a) (phonetic), which is for a first  
25 offense, I would ask the Court to sentence as a first offense based on that.

1                   **MR. MAYE:**           Your Honor, the CDR code would not be  
2                   controlling on the indictment. The sentencing is, at the time of his conviction,  
3                   what his priors actually are.

4                   And that's a third, second, or third offense on sentencing is a matter  
5                   for the Court. And it references 375. The question is, you know, what his —  
6                   how many priors he has.

7                   And I have with Mr. McCraw, he has — I have certified true copies of  
8                   his sentencing sheet on indictment 2004-GS-32-732, William McCraw was  
9                   originally indicted for distribute of crack cocaine first offense. He pleaded and  
10                  was sentenced September 12<sup>th</sup>, 2005, by the Honorable William B. Keesley,  
11                  on possession of cocaine, Your Honor. That is within 10 years.

12                  It's my understanding a possessory offense would stay on your record  
13                  for 10 years, Your Honor. If after 10 years, he would have — it would roll off.  
14                  Any subsequent offense stays on forever.

15                  He has a subsequent offense on Indictment 2007-GS-32-0541,  
16                  possession with intent to distribute methamphetamine first offense. He was  
17                  originally indicted for trafficking methamphetamine 28 to 100.

18                  He pleaded down to PWID meth. And that was — it looks like in front  
19                  of Judge Goodstein on February the 13<sup>th</sup> of 2008. So that would make this a  
20                  true third offense, Your Honor, for the purposes of sentencing.

21                  **(Document handed up.)**

22                  **MR. MAYE:**           I've completed sentencing sheets for both Mr.  
23                  McCraw — McCraw and Warren.

24                  It's been a long time since I've had a trial in absence, but it seems like  
25                  to me that the sentence is typically sealed on a trial in absence.

1                   **THE COURT:**       Well, it — it is. Mr. Johnson, apart from the  
2 incorrect CDR code, apart from that, would you agree that it would be a third  
3 offense?

4                   **MR. JOHNSON:**    I — I agree that, that is the record of the client  
5 and that would make it a third offense. I was just arguing that we were put on  
6 notice, by that indictment of a first offense, because it does not specify  
7 Subsection (1), (2), or (3). It says “375(b),” and, then, when you add in that  
8 CDR for a first offense, I would argue we were put on notice for a first  
9 offense. But those are the convictions I agree on Mr. McCraw.

10                  **(Brief Pause)**

11                  **MR. MAYE:**       Your Honor, the only thing I have on the record for  
12 that, on offenses where it is a — an essential element of the crime, for  
13 example, for it to be a subsequent offense on something, it’s necessary.

14                  But my understanding on those cases, the body of the indictment or  
15 the language serves to give one notice of the offense for which they’re  
16 charged. And, at that point in time, sentencing is a matter for the Court.

17                  It’s not a jurisdictional issue at that point in time. It’s just a sentencing  
18 issue. And that’s purely mechanical on the date of his conviction today, what  
19 he has as priors. So, we would certainly respectfully maintain that it’s a true  
20 third on him.

21                  **THE COURT:**       Would you give me those priors again, please,  
22 Solicitor?

23                  **MR. MAYE:**       Well, I hand them up to, Your Honor. I have  
24 certified true copies that I sought ----

25                  **THE COURT:**       Do you have copies of those too?

1                   **MR. MAYE:**           I'll hand them up.

2                   **(Documents handed up.)**

3                   **MR. MAYE:**           And I have the remainder of his record as well,  
4                   Your Honor, outside these certified true copies, but those two convictions.

5                   Mr. McCraw's record additionally indicates a 19 — a 9/29/1988 public  
6                   disorderly conduct conviction. It shows a simple assault and battery on the  
7                   same date.

8                   It shows an unlawful weapon conviction, a Magistrate's Court  
9                   conviction, on the same date. It shows a disorderly conduct, a second one,  
10                  on the same date. And it may just be one,

11                  And for purposes of sentencing, we just stipulate that he had one prior  
12                  in that regard, not that it would be very persuasive to the Court one way or  
13                  another;

14                  Failure to surrender driver's license it looks like 2001. We move  
15                  forward to the first of those convictions, Your Honor, that you have the  
16                  certified true copy; the possession it looks like 9/12/ 2005, the cocaine one.

17                  **(Brief Pause)**

18                  **MR. MAYE:**           And, then, that 2/13/ 2008 one that I see that I  
19                  think that we've handed up. And that's what I show for convictions on him.

20                  So it looks like he's got some Magistrate Court offenses and those two  
21                  drug offenses. But that does push him into the range of a third offense.

22                  **THE COURT:**       All right. Okay. Mr. Johnson. anything else  
23                  related to sentencing concerning your client because, again, the sentence is  
24                  going to be sealed.

25                  **(Brief Pause)**

1 I'm going to take this with me. And, then, we'll — Madam Clerk, I'll get  
2 the sealed sentence back to you. But I'm — I'm going to take this with me.

3 **MADAM CLERK:** Yes, sir.

4 **(Brief Pause)**

5 **MR. JOHNSON:** Nothing further from the Defense, Your Honor.

6 **THE COURT:** All right. Now, we can deal your client. You all  
7 can come up, Mr. Williams.

8 **MR. WILLIAMS:** Yes, Your Honor.

9 **(The Defendant stepped forward with his attorney.)**

10 **THE COURT:** I'll first hear from the Solicitor with respect to  
11 sentencing. And, then, I'll hear anything from the — from the Defense.  
12 Solicitor, anything you want to tell me related to the sentencing of Mr.  
13 Warren?

14 **MR. MAYE:** Mr. Warren, Your Honor, has a 9/19/1994  
15 conviction out of Lexington County for burglary second degree nonviolent.  
16 He got eight (8) years suspended on five (5) years of probation in 1994.

17 **(Brief Pause)**

18 Then, we move forward to 1995, to 3/29 of 1995, he had multiple  
19 convictions — multiple charges of burglary third pleaded down to a single  
20 count of burglary third.

21 And he got a YOA, an active YOA, in 1995 for burglary third, Your  
22 Honor, and a public disorderly conduct conviction in 1999, and a criminal  
23 domestic violent conviction 4/7 of 2010. It looks both of those are Magistrate  
24 Court offenses. They're separate offenses.

25 **(Brief Pause)**

1                   **THE COURT:**       All right. Well, thank you very much, Solicitor.

2                   Mr. Williams, I'll be glad to hear from you. Then, I'll be glad to hear from Mr.

3                   Warren if there's anything he would like to ----

4                   **MR. WILLIAMS:**    Your Honor, 31 years of age ----

5                   **DEFENDANT WARREN:** Thirty-six (36)

6                   **MR. WILLIAMS:**    Thirty-six. I'm sorry; 36 years of age. The prior

7                   conviction that the Solicitor was talking about was a YOA when he was 17

8                   years of age.

9                   After that event, when he was 17 years of age, and he did the twenty-

10                  something months in jail, he served out his parole. As a matter of fact, the

11                  probation officer is this lady right here (indicating) who dealt with him back in

12                  1995.

13                  **(Brief Pause)**

14                  **MR. WILLIAMS:**    He — the only conviction that I found on his record

15                  since that date was a simple possession of marijuana in 1997, a disorderly

16                  conduct in 1999, at Frankie's Fun Park (phonetic), and a CDV from 2009 with

17                  a — with a girlfriend.

18                  **(Brief Pause)**

19                  Judge, he's — was married. He's divorced. He has two children. One

20                  is 14. One is 13. He is actively paying child support. He was paying \$235 a

21                  week. He is now paying a hundred and how much?

22                  **DEFENDANT WARREN:** A hundred and sixty-five (\$165).

23                  **MR. WILLIAMS:**    A hundred and sixty-five (\$165). He is a pipe

24                  welder. He — in May of this year — you'll note that he looks a little unusual

25                  in the face.

1                   That's not meant as a — as a cut to him. He had a friend of his who  
2                   was playing with a pistol; a female friend, who was playing with a pistol, and  
3                   shot him in the face.

4                   He's had surgery. And it's replaced — he's replaced part of that bone.  
5                   He's numb there and he's — he's actually scheduled next week to have  
6                   further surgery on that.

7                   Your — Your Honor, you heard the evidence and the testimony in this  
8                   case. This jury easily could have come back with a not guilty. I mean,  
9                   obviously, they decided not to.

10                  Maybe they felt that birds of a feather flock together, and maybe they  
11                  do. But clearly, the only thing — and I — I don't know that we would change  
12                  any — you know, a lot of times a lawyer will stand up here and say it's  
13                  something else or something. We wouldn't change our position from where  
14                  we were before to where we are after in terms of what he actively did.

15                  He drove this guy to the CVS pharmacy. The guy bought something at  
16                  the CVS pharmacy. I think we see it's — it's lithium batteries.

17                  He drove his girlfriend, who is a drug addict, to a location in Saluda.  
18                  The girlfriend was actually talking to her ex-husband at the time. He got  
19                  scared that that ex-husband was going to come down there and police  
20                  because they were still married.

21                  He — he tells me, and I kind of believe him, that he didn't actually go  
22                  inside the house. He didn't like this other guy; this McCraw fellow, he didn't  
23                  like him. The reason he didn't like Mr. McCraw is because Mr. McCraw had  
24                  some sort of a relationship with his girlfriend, which he wasn't well aware of  
25                  until sometime later.

1                   **DEFENDANT WARREN:** Ms. Norris.

2                   **MR. WILLIAMS:** Ms. Norris. Judge, he's not the cook. He's — you  
3 don't see one drug conviction on his record. I — I don't disagree that he did  
4 the right thing to go ahead and try his case.

5                   **(Brief Pause)**

6                   **MR. WILLIAMS:** I mean, obviously, I — I — I guess the reason I'm  
7 telling you that, Judge, I sure hope — I hope that — and — and I don't mean  
8 this in any derogatory sense. A lot of times, you know, it happens a little bit  
9 worse for the guy who tries his case versus the guy who pleads.

10                   I'm not sure he should have — that he should have just stood up here  
11 and pled. The jury made that call. You know, the jury made that call, that he  
12 was guilty, because he drove the guy there and the guy ended up making  
13 some meth.

14                   It's — it's — I don't know what I'm asking you except to tell you, Judge,  
15 I would — I would almost be hopeful that you would not put him in jail based  
16 on all of those things.

17                   **THE COURT:** Well, you can forget about that, Mr. Williams.

18                   **MR. WILLIAMS:** Okay.

19                   **THE COURT:** Are you suggesting that he's still is maintaining,  
20 even though he didn't testify, maintaining that he did not know what was  
21 going on and that there was not to be any meth cooked or — or a  
22 manufacture of meth on — on this particular might?

23                   **MR. WILLIAMS:** Your Honor, I never asked him that question.

24                   **THE COURT:** All right. Well, let — let me ask you, Mr. Warren. ,  
25 What's — what's your position? Did you know what was going on with — with



1 respect to manufacturing meth and the various ingredients used to make  
2 meth?

3 Apparently meth had been manufactured to some extent because of  
4 the --- the odor that all the officers testified to. What — what — what do you  
5 own up to?

6 (Brief Pause)

7 **DEFENDANT WARREN:** I knew — I really — I do know that — I know  
8 Mike McCraw had prior charges. I knew that's what he done for a living.  
9 I wasn't taking him out there to do that.

10 He was in a — we was in a hotel room, his hotel room, about three  
11 hotel rooms up. Well, I -- I had been out of jail five days when I hooked up  
12 with Ms. Norris and me — and I was in with Ms. Norris. And he come down to  
13 our room because he had nowhere else to stay.

14 And she was always helping people out, but he just sat there. And I'm  
15 just — I mean, really he was cramping our style. I just wanted to get him out  
16 of there. And, I mean, I knew what he was capable of doing and what he  
17 done for a living.

18 Like I say, I didn't buy nothing. I didn't even question too much of what  
19 he did. I just knew I was getting one step closer to getting him, you know,  
20 somewhere else from where we were. Our room was paid up for through the  
21 weekend. And that's all I wanted to do.

22 (Brief Pause)

23 **DEFENDANT WARREN:** And, I mean — and, you know, like — like I  
24 told my attorney, I mean, I was working, I'm making money. If I was wanting  
25 some drugs, I'd go buy drugs.

1 I wouldn't put myself in a position like that for such a little payoff and such a  
2 high risk. It just don't make no sense. I just wanted to get him away from  
3 me.

4 And, we had — when he first came over to our hotel room, he had a  
5 pistol and all, you know. And, then, some how or another he got rid of that  
6 pistol at a gas station somewhere.

7 And, you know, I just don't really know him. And I'm just — like I say,  
8 I'd been up here five days. I spent 46 (phonetic) days in jail because I got a  
9 little behind on my child support.

10 And me and Michelle Norris kind of hit it off. And, I mean, I just  
11 wanted to get me and her together by ourselves.

12 **THE COURT:** So basically, if I'm understanding you correctly,  
13 you're really not owning up to having any, as we say culpability, or any really  
14 any involvement with this manufacturing of meth ----

15 **DEFENDANT WARREN:** Yeah.

16 **THE COURT:** — I mean, am I understanding ----

17 **DEFENDANT WARREN:** Yes, sir. I didn't know he was going out  
18 there to make no meth. And I didn't go inside the house. So I didn't smell  
19 nothing. I didn't.

20 I sat out in the car and waited. And she's out on the porch hollering —  
21 hollering — you know, just screaming and hollering on the phone. And,  
22 finally, I said, "Look here. I'm walking up the road. When you get through  
23 talking, whatever you got to do, just pick me up at the road. I'm not going to  
24 sit here and wait on him to get here." Her husband had repeatedly been  
25 calling and threatening and threatening her with just --- and, then, told her he

1 had a PI following us around and had been watching her and this and that  
2 and the other.

3 I mean, after this — after I got out of jail for a month, it went on another  
4 month. And he had a repo on her car out there as I was driving it; had me  
5 pulled over, steady calling me on the phone, texting me late at night telling  
6 me how he was going to make sure I do so much time.

7 And, then, he'll thank me. He called me and said, "Thank you. I've  
8 been trying to get out of this marriage for eight (8) years,"

9 And I'm — I'm just — I guess — I guess I should have paid more  
10 attention to what I was doing, but I — I had no intents and didn't know that —  
11 like I said, I did know that's what he done — that he had done that because, I  
12 mean, he — you know, I knew he had prior charges.

13 I knew he wasn't a really good person to be hanging around all the  
14 time buddy-buddy. But I didn't know he was going there to do that. And I  
15 didn't see — when we went to Walmart, I'm with her. He goes in, when we  
16 stop at Walmart. I don't even know what he got.

17 I didn't even see camp fuel. I didn't see it. She said she seen it. I  
18 didn't see it. I paid no attention to it.

19 And, I mean, I didn't know there were lithium batteries. I went in. I  
20 got some Reese's Cups and something to drink. I mean, at the — at the  
21 CVS. At Walmart, I got some of them big cookies. I remember that. And ---  
22 and, I mean, I just really — I wasn't — I wasn't looking for it, you know.

23 **(Off-the-Record Comments)**

24 **MR. MAYE:** May it please the Court, Your Honor. I know that  
25 previously you — you stated — and this is an unusual circumstance —

1 previously you stated that, you know, with individuals of drugs sometimes you  
2 ask for drug tests.

3 I've the meth watch (phonetic) report right up until it looks like July of  
4 2013. And he is just maxing out Sudafed purchases right and left.

5 We certainly believe he has a — a drug problem. We think that he has  
6 just continued and repeated maxing out this. We've just have dozens and  
7 dozens and dozens of purchases of pseudoephedrine on behalf — on behalf  
8 of this individual.

9 We certainly believe that, if he's not a manufacturer, he certainly has a  
10 — a meth problem, because he is maxing out the pseudoephedrine  
11 purchases right on.

12 And I don't know if that's any evidence at all, in regard to this  
13 manufacturing, but we certainly think that it is indicative of somebody that has  
14 a significant meth problem.

15 We would propose that he would test ----

16 **THE COURT:** Okay. Let's ----

17 **MR. MAYE:** — positive now.

18 **THE COURT:** Okay. Let — let me ask you, Mr. Warren, when was  
19 the last time you used meth?

20 **DEFENDANT WARREN:** Probably about a month ago.

21 **THE COURT:** So you would --- you would test positive?

22 **DEFENDANT WARREN:** Well, I mean,, I don't think so. I think it's out  
23 of your system quicker than that. I mean, I don't know. I mean, I don't think I  
24 would because it's been a month.

25 **(Brief Pause)**

1                   **THE COURT:**       Well, why would you continue using meth when  
2                   you've got serious charges hanging over your head? Why would you continue  
3                   using something that could potentially put you in jail for a significant period of  
4                   time?

5                   That just — that just blows my mind.

6                   **(Off-the-Record Comments)**

7                   **DEFENDANT WARREN:** Well, I mean, I'm not saying — I mean, it's  
8                   the smartest decision. I mean, I'm not — I — I wasn't making it.

9                   And I know it was no better, but I mean, I just — I don't know. I mean, I  
10                  got no — I know I shouldn't do it. I mean, I don't do it often. I mean, but I do  
11                  occasionally — I'm not — I usually work. I stay out of town, and when I come  
12                  to town, that's where I get my problems off — I mean, my troubles.

13                  Guys I know, they don't work. I've had — if you look — if you go to the  
14                  DMV and see how many times my license has been stolen. I've had to make a  
15                  duplicate of them just this year like seven (7) times.

16                  **THE COURT:**       So you're saying that all of these purchases of — of  
17                  Sudafed cold medication, that ----

18                  **DEFENDANT WARREN:** Not all of them.

19                  **THE COURT:**       — it's not all you; it's somebody else ----

20                  **(Brief Pause)**

21                  **DEFENDANT WARREN:** Well, yeah, definitely. There's — there's a  
22                  big deal in Lexington County. I mean, people walking around with all kinds — I  
23                  mean, they do it — I mean, I think they said, when they found Mike McCraw  
24                  that night he had a bunch of IDs — stolen IDs, you know.

25                  **THE COURT:**       So you deny that ----

1                   **DEFENDANT WARREN:** No, I'm not denying I don't buy it because I  
2                   have bought it, but I'm -- I'm trying to get a prescription of it because I've been  
3                   on it for 20 years now. And It's just making my sinuses even worse since I've  
4                   had this shot to the face.

5                   **THE COURT:**       Well, I'm asking: Do you deny that you are  
6                   purchasing, up to whatever maximum amount that somebody can purchase  
7                   lawfully, you agree that you're buying this stuff?

8                   **DEFENDANT WARREN:** No, not that — not that ----

9                   **THE COURT:**       So you're not — every purchase that has your name  
10                  on it is not you?

11                  **DEFENDANT WARREN:** No, sir, no, sir.

12                  **MR. WILLIAMS:**   Your Honor, I would ask the Court to note that there  
13                  is actually a record showing Sudafed purchases. And the — they actually  
14                  report Sudafed purchases back to the year of 2008.

15                  **THE COURT:**       Okay.

16                  **MR. WILLIAMS:**   And that, for the month of December of 2010, it  
17                  does not indicate that he purchased any Sudafed on December the 2<sup>nd</sup> and  
18                  December the 3<sup>rd</sup> of 2010.

19                  **MR. ROSS:**        He — he did purchase on December the first  
20                  though.

21                  **MR. WILLIAMS:**   On December the first, he bought a one-pack of  
22                  Sudafed on December the first, which would have been, what, one day  
23                  before?

24                  **THE COURT:**       All right. Anything else you would like to tell me, Mr.  
25                  Warren? Or Mr. Williams, anything from you?

1 (Brief Pause)

2 DEFENDANT WARREN: I mean, I would just ask — just for the Court  
3 — for the mercy of the Court , you know.

4 MR. WILLIAMS: I'd like to get a little credit for coming to court, Your  
5 Honor, and sticking around when lessor people don't do that.

6 THE COURT All right. You all just step back for just a minute and  
7 I'll — I'll pass sentence.

8 (Off-the-Record Comments)

9 THE COURT: Mr. Williams, any time served related to this  
10 charge? You mentioned some time in jail on some child support, but any time  
11 here?

12 (Off-the-Record Discussion)

13 DEFENDANT WARREN: Forty-two (42) days I think.

14 MR. MAYE: Forty-two (42) days, Your Honor.

15 MR. WILLIAMS: Yeah, the time he was referring to was he got  
16 behind in some of his child support probably related to not being able to work  
17 and the shooting that he had.

18 MR. JOHNSON: Your Honor, I don't mean to interrupt you, but do  
19 you need the time served on Mr. McCraw at this time? I don't have that.

20 THE COURT: You need to get that information to me.

21 MR. JOHNSON: Yes, sir.

22 THE COURT: All right. Anything further from the State?

23 MR. MAYE: Not from the State, Your Honor.

24 THE COURT: Anything further from the Defense?

25 MR. WILLIAMS: Nothing from the Defense, Your Honor.

1                   **THE COURT:**       Mr. Warren — Mr. Warren, I've — I've considered  
2                   several things.

3                   Before I state what I've considered, let — let me just kind of tell you my  
4                   viewpoint on this methamphetamine business.

5                   Unfortunately, I come from a county that, as I understand it, is the  
6                   number one meth producing county in the State; that's Laurens County. And  
7                   — and they may not hold that ugly distinction, but at one time they did and they  
8                   still may do.

9                   This methamphetamine business is terrible, terrible stuff. And why  
10                  anybody would get involved in it, in any fashion whatsoever, just boggles my  
11                  mind. But, unfortunately, we have people such as yourself that is involved in it.

12                  I've taken into account that you haven't — you really don't have much of  
13                  a prior record. Your record is — is in essence a long time ago. I've taken that  
14                  into consideration.

15                  Even though typically I would not take into consideration the fact that  
16                  you've shown up every day because most defendants going to trial do show up  
17                  every day. Mr. McCraw is certainly the — the exception to the situation.

18                  But, nonetheless, I've — I've taken that into consideration.

19                  But, on the other hand, Mr. Warren, I've taken into consideration that  
20                  you continue to use methamphetamine, and I believe substantially, with you  
21                  having this serious charge hanging over your head. And that's — that's —  
22                  that's hard for me to believe.

23                  And I have to accept, based upon the jury verdict, notwithstanding the  
24                  fine, fine presentation and representation Mr. Williams gave you;

25                  Notwithstanding that, I have to find that, in fact, you fully participated in the



1 manufacture of methamphetamine with the other two co-defendants because  
2 that's what that jury said. And you have taken no responsibility.

3 So I've got competing interests here. I've given you some benefit, but,  
4 then, I've gone in the other direction too.

5 So the sentence of the Court is you be confined to the State  
6 Department of Corrections for a period of eight (8) years. That's the sentence  
7 of the Court. Good luck to you, sir.

8 **MR. WILLIAMS:** Thank you, Your Honor.

9 **(Whereupon, the proceeding concluded at 4:43 p.m.)**

10 **Reporter's Note:** This transcript may contain quoted material. Such  
11 material is reproduced as read or quoted by the speaker.

12 **Reporter's Note:** Some names and other referenced material are  
13 spelled phonetically.

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**REPORTER'S CERTIFICATE**

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 402, were transcribed by me and represent a true and accurate transcript of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

April 28, 2014

A handwritten signature in cursive script, reading "Pamela S. Faucette", written in black ink.

Pamela S. Faucette  
Official Court Reporter  
Seventh Judicial Circuit

WITNESSES

PADGETT

SCSO

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-41- 345

**The State of South Carolina**

County of SALUDA

**COURT OF GENERAL SESSIONS**

**OCTOBER TERM 2013**

**THE STATE**

**vs.**

**TRAVIS SAMUEL WARREN**

**CDR# 3198**

**Indictment for**

**MANUFACTURING  
METHAMPHETAMINE**

**DONALD V. MYERS, SOLICITOR**



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SALUDA )

INDICTMENT FOR  
MANUFACTURING  
METHAMPHETAMINE

At a Court of General Sessions, convened on October 1, 2013 the Grand Jurors of Saluda County present upon their oath:

That TRAVIS SAMUEL WARREN, did in Saluda County on about the date December 3, 2010, knowingly, intentionally, willfully and unlawfully manufacture or otherwise aid, abet, attempt, or conspire with Michael William McGraw and/or Michelle Holloman Norris, to manufacture a quantity of methamphetamine, a controlled substance under the provisions of §44-53-110, et Seq. and in violation of §44-53-375(B) of the South Carolina Code of Laws, 1976, as amended.

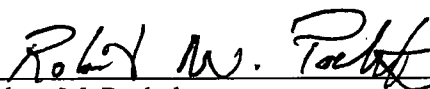
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
ASSISTANT SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

June 20, 2014

  
Robert M. Pachak  
Appellate Defender

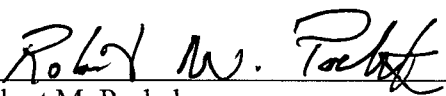
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

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June 20, 2014

  
Robert M. Pachak  
Appellate Defender

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PO Box 11589  
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(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Saluda County

Donald B. Hocker, Circuit Court Judge

ORIGINAL

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JUN 20 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

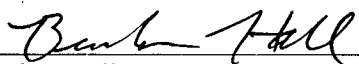
TRAVIS SAMUEL WARREN,

APPELLANT

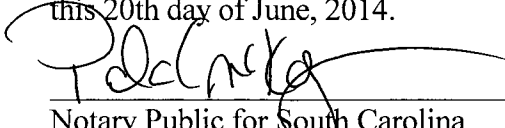
APPELLATE CASE NO. 2013-002739

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 20th day of June, 2014.

  
\_\_\_\_\_  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 20th day of June, 2014.

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