

S.C. Supreme Court

AUG 22 2014

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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY
Court of General Sessions

The Honorable Edward B. Cottingham, Sr., Circuit Court Judge

2014-001496

Case No.: ~~2012-206368~~

Opinion No.: 5214 (S.C. Ct. App. filed April 2, 2014)

THE STATE.....Respondent

v.

ALTON WESLEY GORE JR.....Petitioner

APPENDIX
(Volume I of II)

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
The Honorable Edward B. Cottingham, Sr., Circuit Court Judge

Appellate Case No.: 2012-206368

THE STATE.....Respondent

v.

ALTON WESLEY GORE JR.....Appellant

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIFTEENTH JUDICIAL CIRCUIT
) CASE NO.: 10H00916
 COUNTY OF HORRY)
)
 STATE OF SOUTH CAROLINA)
)
 VS.) **ORDER DENYING**
) **DEFENDANT'S MOTION PURSUANT**
) **TO FRANKS v. DELAWARE**
 ALTON WESLEY GORE JR,)
)
 DEFENDANT.)

FILED
 HORRY COUNTY
 2011 MAR 24 PM 1:35
 MELANIE M. JONES-WARD
 CLERK OF COURT

This matter came before the Court on March 15, 2011, upon Defense motion for an evidentiary hearing pursuant to Franks v. Delaware, 438 U.S. 154 (1978), to review the sufficiency of a search warrant affidavit. The defendant was represented by his attorney, T. Kirk Truslow. The State was represented by Michael J. O'Sullivan, Assistant Solicitor for the Fifteenth Judicial Circuit.

The Defense argued the warrant attained in this matter was procured through deliberate falsehood or reckless disregard for the truth by law enforcement in its presentation to a detached Magistrate. Defense argued that law enforcement led the Magistrate to believe that a controlled drug buy had been executed at the Defendant's residence within seventy-two hours of them seeking the search warrant.

The Franks case establishes a two prong test to determine the sufficiency of a sworn statement utilized to procure a search warrant. The defendant must first make a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the Defendant's request. Second, if after the hearing, the defense establishes by a preponderance of the evidence that the information used to procure the warrant was false, that evidence must be set aside and the affidavit's remaining content must be evaluated to determine the validity of the warrant.

After hearing from the parties and testimony from the affiant on the warrant affidavit, Cpl. James Ard, the Court makes the following findings of fact:

1. The Court reviewed the warrant affidavit utilized to procure the search warrant.
2. The affiant testified under oath and was subject to cross-examination by defense counsel.
3. Cpl. Ard testified that the Magistrate was made fully aware through sworn oral testimony of all circumstances and dates of events surrounding the procurement of this search warrant. In support of the use of oral testimony being utilized to supplement a search warrant, the Court cites State v. Jones, 342 SC 121, 536 S.E.2d

1062
 10011.9

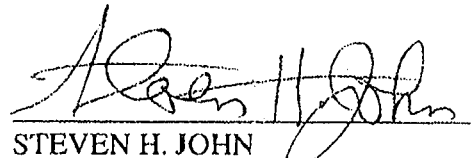
675, (2000). In that opinion, the South Carolina Supreme Court noted that although sworn oral testimony alone does not satisfy the warrant affidavit requirement, "oral testimony may also be used in this state to supplement search warrant affidavits which are facially insufficient to establish probable cause." 342 SC 121, 128, 536 S.E.2d 675, 678-79.

4. There was neither a false statement made nor a reckless disregard for the truth by law enforcement in the affidavit used to procure this search warrant.
5. Due to the lack of any false statement in the warrant affidavit, the first prong of the Franks test is not met and there is no need to evaluate the sufficiency of the affidavit with the information in question set aside.

After giving the required deference to the Magistrate's conclusions and evaluating the totality of the circumstances, the Court finds the warrant affidavit in this matter to be sufficient to establish the requisite probable cause.

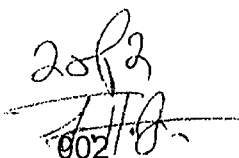
IT IS THEREFORE

ORDERED that the Defendant's motion is denied.


STEVEN H. JOHN
RESIDENT CIRCUIT JUDGE
FIFTEENTH JUDICIAL CIRCUIT

March 24, 2011

Conway, South Carolina

2012

002/0

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 27, 2010, the Grand Jurors of Horry County present upon their oath:

TRAFFICKING COCAINE, 10 – 28 GRAMS

CDR: 0387 44-53-0370(e)(2)(a)(2)

That **Alton Wesley Gore Jr** did, in Horry County, State of South Carolina, on or about July 23, 2009 knowingly, sell, deliver, purchase or bring into this State, or did aid, abet, attempt, or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than ten (10) grams, but less than twenty-eight (28) grams, the same being a controlled substance, all within the meaning of Section 44-53-370, et.seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of Section 44-53-370(e)(2)(a), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

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

11


 J. GREGORY HEMBREE
 FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Jesse Ard Horry County Police Department

DOCKET NO. 2010-GS-26- 2325

The State of South Carolina

County of Horry

Michael J. O'Sullivan
10H00916

COURT OF GENERAL SESSIONS

JUNE, 2010 TERM

ARREST WARRANT NUMBER

5245
CJR: 0387 44-53-0370(e)(2)(a)2

THE STATE

vs.

Alton Wesley Gore Jr B/M

ATTORNEY: Truslow, T. Kirk

Indictment for

TRAFFICKING COCAINE
10 - 28 GRAMS

J. Gregory Hembree, Solicitor

SECTION OF GRAND JURY

TRUE BILL

Matthew Flom
Foreperson of Grand Jury
Date: JUN 24 2010

VINDICT

Foreperson of Petit Jury
Date:

ORIGINAL

App'x 7

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 27, 2010, the Grand Jurors of Horry County present upon their oath:

TRAFFICKING COCAINE, 10 – 28 GRAMS

CDR: 0387 44-53-0370(e)(2)(a)(2)

That **Alton Wesley Gore Jr** did, in Horry County, State of South Carolina, on or about February 10, 2010 knowingly, sell, deliver, purchase or bring into this State, or did aid, abet, attempt, or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than ten (10) grams, but less than twenty-eight (28) grams, the same being a controlled substance, all within the meaning of Section 44-53-370, et.seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of Section 44-53-370(e)(2)(a), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

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


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Jesse Ard Horry County Police Department

ARREST WARRANT NUMBER

GS2602317

CDR: 0387 44-53-0370(e)(2)(a)2

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JUN 24 2010

V JICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2010-GS-26- 2317

The State of South Carolina

County of Horry

Michael J. O'Sullivan
10H00916

COURT OF GENERAL SESSIONS

JUNE, 2010 TERM

THE STATE

VS.

Alton Wesley Gore Jr B/M

ATTORNEY: Truslow, T. Kirk

Indictment for

TRAFFICKING COCAINE
10 - 28 GRAMS

J. Gregory Hembree, Solicitor

 ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 27, 2010, the Grand Jurors of Horry County present upon their oath:

TRAFFICKING COCAINE, 10 – 28 GRAMS

CDR: 0387 44-53-0370(e)(2)(a)(2)

That **Alton Wesley Gore Jr** did, in Horry County, State of South Carolina, on or about February 10, 2010 knowingly, sell, deliver, purchase or bring into this State, or did aid, abet, attempt, or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than ten (10) grams, but less than twenty-eight (28) grams, the same being a controlled substance, all within the meaning of Section 44-53-370, et.seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of Section 44-53-370(e)(2)(a), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

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


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Jesse Ard Horry County Police Department

ARREST WARRANT NUMBER

2 GS2602316

CDR: 0387 44-53-0370(e)(2)(a)2

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: JUN 24 2010

VICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-26- 2316

The State of South Carolina

County of Horry

Michael J. O'Sullivan
10H00916

COURT OF GENERAL SESSIONS

JUNE, 2010 TERM

THE STATE

vs.

Alton Wesley Gore Jr B/M

ATTORNEY: Truslow, T. Kirk

Indictment for

TRAFFICKING COCAINE
10 - 28 GRAMS

J. Gregory Hembree, Solicitor

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 27, 2010, the Grand Jurors of Horry County present upon their oath:

POSSESSION OF MARIJUANA

CDR: 0182 44-53-0370(d)(4)

That **Alton Wesley Gore Jr** did, in Horry County, State of South Carolina, on or about March 5, 2010, knowingly and intentionally possess a quantity of Marijuana of less than one ounce, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law [and such being the defendant's second or subsequent offense], in violation of Section 44-53-0370(d)(4), S. C. Code of Laws, 1976, as amended.

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


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Jesse Ard Horry County Police Department

DOCKET NO. 2010-GS-26-2330

The State of South Carolina

County of Horry

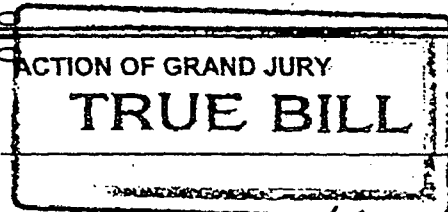
Michael J. O'Sullivan
10H00916

COURT OF GENERAL SESSIONS

JUNE, 2010 TERM

ARREST WARRANT NUMBER

I 5253
CDR: 0182 44-53-0370(d)(4)



Martha Hem

Foreperson of Grand Jury
Date: JUN 24 2010

V DICT

Foreperson of Petit Jury
Date:

THE STATE

VS.

Alton Wesley Gore Jr B/M

ATTORNEY: Truslow, T. Kirk

Indictment for

POSSESSION OF MARIJUANA

J. Gregory Hembree, Solicitor

 ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 27, 2010, the Grand Jurors of Horry County present upon their oath:

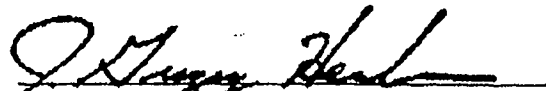
DISTRIBUTION OF COCAINE

CDR: 0184 44-53-0370(b)(1)

That **Alton Wesley Gore Jr** did, in Horry County, State of South Carolina, on or about July 20, 2009, distribute, dispense or aid, abet, attempt or conspire to distribute, dispense or deliver a quantity of Cocaine, a controlled substance under provisions of Section 44-53-110, et. seq., Code of Laws of South Carolina, 1976, as amended, such distribution not having been authorized by law, and being in violation of Section 44-53-370(b)(1), S. C. Code of Laws, 1976, as amended.

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

CLERK OF COURT
Horry County, South Carolina


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Jesse Ard Horry County Police Department

DOCKET NO. 2010-GS-26- 2329

The State of South Carolina

County of Horry

Michael J. O'Sullivan
10H00916

COURT OF GENERAL SESSIONS

JUNE, 2010 TERM

ARREST WARRANT NUMBER

N 5251
CDR: 0184 44-53-0370(b)(1)

THE STATE

VS.

Alton Wesley Gore Jr B/M

ATTORNEY: Truslow, T. Kirk

Indictment for

DISTRIBUTION OF COCAINE

J. Gregory Hembree, Solicitor

ACTION OF GRAND JURY

TRUE BILL

Martha Hem
Foreperson of Grand Jury
Date: JUN 24 2010

DICT

Foreperson of Petit Jury
Date:

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 27, 2010, the Grand Jurors of Horry County present upon their oath:

POSSESSION OF ECSTASY
(METHYLENEDIOXYMETHAMPHETAMINE)

CDR: 0180 44-53-0370(d)(2)

That **Alton Wesley Gore Jr** did, in Horry County, State of South Carolina, on or about March 5, 2010, knowingly and intentionally possess a quantity of Methylenedioxymethamphetamine (Ecstasy), a Schedule I Narcotic under provisions of Section 44-53-370, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law, in violation of Section 44-53-0370(d)(2), S. C. Code of Laws, 1976, as amended.

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


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Jesse Ard Horry County Police Department

ARREST WARRANT NUMBER

M. 0250

CDR: 0180 44-53-0370(d)(2)

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JUN 24 2010

V. ICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2010-GS-26- 2328

The State of South Carolina

County of Horry

Michael J. O'Sullivan
10H00916

COURT OF GENERAL SESSIONS

JUNE, 2010 TERM

THE STATE

vs.

Alton Wesley Gore Jr B/M

ATTORNEY: Truslow, T. Kirk

Indictment for

POSSESSION OF ECSTASY

J. Gregory Hembree, Solicitor

 ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on May 27, 2010, the Grand Jurors of Horry County present upon their oath:

POSSESSION OF SCHEDULE I - V DRUG

CDR: 0180 44-53-0370(d)(2)

That **Alton Wesley Gore Jr** did, in Horry County, State of South Carolina, on or about February 10, 2010, knowingly and intentionally possess a quantity of Mylan, a Schedule IV controlled substance under provisions of Section 44-53-0110, S.C. Code of Laws, 1976, as amended, such possession not having been authorized by law, in violation of Section 44-53-0370(d)(2), S.C. Code of Laws, 1976, as amended.

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


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Jesse Ard Horry County Police Department

DOCKET NO. 2010-GS-26- 2327

The State of South Carolina

County of Horry

Michael J. O'Sullivan
10H00916

COURT OF GENERAL SESSIONS

JUNE, 2010 TERM

ARREST WARRANT NUMBER

M 249
CDR: 0180 44-53-0370(d)(2)

THE STATE

vs.

Alton Wesley Gore Jr B/M

ATTORNEY: Truslow, T. Kirk

Indictment for

POSSESSION OF
SCHEDULE I - V DRUG

J. Gregory Hembree, Solicitor

 ORIGINAL

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JUN 24 2010

VL JICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NO.: 10H00916
STATE OF SOUTH CAROLINA,	)	
	)	
-v-	)	MOTION FOR EVIDENTIARY HEARING
	)	PURSUANT TO <u>FRANKS V. DELAWARE</u>
ALTON WESLEY GORE,	)	
	)	
DEFNDANT.	)	

YOU WILL PLEASE TAKE NOTICE that Defendant, by and through undersigned counsel, will move this Honorable Court for an Order granting an evidentiary hearing pursuant to Franks v. Delaware, 438 U.S. 154 (1978). Said motion is based upon the following grounds:

1. In the present case, a search warrant was issued and executed. In the affidavit presented in support of the issuance of the search warrant, the affiant first states:

"A confidential and reliable informant made a buy for cocaine out of the residence while being recorded and monitored by agents in the area."

2. This affidavit is dated February 28, 2010, and the search warrant was signed on February 28, 2010.

3. Investigation of the present case, including a review of the Report of Investigation provided to defense counsel, reveals that this buy was allegedly made on July 23, 2009, just shy of seven (7) months prior to the execution of the affidavit and issuance of the search warrant.

4. In order for an affidavit to support probable cause, "it must state facts so closely related to the time of the issuance of the warrant as to justify a finding of

CLERK OF COURT
JULIE HUGGINS-WARD
JUL 23 2009
AM 10:47
HORRY COUNTY

probable cause at that time." State v. Winborne, 273 S.C. 62, 64 (1979). "An affidavit which fails altogether to state the time of the occurrence of the facts alleged is insufficient." Id.

5. In the present case, the only other alleged fact in the affidavit states:

"Also within the last seventy two hours agents followed the defendant from the residence to another location and were able to monitor and record another buy for a quantity of cocaine."

6. Franks outlined a two-part test for challenging the warrant affidavit's veracity. First to mandate an evidentiary hearing, there must be allegations of deliberate falsehood or of reckless disregard for the truth . . . and those allegations must be accompanied by an offer of proof . . . Second, . . . the court must consider the affidavit's remaining content, with the affidavit's false material set to one side, to determine if it is sufficient to establish probable cause. State v. Davis, 354 S.C. 348 (Ct.App. 2003).

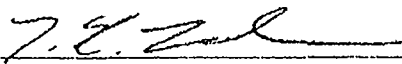
7. Defendant submits that in the present case, the affidavit's failure to disclose that the allegation of a buy from the residence was just shy of seven (7) months prior to the date of the affidavit was a deliberate falsehood by omission, as well as a demonstration of a reckless disregard for the truth. As stated before, in order for an affidavit to support probable cause, "it must state facts so closely related to the time of the issuance of the warrant as to justify a finding of probable cause at that time." State v. Winborne, 273 S.C. 62, 64 (1979). "An affidavit which fails altogether to state the time of the occurrence of the facts alleged is insufficient." Id. First, the date of the alleged buy from the residence was omitted in an effort to make it appear that said buy was in close proximity to the time of the affidavit, as

opposed to approximately seven months prior. Second, the second, and only other allegation in the affidavit, begins with terminology designed to further make it appear that the alleged buy was in close proximity to the date of the affidavit. The second allegation begins by stating: "Also within the last seventy hours." It should be noted that there is no comma after "Also." This is misleading as well, as it misleads the issuing Magistrate Judge that these two alleged events were both within the last seventy two hours.

8. As further support for an evidentiary hearing, attached hereto is a copy of the search warrant affidavit, as well as the Horry County Police Department Report of Investigation confirming the date of the alleged purchase from the residence as July 23, 2009.

Based upon the foregoing, the Defendant respectfully requests an evidentiary hearing solely for the purpose of determining whether a subsequent review of the validity of the search warrant should be made without that portion of the affidavit dealing with an alleged buy from the residence.

I SO MOVE.


T. KIRK TRUSLOW
Attorney for Defendant
P.O. Box 238
North Myrtle Beach, SC 29597
(843) 280-9438

Date: 2/21/11

North Myrtle Beach, South Carolina

Form Approved by
S.C. Attorney General
Revised 17-13-160
March 13, 1978

STATE OF SOUTH CAROLINA

COUNTY OF HORRY.

AFFIDAVIT

Personally appear before me, one Detective Jesse Ard who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Cocaine, Crack Cocaine, Marijuana, or any other illegal drug or narcotics. Paraphernalia included but not limited to pipes, rolling papers, baggies, scales, also any ledgers, papers, hooks, firearms and monies, used for or made from the sale of, smoking, or packaging of any illegal drug.

**DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED**

From the entrance of Wakefield subdivision off of Hwy 90 turn into the subdivision. Travel into the entrance onto Junco circle for four tenths of a mile and the residence will be on the right 309 Junco circle. The residence is a tan in color stick built house with white trim. The number 309 is affixed to the trim above the garage door.

**REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES**

A confidential and reliable informant made a buy for cocaine out of the residence while being recorded and monitored by agents in the area. Also within the last seventy two hours agents followed the defendant from the residence to another location and were able to monitor and record another buy for a quantity of cocaine. It is the affiant's belief that there are more illegal narcotics in the residence.

Sworn to and Subscribed before me
This 28th day of Feb., 2010.

Signature of Judge

9:40 AM

Jesse Ard
AFFIANT



Horry County Police Department
Narcotics and Vice Section

Report of Investigation

Case No: 09-073055
 Offense: Trafficking cocaine, Poss. Schedule I to V, Poss. MDMA, Simple poss. Marijuana, Distribution cocaine
 Date: 7/20/09, 7/23/09, 2/16/10, 2/25/10, 3/5/10
 Suspect: Alton Wesley Gore, Angel Deangelo
 Location:
 Victim: State of S.C.

On 7/20/09 a confidential and reliable informant made a purchase for less than ten grams of cocaine from Alton Gore. The buy occurred at Bemini's sports bar in the North Myrtle Beach area of Horry County. The CI was searched before and after the buy and it was monitored and recorded by agents in the area. The evidence did field test positive for cocaine and was turned into evidence section at HCPD to be tested.

On 7/23/09 a CI made another purchase from Alton for cocaine. The buy occurred at his residence 309 Junco Circle in the Longs section of Horry County. The buy was for more than 10 grams and was again monitored and recorded by agents in the area. The evidence did field test positive for cocaine and was turned into evidence section at HCPD for testing. Agents did search the CI before and after the buy.

On 2/16/10 a CI made another purchase of cocaine from Alton from a lot on Hwy 57 in the Longs section of Horry County. The buy was monitored and recorded by agents in the area. The CI was searched before and after the buy. The evidence was 30.8 grams in the bag and did field test positive for cocaine. All evidence was turned into evidence section at HCPD for testing.

On 2/25/10 a CI made another purchase from Alton for cocaine at the lot on Hwy 57 in the Longs section of Horry County. Agents were able to follow Alton from his residence to the buy location and were able to monitor and record the buy. The evidence was 29.2 grams in the bag and did field test positive for cocaine. The CI was searched before and after the buy and all evidence was turned into evidence section at HCPD to be tested.

On 3/5/10 Agents were able to observe Alton and Angel leave the residence at 309 Junco Circle in separate vehicles. A traffic stop was made on Alton on Hwy 90 at the IGA in the Longs section of Horry County due to his license being under suspension. Alton was placed under arrest for DUS and agents went to the residence to serve a search warrant while the vehicle Alton was driving was towed to HCPD in reference to a search

warrant being obtained. While agents were attempting to serve a search warrant at the residence Angel arrived on scene and attempted to stop agents from serving the warrant. Angel was initially asked repeatedly by Detective Donald to leave and not to interfere but she refused to do so and stated she had lived there for about a month and demanded to see the warrant. Angel was placed under arrest for interference at that time. During the search of the house Det. Ard discovered a box in the kitchen cabinet to the left of the sink containing two spoons, a bag of powder that field tested positive for cocaine, some baggies, a plastic bag with a Mylan tablet(schedule IV) and half of an MDMA tablet and some bent playing cards with residue that field tested positive for cocaine, and a set of scales. Also in the same cabinet was a grinder with a small portion (less than a gram) of marijuana in it. Det. Donald found a Glock magazine in the upper cabinet to the right of the refrigerator with 12 rounds or 9mm ammo in it. Det. Furr located a black bag in the cabinet above the refrigerator with two bottles of Inositol in it. Located by Det. Sissell in a closet by the kitchen was a Fobus holster. Det. Cooper found a Glock 19 hand gun in the master bedroom on the bed with loaded magazine. Located in the closet of the master bedroom between folded pants by Det. Cooper was a plastic Zip lock bag containing 13 individual 1 oz bags of powder that field tested positive for cocaine. Also located by Det. Cooper in a dresser in the master bedroom was a red and a black bandana and two photos with some writings which appeared to be gang related. Located by Det. Hardee on a dresser in the master bedroom were two video cameras. Sgt. Hutchinson located a plastic bag in the kids room between the mattress and box springs with powder residue that did field test positive for cocaine. Located in a box in the master bedroom was 126 dollars U.S. Currency which was taken by Det. Ard in reference to seizure. Also taken from Alton at arrest was 562 dollars U.S. Currency in reference to seizure. Taken from Angel at time of arrest was 982 dollars U.S. Currency in reference to seizure.

On 3/8/10 Detectives Donald and Ard served a search warrant on the truck that Alton was driving at the time of arrest. Located by Det. Ard under the seat on the drivers side was two boxes of ammo (7.62 X 39mm). The search occurred in the impound lot at HCPD.

Detective Jesse Ard
Narcotic and Vice section
Criminal Investigation Division

STATE OF SOUTH CAROLINA

HORRY COUNTY
SOUTH CAROLINA

ORIGINAL

SEARCH WARRANT

DATE: 2/28/10

Detective Jesse Ard

Form Approved by
S.C. Attorney General
Section 17-13-160
March 15, 1978

STATE OF SOUTH CAROLINA

COUNTY OF HORRY.

AFFIDAVIT

Personally appear before me, one Detective Jesse Ard who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Cocaine, Crack Cocaine, Marijuana, or any other illegal drug or narcotics. Paraphernalia included but not limited to pipes, rolling papers, baggies, scales, also any ledgers, papers, books, firearms and monies, used for or made from the sale of, smoking, or packaging of any illegal drug.

**DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED**

From the entrance of Wakefield subdivision off of Hwy 90 turn into the subdivision. Travel into the entrance onto Junco circle for four tenths of a mile and the residence will be on the right 309 Junco circle. The residence is a tan in color stick built house with white trim. The number 309 is affixed to the trim above the garage door.

**REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES**

A confidential and reliable informant made a buy for cocaine out of the residence while being recorded and monitored by agents in the area. Also within the last seventy two hours agents followed the defendant from the residence to another location and were able to monitor and record another buy for a quantity of cocaine. It is the affiants belief that there are more illegal narcotics in the residence.

Sworn to and Subscribed before me
This 28th day of Feb., 2010.

[Signature] # 5081 (L.S.)
Signature of Judge

G.W.A.M.

[Signature]
AFFIANT

Form Approved by
S.C. Attorney General
Section 17-13-160
March 15, 1978

STATE OF SOUTH CAROLINA }

COUNTY OF HORRY }

SEARCH WARRANT

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR
OF THE MUNICIPALITY OF HORRY COUNTY, SOUTH CAROLINA.

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

From the entrance of Wakefield subdivision off of Hwy 90 turn into the subdivision . Travel into the entrance onto Junco circle for four tenths of a mile and the residence will be on the right 309 Junco circle. The residence is a tan in color stick built house with white trim. The number 309 is affixed to the trim above the garage door.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Cocaine, Crack Cocaine, Marijuana, or any other illegal drug or narcotics.
Paraphernalia included but not limited to pipes, rolling papers, bagies, scales, also any ledgers, papers ,books, firearms and monies, used for or made from the sale of, smoking , or packaging of any illegal drug.

This Search Warrant shall not be valid for more than ten days from the date of issuance. A written inventory of all property seized pursuant to this Search Warrant shall be made to,

Bralley D. Mayers

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as practicable; in the event the identity of the person in charge is not know or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Horry County, South Carolina.

Feb. 28th, 2010

G:as Amy

Bralley D. Mayers (L.S.)
Signature of Judge

I received the attached Search Warrant on, 2-28-10, and have executed it as follows:

I searched (residence) described in the warrant and

I left a copy of the warrant with Alton Gore

The following is an inventory of property taken pursuant to the warrant:

Off white in color powder substance, cardboard box containing baggies two spoons scales and cards with residue, grinder with less than 1 gram of green leafy substance, black with two bottles of inositol, 1 nokia cell phone, 1 phobus holster, 1 glock magazine with 12 rounds 9mm, 1 glock 19 with magazine and 15 rounds 9mm SNLTF565 (in case), 1 boost mobile cell phone, 1 red and 1 black bandana two photos and some writings (gang related), 1 blackberry phone, 1 sharp video camera, 1 sony video camera, 1 plastic bag with residue.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

SWORN to before me this 9th
Day of August, 2010
927 Ave B 5021 (L.S.)
Signature of Judge 11:00 AM


(Signature of Officer Executing Warrant)

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
)
 2 COUNTY OF HORRY) (10-GS-26-02316) (02317) (02325)
) (02326) (02327) (02328) (02329) (02330)
 3
 4 STATE)
)
 5 VERSUS) TRANSCRIPT OF RECORD
)
 6)
 7 ALTON WESLEY GORE, JR.) March 15, 2011
) Conway, S. C.
 8)
 9
 10 B E F O R E:
 11 HONORABLE STEVEN H. JOHN, Judge.
 12
 13 A P P E A R A N C E S:
 14 MICHAEL O'SULLIVAN, ESQ.
 ASSISTANT SOLICITOR FOR HORRY COUNTY
 ATTORNEY FOR STATE
 15 T. KIRK TRUSLOW, ESQ.
 ATTORNEY FOR DEFENDANT
 16
 17
 18
 19 DIXIE COX EUBANK
 CIRCUIT COURT REPORTER
 FIFTEENTH JUDICIAL CIRCUIT
 20
 21
 22
 23
 24
 25

1 (THE FOLLOWING TAKES PLACE ON MARCH 15, 2011.)

2 THE COURT: All right, the first one we have is a --
3 it's a motion for evidentiary hearing pursuant to Franks
4 versus Delaware and State of South Carolina versus Alton
5 Wesley Gore.

6 MR. TRUSLOW: Yes, Your Honor.

7 THE COURT: All right, Mr. Truslow, it's your motion.
8 Be glad to hear from you, sir.

9 MR. TRUSLOW: If it please the Court, Your Honor, if I
10 can, I've given Mr. O'Sullivan a copy of this. I'm passing
11 this up, not as the authority as to the unpublished Fourth
12 Circuit Opinion, but in case Your Honor wants to review this
13 without ruling right away. It just gives a really good
14 explanation of the Franks law in the analysis.

15 THE COURT: Right.

16 MR. TRUSLOW: But I think it probably is pretty
17 straightforward. Pursuant to Franks, Judge, it's a challenge
18 to the Affidavit of the Search Warrant, and what it requires
19 me to do is make a showing that there is something -- one or
20 more things in the Affidavit -- contained in the Affidavit
21 that was either put in the Affidavit by the law enforcement
22 agency that's -- that was deliberately false, or made -- done
23 with a reckless disregard for the truth. And I've filed a
24 written motion, and in that motion what I've alleged, Your
25 Honor, is -- and I've attached to that, as an offer of proof,

1 two things, the Affidavit to the Search Warrant and the Report
2 of Investigation, and if I could turn your attention, Judge,
3 to the Affidavit to the Search Warrant, you will note that
4 there are only two allegations in the Affidavit, and the one
5 that we take issue with is the first allegation which states -
6 - in the sentence it states, "A confidential and reliable
7 informant made a buy for cocaine out of the residence while
8 being recorded and monitored by agents in the area." Now the
9 reason, Your Honor, that we are challenging this is that we
10 believe that that was placed in there either deliberately
11 false, or with at least, at the very least, a reckless
12 disregard for the truth, and I've set out in the written
13 motion why, but just briefly, according to State v. Winborne,
14 Judge, it requires that, in order for an affidavit to support
15 probable cause it must state facts so closely related to the
16 time of the issuance of the warrant to justify probable cause
17 at that time.

18 Now, the sentence I just read to you about a buy from
19 the residence occurred seven months prior to the issuance of
20 the Search Warrant. Now if you will note, it does not give a
21 date there. Winborne also says that an affidavit which fails
22 altogether to state the time of the occurrence to the facts
23 alleged is insufficient. So we would say that that is
24 insufficient in and of itself, but what this motion about,
25 Your Honor, is excising that from the Affidavit, and then at

1 another time, review of the Affidavit with the remaining
2 portions. We believe that it was recklessly -- displays a
3 reckless disregard for the truth, not only in violation of
4 Winborne to disregard advising the Magistrate that the buy
5 from the residence was several months prior. We are talking
6 about drugs, which is a tangible piece of evidence, and it
7 makes the timing very important.

8 We have also alleged, as support for our argument, that
9 the second and only other allegation in the Search Warrant,
10 Your Honor, reads, "Also within the last seventy-two hours
11 agents followed the Defendant from the residence to another
12 location, and were able to monitor and record another buy for
13 cocaine." Now the reason that's important, Judge, is that
14 standing without the allegation that we are trying to excise
15 from this Affidavit we believe that would not support probable
16 cause to search the residence.

17 We also would point out as further support of excising
18 that first part that we talked about, if you read this this is
19 also either deliberately false or a reckless disregard for the
20 truth, because the way that reads, "Also within the last
21 seventy-two hours..." following that first part. So first
22 they put in that they made a buy from the residence. In
23 violation of Winborne they didn't say when that occurred. The
24 Offer of Proof with the police report that I put forward to
25 you is that the buy from the residence happened seven months

1 earlier than the Affidavit -- that the Search Warrant was
2 issued. Following that sentence they say, "Also within the
3 last seventy-two hours...". Now I also pointed out -- and I
4 don't mean to nitpick, but obviously there's no comma after
5 also, and it's at least a reckless disregard to run those two
6 together, because what it sounds like is, we made a buy from
7 the residence, and also within seventy-two hours we did this.
8 What that leads -- what that leads -- and why that's
9 misleading is, it leads one to believe -- an issuing
10 magistrate to believe that the buy from the residence somehow
11 occurred within that same seventy-two hours. So, for two
12 reasons, one, the fact that the buy from the residence, there
13 is no date or timing associated with that whatsoever, two, an
14 offer of proof from the Report of Investigation I gave you
15 that that was seven months prior to the issuance of the Search
16 Warrant in preparation of the Affidavit, and number three, the
17 fact that they run that together with "Also within the last
18 seventy-two hours...".

19 THE COURT: I'm confused here. Okay.

20 MR. TRUSLOW: Yes sir.

21 THE COURT: All right. And I understand what you are
22 saying about the Affidavit. You've attached to your Motion
23 the Report of Investigation, correct, the Horry County Police
24 Department Narcotics and Vice Section.

25 MR. TRUSLOW: Yes sir.

1 THE COURT: You attached as part of your motion the
2 Report of Investigation.

3 MR. TRUSLOW: Yes sir.

4 THE COURT: All right. I'm looking at the first two
5 paragraphs, okay. The first two paragraphs, "On 7/20/09 a
6 confidential and reliable informant made a purchase for less
7 than ten grams of cocaine from Alton Gore."

8 MR. TRUSLOW: Yes sir.

9 THE COURT: "The buy occurred at Bimini's Sports Bar in
10 the North Myrtle Beach area of Horry County. The CI was
11 searched before and after the buy and it was monitored and
12 recorded by agents. The evidence did field-test positive for
13 cocaine and was turned into Evidence Section at HCPD to be
14 tested. On 7/23/09 a CI made another purchase from Alton for
15 cocaine. The buy occurred at his residence, 309 Juneau
16 Circle, in the Longs Section of Horry County. The buy was for
17 more than ten grams and was again monitored and recorded by
18 agents in the area. The evidence did field-test positive for
19 cocaine, was turned into the Evidence Section of the HCPD for
20 testing. Agents did search the CI before and after the buy."
21 The Affidavit appears to be February 28th. These occurred on
22 July ---

23 MR. TRUSLOW: 2009.

24 THE COURT: '09, in July, 2009. Okay.

25 MR. TRUSLOW: And Your Honor, in the Affidavit it's

1 just that second paragraph, the 7/23/09, is what they are
2 referencing. That's the only buy to the residence.

3 THE COURT: All right.

4 MR. TRUSLOW: And then paragraph five, the 3/5/10,
5 would be the allegation in the Affidavit for buying -- a
6 purchase away from the residence, within the last seventy-two
7 hours. Those are the two things in play. Paragraph two,
8 7/23/09, and 3/05/10, those are the two allegations in the
9 Search Warrant Affidavit. And what they did, Your Honor,
10 was -- the first one, 7/23/09, they put that in the Affidavit
11 with no date, we say in violation of *Winborne*, and no way to
12 test the time or the duration or close proximity. They put
13 that in, and then they followed it up with the 3/05/10
14 allegation by saying, "Also within seventy-two hours..." this
15 happened. And what we are saying is that that, under *Franks*,
16 and the case law following *Franks*, that that's a reckless
17 disregard for the truth, and misleading.

18 THE COURT: All right.

19 All right, Mr. O'Sullivan, let me hear from you, sir.

20 MR. O'SULLIVAN: Yes sir, Your Honor. First I just
21 want to correct one thing that was just said. The Warrant,
22 when they refer "Also within the last seventy-two hours...",
23 they are not talking about March 5th. March 5th is the day
24 the Warrant was executed. They are talking about February
25 25th, when they observed another buy from this individual,

1 which would be within seventy-two hours of this Affidavit,
2 which would be correct. They watched him leave his house,
3 drive to a location, make a sale of drugs, and that's what
4 they are referring to within the last seventy-two hours.
5 Nowhere in this does it says that, within seventy-two hours
6 they made a buy at his residence. It, clear as day, doesn't
7 say that. In terms of whether there was a comma misplaced or
8 not, misplaced after also, you know, it's -- there are two
9 separate sentences. The first one talks about there was a buy
10 made for cocaine out of the residence. That's true. The next
11 sentence says, "Also within the last seventy-two hours agents
12 followed the Defendant from the residence to another location
13 and were able to monitor and record another buy." That's also
14 true. There is nothing in here that is false, let alone
15 deliberately false, misleading, and in reckless disregard for
16 the truth.

17 You know, it talked about, in the **Franks** case itself,
18 that there is a heavy burden for establishing that there has
19 been some deliberate false statement or intentional or
20 reckless disregard for the truth, and that's because there are
21 other safeguards in place pretrial and during the trial to
22 protect citizens. If you consider what's being said in this
23 Affidavit, again, there is nothing that -- there's nothing in
24 there that's not true. We certainly, if Your Honor sees fit,
25 would be able to provide information and an explanation as to

1 why so much time elapsed between the buy at the residence that
2 was observed, and then the later Search Warrant. It's not
3 unusual for a drug investigation to go on that long in any
4 event. This absolutely is a proper warrant. Within seventy-
5 two hours they did observe another sale of an individual,
6 Alton Gore, leaving that home and making a drug sale.

7 I am informed by the Officer that they were -- they made
8 the Magistrate aware of all of this, they had a lengthy
9 conversation about it, about that the buy happened a long time
10 -- the buy at the residence happened a long time prior to the
11 most recent buy that was triggering their coming to him for a
12 warrant. In fact, that was the basis for observing him to --
13 to -- for another buy, to have what they call a "refresh buy",
14 that would entitle them to, under the requirements that close
15 time and proximity, they have a buy to establish enough for a
16 warrant.

17 The ---

18 THE COURT: All right. And I appreciate that.

19 In essence ---

20 MR. TRUSLOW: Your Honor, may I ---

21 THE COURT: No sir. Let me ask a question. What you
22 are wanting ultimately the Court to do is suppress the
23 evidence, correct? I mean, that's basically what your motion
24 is, is to suppress the evidence.

25 MR. TRUSLOW: Yes sir. That's what it's getting at,

1 that the allegation that he drove from his residence, sold
2 drugs, is not sufficient probable cause to sell -- or to
3 search a house, so they throw in that he sold from the house,
4 which would give them probable cause, and they fail -- they
5 admitted the fact that that was seven months prior.

6 **THE COURT:** But in a motion to -- the Motion to
7 Suppress, I not only can take the matters that are set forth
8 in the Affidavit that's presented to the Magistrate and signed
9 by the Magistrate, Judge Mayers, I can take into consideration
10 whatever testimony was given to the Magistrate at the time
11 that the Search Warrant was issued.

12 **MR. TRUSLOW:** Yes sir. Yes, the Magistrate could
13 testify and provide oral supplementation as to what he was
14 told.

15 **THE COURT:** Or the Officers can testify as to what they
16 testified and what they told to the Magistrate, okay.

17 So I'm clear about this, the second sentence is, "Also
18 within the last seventy-two hours agents followed the
19 Defendant from the residence to another location, were able to
20 monitor and record another buy for a quantity of cocaine", and
21 this may very well call for what was told to the Magistrate.
22 What I'm understanding from that is, they followed the
23 Defendant from his house to another location where he sold
24 drugs to another individual.

25 **MR. O'SULLIVAN:** Yes sir.

1 THE COURT: It would seem to me, even if there was some
2 confusion about the first sentence -- and I'll hear from the -
3 - hear from the Officer, but it seems to me that would be
4 sufficient in and of itself. Where did the Defendant get the
5 drugs from to sell to the person? If they observed him
6 leaving the house, up to the time he comes to the location,
7 and they see him sell the drugs to John Doe, where did he get
8 the drugs from? He came from his house. The drugs had to be
9 in his house, so that would be -- you are telling me that's
10 insufficient.

11 MR. TRUSLOW: Yes sir, and the reason is, because you
12 have to have probable cause that there was drugs in his house.

13 Now, there's no allegation ---

14 THE COURT: Where did the drugs come from, out of the
15 air?

16 MR. TRUSLOW: As far as I know this individual never
17 kept drugs in his house in his entire life, and kept them in
18 the trunk of his car, you know, and some people do that. Why
19 would you keep drugs ---

20 THE COURT: All right. We are going to hear from the
21 testimony of the Officers then.

22 You have the Officers?

23 MR. O'SULLIVAN: I do, Your Honor. Could I just be
24 hear very briefly on that one issue you just raised? Because
25 there is ---

1 THE COURT: I can't resolve the issue without hearing
2 the testimony of the Officer.

3 Okay. Now, I'm in the middle of a trial, the jury is
4 coming here at 9:30, okay. I didn't understand that this
5 hearing would, honestly, take this long. So, who is here?

6 MR. TRUSLOW: Well, Your Honor, can ---

7 THE COURT: No. Before I can rule on the matter I have
8 to hear the Officer testify. I can rule on it. Whatever
9 arguments you make you might as well save till after I hear
10 the Officers testify. I can't make a ruling until I hear the
11 Officers testify. Whatever you are telling me can wait until
12 I hear the Officers testify. Okay. Are we both clear about
13 that?

14 MR. TRUSLOW: Well, no ---

15 THE COURT: Thank you. Thank you.

16 All right. Now, we have to hear the Officers testify.
17 What is here?

18 MR. O'SULLIVAN: Officer Jessie Ard is here. He is the
19 Affiant on the Warrant, Your Honor.

20 THE COURT: Very good. Call him.

21 MR. O'SULLIVAN: State calls Jessie Ard to the stand.

22 JESSIE ARD, being first duly sworn,
23 testifies as follows:

24 DIRECT-EXAMINATION BY MR. O'SULLIVAN:

25 Q. Officer Ard, did you have occasion to become involved

1 in a investigation of Alton Gore?

2 A. Yes, I did.

3 Q. And in that -- could you tell us about that
4 investigation?

5 A. It was a lengthy investigation. Over the course of
6 several months we were able to make several purchases of
7 cocaine from the Defendant, some from his place of business.
8 We did make an initial buy from his house, at which time -- we
9 are assigned several cases and we technically have to juggle -
10 - for lack of a better term, we have to juggle a case load,
11 and given those circumstances, there was a length of time we
12 did go without making a buy. We had some concern with -- we
13 had one buy from the residence. We felt as if he had illegal
14 narcotics at his residence, and we wanted, for lack of a
15 better term, a refresher buy, prior to, you know, possibly
16 seeking a search warrant for the residence. Under -- at that
17 point in time, for whatever reason, the Defendant was a little
18 -- was hesitant from selling from his house at that point in
19 time. We actually set up on his house prior to a buy, were
20 able to observe his residence, at which time we had the
21 confidential informant make a phone call, and we observed the
22 Defendant leave his residence, were able to keep constance
23 surveillance on him from his residence to the buy location,
24 was a couple of miles down the road at an empty lot, where we
25 could monitor and record the buy at that point in time, at

1 which point in time we then went to seek the Search Warrant.

2 At the time that we did seek the Search Warrant the
3 Judge as made aware of the facts and circumstances of the case
4 at the service of the Warrant, or at the -- at his signing of
5 the Search Warrant.

6 Q. And now when you say he was made aware of the facts,
7 can you be specific to what facts you made him aware of?

8 A. We made him painfully aware of the fact that there was
9 a length of time from one buy from the house to our most
10 recent buy, that we observed him leaving the residence. It is
11 common practice in the affidavit of a drug and/or narcotics
12 search warrant to -- some of the affidavit stuff -- given the
13 nature of serving the warrant a copy of the warrant has to be
14 left with the person served and/or the residence.

15 For the purpose of keeping the confidential informant
16 confidential it is common practice to not put the specific
17 date, time of the buy and/or the amount in the written
18 affidavit portion of the warrant, because given the fact
19 that -- through the process of deduction you can determine who
20 the CI is.

21 The Judge was made painfully aware of the lapse in time,
22 and also the fact that we were unable to get inside the house,
23 actually make a buy from inside the house, but we were able to
24 observe the Defendant leave his residence, kept him under
25 constant surveillance the entire trip to the empty -- to the

1 lot where the buy was made, at which time, you know, the Judge
2 found probable cause to issue the Search Warrant for the
3 residence.

4 Q. So, is there any way that that Magistrate was under the
5 impression that you -- you were telling him that that buy from
6 his house was in the last seventy-two hours?

7 A. There is no way, because that was a -- that was an
8 issue for us. We wanted to make sure that that was painfully
9 aware to the Judge prior to serving the Warrant, or at --
10 correction -- prior to signing the Warrant.

11 Q. And were you able to make another observation of a drug
12 deal by the Defendant within seventy-two hours of seeking this
13 Warrant?

14 A. Yes, that was the one -- the -- the one when we
15 observed him leaving the residence prior to -- you know,
16 within seventy-two hours of seeking the warrant.

17 Q. And did you make the Magistrate aware of that?

18 A. Yes, very much so.

19 Q. Now, is there anything in your Affidavit here, before
20 this Magistrate, that is false?

21 A. No.

22 MR. O'SULLIVAN: I have nothing further, Your Honor.

23 THE COURT: Cross-examination.

24 CROSS-EXAMINATION BY MR. TRUSLOW:

25 Q. Which Judge did you meet with?

1 A. Judge Mayers, if I'm not mistaken, it was Bradley
2 Mayers.

3 Q. All right. Do you have a pretty vivid recollection of
4 this with him?

5 A. Somewhat, somewhat.

6 Q. Okay. Now, regarding the buy within the seventy-two
7 hours at the lot, okay, when -- how much time were you there
8 prior to him leaving the residence that day?

9 A. We actually got -- I'm -- this -- without my notes it
10 would be speculative, but we were there -- I know we sat there
11 for a lengthy period of time, I would say maybe an -- I don't
12 know, maybe an hour.

13 Q. Okay. And his vehicle was there?

14 A. I'd have to refer to notes.

15 Q. Well, do you know?

16 THE COURT: Do you have your notes here, Officer? Are
17 they here?

18 MR. O'SULLIVAN: Do you need the case Report?

19 A. Let me -- let me -- if I could look at the case Report.

20 THE COURT: Identify what it is that you are looking
21 at.

22 A. This is the ---

23 THE COURT: Go ahead and have a seat, and just identify
24 what it is that you are looking at first.

25 A. I am going to review the Report of Investigation, Your

1 Honor.

2 THE COURT: All right. Go ahead.

3 A. I do not know if the vehicle was there. I do know -- I
4 do not know if the vehicle was there at the time we arrived on
5 the scene. We were there an hour, maybe two hours prior to,
6 at which point in time I ---

7 Q. What did you tell Judge Mayers about the vehicle being
8 there or not, anything?

9 A. I advised Judge Mayers that we observed the vehicle
10 leave the residence after the initial contact was made by the
11 confidential informant for the purpose of the sale of
12 narcotics.

13 Q. Were you also unable to tell whether or not he left in
14 the vehicle, or he came out of the house and got in the
15 vehicle? Did you see that? Did you see him come out of the
16 residence and get in the vehicle?

17 A. Yes, we did.

18 Q. Okay. Did you tell -- you specifically tell Judge
19 Mayers that?

20 A. Yes. The Judge was made aware of the facts. He was
21 aware that we observed ---

22 Q. I'm asking you, did you tell Judge Mayers that the
23 Defendant came out of his residence and got in the vehicle?
24 Did you tell that to the Judge?

25 A. I don't remember the specific conversation, but I --

1 yes, it was to the fact that we observed him leave his
2 residence.

3 Q. All right. But you don't remember whether you told the
4 Judge that?

5 A. I do not remember if I told the Judge specifically
6 that.

7 Q. Okay. Regarding the buy, did you tell the Judge that
8 the buy from the residence was seven months prior to when you
9 were meeting with the Judge?

10 A. I do not know if I -- if my verbiage was exactly that.
11 I do know that the Judge was aware of the dates. The dates
12 and times the Judge was made aware of at that time. We left --
13 -- we left them out of the Affidavit due to the -- to keep the
14 CI confidential. So the Judge -- the Judge was aware of the
15 dates and times. We had them and they were presented to him
16 at that time.

17 Q. All right. So there's no question you intentionally
18 left out the date of the buy from the residence.

19 A. The Judge was aware of the dates. There -- it was not
20 intentionally left out, or correction, it was -- the dates and
21 times were left out on the Affidavit to protect the
22 confidentiality of the informant. The Judge was aware of the
23 facts at the time he served the Search Warrant.

24 Q. Did you see the Defendant go inside the house, or come
25 outside of the house? I mean, when you got there and the car

1 was there, was he already inside, or did you see him pull up
2 and go inside?

3 A. I observed him get in the vehicle, so we could pick the
4 specific vehicle, and followed the vehicle.

5 Q. All right. And whose vehicle was it?

6 A. I do not remember.

7 Q. Did you tell the Judge whose vehicle it was?

8 A. I do not remember if I advised the Judge which vehicle
9 it was.

10 Q. All right. Do you recall telling the Judge whether or
11 not he was carrying any kind of bag or anything with him? Do
12 you know if you told the Judge that?

13 A. I do not recall that I seen him carrying a bag. I do
14 not.

15 Q. All right. And you don't remember whether or not you
16 saw him enter the residence, only come out?

17 A. I do not remember that. I do remember that we did --
18 we did identify him get in a vehicle. I don't remember the
19 specific vehicle that it was. We did follow it.

20 Q. But just again -- I'm summing it all up here. You
21 testified you don't recall if you were specific with the Judge
22 about that, in terms of him going in the house or coming out
23 of the house and getting in the vehicle?

24 A. I do not recall. I do not recall.

25 Q. All right. That's all I have, Your Honor.

1 THE COURT: All right. Very good.

2 Anything else, Solicitor?

3 MR. O'SULLIVAN: No sir, Your Honor.

4 THE COURT: All right. Very good.

5 You may step down, sir.

6 All right. Any other testimony you want to provide,
7 Solicitor?

8 MR. O'SULLIVAN: No sir, Your Honor.

9 THE COURT: All right. Very good.

10 Any other witnesses you want to call, Mr. Truslow?

11 MR. TRUSLOW: No sir.

12 THE COURT: All right. Very good.

13 All right. Let me hear your argument, Mr. Truslow.

14 MR. TRUSLOW: Judge, now you have everything that you
15 need to make a ruling. We've got the two allegations in the
16 Affidavit. With oral supplement we know that the only buy
17 from the residence occurred seven months prior, and we are
18 talking about probable cause to search somebody's home. Seven
19 months later they say he left his residence and made a -- sold
20 drugs in a lot.

21 In terms of what the Magistrate knew about this the
22 Officer's supplementation was the only additional testimony
23 that you could get, was that he doesn't really much of what he
24 told the Magistrate -- and I'm not going to go through it,
25 what he testified to, because I know Your Honor was

1 listening -- but there were very pointed parts that I asked
2 him and he could not say whether he told the Magistrate that
3 or not, and that's the only evidence before Your Honor. We
4 would ask you to suppress it.

5 THE COURT: Mr. O'Sullivan.

6 MR. O'SULLIVAN: Yes, Your Honor.

7 Your Honor, the point I want to make is that, in South
8 Carolina there's case law from 2003 -- it's a Court of Appeals
9 case, State v. Davis, and in that case they have a situation
10 where they -- it's even less certain than this situation.
11 They have an individual who was out -- they have an informant
12 telling them this guy is going to be selling drugs, and when
13 they do make an arrest on him they don't have any evidence
14 other than the arrest that's made on him, and him telling
15 them, this is where I stay, that there would be drugs in his
16 residence, which at that point was a motel, and in this case
17 the Court recognizes that the arresting officer was a twenty
18 year veteran of the narcotics unit who knew from his
19 experience that drugs and proceeds of drug sales are often
20 kept in the motel room, and they found that to be sufficient.
21 We have much more than that. We have a prior buy from this
22 residence. We have officers observing him leaving his
23 residence to go make a drug deal. I think there is more than
24 sufficient evidence.

25 I think the Defense's arguments against what Franks

1 says, it specifically says you can't have a conclusory
2 argument. They want to make a conclusory argument that there
3 was some false or misleading information deliberately put in
4 this Warrant.

5 The Officer testified that the Judge was made aware of
6 all the dates, all the times, and was made aware of all the
7 facts surrounding this, and the detached Magistrate made the
8 decision to issue the Warrant. There is no false information
9 in this Warrant. Each sentence in here is correct. Now maybe
10 there's a comma that could have been placed better, as Defense
11 would suggest, but I don't believe there is any problem with
12 this Warrant, and certainly it doesn't meet the elements of
13 the Franks test, Your Honor.

14 MR. TRUSLOW: Judge, just briefly.

15 THE COURT: All right. Thank you.

16 MR. TRUSLOW: There is no evidence in the testimony or
17 in the Affidavit, either in terms of the buy at the lot that
18 it was his residence. I would point that out as well, or that
19 he told the Magistrate it was his residence, or his vehicle.

20 THE COURT: Thank you.

21 All right. The standard of review here is that -- to
22 decide whether the issuing Magistrate had a substantial basis
23 for concluding that probable cause existed in deciding whether
24 to issue a Search Warrant the task is to find whether the
25 Magistrate made a practical common sense decision, whether

1 under the totality of the circumstances set forth in the
2 Affidavit, including the veracity of the person supplying the
3 information and the basis of his or her knowledge there's a
4 fair probability that evidence of a crime will be found in a
5 particular place. An Affidavit must contain sufficient
6 underlying facts and information upon which the Magistrate can
7 make a determination of probable cause, where false
8 information is contained within the supporting affidavit a
9 special consideration, or special considerations must be
10 given. That's the Franks versus Delaware case. Where the
11 defendant makes a substantial preliminary showing that a false
12 statement knowingly and intelligently, or with reckless
13 disregard for the truth, was included by the affiant in the
14 warrant affidavit, and if the allegedly false statement is
15 necessary to the finding of probable cause the Fourth
16 Amendment requires that a hearing be held in the event that at
17 that hearing the allegation of perjury or reckless disregard
18 is established by the defendant by a preponderance of the
19 evidence, and with the affidavit's false material set to one
20 side the affidavit's remaining content is insufficient to
21 establish probable cause the search warrant must be voided,
22 and the fruits of the search excluded to the same extent as if
23 probable cause was lacking on the face of the affidavit.

24 First, I do not find that the Defendant has established,
25 by a preponderance of the evidence, that there were false

1 statements, either knowingly and intentionally made, or with
2 reckless disregard for the truth. I find the statements
3 contained in the Affidavit to be true. I do not find them to
4 be conflicting. I do not find them to be confusing. I
5 certainly do not find them to be false, or intentionally
6 false, or made with reckless disregard for the truth. They
7 are clear on their face, they are true on their face. The
8 Magistrate had before him, besides the information contained
9 in the Affidavit, the testimony of the Officer. All that
10 combined shows that the Magistrate had a totality of the
11 circumstances, setting forth that there was a fair probability
12 that evidence of a crime would be found on the particular
13 place to be searched. I respectfully decline to grant the
14 motion.

15 Solicitor, prepare an order to that effect, forward it
16 to me within seven days of today's date.

17 Thank you very much.

18 And if you wish, Mr. O'Sullivan, there is any number of
19 Court of Appeals and Supreme Court decisions.

20 MR. O'SULLIVAN: Yes sir.

21 THE COURT: All right. Thank you, sir.

22 -----END OF REQUESTED TRANSCRIPT OF RECORD-----
23
24
25

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KENT DONALD - DIRECT EXAMINATION BY MS. COTE

1 CLERK: State your name and spell your last name.

2 MR. DONALD: Kent Donald, D-O-N-A-L-D.

3 DIRECT EXAMINATION OF KENT DONALD BY MS. COTE:

4 Q: Good morning, Detective Donald.

5 A: Good morning.

6 Q: Where are you employed?

7 A: The Horry County Police Department.

8 Q: What's your current position there?

9 A: I'm a sergeant of the South Precinct C Squad.

10 Q: What that the same position you held back in March 5th of
11 2010?

12 A: No, ma'am.

13 Q: What was your position?

14 A: I was a senior detective in Narcotics and Vice.

15 Q: Can you please give the jury the benefit of your training
16 and expense in law enforcement?

17 A: I've got fifteen years law enforcement experience. The
18 last ten years were in narcotics and vice. I just got
19 promoted about seven months about to a sergeant position.

20 During that time in narcotics and vice I investigated various
21 crimes dealing with drugs, posed as a drug dealer, posed as a
22 person buying drugs, also managed confidential informants, did
23 search warrants.

24 Q: Were you present for the execution of a search warrant at
25 309 Junco Circle on March 5th, 2010?

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KENT DONALD - DIRECT EXAMINATION BY MS. COTE

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- 1 A: Yes, ma'am, I was.
- 2 Q: Where is that location located in Horry County?
- 3 A: It's in the Longs section off of Highway 90.
- 4 Q: Can you discuss very generally for the jury about a
- 5 search warrant, how do you go about getting one?
- 6 A: During our investigation we just try and establish facts
- 7 of what's going on with a particular case, see if we have
- 8 enough information to present to a magistrate to get proper
- 9 cause for the judge to issue a search warrant.
- 10 Q: Did you do that in this case?
- 11 A: Yes, ma'am, we did.
- 12 Q: When you -- will you talk to us -- we'll go back to that
- 13 day on March 5th. How did your day start?
- 14 A: It started fairly early probably around six o'clock in
- 15 the morning.
- 16 Q: What was the first thing you did?
- 17 A: I met up with my partner, Detective Ard, and we went out
- 18 to the residence.
- 19 Q: What did you observe when you arrived at the residence?
- 20 A: There was no movement at all. We sat there and waited
- 21 for some sort of activity to occur at the residence.
- 22 Q: Did some activity eventually occur?
- 23 A: Yes, ma'am.
- 24 Q: And what did you see?
- 25 A: I saw two vehicles leaving the residence.

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KENT DONALD - DIRECT EXAMINATION BY MS. COTE

- 1 Q: Did you see the people in the vehicles?
- 2 A: Yes, ma'am.
- 3 Q: And who were they?
- 4 A: One of them was Mr. Gore, the other one was Ms. Deangelo.
- 5 Q: And do you see Mr. Gore in the courtroom today?
- 6 A: Yes, ma'am. He's sitting right there (indicating).
- 7 Q: And did you have knowledge based on your investigation
- 8 that Mr. Gore lived at that residence on Junco Circle?
- 9 A: Yes, ma'am.
- 10 Q: Which directions were they going when they left the
- 11 residence?
- 12 A: When they left the residence, they were in separate
- 13 vehicles and both of them made a right-hand out of the
- 14 subdivision headed -- I guess that's gonna be north going up
- 15 Highway 90 towards the Little River area.
- 16 Q: And then what was the next thing that happened?
- 17 A: Mr. Gore was stopped on the traffic violation unrelated
- 18 to the case.
- 19 Q: And at that point, were you present ---
- 20 A: Yes, ma'am, I was.
- 21 Q: --- at that time?
- 22 A: Yes.
- 23 Q: And then what happened. Where did you go from there?
- 24 A: We stopped and spoke to Mr. Gore, told him what was
- 25 occurring then we went back to the residence and waited for

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KENT DONALD - DIRECT EXAMINATION BY MS. COTE

1 the arrival of the rest of the narcotics unit to execute the
2 search warrant.

3 Q: Did anybody else besides the narcotics unit arrive at the
4 home?

5 A: Yes, ma'am.

6 Q: Who was that?

7 A: That'd be Angel Deangelo.

8 Q: And what did she -- did you encounter her when she came
9 to the house?

10 A: Yes, I did.

11 Q: What did you say to her?

12 A: At first told her to leave the residence, that she was
13 interfering in a police investigation.

14 Q: And how did she respond to that direction?

15 A: She stated that she lived there and that she was not
16 going to leave.

17 Q: And did she eventually have to be detained?

18 A: Yes. I eventually arrested her for interfering in a
19 police investigation.

20 Q: At that point, did you enter the home?

21 A: After the arrival of the rest of the narcotics agents, we
22 did.

23 Q: Can you discuss the general layout of that house?

24 A: It's a two-story house. When you walk into the front
25 door, you have a living room area to your right, the kitchen

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KENT DONALD - DIRECT EXAMINATION BY MS. COTE

1 is off to your left and as you enter straight down the house
2 and you make a left the stairs go up to the second level.

3 Q: Is there an attached garage?

4 A: Yes, ma'am, there is.

5 Q: And is the house located in a subdivision, in a
6 neighborhood?

7 A: It is, yes.

8 Q: Okay. Do you know how y'all entered the house?

9 A: We took the key from Mr. Gore and entered that way.

10 Q: When you entered the house, what area of the house did
11 you search personally?

12 A: I searched the kitchen area.

13 Q: And what if anything did you find?

14 A: I located a loaded Glock 19 magazine that had twelve
15 rounds of 9 mil ammunition.

16 Q: Where was that located in the kitchen?

17 A: It was above the refrigerator to the right. It was in
18 the cabinet.

19 Q: And who took possession of that item?

20 A: That'd be Detective Ard.

21 Q: Beg the court's indulgence. I have nothing further
22 Detective Donald. Please answer any questions, Mr. Truslow
23 may have.

24 A: Yes, ma'am.

25 Q: Thank you.

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KENT DONALD - CROSS EXAMINATION BY MR. TRUSLOW

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1 CROSS EXAMINATION OF KENT DONALD BY MR. TRUSLOW:

2 Q: Detective, when Angel Deangelo, did she -- you
3 acknowledge that she was the lady that was involved in the
4 jury selection, the codefendant prior to today?

5 A: Yes.

6 Q: Okay. When she showed up on the scene -- Mr. Gore didn't
7 go back to the house, did he, he was stopped?

8 A: Correct.

9 Q: Ms. Deangelo showed up on the scene and she demanded to
10 see the search warrant; is that correct?

11 A: Correct.

12 Q: And she said that she lived in that house, correct?

13 A: Yes, she did.

14 Q: And she wouldn't leave -- she wasn't leaving, that's what
15 she told you, right?

16 A: Correct.

17 Q: Now, the keys that you took to open the door, do you have
18 those keys with you today?

19 A: I do not.

20 Q: Okay. Now, isn't it true that you took the keys out of
21 the ignition and not from Mr. Gore? I mean, you arrested him
22 for DUS, right?

23 A: A road officer did, correct.

24 Q: And you took the keys and the key chain out of the
25 ignition of the car and turned the car off?

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KENT DONALD - CROSS EXAMINATION BY MR. TRUSLOW

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1 A: I could have; I don't know. I took it from him.

2 Q: I want to show you and ask if you -- you've been in law
3 enforcement for a while, if you can identify that document.

4 MS. COTE: Your Honor, I would ask to see this.

5 MR. TRUSLOW: I'm sorry, Judge.

6 MS. COTE: Thank you.

7 BY MR. TRUSLOW:

8 Q: Can you identify this document?

9 A: This would be an Horry County Department Vehicle Impound
10 inventory record.

11 Q: Now, that's the vehicle that he was in. Can you tell who
12 the operator was; obviously, we know.

13 A: Alton Wesley Gore.

14 Q: Okay. And can you tell me who the owner of that vehicle
15 was?

16 A: It does not say.

17 Q: So, basically what you did was you took the keys that
18 were associated with that vehicle and then you took them to
19 the house to see if it opened the door?

20 A: No, I took the keys away from Mr. Gore.

21 Q: You just said -- sir, you just said you're not sure if
22 you took them out of the ignition or from Mr. Gore.

23 A: He had control of the vehicle.

24 Q: How many keys were on that key chain?

25 A: I have no idea

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KENT DONALD - CROSS EXAMINATION BY MR. TRUSLOW

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- 1 Q: You can't remember if it was bulky or it was one key or
2 just a house key?
- 3 A: I don't know.
- 4 Q: You don't know that because it's been about two years,
5 right?
- 6 A: Probably, yes.
- 7 Q: Did you write that down in the notes anywhere?
- 8 A: No, sir.
- 9 Q: Okay. Who filled out the warrants in this case?
- 10 A: For who?
- 11 Q: For Mr. Gore, the arrest warrants?
- 12 A: That would be Detective Ard.
- 13 Q: Okay. And again you've been in law enforcement for quite
14 awhile, can you identify what this document appears to be?
- 15 A: It says Official Ten-Year Driving Record, State of South
16 Carolina.
- 17 Q: And whose Official Ten-Year Driving Record is that?
- 18 A: Alton Wesley Gore, Jr.
- 19 Q: Okay. Now, the search warrant in the house that we're
20 talking about is 309 Junco Circle, correct?
- 21 A: Yes, sir.
- 22 Q: Okay. Can you tell me what the address is for Alton Gore
23 on his driving record?
- 24 A: 324 Highway 57, Little River.
- 25 Q: Okay. Now, if you notice and I'm sure you're familiar

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KENT DONALD - CROSS EXAMINATION BY MR. TRUSLOW

1 with these, if you go in and have to make a change of address
2 over the years it shows what it was changed from, correct?

3 A: It should.

4 Q: Okay. Can you look on there and tell the jury what his
5 last four addresses were?

6 A: 387 Highway 57, Little River; 1654 Starbluff Road, Longs;
7 324 Highway 57 South, Little River; 1653 Starbluff Road,
8 Longs.

9 Q: Do you see 309 Junco Circle on his official record?

10 A: I do not.

11 Q: All you know is that for some reason he was leaving that
12 residence that morning and a female was leaving also, correct?

13 A: Yes, sir.

14 Q: In separate cars?

15 A: Yes, sir.

16 Q: You don't know whose vehicle he was driving, correct?

17 A: No, sir.

18 Q: And you don't recall whether you took the keys out of the
19 ignition or that those keys were his other than that they
20 operated that vehicle, correct?

21 A: Correct.

22 Q: You don't know if he was driving his car or Angel's car,
23 do you?

24 A: Angel's car was a vehicle -- he was driving a pickup
25 truck.

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KENT DONALD - REDIRECT EXAMINATION BY MS. COTE

1 Q: Right, but have you gotten registration at all for her
2 car?

3 A: I do not, no.

4 Q: Okay. And you don't have the registration of the owner
5 information for the car he had so it could've been her car?

6 A: It could've been.

7 Q: Other than the fact that he had -- you'd seen him at that
8 house maybe in the past handful of times and that he'd left
9 that morning, do you have any physical documentation that
10 shows the jury that he had possession and ownership of that
11 house, a lease agreement?

12 A: No, I do not.

13 Q: Title to the house?

14 A: No, sir.

15 Q: Electric bill?

16 A: No, sir.

17 Q: Cable bill?

18 A: No, sir.

19 Q: Lawn maintenance agreement, anything?

20 A: No, sir.

21 Q: That's all I've got, Your Honor.

22 THE COURT: Any redirect?

23 MS. COTE: Yes, Your Honor, briefly.

24 REDIRECT EXAMINATION OF DONALD KENT BY MS. COTE:

25 Q: That morning when you stopped Mr. Gore's vehicle, was

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KENT DONALD - REDIRECT EXAMINATION BY MS. COTE

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1 anybody else in the car with him?
2 A: No, ma'am.
3 Q: And he was the operator of the vehicle?
4 A: Yes, ma'am.
5 Q: Do you remember what the license plate was on that car?
6 Was it South Carolina license plate or a North Carolina
7 license plate?
8 A: It was South Carolina.
9 Q: Do you remember, and I can show you Mr. Gore's driving
10 record, when his license was suspended?
11 A: I don't recall offhand.
12 Q: I'm gonna show you this document that Mr. Truslow showed
13 you.
14 A: It says here suspension began December 2nd, 2008.
15 Q: And does it show when ---
16 MR. TRUSLOW: Objection as to relevance, Your Honor, of
17 suspended license.
18 THE COURT: Well ---
19 MS. COTE: He brought up the suspended license in cross.
20 MR. TRUSLOW: No, sir, I didn't; I brought up the
21 address.
22 MS. COTE: You said that he was stopped for driving under
23 suspension; I didn't bring that up.
24 THE COURT: No, sir. I'm gonna permit it.
25 MR. TRUSLOW: Okay. That's correct.

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KENT DONALD - RECROSS EXAMINATION BY MR. TRUSLOW

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1 THE COURT: I'm gonna permit it.
2 MS. COTE: Thank you.
3 BY MS. COTE:
4 Q: Does it show on that document when the last time his
5 address was updated?
6 A: It appears May 19th, 2011.
7 Q: Okay. Is there a -- what was the time before that?
8 A: The time before that was August 25th, 2006.
9 Q: So, there's a gap from 2006 to 2011 where it wasn't
10 updated?
11 A: Yes, ma'am.
12 Q: And he was suspended in 2008?
13 A: Yes, ma'am.
14 Q: Thank you. I have no further questions.
15 MR. TRUSLOW: One follow-up question, Your Honor.
16 THE COURT: Yes, sir.
17 RECROSS EXAMINATION OF KENT DONALD BY MR. TRUSLOW:
18 Q: She asked you if there's a gap between 2006 and 2011,
19 correct?
20 A: Yes.
21 Q: In the addresses?
22 A: Yes.
23 Q: Well, you don't update your address unless you got a new
24 address, right?
25 A: Not necessarily.

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MARK COOPER - DIRECT EXAMINATION BY MS. COTE

1 Q: Right. So, I mean, if you lived in the same place for
2 five years, you're not gonna update it until you move to a new
3 address, would you?

4 A: No, not my ---

5 Q: Thank you.

6 MS. COTE: I have nothing further, Your Honor.

7 THE COURT: All right. You may come down.

8 Can this officer be excused?

9 MS. COTE: Yes, Your Honor.

10 THE COURT: You are excused and thank you.

11 MR. DONALD: Thank you, sir.

12 (REPORTER'S NOTE: Witness leaves the witness stand.)

13 THE COURT: Next witness.

14 MS. COTE: Detective Mark Cooper.

15 MARK COOPER, HAVING BEEN SWORN,

16 TESTIFIED AS FOLLOWS:

17 CLERK: State your full name and spell your last name.

18 MR. COOPER: My name is Mark Cooper, last name is C-O-O-
19 P-E-R.

20 DIRECT EXAMINATION OF MARK COOPER BY MS. COTE:

21 Q: Detective Cooper, where are you employed?

22 A: Horry County Police Department.

23 Q: And what's your current position there?

24 A: Senior Detective in Narcotics and Vice Section.

25 Q: What was your position back on March 5th, 2010?

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MARK COOPER - DIRECT EXAMINATION BY MS. COTE

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- 1 A: Same.
- 2 Q: Can you please tell the jury a little bit about your
3 background and training in law enforcement?
- 4 A: Been in law enforcement since '88, 1988; been in
5 narcotics since 1998.
- 6 Q: Do you have special training in narcotics?
- 7 A: Several schools and stuff like that but pertaining to
8 going out and buying drugs and doing search warrants and how
9 to handle evidence and stuff.
- 10 Q: Did you take part in the execution of the search warrant
11 on Junco Circle in March of 2010?
- 12 A: I did. I was asked to take photos of the master bedroom
13 area.
- 14 Q: Is that location in Horry County?
- 15 A: Yes, it is.
- 16 Q: So, you said -- what was your assignment, I'm sorry.
17 What was your assignment?
- 18 A: I searched the master bedroom and took photos of the
19 master bedroom area.
- 20 Q: When you entered the house, did you go straight to the
21 master bedroom?
- 22 A: Yes, I did, what I assumed to be the master bedroom, it
23 was upstairs.
- 24 Q: And did it appear to be the master bedroom?
- 25 A: Yes, it was, the biggest bedroom in the house.

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MARK COOPER - DIRECT EXAMINATION BY MS. COTE

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- 1 Q: Okay. And was there an attached bathroom?
- 2 A: Yes, there was.
- 3 Q: And an attached closet?
- 4 A: A big walk-in closet, yes, ma'am.
- 5 Q: What was the shelving like in that closet?
- 6 A: If I remember correctly it was like that white metal
- 7 Rubbermaid stuff or whatever it's called.
- 8 Q: What if anything did you find when you searched the
- 9 master bedroom?
- 10 A: I found a Glock on the bed under a pillow. It had a
- 11 magazine with ammo in it; I'm not exactly sure how many
- 12 bullets off the top of my head. And found a couple of
- 13 bandanas and some photos in a dresser.
- 14 Q: Who were those photos of?
- 15 A: The defendant, Mr. Gore.
- 16 Q: Were there other photos framed in the bedroom?
- 17 A: If I remember correctly, there's one of him and Ms.
- 18 Deangelo or however you say her name on the -- I think it was
- 19 a TV stand or something at the foot of the bed.
- 20 Q: And in addition to the master bedroom, did you search
- 21 that master closet as well?
- 22 A: Yes, ma'am, I did.
- 23 Q: What if anything did you find in there?
- 24 A: There was a shoe box with some money in it; I'm not
- 25 exactly sure how much. I didn't do the counting of it, I just

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1 located it and then I would call the case agent who was
2 Detective Ard at the time and he would count it and take care
3 of it from there, I just photographed it.

4 Q: Was that your practice if anything was found would you
5 call Detective Ard to come and collect it?

6 A: Yes, ma'am. Normally what we do on a search warrant is
7 there's a case agent and we have teams in narcotics and at
8 that time Detective Ard and Detective Donald were partners and
9 this was their case and their search warrant and they usually
10 will pass out duties and say I need you to take photos, I need
11 you to do prisoner security or need you to do perimeter or
12 whatever. And anything that's found, we try to turn it over
13 to the case agents because they're the ones that have the
14 working knowledge of what's going on because other than that
15 day, I have no working knowledge of the investigation. I was
16 just asked to help because of the propensity of violence maybe
17 when we're there and then once it's secured it just to help
18 search and try to find any evidence.

19 Q: Back to that closet, do you have a method for how you
20 search the closet?

21 A: Yes, ma'am. Normally, what I do and like I said, I've
22 been there for a few years now. I'll usually start at the top
23 of a closet and I'll try to work my way around the closet and
24 then pull everything down in the floor. And in doing so -- I
25 don't know how many stacks but there was several stacks of

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1 like men's blue jeans or bigger pair of blue jeans stacked on
2 the top of the closet and then as I pulling some of those down
3 to search them to see if there's anything in their pockets,
4 approximately, I think it was thirteen bags -- I think they
5 ended up weighing -- according to Detective Ard, I think they
6 weighed about an ounce a piece. There was about thirteen
7 ounces of white powder that tested positive for cocaine.

8 Q: And did that fall down from that top shelf in master
9 closet?

10 A: Yes, ma'am, it did.

11 Q: Were there only men's clothing in that closet?

12 A: I remember those specifically because like I say, it's
13 been a while but I remember those because that's where it fell
14 out of and I took a photo of it and there's men's blue jeans
15 and stuff and, I mean, maybe some khaki pants or something
16 laying on the ground when I took the photo of the drugs.

17 Q: Your Honor, may I approach the witness. Detective
18 Cooper, I'm gonna show you ---

19 THE COURT: Truslow, you've seen these pictures?

20 MR. TRUSLOW: Yes, I have, Your Honor.

21 THE COURT: All right.

22 BY MS. COTE:

23 Q: Let me make sure I get them all in order. I'm gonna show
24 you what's been marked as identification State's Exhibits One
25 through Nineteen.

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1 A: Okay.

2 Q: And I'm gonna ask you to look through those and tell me
3 if you recognize them.

4 A: All right. Yes, ma'am.

5 Q: I'm gonna ask you again whenever any of the agents in the
6 house found anything, would they call you to take a picture of
7 that item?

8 A: They're supposed to, yes, ma'am.

9 Q: And so all of these pictures were things you observed in
10 the house that day?

11 A: Yes, ma'am. I did take all those photos.

12 Q: And are those accurate reflections, accurate
13 representations of what you observed that day in the house?

14 A: Yes, ma'am.

15 MS. COTE: Your Honor, the State would seek to introduce
16 items One through Nineteen into evidence at this time.

17 THE COURT: Permitted.

18 MR. TRUSLOW: No objection.

19 STATE'S EXHIBITS ONE THROUGH NINETEEN
20 ADMITTED INTO EVIDENCE.

21 THE COURT: Mr. Foreman, ladies and gentlemen, during the
22 course of this trial, various matter such as these will be
23 introduced into trial. These will be with you in the jury
24 room during your deliberations and they of course are entitled
25 to pass them around and publish them at the time of

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1 introduction if they care to but they will be with you.

2 You may proceed.

3 MS. COTE: May we publish these to the jury at this time?

4 THE COURT: You may.

5 MS. COTE: Thank you.

6 THE COURT: Mr. Foreman, take look at them and pass them
7 around.

8 MS. COTE: Yes, sir.

9 BY MS. COTE:

10 Q: This is State's Exhibit One, can you tell the jury what
11 this is?

12 A: That's the front door of the residence.

13 Q: And this is State's Two, what was this?

14 A: If I remember correctly, that's the vehicle the female
15 was driving when the detective stopped her out front or when
16 she came back home.

17 Q: This is State's Three, what was that?

18 A: That's a bedroom at the top of the stairs. It looked --
19 appeared to be like a child's bedroom or spare bedroom of some
20 kind.

21 Q: Was that a picture of that same bed?

22 A: Yes, ma'am. That's a little clear baggie that was under
23 the mattress.

24 Q: What is this a picture of?

25 A: That's the bed in the master bedroom.

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- 1 Q: And this is the area that you searched?
- 2 A: Yes, ma'am.
- 3 Q: This is State's Six.
- 4 A: That's just another overview from standing outside the
- 5 door.
- 6 Q: This is State's Seven.
- 7 A: Yes, ma'am. That's the -- that the barrel of the Glock
- 8 that was found on the bed under the pillow.
- 9 Q: State's Eight.
- 10 A: That's the picture of the Glock once I pulled the cover
- 11 back to get a better shot of the -- or better photo of the
- 12 gun.
- 13 Q: State's Nine.
- 14 A: That's when I cleared it. I took the magazine out and
- 15 pulled the slide back to make it safe for the detectives to
- 16 transport back to the police department.
- 17 Q: This is State's Ten.
- 18 A: That's a chair that was in the far corner of the master
- 19 bedroom, had a bunch of clothes on it and all and I like to
- 20 take photos of any and everything I can before I start
- 21 searching or disturbing it and that's how that was before we
- 22 searched.
- 23 Q: And so, if you're facing the bed, was this to the left
- 24 side of the bed?
- 25 A: On the left-hand side, yes, ma'am.

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- 1 Q: This is State's Eleven.
- 2 A: That's like a TV stand or a night stand or whatever you
3 want to call it that was at the foot of the bed toward the
4 door of the master bedroom or the closet.
- 5 Q: And what is on that shelf?
- 6 A: That's a Glock box. That's the -- I'm assuming that's
7 the box that the weapon came in.
- 8 Q: That's State's Twelve.
- 9 A: That's a close-up of the weapons box.
- 10 Q: And is there a photograph behind that?
- 11 A: Yes, there is.
- 12 Q: This is State's Thirteen.
- 13 A: That's a Century safe that was in the walk-in closet.
- 14 Q: This is State's Fourteen.
- 15 A: That's an overview of the master bathroom.
- 16 Q: And this was the attached bathroom?
- 17 A: Yes, ma'am.
- 18 Q: This is State's Fifteen.
- 19 A: That's just an overview of the closet before I went in
20 there.
- 21 Q: That's looking in from the master bedroom.
- 22 A: From the master bedroom, yes, ma'am.
- 23 Q: What is this? This is State's Sixteen.
- 24 A: That's a picture of the top of the closet. I had a
25 couple of boxes and I took photos of that specifically because

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1 in been my experience in law enforcement with prior search
2 warrants, a couple of hundred search warrants, there will be
3 -- that's a good place for people to stash money and drugs and
4 stuff and all and so I took a picture of it before I actually
5 pulled those down because I didn't want to mess anything up
6 that might be inside of it. And then did you pull it down?

7 A: Yes, I did.

8 Q: Is that a -- State's Seventeen a picture of that?

9 A: Yes, ma'am. That's the money I was talking about I found
10 in the shoe box.

11 Q: Do you know off the top of your head, how much was in
12 that shoe box?

13 A: I do not.

14 Q: This is State's Eighteen.

15 A: Yes, ma'am. That's the stack of pants I pulled down into
16 the floor and the thirteen ounces of cocaine fell out.

17 Q: State's Nineteen, is that a close-up of that bag?

18 A: That's just a close-up of that bag.

19 Q: And that was after you'd pulled it out of the closet ---

20 A: Yes, ma'am.

21 Q: --- or at least cleared a path ---

22 A: Yes, ma'am.

23 MS. COTE: Beg the Court's indulgence, Your Honor.

24 BY MS. COTE:

25 Q: After you discovered the Ziploc bag that fell at your

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MARK COOPER - CROSS EXAMINATION BY MR. TRUSLOW

1 feet with the individually wrapped bags in it, what did you
2 do?

3 A: I contacted Detective Ard. I believe he was downstairs
4 doing something. I don't know what he was doing but I called
5 him and he came up and took possession of it.

6 Q: And is that the extent of your involvement in this case?

7 A: Yes, ma'am.

8 MS. COTE: Thank you. I have no further questions for
9 this witness, Your Honor.

10 THE COURT: Truslow?

11 MR. TRUSLOW: Judge, with due respect, I'm gonna -- I
12 need to wait till those photos go around, I need to use them.

13 THE COURT: All right, sir. That's perfectly
14 understandable. Do you have any examination not requiring the
15 use of the photos?

16 MR. TRUSLOW: No, sir.

17 THE COURT: We'll wait. All right, sir.

18 CROSS EXAMINATION OF MARK COOPER BY MR. TRUSLOW:

19 Q: Detective in regards to the picture of what you described
20 as male clothing ---

21 A: Uh-huh (affirmative response).

22 Q: Did you take that into evidence?

23 A: The clothing?

24 Q: Yes, sir.

25 A: I did not. I don't know if Ard did or not?

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- 1 Q: Okay. So you didn't?
- 2 A: No, sir. All I did was take pictures.
- 3 Q: Okay. So, you didn't take the clothes in but you don't
- 4 know if they were taking it?
- 5 A: I don't.
- 6 Q: Did you measure the clothes or see what size male
- 7 clothing they were?
- 8 A: Did not.
- 9 Q: Okay. Do you know what size or did anybody attempt to
- 10 see with size clothing Mr. Gore wore?
- 11 A: I didn't. I'd never seen him, I don't ---
- 12 Q: Okay. Let me show you a picture that's marked as State's
- 13 Number Fourteen.
- 14 A: Uh-huh (affirmative response).
- 15 Q: Do you see a curling iron in the bathroom?
- 16 A: Yes, I do.
- 17 Q: Do you think Mr. Gore uses a curling iron?
- 18 A: I have no clue about his hygiene.
- 19 Q: Well, just look at his hair. Do you think he needs a
- 20 curling iron?
- 21 A: With his current haircut, no, I wouldn't think so.
- 22 Q: His hair was shorter when you arrested him, do you
- 23 remember.
- 24 A: I didn't arrest him.
- 25 Q: Well, did you see him that day?

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MARK COOPER - CROSS EXAMINATION BY MR. TRUSLOW

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1 A: Did not.
2 Q: Now, the pictures -- I think there's two pictures in here
3 where you have a picture in a picture.
4 A: A picture in a picture.
5 Q: Right here.
6 A: Okay.
7 Q: Is it your testimony that's a picture of Mr. Gore?
8 THE COURT: Identify the number for the record.
9 Q: That's State's Number Twelve.
10 THE COURT: Thank you.
11 A: No, I don't believe that's the photo I was talking about.
12 Q: Okay. So, that's a photo of three black males, correct?
13 A: Yes.
14 Q: And you're not willing to testify that that's a picture
15 of Mr. Gore?
16 A: I can't see it well enough to tell.
17 Q: Okay. I was looking for the -- did you have a picture of
18 what you characterize as a child's bedroom or no?
19 A: Yeah, it should be just a plain mattress maybe laying on
20 the floor and it is like the mattress has been raised
21 underneath, showing underneath. There it is or that's one of
22 them.
23 Q: All right. That's it. So, these two pictures were
24 characterized as a child's bedroom and what -- this is
25 Plaintiff's Number -- State's Exhibit Number Three, State's

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MARK COOPER - REDIRECT EXAMINATION BY MS. COTE

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1 Exhibit Number Four, why would you characterize that as a
2 child's bedroom?

3 A: I believe I said it as a child's bedroom or a guest
4 bedroom.

5 Q: Okay. Now, were you aware that Ms. Angel Deangelo has a
6 six-year-old daughter and you have no knowledge about that?

7 A: No clue.

8 Q: That's all I have, Your Honor.

9 MR. TRUSLOW: All right. Do you have any additional
10 questions?

11 MS. COTE: Yes, Your Honor, just one question.

12 REDIRECT EXAMINATION OF MARK COOPER BY MS. COTE:

13 Q: You testified that you took custody of a picture in the
14 bedroom; is that correct?

15 A: No, I -- I think Detective Ard took custody of all of ---

16 Q: Did you find the picture ---

17 A: There was two photos of the defendant, I believe he had
18 some money in his hand or something like that, he squatted
19 down or something.

20 Q: But that wasn't the picture that you ---

21 MR. TRUSLOW: Your Honor, I've got a matter to take up
22 with you outside the presence of the jury.

23 THE COURT: All right. I'll let you to the jury room.
24 I'll be calling you back in just a minute.

25 (REPORTER'S NOTE: The jury retires to the jury room.)

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MARK COOPER - REDIRECT EXAMINATION BY MS. COTE

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1 THE COURT: Yes, sir, Mr. Truslow?

2 MR. TRUSLOW: Your Honor, may I approach, please.

3 THE COURT: Yes, sir.

4 MR. TRUSLOW: I was given this late in discovery in
5 November in this case. My understanding was that was not gonna
6 be used by the State. And those premarked photographs that
7 were gonna be used -- I would submit that that photo is
8 irrelevant. First of all, if there's any relevance to it that
9 any probative value is outweighed by the prejudice of it.
10 He's not holding drugs but it makes him look as if he's
11 holding a bunch of money. Nobody knows who took that
12 photograph ---

13 THE COURT: Why do you need this?

14 MS. COTE: Your Honor, I'll hand up the original. We've
15 premarked them as State's Exhibit Twenty-six and Twenty-seven?

16 THE COURT: Did you introduce them ---

17 MS. COTE: Not yet and I was getting ready to introduce
18 them.

19 MR. TRUSLOW: Your Honor, those are highly prejudicial
20 and not probative and not relevant.

21 MS. COTE: Your Honor, they are relevant because it goes
22 to his identity. It puts him in the house. Those pictures
23 were in the master bedroom and Mr. Truslow is trying to say
24 that this doesn't ---

25 MR. TRUSLOW: It doesn't put him in the house, it puts a

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1 picture of him in the house.

2 THE COURT: Well, that will -- may be some evidence that
3 it was his house, I'll let it in just for the sole -- that
4 these pictures were taken of him in the house.

5 MS. COTE: Yes, sir.

6 THE COURT: Not what they contain.

7 MS. COTE: Right and I won't comment on further on that.
8 I'll just ask if they were a picture of him wherever they were
9 found.

10 THE COURT: Yes, I ---

11 MR. TRUSLOW: Judge, the issue is it's not relevant
12 because Ms. Deangelo could've had a picture of him so how does
13 that put him in the house ---

14 THE COURT: Well, argue that to the jury but ordinarily
15 people who live in house may have pictures of them in the
16 house particularly if they have a girlfriend living there.
17 And I -- I'll permit it to show that these were two pictures
18 of him found in the house but for no other purpose.

19 MS. COTE: I understand, Your Honor. Thank you.

20 THE COURT: And you have been provided this in discovery.

21 MR. TRUSLOW: Yes, sir.

22 THE COURT: All right. No, they're entitled to show --
23 I'm just curious, though, why didn't you do in direct?

24 MS. COTE: I was going ---

25 MR. TRUSLOW: I would object to that as well, Your Honor.

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MARK COOPER - REDIRECT EXAMINATION BY MS. COTE

1 MS. COTE: That's fine.

2 MR. TRUSLOW: Because now it goes beyond the scope of
3 cross ---

4 THE COURT: No, you went through very carefully picture
5 by picture but I'm curious ---

6 MR. TRUSLOW: Judge, I went through two pictures that
7 were already introduced into evidence.

8 THE COURT: I'm curious to know why you didn't introduce
9 them at the time.

10 MS. COTE: I was going to introduce them through Sergeant
11 Ard because he took custody of all the evidence. So, I was
12 putting in all of the physical evidence through him.

13 THE COURT: Well, how does -- how can Ard do -- did Ard
14 ---

15 MS. COTE: He -- Detective Cooper found it but then
16 Detective Ard came and collected all the evidence and actually
17 took it into his custody.

18 THE COURT: And Ard is the one that found these pictures?

19 MS. COTE: Cooper found the pictures but then Ard came
20 and collected it. So, he saw them in the bedroom as well.

21 THE COURT: No, I'll permit that.

22 MS. COTE: Thank you, Your Honor.

23 THE COURT: You can do it through him or Ard but it's
24 coming in one way or the other.

25 MS. COTE: Okay. Thank you, sir.

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1 THE COURT: All right. Bring the jury back.
2 You want this back, too? Ma'am, you want this back?
3 MS. COTE: This is Mr. Truslow's, I believe.
4 MR. TRUSLOW: Judge, I don't know if I made the record
5 clear, I wanted to put on the record that I don't see how that
6 is within the scope of redirect.
7 THE COURT: I do.
8 MR. TRUSLOW: All I did was cross examine on what she
9 talked about.
10 THE COURT: Well, I conclude that it ---
11 MR. TRUSLOW: I didn't bring up anything new.
12 THE COURT: It's permissible particularly when they can
13 introduce it later with Detective Ard, it's coming in one way
14 or the other. Would you prefer to do it through Detective
15 Ard?
16 MR. TRUSLOW: I have no preference.
17 THE COURT: All right, sir.
18 (REPORTER'S NOTE: The jury returns to the courtroom.)
19 THE COURT: All right. You may proceed.
20 MS. COTE: Thank you, Your Honor.
21 BY MS. COTE:
22 Q: Detective Cooper, I'm gonna show you what's been marked
23 as identification as State's Exhibits Number Twenty-six and
24 Twenty-seven. Do you recognize those pictures?
25 A: Yes, ma'am.

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MARK COOPER - REDIRECT EXAMINATION BY MS. COTE

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1 Q: Were those two pictures that you found in the master
2 bedroom?

3 A: They were in the dresser.

4 Q: In the dresser?

5 A: Yes, ma'am.

6 Q: And did you collect them or did you find them that day
7 and then have Sergeant collect them?

8 A: Yes. Detective Ard took possession of the photos.

9 MS. COTE: Your Honor, the State would seek to introduce
10 Twenty-six and Twenty-seven into evidence at this time.

11 MR. TRUSLOW: Judge, I'd like to see them first because
12 my copy doesn't have the back part with the ---

13 THE COURT: Sure.

14 MR. TRUSLOW: Subject to the prior objection.

15 THE COURT: Yes, I will permit them.

16 STATE'S EXHIBIT NUMBERS TWENTY-SIX AND TWENTY-SEVEN

17 ADMITTED INTO EVIDENCE.

18 MS. COTE: Your Honor, may I publish these to the jury at
19 this time?

20 THE COURT: You may. These pictures are introduced only
21 for the purpose of the testimony alleging that they were found
22 on the premises and for no other purposes.

23 BY MS. COTE:

24 Q: Detective Cooper, do you know the identity of the person
25 in that picture?

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MARK COOPER - RECROSS EXAMINATION BY MR. TRUSLOW

1 A: Mr. Gore.

2 MS. COTE: Your Honor, I have no further questions.

3 THE COURT: You may examine him, Mr. Truslow.

4 MR. TRUSLOW: I need -- I'll go ahead and go forward.

5 RECROSS EXAMINATION OF MARK COOPER BY MR. TRUSLOW:

6 Q: In regards to the pictures that are going around, not
7 everybody has seen yet, do you know when those pictures were
8 taken?

9 A: No clue.

10 Q: Do you know who took those pictures?

11 A: I do not.

12 Q: Do you know for what purpose those pictures were taken?

13 A: I have no idea.

14 Q: Were there any drugs in those pictures?

15 A: Not that I can see.

16 Q: Do you have any idea whether Angel had those pictures?

17 A: No, sir. I just know where they were located?

18 Q: Okay. And where was that?

19 A: In the master bedroom in the dresser.

20 Q: Okay. So, Angel Deangelo could've had those pictures of
21 Alton, we don't know who took them?

22 A: Right, yes, sir.

23 Q: And they're not taken within that house, are they?

24 A: No, sir.

25 Q: They were just found there?

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JESSE ARD - DIRECT EXAMINATION BY MS. COTE

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1 A: Yes, sir.

2 Q: Okay. Did you find his wallet in the house?

3 A: I did not.

4 Q: Okay. Did you find anything else other than what you
5 photographed?

6 A: Just what I photographed.

7 Q: Okay. Thank you.

8 THE COURT: Does that conclude examination of this
9 witness?

10 MS. COTE: Yes, Your Honor. May he be excused?

11 THE COURT: He may unless Mr. Truslow objects?

12 MR. TRUSLOW: No objection.

13 THE COURT: All right.

14 (REPORTER'S NOTE: Witness leave the witness stand.)

15 THE COURT: Call your next witness.

16 MS. COTE: Thank you, Your Honor. The State calls
17 Sergeant Derrick Ard.

18 JESSE ARD, HAVING BEEN SWORN,

19 TESTIFIED AS FOLLOWS:

20 CLERK: State your full name and spell your last name.

21 MR. ARD: Jesse Ard, A-R-D.

22 DIRECT EXAMINATION OF JESSE ARD BY MS. COTE:

23 Q: Where are you employed?

24 A: With the Horry County Police Department.

25 Q: What's your current rank?

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JESSE ARD - DIRECT EXAMINATION BY MS. COTE

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- 1 A: My current rank is actually Corporal.
- 2 Q: I apologize, I misstated that. How long have you worked
3 with the Horry County Police Department?
- 4 A: Fourteen years.
- 5 Q: Will you please discuss any further details about your
6 background and training in law enforcement?
- 7 A: Initially worked patrol, moved to a COT (spelled
8 phonetically) team, Street Crimes Unit, was assigned to the
9 Horry County Police Narcotics and Vice section for
10 approximately four years where conducted many narcotics
11 investigations. At which point in time, I rotated out back to
12 Central Precinct D Squad Corporal and that's where I'm at now.
- 13 Q: And were you on Narcotics and Vice back on March 5th,
14 2010?
- 15 A: Yes, ma'am, I was.
- 16 Q: And were you the lead detective on a case involving Alton
17 Wesley Gore, Jr.?
- 18 A: Yes, ma'am, I was.
- 19 Q: Did you take part in the execution of a search warrant at
20 309 Junco Circle?
- 21 A: Yes, ma'am.
- 22 Q: And I'll have to ask you again, where is that located?
- 23 A: That is located in the Longs section of Horry County.
- 24 Q: Based on your investigation, who was living at that
25 residence?

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JESSE ARD - DIRECT EXAMINATION BY MS. COTE

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1 A: Based upon my investigation, the defendant Mr. Gore,

2 Alton Gore was living at the residence.

3 Q: Based on your investigation had you ever seen anybody
4 besides Mr. Gore or Ms. Deangelo at that residence?

5 A: I had not; I had not.

6 Q: What date did you get the search warrant for that home?

7 A: Let me look a minute. I believe ---

8 Q: Would you like to refer to your ---

9 A: I would like to refer to my ---

10 Q: Would that help to refresh your memory?

11 A: Yes, it would.

12 MS. COTE: Your Honor, may I approach the witness, this
13 is a copy of his case report.

14 THE COURT: You have not reviewed that case report before
15 coming on the stand?

16 A: Yes, Your Honor, I did.

17 THE COURT: I asked him a specific date, Your Honor.

18 A: The search warrant is issued February the 28th.

19 BY MS. COTE:

20 Q: Going back to that question I just asked you based on
21 your investigation who lived there, what's the basis of your
22 opinion?

23 A: The basis of my opinion was that ---

24 Q: Had you observed them there before?

25 A: I had. I had. My opinion was that Alton Gore was in

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JESSE ARD - DIRECT EXAMINATION BY MS. COTE

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- 1 custody and control of the residence, that he had established
2 residency there and that was his home.
- 3 Q: Okay. As far as you knew, did he live anywhere else?
- 4 A: No, ma'am; I didn't know of him living anywhere else.
- 5 Q: And going back to the search warrant, you obtained it in
6 February, the end of February but you did not execute it until
7 what date?
- 8 A: It would've been March the 5th.
- 9 Q: Okay. And why was there a few day delay before you
10 actually searched the home?
- 11 A: That's actually an administrative issue. It's based upon
12 the manpower, considering the size of the residence, it being
13 a two-story stick-built residence, we had to make arrangements
14 to have enough detectives available to assist with the search
15 warrant.
- 16 Q: Was it sort of a scheduling issue?
- 17 A: It is a scheduling issue.
- 18 Q: Okay. When you got the search warrant, were you the
19 person who actually went to the magistrate and testified and
20 got the search warrant?
- 21 A: Yes, ma'am.
- 22 Q: And what was the basis for the search warrant?
- 23 A: Based upon a narcotics investigation, we were able to
24 obtain probable cause for the search warrant being issued.
- 25 Q: And what were you seeking at 309 Junco Circle?

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JESSE ARD - DIRECT EXAMINATION BY MS. COTE

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1 A: We were seeking anything involved in any illegal
2 narcotics activity.

3 Q: Now, I'm going to take you actually back to that date on
4 March 5th, 2010. Were you with your partner Detective Donald
5 that day?

6 A: Yes, ma'am, I was.

7 Q: And were you both together in front of the house that
8 morning?

9 A: Yes, ma'am.

10 Q: And what did you observe?

11 A: I observe both -- two vehicles leave, Ms. Deangelo being
12 in one vehicle separate from Mr. Gore -- Mr. Gore leaving.
13 They left at approximately the same time.

14 Q: Did you observe the home before they left?

15 A: Yes, ma'am, I did.

16 Q: Did you see any other activity at the home aside from
17 those two people?

18 A: No, ma'am; that was the first activity we'd seen that
19 morning.

20 Q: And after they both left in their separate vehicles, what
21 happened?

22 A: Mr. Gore was involved in a traffic stop where he was
23 arrested in an unrelated incident.

24 Q: After Mr. Gore -- Mr. Gore was detained, what happened
25 next?

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1 A: We were -- myself and Detective Donald were present at
2 the traffic stop and we were able to secure the keys to the
3 residence. We immediately went back to the residence and were
4 kind of on standby until we could get the rest of the
5 narcotics unit there to assist with the execution of the
6 warrant.

7 Q: Do you remember anything about the keys that were
8 obtained from Mr. Gore at the time?

9 A: I do not remember the specifics of the keys. I do know
10 the key that we got from him did fit the door.

11 Q: And it also was the key that was operating the vehicle
12 that he was in at the time?

13 A: Yes, ma'am.

14 Q: And was anybody else in the vehicle with him?

15 A: He was the only person in the vehicle.

16 Q: Okay. When y'all went back to the house, what happened
17 then?

18 A: Ms. Deangelo showed up. She initially spoke with
19 Detective Donald. I had walked around the house to make sure
20 we were alone and her and Detective Donald -- I guess you
21 would initially say they had a confrontation at which point in
22 time she was placed into custody.

23 Q: Okay. And at that point in time are you sort of waiting
24 for everybody else on your team to arrive?

25 A: Yes, ma'am. We were primarily on standby just securing

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1 the residence until we had enough persons.

2 Q: And Ms. Deangelo's car at the residence? Did she arrive
3 in her vehicle?

4 A: She did. She did drive her vehicle back.

5 Q: Do you remember if it was -- what the license plate was
6 on that?

7 A: I do not recall -- not from memory, I do not recall the
8 license plate.

9 Q: Okay. After Ms. Deangelo was detained and everybody else
10 arrived, did you make entry into the home?

11 A: Yes, ma'am, we did.

12 Q: Did you use that key?

13 A: We did utilize the key to get into the residence.

14 Q: Did you assign -- as the case agent, did you assign each
15 officer an area to search?

16 A: No, ma'am. Due to the fact of -- we did not know the
17 exact layout of the inside of the home proper to making entry
18 so I would not have been able to make prior assignments so to
19 speak. So, as we went in, the detectives would assume a room.
20 They would assume -- okay, I've got the living room, you know,
21 so, it was self-assigned in essence.

22 Q: Okay. And were they instructed -- what were they
23 instructed to do if they found anything?

24 A: It is our standard operating procedure if they were to
25 find something to contact, have it photographed and to have

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1 the case agent, me being the case agent in that case, come to
2 collect the evidence.

3 Q: Is that the standard practice on search warrant
4 executions?

5 A: Yes, ma'am.

6 Q: What area of the house did you search personally?

7 A: I personally searched the kitchen.

8 Q: Okay. What if anything did you find?

9 A: To the left of the sink, I found a box containing
10 multiple small plastic baggies. The baggies appeared to be
11 new and they were empty multiple baggies. I also found, I'm
12 going to say an approximate weight of an ounce of a white-
13 powder substance that field tested positive for cocaine. The
14 box also had two spoons that had residue on them, a set of
15 scales, a playing card, or a couple of playing cards that were
16 bent that had residue on them.

17 Q: Based on your experience as a narcotics officer and in law
18 enforcement, what would those items be used to as it relates
19 to narcotics?

20 A: Those items as a whole and based upon my experience, I
21 that would -- I would say that that is more than likely where
22 someone was weighing out assuming the product in the bag which
23 would have been the cocaine.

24 Q: And then would those baggies be used to package?

25 A: In my experience, those baggies are commonly used to

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1 package illegal narcotics.

2 Q: And when you're talking about baggies, are you talking
3 about like a sandwich bag?

4 A: I think the official name is a jewelry bag but it is a
5 Ziploc bag and it is very small.

6 Q: Okay. What else -- what else was collected by your
7 officers on that day on March 5th?

8 A: Multiple items.

9 Q: Would you be able to go through those items for the jury?

10 A: Yes, ma'am. And I will refer to the case file so --
11 because there's quite a bit.

12 Q: If that'll help refresh your memory.

13 A: The second page of the investigative report.

14 Q: Okay.

15 THE COURT: You have a copy of this investigative report?

16 MR. TRUSLOW: Yes, Your Honor.

17 A: We discovered the items that I discovered in the kitchen.

18 Q: Okay.

19 A: Also in that box were some small pills that did field
20 test positive for MDMA and/or Ecstasy. And a small portion of
21 green leafy substance that did test positive for marijuana
22 with a grinder was also located in that cabinet to the left of
23 the sink in the kitchen.

24 Detective Donald found a Glock magazine in the upper
25 cabinet. I believe it was to the right here, to the right of

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1 refrigerator. It was just the magazine, it had twelve rounds
2 in it.

3 Q: So, in one cabinet in the kitchen you have your drug
4 paraphernalia -- paraphernalia, excuse me, that you found and
5 then in another on the other side of the kitchen there is a
6 Glock magazine?

7 A: Yes, ma'am. The cabinet I was searching -- the sink was
8 on the left, the refrigerator would've been on the right so it
9 would've been separate walls in the kitchen.

10 Q: Okay.

11 A: Also found -- Detective Furr located in a cabinet above
12 the refrigerator a black bag containing, and I may pronounce
13 it wrong, Inositol. And in my experience it has been used as
14 a cutting agent or how you would step on your dope so to
15 speak.

16 Q: Can you describe what the means, please.

17 A: If you have cocaine and you want to increase the weight
18 of cocaine and you have a purity level to where, you know,
19 it's pure enough to where you can cut it so to speak and add
20 another substance to it to increase your weight. That's -- in
21 my experience I've seen that that has been used or that
22 product has.

23 Q: Sort of like making -- getting -- stretching what you
24 have?

25 A: Making it more.

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1 Q: Making it more. Okay. What else did you find?

2 A: Detective Sissell (spelled phonetically) also assisting
3 in the kitchen, he located a Fobus holster, which is -- I
4 mean, it's simply a holster for a pistol.

5 Q: Okay.

6 A: And to reiterate on what Detective Cooper found in the
7 master bedroom, he found a Glock 19 handgun, master bedroom on
8 the bed with a loaded magazine and also located in that master
9 bedroom closet was the baggie -- the Ziploc, a large Ziploc
10 bag containing thirteen individual baggies and they were
11 approximately an ounce of white-powder substance that did
12 field test positive for cocaine. In the master bedroom
13 dresser, also Detective Cooper located two photographs, a
14 couple of bandanas and some writings that appeared to be gang
15 related.

16 MR. TRUSLOW: Objection, Your Honor.

17 THE COURT: What's your objection?

18 MR. TRUSLOW: The objection is that's irrelevant. They
19 provided me with some writings and they're just five pages of
20 just nonsensical writing with no signature and nobody ---

21 THE COURT: You may cross examine him on it. He's given
22 his opinion.

23 MR. TRUSLOW: Well, it's irrelevant, Judge, under the
24 rules.

25 THE COURT: Well, I don't know whether it is or not.

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1 I'll let the jury hear the testimony and they can dismiss it
2 or not. I'm not certain of the relevancy of it, but you may
3 proceed.

4 MS. COTE: Thank you, Your Honor. We're not planning on
5 pursuing that any further.

6 THE COURT: Okay.

7 BY MS. COTE:

8 A: Also located in -- Detective Hardee also assisted
9 Detective Cooper in the master bedroom. Detective Hardee
10 located two video cameras that were collected. We did collect
11 two video cameras and Sergeant Hutchinson ---

12 MR. TRUSLOW: Your Honor, I would object. He's
13 testifying to other officers information what they collected.

14 THE COURT: Yes, I sustain that.

15 MS. COTE: Your Honor, he -- I believe he misspoke. The
16 other officers actually found the items that Sergeant --
17 Corporal Ard was actually the person who took custody of all
18 of these items.

19 THE COURT: Well, rephrase your question if you misspoke
20 or he did.

21 MS. COTE: Yes, sir.

22 BY MS. COTE:

23 Q: Who found -- who collected all of those items?

24 A: I apologize. They found, I collected the items in place
25 and took possession of them.

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1 THE COURT: Thank you.

2 A: I apologize, Your Honor.

3 THE COURT: That's fine.

4 Q: So what was it that Sergeant Hutchinson found that you

5 later took custody of?

6 A: Sergeant Hutchinson found a clear plastic bag in -- I

7 guess what would we refer to as the guest room or the kid's

8 room, the spare bedroom, that did have residue on it that

9 tested positive for cocaine.

10 Q: And where was it located?

11 A: It was located in the mattress in the bedroom.

12 Q: Like in between -- was it between the mattress and box

13 spring?

14 A: It was either -- I think it was under the primary

15 mattress if I remember correctly.

16 Q: Okay.

17 A: And then some -- you know, some U.S. currency, some cash

18 was located in the home.

19 Q: Do you know the amount of the cash that was located?

20 A: I do. Located in a box in the master bedroom was \$126

21 cash and that was it as far as the currency.

22 Q: I know we've sort of harped on this a lot but I want to

23 make sure it's clear. So, whenever one of our officers found

24 something, did they holler at you to come see sort of and then

25 come collect it?

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1 A: Yes, ma'am. In lack of a better term to make it simple

2 ---

3 MR. TRUSLOW: Judge, she's leading the witness.

4 MS. COTE: I'm just clarifying what's already been
5 testified to.

6 THE COURT: That question was okay.

7 MS. COTE: Thank you.

8 BY MS. COTE:

9 A: Our normal operating procedure considering the fact that
10 especially when we have a larger residence, this is a two-
11 story stick-built home, there's many rooms in the home to
12 assist with the execution of a search warrant detective would
13 pick a room in essence considering we did not know the layout
14 prior to going into the home, they conduct their search.
15 Anything they find that they think may be of evidentiary
16 value, they contact the case agent, which would be me at that
17 point in time in this case, at which point in time I would go
18 look at it and make a determination if that is something that
19 we wish to take and then I would take possession of it at that
20 point.

21 Q: When you would take possession of it, how did -- did you
22 package it?

23 A: Initially, it was packaged in a manner to -- in paper
24 evidence bags just for the purpose of transport back to our
25 office to where we can process that.

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1 Q: And then when you went back to your office, what did you
2 do?

3 A: Any item, all of the powder and/or pills, anything other
4 than marijuana that would need further testing would be put
5 into one of our Horry County BEST kits for our lab tech to
6 test; that's our procedure.

7 Q: Okay. I'm gonna show you a few more pictures. I'm gonna
8 show these to Mr. Truslow first.

9 MR. TRUSLOW: That's fine.

10 THE COURT: You've seen them?

11 MR. TRUSLOW: Yes, sir.

12 THE COURT: All right.

13 BY MS. COTE:

14 Q: These are State's Number Twenty, Twenty-one, Twenty-two
15 and Twenty-three. I'm gonna ask you to look through these and
16 tell me if you recognize them.

17 A: Yes, ma'am. I do recognize them.

18 Q: Do those appear to be accurate representations of what
19 you observed that day?

20 A: Yes, ma'am; they do.

21 Q: And are those pictures that you actually took?

22 A: I actually took these photographs.

23 Q: Where did you take those?

24 A: These are taken, these are -- this is taken on my office
25 floor. This is where I'm processing and putting items in BEST

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1 kits as opposed to evidence bags.

2 Q: Okay.

3 MS. COTE: Your Honor, the State would seek to introduce
4 Twenty through Twenty-four [sic] into evidence at this time.

5 MR. TRUSLOW: No objection.

6 THE COURT: Without objection.

7 STATE'S EXHIBIT NUMBERS TWENTY THROUGH TWENTY-THREE
8 ADMITTED INTO EVIDENCE.

9 MS. COTE: Your Honor, may I publish to the jury?

10 THE COURT: You may.

11 MS. COTE: Thank you.

12 BY MS. COTE:

13 Q: This first picture is Twenty-three and can you identify
14 that for the jury?

15 A: Those are the items from the kitchen cabinet to the left
16 of the sink.

17 Q: And that's actually what you found yourself?

18 A: Yes, ma'am.

19 Q: Okay. And this is State's Twenty-two; what is that?

20 A: Those are also the items that were found to the left of
21 the kitchen sink to include the additional thirteen baggies
22 and the larger Ziploc bag that was found in the master bedroom
23 closet.

24 Q: You just separated out those baggies from ---

25 A: I'm getting in my mind's eye what goes in the BEST kit

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1 and what doesn't.

2 Q: Okay. This is State's Twenty?

3 A: Those are the baggies that came out of the large baggie
4 thirteen.

5 Q: This is State's Twenty-one.

6 A: That would've been the single from the -- that found in
7 the kitchen with the ---

8 Q: This is what you found in the kitchen?

9 A: Yes, ma'am.

10 Q: Okay. I'm gonna show you what's been pre-marked as
11 State's Exhibit Twenty-eight and I'll show this to Mr. Truslow
12 as well. Do you recognize State's Twenty-eight, if you'll
13 open that and look inside?

14 A: Yes, ma'am. It appears to be the items that were found
15 in the kitchen cabinet to the left of the sink that I found.

16 MS. COTE: Your Honor, the State would seek to introduce
17 Twenty-eight into evidence at this time.

18 THE COURT: Without objection.

19 STATE'S EXHIBIT NUMBER TWENTY-EIGHT

20 ADMITTED INTO EVIDENCE.

21 BY MS. COTE:

22 Q: I'll show you what's been marked as State's Exhibit
23 Twenty-five, do you recognize that?

24 A: Yes, ma'am. I believe that's the baggie from the spare
25 guest bedroom that was from the mattress area.

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1 Q: And that was field -- was that field tested?

2 A: We did do a field test on it. It was not placed in the
3 BEST kit but it -- there was a field test that tested
4 positive.

5 Q: Why didn't you actually have that tested by a chemist?

6 A: Due to the fact that it's just residue, there's not a
7 weighable amount and we had product throughout the house.

8 Q: Okay.

9 MS. COTE: Your Honor, the State would seek to introduce
10 Twenty-five into evidence.

11 MR. TRUSLOW: Based on prior objection with the search
12 warrant issues.

13 THE COURT: Yes. It will be introduced.

14 MS. COTE: Thank you, Your Honor.

15 STATE'S EXHIBIT NUMBER TWENTY-FIVE

16 ADMITTED INTO EVIDENCE.

17 MS. COTE: Your Honor, if I may beg the court's
18 indulgence for one minute, I need to have a couple of things
19 marked.

20 THE COURT: That's fine.

21 BY MS. COTE:

22 Q: I'm going to show you what's been pre-marked as State's
23 Twenty-nine. Just one second. Do you recognize this item?

24 A: Yes, ma'am.

25 Q: And what is it?

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1 A: This would be the Glock handled firearm that was removed
2 from the bedroom.

3 Q: Okay. And it was removed from the bedroom by you?

4 A: Yes, ma'am.

5 MS. COTE: Your Honor, at this time the State would seek
6 to introduce Twenty-nine into evidence.

7 MR. TRUSLOW: Judge, based on prior objection.

8 THE COURT: Permitted and is introduced.

9 MS. COTE: Thank you, Your Honor.

10 THE COURT: Objection noted.

11 STATE'S EXHIBIT NUMBER TWENTY-NINE

12 ADMITTED INTO EVIDENCE.

13 BY MS. COTE:

14 Q: I'm gonna show you what's been marked as State's Exhibit
15 Thirty. Do you recognize this item?

16 A: Yes, ma'am, I do.

17 Q: And what is that?

18 A: That is the Glock case located also in the bedroom.

19 Q: Okay. And I'm gonna open it for you as well. Do you
20 recognize those items that are inside the case as well?

21 A: I do. That is a loaded magazine and the other plastic
22 piece is something that normally is used to assist when
23 loading a magazine.

24 Q: Okay.

25 MS. COTE: Your Honor, the State would seek to introduce

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1 Thirty into evidence at this time.

2 MR. TRUSLOW: Your Honor, objection based on -- you
3 understand I'm required to make contemporaneous objections ---

4 THE COURT: I understand. Objection noted but I will
5 permit it.

6 STATE'S EXHIBIT NUMBER THIRTY

7 ADMITTED INTO EVIDENCE.

8 BY MS. COTE:

9 Q: Now, this is State's Exhibit Thirty-one. Do you
10 recognize this?

11 A: Yes, ma'am.

12 Q: And what is it?

13 A: The additional magazine that was located separate in the
14 kitchen, if I'm not mistaken.

15 THE COURT: All of these are subject to your objection as
16 to the search warrant

17 MR. TRUSLOW: If I could make it a continuous objection
18 to everything she's putting in through the evidence to this
19 point.

20 THE COURT: You may do so, as to items recovered in the
21 search warrant, there is an objection but I have overruled it.

22 MS. COTE: Yes, sir. Thank you, Your Honor.

23 BY MS. COTE:

24 Q: Can you please state what this item is?

25 A: That's a loaded Glock 19 magazine located -- located in

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1 the kitchen.

2 Q: That was located in the kitchen and was that what was
3 found by Detective Donald?

4 A: That should be found by Detective -- yes, ma'am.

5 Q: Okay.

6 MS. COTE: Your Honor, the State would seek to introduce
7 that into evidence as well.

8 THE COURT: Subject to the objection.

9 MS. COTE: Yes, sir.

10 STATE'S EXHIBIT NUMBER THIRTY-ONE

11 ADMITTED INTO EVIDENCE.

12 BY MS. COTE:

13 Q: This is State's Exhibit Thirty-two. Do you recognize
14 that?

15 A: Yes, ma'am. Fobus holster also found in the kitchen by
16 Detective Sissell ---

17 THE COURT: Introduced subject to your objection.

18 A: --- which I collected.

19 Q: Thank you.

20 STATE'S EXHIBIT THIRTY-TWO

21 ADMITTED INTO EVIDENCE

22 BY MS. COTE:

23 Q: And this is State's Exhibit Thirty-three. Can you please
24 identify this and its contents?

25 A: Yes, ma'am. It appears to be a Pentax camera case. This

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1 was -- I collected it from the kitchen, it was located by
2 Detective Furr. It contains two bottle of -- Inositol powder.

3 Q: And is that what you testified was a cutting agent?

4 A: Yes, ma'am. Also containing was some additional playing
5 cards and baggie.

6 MS. COTE: State seeks to introduce this item into
7 evidence, Your Honor.

8 THE COURT: Subject to objection it is in.

9 MS. COTE: This is State's Thirty-three for the record.

10 THE COURT: Thank you

11 STATE'S EXHIBIT NUMBER THIRTY-THREE

12 ADMITTED INTO EVIDENCE

13 BY MS. COTE:

14 Q: And you testified that there were a couple of other
15 items, camcorders and things that like, did you collect those?

16 A: Yes, ma'am, I did.

17 Q: But did you ever get a search warrant to pull evidence
18 off of that -- off of those items?

19 A: No, ma'am. Those items were collected and placed into
20 evidence and I've not touched them since.

21 Q: Okay. You already testified to this, I believe but I
22 wanted to ask you to go into more depth. When you removed the
23 white-powdery substance from the scene, what did you do with
24 it?

25 A: I transport back to a more secure location which is

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1 primarily our office or my office. At which point in time,
2 for the purposes of testing, any substance that we want to
3 test minus marijuana or what we believe to be marijuana, we
4 would put in a BEST kit, that BEST kit is something that's
5 used to facilitate our lab tech in testing -- getting an
6 official test on the substance. So, I would take those items,
7 process them at my office and place them in the BEST kit and
8 then turn them into evidence where the lab tech would get them
9 and test them from there.

10 Q: Is BEST an acronym, that stands for something?

11 A: Yes, ma'am. I believe it is.

12 Q: And is it used by most law enforcement agencies?

13 A: It is -- it is common practice. And we are able to test
14 with Horry County -- we have our own lab so we have our own
15 kit.

16 Q: Does it go each item, each drug item a particular number
17 to identify it?

18 A: Yes, ma'am.

19 Q: Okay. From the scene where you placed those items in the
20 BEST kit, was it in your custody at all times?

21 A: Yes, ma'am, it was.

22 Q: And did you tamper with it or alter it in anyway?

23 A: No, ma'am.

24 STATE'S EXHIBIT NUMBER TWENTY-FOUR

25 MARKED FOR IDENTIFICATION

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1 Q: I'm gonna show you what's been premarked as State's
2 Exhibit Twenty-four and ask you if this was the item, this was
3 the BEST kit from that day.

4 A: Yes, ma'am, it is.

5 Q: And were those all of the evidence -- was that all of the
6 evidence that you suspected to be drugs that were found at the
7 house?

8 A: Yes, ma'am. Anything that I suspected to be an illegal
9 substance minus the green leafy substance.

10 Q: Okay. So, you included everything from the bedroom as
11 well as what you found in the kitchen?

12 A: Yes, ma'am. Considering it would be easier on the lab
13 tech for just to put it all in one kit.

14 Q: When you were searching the home that day, did you see
15 evidence of who lived there?

16 A: Yes, ma'am, I did.

17 Q: What did you see?

18 A: Photographs.

19 Q: Did you see photographs of Mr. Gore?

20 A: I did see photographs of Mr. Gore.

21 MS. COTE: Beg the Court's indulgence, Your Honor.

22 BY MS. COTE:

23 Q: I'm gonna show you what's already in evidence as State's
24 Exhibit Fifteen and ask you if you see anything that would
25 identify Mr. Gore in that picture?

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- 1 A: I see what I believe to be a picture of Mr. Gore on the
2 dresser.
- 3 Q: Is that in a frame?
- 4 A: Yes, ma'am.
- 5 Q: Okay. I want to talk to you a little bit about the
6 drugs. Based on your experience in narcotics, how much would
7 that amount of drugs be worth?
- 8 A: In my experience in narcotics, if you're buying say for
9 -- by an ounce, a rule of thumb would be roughly \$1,000 an
10 ounce. So, we're looking at 14,000 easy.
- 11 Q: When you took Mr. Gore and Ms. Deangelo into custody, did
12 they have any currency, U.S. currency on their person?
- 13 A: Yes, ma'am, they did.
- 14 Q: How much was on each one of them?
- 15 A: If I can refer to my notes quickly and it would be second
16 page of the investigative report, Mr. Gore had \$562 on his
17 person and Ms. Angel had \$982 on her person.
- 18 Q: Were there vehicles in the attached garage at the home?
- 19 A: Yes, ma'am. I believe there was another vehicle in the
20 attached garage.
- 21 Q: Did you run the license and registration of that vehicle?
- 22 A: I don't remember if I ran -- we did run the license and
23 registration on the vehicle.
- 24 Q: Who did it come back to?
- 25 A: If I'm not mistaken, it was Mr. Gore or they were known

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1 to us to be Mr. Gore's vehicles.

2 Q: Had you seen him driving those vehicles previously?

3 A: I had seen him driving one of the vehicles previously.

4 Q: After you put all the evidence into the BEST kit, what
5 did you do with it?

6 A: Placed it into evidence. Our evidence section, we have a
7 -- we have evidence lockers just outside our office in an
8 adjoining hallway. I take it immediately to the evidence
9 locker. I can either put it in drop slot which is a one-way
10 door or either place it in an evidence drop locker and you
11 drop the key. At that point in time, I no longer can access
12 it without going through an evidence tech.

13 Q: Did you seal the BEST kit when you put all the drugs in
14 there?

15 A: Yes, ma'am, I did per SOP. It is sealed, sealed by me
16 and placed back into the kit and dropped in evidence.

17 Q: Did you have to sign anything when you're sealing it?

18 A: You do. You have to sign a tear off tab. To seal the
19 evidence bag, you date and sign the tear off tab and it's got
20 a -- an adhesive built into it so when you pull the protective
21 piece of plastic off and seal it, it's permanently sealed at
22 that point.

23 MS. COTE: Your Honor, I have no further questions for
24 this witness.

25 THE COURT: Truslow?

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1 MR. TRUSLOW: Yes, sir.

2 CROSS EXAMINATION OF JESSE ARD BY MR. TRUSLOW:

3 Q: How many camcorders did you find?

4 A: Sir, I believe there was two. I believe there was two.

5 Q: Two?

6 A: Yes, sir.

7 Q: And you did not develop any film or play them or do
8 anything?

9 A: No, sir, I did not.

10 Q: Don't you think that would've been important in
11 determining who lived in this residence?

12 A: Based on the investigation, we didn't deem it to be
13 important at that time.

14 Q: So, you figured you knew what you knew and you weren't
15 gonna look any further, correct? That's what you just said,
16 isn't it? Isn't that what you just said?

17 A: I said that we did not go any further ---

18 Q: You didn't need that, that you had enough.

19 THE COURT: Wait a minute. Don't interrupt him now. Let
20 him finish his -- you may proceed with your answer.

21 A: I said that we did not look into the video cameras.

22 Q: Okay. Is it possible if you'd have done that it could've
23 exonerated Mr. Gore?

24 A: Anything is possible.

25 Q: Okay. But you didn't do that. Now, the photograph that

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1 you're looking at on the dresser, you believe that's Mr. Gore
2 in a photograph, correct?

3 A: It appears to be.

4 Q: Okay. Now, based upon that, you said that's the evidence
5 that he lived there, correct?

6 A: I could say that would go towards the fact ---

7 Q: Okay. So, if you went to my momma's house, you would
8 swear that I live there, right, because you'd see a bunch of
9 pictures of me?

10 A: I wouldn't swear to anything, sir.

11 Q: So, you're not swearing that he lived there, are you?

12 A: I'm not swearing that he lived there. It led me to
13 believe that he lived there.

14 Q: He's in the picture with Angel, isn't that who's in the
15 picture with him in that?

16 A: That's only partial -- I believe maybe -- I mean, I
17 believe that's probably her.

18 Q: Did -- throughout this investigation did you learn of Mr.
19 Gore's employment at Biminis restaurant for eight, ten years;
20 are you aware he's worked there for that long? Did that ever
21 come to your attention that he'd worked there?

22 A: I was aware ---

23 Q: Just that he worked there, that he had a job.

24 A: I was aware that he was employed, yes, sir.

25 Q: Okay. And in your investigation into the car that he was

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- 1 driving, did you determine who owned that vehicle?
- 2 A: In reference to the vehicle, he was ---
- 3 Q: The vehicle he was stopped in.
- 4 A: I did not, sir.
- 5 Q: Okay. And then I want to show you the address on the
- 6 warrant that you did.
- 7 A: Okay.
- 8 Q: You put down 309 Junco Circle for his address, correct?
- 9 A: Okay. Yes, sir.
- 10 Q: He didn't put that there, did he?
- 11 A: No, sir, I put that there.
- 12 Q: Okay. And you put that there based upon that photograph
- 13 and your beliefs that he lived there?
- 14 A: Yes.
- 15 Q: Not off of any particular documentation, driver's
- 16 license, any other information?
- 17 A: Based upon my investigation.
- 18 Q: All right. Now, when Angel got to the house, you guys
- 19 had not gone inside the house yet?
- 20 A: No, sir.
- 21 Q: Okay. So, is it possible you got keys from her? I mean,
- 22 it's been two years.
- 23 A: I would say not.
- 24 Q: Do you recall?
- 25 A: I did not get keys from her.

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JESSE ARD - REDIRECT EXAMINATION BY MS. COTE

1 Q: Is it possible somebody got keys from her to get inside?

2 A: I guess we could revert on anything is possible but I
3 would say no.

4 Q: And Mr. Gore was never brought back to the residence, was
5 he?

6 A: No, sir, he was not.

7 Q: Angel was at the residence?

8 A: She was at the residence.

9 Q: And when she got there and she was already wanting to see
10 the search warrant and saying nobody was coming in, nobody had
11 gone inside yet, right?

12 A: No, sir.

13 Q: She got there and after she got there is when people went
14 inside?

15 A: That is correct.

16 Q: Okay. No further questions.

17 REDIRECT EXAMINATION OF JESSE ARD BY MS. COTE:

18 Q: Did Angel give you consent to search the house?

19 A: She did not, ma'am.

20 Q: And was Mr. Gore able to come back to the house?

21 A: He was not able at that point in time.

22 Q: And based on your investigation and your prior knowledge
23 of this Defendant, did you have any reason to believe that
24 anybody besides Alton Gore lived in that home?

25 A: I had no reason to believe based upon my investigation.

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JESSE ARD - RECROSS EXAMINATION BY MR. TRUSLOW

1 that no one -- that anyone else lived there.

2 Q: Did you see any evidence in the home that anybody else
3 lived there?

4 A: No, ma'am.

5 Q: Did you see any women's -- like his mother's clothing or
6 anything like that there that you recall?

7 A: No, ma'am, I did not. I don't recall.

8 RECROSS EXAMINATION OF JESSE ARD BY MR. TRUSLOW:

9 Q: Did you see the photograph that your colleague took of
10 the curling iron ---

11 MS. COTE: I wasn't finished.

12 THE COURT: Let her ---

13 MR. TRUSLOW: Oh, I thought she was sitting down.

14 MS. COTE: No, I was leaning over to confer with Mr.
15 Richardson. And we do have -- I assume after Mr. Truslow
16 finishes, we have a matter to take up outside the presence of
17 the jury.

18 THE COURT: All right. Do you want to take it up now?

19 MR. RICHARDSON: Yes, sir, Your Honor.

20 MS. COTE: If possible, Your Honor.

21 THE COURT: I'll let you go to the jury room.

22 MR. TRUSLOW: Can I finish up, Judge?

23 THE COURT: Yes, sir, if you can.

24 MR. RICHARDSON: Well, it deals with this witness and on
25 this issue, Your Honor.

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1 THE COURT: Well, it's ---

2 MR. RICHARDSON: On his redirect.

3 THE COURT: Sir?

4 MR. RICHARDSON: It's a matter we need to take up about a
5 redirect question.

6 THE COURT: So, we take it up now?

7 MR. RICHARDSON: Yes, sir.

8 MS. COTE: Yes, sir, please.

9 THE COURT: I'll let you go to the jury room, please.

10 (REPORTER'S NOTE: The jury retires to the jury room.)

11 THE COURT: All right. What's the issue?

12 MR. RICHARDSON: Your Honor, Mr. Truslow brought -- Mr.
13 Truslow brought up on cross examination about Corporal Ard's
14 knowledge of the defendant working at Biminis Oyster Bar. I
15 believe his knowledge about him working there comes from
16 whenever there was a CI purchase from Biminis Oyster Bar from
17 this defendant. He's brought it up. He's opened the door on
18 that prior purchase, how they have knowledge as to where he
19 was employed.

20 THE COURT: What point are you making to me? I'm not
21 following you.

22 MR. RICHARDSON: Your Honor, if we can get into the prior
23 sale that he did from Biminis Oyster Bar.

24 THE COURT: No, we're not gonna do that, that ---

25 MR. RICHARDSON: Mr. Truslow brought it up. It's

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JESSE ARD - RECROSS EXAMINATION BY MR. TRUSLOW

1 important. He opened the door in how they knew he worked at
2 Biminis.

3 THE COURT: No, sir. He didn't open the door to prior
4 sale, now. I'm not gonna -- if you're gonna convict, you're
5 gonna convict him on the evidence.

6 MR. RICHARDSON: Yes, sir; yes, sir, but ---

7 THE COURT: That's highly prejudicial. He never brought
8 up anything about a sale.

9 MR. RICHARDSON: No, sir. Mr. Truslow asked does he have
10 knowledge that he -- that the defendant worked at Biminis
11 Oyster Bar.

12 THE COURT: So what?

13 MR. RICHARDSON: How he got the knowledge as to how he
14 worked at the Biminis Oyster Bar.

15 THE COURT: All he's got -- said yes, I had knowledge
16 that he worked there. I'm not gonna say I have knowledge he
17 worked there because he was selling drugs. I'm not gonna
18 permit that.

19 MR. RICHARDSON: Yes, sir, Your Honor.

20 THE COURT: That's clearly prejudicial.

21 MR. RICHARDSON: Your Honor, it's got -- it's where
22 there's more probative than prejudicial and ---

23 THE COURT: I'm telling you it's more prejudicial than
24 probative.

25 MR. RICHARDSON: Certainly, Your Honor, I understand your

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JESSE ARD - RECROSS EXAMINATION BY MR. TRUSLOW

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1 ruling.

2 THE COURT: The question was intended to ask did he work
3 there, not did he sell drugs while working there and he can
4 say, yes, I knew he was there but he don't have to say why.

5 MR. RICHARDSON: Yes, sir, Your Honor.

6 THE COURT: Now, if Mr. Truslow would ask him why, which
7 he's not gonna do, that's another issue.

8 MR. RICHARDSON: I understand your ruling, Your Honor.

9 THE COURT: Clearly.

10 All right. Bring the jury back.

11 Mr. Truslow, you want to be on the record on that issue?

12 MR. TRUSLOW: No, sir.

13 THE COURT: I didn't think so.

14 Bring the jury back, please.

15 (REPORTER'S NOTE: The jury returns to the courtroom.)

16 THE COURT: All right. You may proceed.

17 MR. TRUSLOW: Your Honor, I don't have any further
18 questions.

19 THE COURT: All right.

20 MS. COTE: Your Honor, we would ask that this witness be
21 excused.

22 MR. TRUSLOW: No objection.

23 THE COURT: The witness may be excused and thank you,
24 sir.

25 (REPORTER'S NOTE: Witness leaves the witness stand.)

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JESSE ARD - RECROSS EXAMINATION BY MR. TRUSLOW

1 THE COURT: Call your next witness.

2 MR. RICHARDSON: State would call Angel Deangelo.

3 MR. TRUSLOW: Your Honor, if I'd known -- I would've
4 asked for restroom break if I knew they that they were going
5 right to her next. I thought they were doing their chain of
6 custody after these. This is gonna be a long witness.

7 MR. RICHARDSON: Your Honor, our chain people are coming
8 after lunch. We're planning going to this next.

9 THE COURT: Do you have any other witnesses that we can
10 take?

11 MR. RICHARDSON: No, sir, Your Honor. We don't have them
12 here at this point.

13 MR. TRUSLOW: I don't mind doing it, I just had to use
14 the restroom. I didn't know it was gonna be long witness.

15 THE COURT: Well, the jury has been here very patiently,
16 I'm gonna let them take their morning break at this time and
17 we'll start back in about fifteen minutes. Thank you.

18 MR. TRUSLOW: Thank you, Judge.

19 THE COURT: All right. We in recess.

20 MR. RICHARDSON: Thank you, Your Honor.

21 (REPORTER'S NOTE: The jury retires to the jury room.)

22 (RECESS)

23 *****OFF THE RECORD*****

24 (On the Record.)

25 THE COURT: State ready to proceed?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 MR. RICHARDSON: Yes, sir, Your Honor.

2 THE COURT: Have you brought your victim out, I mean your
3 witness out?

4 MR. RICHARDSON: We're bringing her on out now.

5 THE COURT: Okay. Defense ready to proceed?

6 MR. TRUSLOW: Yes, sir, Your Honor.

7 THE COURT: Bring the jury in please.

8 (REPORTER'S NOTE: The jury returns to the courtroom.)

9 THE COURT: The jury is present. Call your next witness.

10 MR. RICHARDSON: Thank you, Your Honor. State would call
11 Angel Deangelo.

12 ANGEL DEANGELO, HAVING BEEN SWORN,
13 TESTIFIED AS FOLLOWS:

14 CLERK: State your full name and spell your last name.

15 MS. DEANGELO: My name is Angel Deangelo, D-E-A-N-G-E-L-
16 O.

17 DIRECT EXAMINATION OF ANGEL DEANGELO BY MR. RICHARDSON:

18 Q: Ms. Deangelo, good afternoon. For the record, you are
19 charged with trafficking cocaine in this case as well;
20 correct?

21 A: Yes, sir.

22 Q: And those charges remain pending today?

23 A: Yes, sir.

24 Q: Yesterday, you entered into a proffer agreement with the
25 State.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 A: Yes, sir.

2 THE COURT: Ma'am, you're gonna have to talk louder now.
3 They can't hear you on the back row, please, do.

4 A: Okay.

5 THE COURT: Talk into the microphone.

6 Q: I think it's about the right height. There you go. If
7 you'll lean in a little bit, you hadn't got to yell but
8 they've got to be able to hear you and she's got to be able to
9 take down what you say. Okay?

10 A: Okay.

11 Q: All right. And as I asked, yesterday, you entered into a
12 proffer agreement with the State, correct?

13 A: Yes, sir.

14 Q: Let me show you -- that was signed again this morning,
15 correct?

16 A: Yes, sir.

17 THE COURT: And counsel for the defense, you've had an
18 opinion to review that?

19 MR. TRUSLOW: Yes, Your Honor, I have.

20 THE COURT: And you've been provided a copy?

21 MR. TRUSLOW: I haven't got a copy but I'm ---

22 MR. RICHARDSON: We're gonna provide them with a copy,
23 Your Honor,

24 THE COURT: All right. But he's reviewed it?

25 MR. RICHARDSON: Yes, sir, Your Honor.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 STATE'S EXHIBIT NUMBER THIRTY-FOUR

2 MARKED FOR IDENTIFICATION

3 BY MR. RICHARDSON:

4 Q: Ms. Deangelo, I'm gonna show you what's been marked for
5 identification as State's Thirty-four. Do you recognize
6 State's Number Thirty-four?

7 A: Which one?

8 Q: This -- do you recognize this exhibit?

9 A: Oh, yes, sir.

10 Q: Okay. Is this the proffer agreement you signed today?

11 A: Yes, sir.

12 Q: And in that proffer agreement, have you been made any
13 promises with regard to the disposition of your charges?

14 A: No, sir.

15 Q: But you're hoping something good will happen?

16 A: Yes, sir.

17 Q: And the State has promised that they'll take into
18 consideration any cooperation, correct?

19 A: Yes, sir.

20 Q: And you just entered into that yesterday, correct?

21 A: Yes, sir.

22 Q: Now, Ms. Deangelo, you were arrested back March 5th,
23 2010, correct?

24 A: Yes, sir.

25 Q: And where was that where you were arrested?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 A: 309 Junco Circle.
- 2 Q: Junco Circle?
- 3 A: Uh-huh (affirmative response).
- 4 Q: Now at that time, March 5th, 2010, was your permanent
- 5 address at Junco Circle?
- 6 A: No, sir.
- 7 Q: To your knowledge who lived at Junco Circle?
- 8 A: Wesley Alton Gore.
- 9 Q: Wesley Alton Gore, Jr.
- 10 A: Yes, sir.
- 11 Q: Now, you were found there that day, correct?
- 12 A: Yes, sir.
- 13 Q: And you say that was Mr. Gore's residence. How did you
- 14 get to -- how did you come to know the Defendant, Mr. Gore?
- 15 A: A friend of mine that I was going to school with
- 16 introduced him and I.
- 17 Q: So, a friend introduced you two?
- 18 A: Yes, sir.
- 19 Q: And if you'd speak up just a little bit more.
- 20 A: Sorry.
- 21 Q: Okay. When were y'all introduced?
- 22 A: January the 17th of 2010.
- 23 Q: January 17th, 2010. So for about forty/forty-five days
- 24 before this arrest?
- 25 A: Yes, sir.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 Q: January 17th, 2010, the first time you met the Defendant
2 Gore?
- 3 A: Yes, sir.
- 4 Q: And tell us what went on that night?
- 5 A: Him and his cousin came to my house in North Carolina and
6 the girl that I went to school with and them two and I, we
7 went to the bowling in Wilmington..
- 8 Q: You went with him where?
- 9 A: To the bowling alley in Wilmington.
- 10 Q: And at the conclusion of the night, after y'all got done
11 bowling, where did y'all stay?
- 12 A: At his house?
- 13 Q: And where is that located?
- 14 A: 309 Junco Circle.
- 15 Q: And who drove you there?
- 16 A: He did.
- 17 Q: He drove you there. When you get to 309 Junco Circle
18 that night, the night of January 17th, 2010, I guess into the
19 early morning hours of January 18th, 2010. Who else was at
20 that house when you arrived?
- 21 A: Nobody else.
- 22 Q: Nobody else was at the house?
- 23 A: No, sir.
- 24 Q: How did y'all get in the house?
- 25 A: He let us in.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 Q: He, you're talking about the Defendant let you in?

2 A: Yes.

3 Q: He opened the door with a key?

4 A: Yes.

5 Q: And you said you were living where at that time?

6 A: 1264 Goldfinch Place in North Carolina.

7 MR. RICHARDSON: Your Honor, the defense has been
8 provided with this State's Number Thirty-five ---

9 THE COURT: What is that?

10 MR. RICHARDSON: We provided them with it this morning,
11 Your Honor.

12 THE COURT: What is State's Number Thirty-five for the
13 record.

14 MR. RICHARDSON: It's a lease agreement between Ms.
15 Deangelo, I believe she'll identify it as being lease
16 agreement between herself and a leaseholder or a management
17 company on a residence she had leased in -- 1264 Goldfinch
18 Place, Shallotte.

19 THE COURT: I'll permit it.

20 MR. RICHARDSON: Thank you, sir.

21 BY MR. RICHARDSON:

22 Q: Ms. Deangelo, if you could look at State's Number Thirty-
23 five and see if you can identify that.

24 A: Yes, sir. This is my rent lease.

25 Q: That is the lease you signed?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: And where is the address? Is it an apartment or house?

3 A: It was a single-wide trailer.

4 Q: Single-wide trailer and where is it located?

5 A: In Shallotte, North Carolina.

6 Q: And when did you begin living at that address in North
7 Carolina?

8 A: I have lived there almost two years prior to this.

9 Q: What's the date on the lease?

10 A: November the 1st of 2009.

11 Q: Through what time?

12 A: November the 1st of 2010.

13 Q: So, at the time of your arrest, you still have the lease
14 on this place in North Carolina?

15 A: Uh-huh (affirmative response).

16 MR. RICHARDSON: The State would seek to introduce
17 State's Number Thirty-five into evidence, Your Honor.

18 MR. TRUSLOW: No objection.

19 THE COURT: Without objection.

20 STATE'S EXHIBIT NUMBER THIRTY-FIVE

21 ADMITTED INTO EVIDENCE

22 BY MR. RICHARDSON:

23 Q: Now, the first night you meet the defendant you go over
24 and stay at his house?

25 MR. TRUSLOW: Objection to leading, Your Honor, just on

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 and on.

2 THE COURT: Well, I hadn't heard the full question. Go
3 ahead.

4 MR. RICHARDSON: Yes, sir.

5 THE COURT: Just follow the rule.

6 MR. RICHARDSON: I'm just trying to get there, Your
7 Honor, for a point of reference.

8 THE COURT: I understand but you've got to get there by
9 the rules.

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: All right.

12 BY MR. RICHARDSON:

13 Q: January 17th, 2010, you indicated you met the defendant
14 that night?

15 A: Yes, sir.

16 Q: And you drove to his address that night, correct?

17 A: Yes, sir.

18 Q: The house at Junco Circle?

19 A: Yes.

20 Q: Now, after that night, what was the status of your
21 relationship with the defendant?

22 A: We talked quite often.

23 Q: You talked quite often?

24 A: Uh-huh (affirmative response).

25 Q: In what way, on the phone, by email, how?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 A: We seen each other and on the telephone.
- 2 Q: You'd see each other. At this time, where were you
- 3 working?
- 4 A: In North Carolina at the Sunshine Pancake House in
- 5 Shallotte.
- 6 Q: And what was your position at Sunshine Pancake House?
- 7 A: Hostess/waitress.
- 8 Q: Hostess/waitress -- was that your only job? Did you do
- 9 anything else?
- 10 A: I went to school full-time.
- 11 Q: And by full-time what do you mean?
- 12 A: Monday through Thursday, 8:00 in the morning till 5:30 in
- 13 the evening.
- 14 Q: So, and where is that school located?
- 15 A: Brunswick County.
- 16 Q: Brunswick County?
- 17 A: Uh-huh (affirmative response).
- 18 Q: So, 8:30 in the morning till, what did you say 5:30 or 5
- 19 o'clock?
- 20 A: 5:30.
- 21 Q: 5:30 in the evening, you'd be at school?
- 22 A: Yes, sir.
- 23 Q: Monday through Thursday?
- 24 A: Yes, sir.
- 25 Q: And other than that you said that you worked at the

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 pancake house?
- 2 A: Uh-huh (affirmative response).
- 3 Q: How often would you see the defendant?
- 4 A: Late evenings three or four nights a week.
- 5 Q: So, you'd see him three or four nights a week?
- 6 A: Yes, sir.
- 7 Q: Where would you see him?
- 8 A: At his house.
- 9 Q: At his house. How would you get there?
- 10 A: I would drive there.
- 11 Q: And this begins after you first met him, I assume?
- 12 A: Yes, sir.
- 13 Q: Up till March 5th?
- 14 A: Yes, sir.
- 15 Q: Now, when you weren't -- and whenever you'd go see him,
- 16 how long would you stay?
- 17 A: Just the night.
- 18 Q: You'd spend the night?
- 19 A: Yeah, because I'd have to go to school or work the next
- 20 morning.
- 21 Q: And whenever you would go over to see him in the evening,
- 22 get out of school at 5:30 you said, how long a trip was it
- 23 from -- is it Shallotte?
- 24 A: Yes, sir. Well, Bolivia is where the school is at?
- 25 Q: Okay. How long of a trip from Bolivia -- from your

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 school to Junco Lane?

2 A: About an hour, hour-and-a-half.

3 Q: About an hour, hour-and-a-half, so we're taking 6:30, 7
4 o'clock at the earliest you could make it over there?

5 A: Yes, sir.

6 Q: And you met him in January. So, it's dark at this point
7 whenever you're driving?

8 A: Late evening, I guess.

9 Q: Now, when you arrived at the defendant's house, what
10 would you do?

11 A: Half the time just go in, watch TV and then go to sleep.

12 Q: And the TV, where was it located?

13 A: Downstairs or in the bedroom.

14 Q: Downstairs or in the bedroom?

15 A: (Indicates affirmatively.)

16 Q: Did you ever go in the kitchen?

17 A: No.

18 Q: Did you ever go into other rooms in the house?

19 A: No, sir.

20 Q: So, you'd come in, go in the living room and then go
21 upstairs to the bedroom?

22 A: Yes, sir.

23 Q: How about the bathroom?

24 A: In his bedroom, the bath in his bedroom.

25 Q: The bathroom that's attached to the master bedroom?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

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- 1 A: Yes, sir.
- 2 Q: And whenever you would go over to stay, I believe you
3 indicated three to four nights a week?
- 4 A: Yes, sir.
- 5 Q: How'd you have clothes?
- 6 A: I would bring clothes with me.
- 7 Q: And how would you store those clothes?
- 8 A: In the bag that I brought them in.
- 9 Q: So, you'd have them in a bag. Did you have any drawers
10 or anything there?
- 11 A: No, sir.
- 12 Q: No drawers where you kept belongings?
- 13 A: No, sir.
- 14 Q: The nights that you would stay there, three to four
15 nights a week from January 17th through March, did you ever
16 witness anybody else staying there.
- 17 A: No, sir.
- 18 Q: So, nobody else ever stayed there the same nights you
19 did?
- 20 A: No, sir.
- 21 Q: You ever see anybody come in the house while you were
22 there?
- 23 A: No, sir.
- 24 Q: How many cars did the defendant have?
- 25 A: Two, I believe at the time.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 Q: And what kind of cars were they?
- 2 A: One was a BMW and one was a Acura Legend.
- 3 Q: How about a truck? Did he have a truck?
- 4 A: Uh-huh (affirmative response), he did have a truck also.
- 5 Q: So, he had a truck and he had the Acura Legend and the
- 6 BMW, correct?
- 7 A: Yes, sir.
- 8 Q: And what kind of car were you driving at the time?
- 9 A: I had a white Honda Civic.
- 10 Q: White Honda Civic. I believe -- let's see -- let me show
- 11 you what's been previously identified and entered into
- 12 evidence State's Number Two. Do you recognize State's Number
- 13 Two?
- 14 A: Yes, sir.
- 15 Q: That's your Civic?
- 16 A: Yes, used to be.
- 17 Q: Used to be, used to be. Now, do you have any children?
- 18 A: Yes, sir. I have a six-year-old.
- 19 Q: Six-year-old? So, at the time he would've been four?
- 20 A: Five.
- 21 Q: Five at the time.
- 22 A: Yes, sir.
- 23 Q: Did he live with you?
- 24 A: No, sir.
- 25 Q: Who did he live with?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 A: His dad's aunt.

2 Q: He's dad's aunt.

3 A: Uh-huh (affirmative response).

4 Q: So, you -- at that time you just didn't have custody of
5 him?

6 A: Well, it wasn't really custody or anything, he just --
7 during the week he would stay with them because he goes to
8 school in that district.

9 Q: Did there ever come a time when your son came over to
10 Junco Lane?

11 A: Not prior to March the 5th, no, sir.

12 Q: Not prior to March 5th?

13 A: No, sir.

14 Q: So, at the time that you and the defendant were arrested,
15 your son had never been at Junco Lane?

16 A: Yes, sir.

17 MR. RICHARDSON: Court's indulgence.

18 BY MR. RICHARDSON:

19 Q: Whenever you would go to see the defendant, how would you
20 gain entry to the house?

21 A: He would let me in.

22 Q: He would let you in. Did you ever have a key?

23 A: No, sir.

24 Q: I'm going to show you some pictures if I could. Let's
25 look at State's -- already entered into evidence -- State's

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 Six, Five and Seven. See if you recognize these photographs.
2 Just take a look at them real quick, please, ma'am.
3 A: Uh-huh (affirmative response).
4 Q: Do you recognize those photographs?
5 A: That's his bedroom.
6 Q: That's his bedroom?
7 A: Yes.
8 Q: And you would come stay the night with him?
9 A: Yes, sir.
10 Q: Now, when you stayed the night with the defendant at his
11 house, where would you sleep?
12 A: On that far side where the teddy bear is at.
13 Q: On the teddy bear side of the bed, correct?
14 A: Yes, sir.
15 Q: And as we look at State's Number Five, same bed?
16 A: Yes, sir..
17 Q: Once again the teddy bear, that's the side of the bed you
18 slept on, correct?
19 A: Yes, sir.
20 Q: What's this bag and everything over here?
21 A: A bag of clothes that I had there.
22 Q: That's your bag of clothes?
23 A: Yes, sir.
24 Q: And about this bed -- I see that the bed is made. How
25 common was it that the bed was made?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 A: He would make it.
- 2 Q: He was orderly, he'd make it in the mornings?
- 3 A: Yes.
- 4 Q: You wouldn't make the bed?
- 5 A: No, sir.
- 6 Q: I show you what's been previously marked as State's
- 7 Number Seven, do you recognize that?
- 8 A: I mean, I recognize the bed.
- 9 Q: You recognize the bed. What side of the bed is that?
- 10 A: It looks like the right side of the bed.
- 11 Q: The right side as you look at the bed. And whose side of
- 12 the bed is that?
- 13 A: He would sleep on the right side of the bed.
- 14 Q: That was Mr. Gore's side of the bed?
- 15 A: Uh-huh (affirmative response).
- 16 Q: The side he'd sleep on when he made the bed, that was on
- 17 his side.
- 18 A: Yes, sir.
- 19 Q: Let's look at State's Number Ten, do you recognize
- 20 State's Number Ten?
- 21 A: Yes, that's -- my clothes and his clothes on the chair.
- 22 Q: In State's Number Ten, what -- you said this was some of
- 23 your clothes?
- 24 A: That red bag, yes.
- 25 Q: That red bag is yours. Now how about that item right

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 here in the corner that's red.
- 2 A: Those are my heels.
- 3 Q: Those are your heels?
- 4 A: (Indicates affirmatively.)
- 5 Q: Was it common that you wore high heels?
- 6 A: If I went out, yes.
- 7 Q: No doubt about it, these are your shoes.
- 8 A: Those are mine.
- 9 Q: Was there a closet in that bedroom?
- 10 A: Yes, sir.
- 11 Q: Did you keep any items in the closet?
- 12 A: No, sir.
- 13 Q: Let me show you State's Number Fifteen. You see State's
- 14 Fifteen?
- 15 A: Yes, sir.
- 16 Q: Whose closet is that?
- 17 A: That's Wesley's closet.
- 18 Q: Wesley's closet and the clothing in there, whose clothing
- 19 is that?
- 20 A: His clothing.
- 21 Q: Did there come a time when you saw him wearing of that
- 22 clothing?
- 23 A: I'm pretty sure.
- 24 Q: You say you're pretty sure?
- 25 A: Yes.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 Q: Now, are there any women's shoes that you see in the
2 floor of that closet?

3 A: No, sir.

4 Q: Do you see any dresses in that closet?

5 A: No, sir.

6 Q: Describe if you would any type of women's clothing you
7 see in that closet.

8 A: There isn't any.

9 Q: There's no women's clothing in that closet. In this
10 photograph that we see on State's Number Fifteen, who is that?

11 A: That's Wesley.

12 Q: That's Wesley and ---

13 A: And I.

14 Q: That's Wesley and you?

15 A: Yes, sir.

16 Q: And State's Number Sixteen, the clothing in the top of
17 the closet, any of that belong to you?

18 A: No, sir.

19 Q: Do you know who that belongs to?

20 A: Wesley.

21 Q: Had you ever seen anybody in that closet other than
22 Wesley?

23 A: No, sir.

24 Q: Had you ever seen him in the closet?

25 A: To get clothes out to get dressed.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 Q: So, you would see the Defendant dressing in that closet
2 or getting clothes out of the closet to get dressed?
- 3 A: Yes, sir.
- 4 Q: Let's look at State's Fourteen. Do you recognize State's
5 Fourteen?
- 6 A: Yes, sir.
- 7 Q: And what do you recognize State's Fourteen as being?
- 8 A: The master bedroom bathroom.
- 9 Q: That's the master bedroom bathroom. Could you tell us
10 what in there belongs to you, if anything?
- 11 A: My flat iron.
- 12 Q: It's a flat iron and I'm guessing one or two guys might
13 not know what that is. What's a flat iron?
- 14 A: To straighten my hair with.
- 15 Q: It straightens your hair, okay. Anything else?
- 16 A: No, sir.
- 17 Q: Do you see anything else that would normally be
18 associated with female beauty supplies in that room?
- 19 A: Just the items for my hair.
- 20 Q: Now, State's Number Twelve, I'm gonna point you to it.
21 It's already been introduced. There's a photograph right
22 here. Have you seen that photograph before?
- 23 A: Yes, sir.
- 24 Q: Can you identify anyone in that photograph?
- 25 A: That's Wesley and his sister's boyfriend.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 Q: Okay. So, the person -- what is Wesley wearing in that
2 photograph?

3 A: Black.

4 Q: So, he's the one in black in that photograph?

5 A: Yes, sir.

6 Q: And you're familiar with Wesley, so you would know?

7 A: Yes, sir.

8 Q: And you'd seen that photograph before?

9 A: Yes, sir.

10 Q: Finally, as far as photographs, State's Number Three,
11 could you tell us what State's Number Three is?

12 A: That's his daughter's bedroom.

13 Q: His daughter's bedroom and in what bed would his daughter
14 sleep?

15 A: The small one, whichever one she fell asleep in.

16 Q: Whichever one -- okay. How old was the daughter?

17 A: Three.

18 Q: She was three and it's a toddler's bed, correct?

19 A: Yes, sir.

20 Q: Now, would you ever see anybody else sleep in that
21 bedroom?

22 A: No, sir.

23 Q: Speak in a little bit closer to the microphone. Just
24 slide in just a little bit.

25 Let's go to the morning of March 5th, 2010, okay?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 A: Uh-huh (affirmative response).
- 2 Q: Or actually, let's go to the night before. What time did
- 3 you get over there on March 4th, 2010?
- 4 A: I don't remember.
- 5 Q: You indicated previously you normally arrived or you
- 6 normally left school, would that've been the case?
- 7 A: Oh, yes, sir.
- 8 Q: Okay. So, we know it had to be after 5:30.
- 9 A: Yeah, because March the 5th was a Friday.
- 10 Q: March the 5th was a Friday. And what were you scheduled
- 11 to do March 5th?
- 12 A: Go to work that morning.
- 13 Q: Go to work that morning. And where were you going to
- 14 work?
- 15 A: In North Carolina at the pancake house.
- 16 Q: Whenever you got over there on Thursday evening, you said
- 17 this was a Friday morning when you got arrested?
- 18 A: Yes, sir.
- 19 Q: When you got over there on Thursday evening, what did you
- 20 do?
- 21 A: I don't really remember.
- 22 Q: Don't recall specifically?
- 23 A: No, sir.
- 24 Q: How about Friday morning? Do you recall what you did
- 25 that morning?

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

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1 A: Yes, sir.

2 Q: And what was that?

3 A: We got up early that morning because I had to be to work
4 by 9 o'clock.

5 Q: Speak up just a little bit.

6 A: I had to be to work by 9 o'clock. So, we had gotten up
7 that morning, I had gotten ready, we left out, I believe I
8 left out before he did. I was on my way to work. It got to
9 Highway 90 and 57 when I received a phone call from Wesley
10 saying that he's been pulled over, for me turn around and come
11 back. As I turned around and came back, he would -- they had
12 -- the police had him pulled over at the IGA right there on
13 Highway 90. I got out my car to find out what was going on.
14 He asked me to call his mom, shouted her telephone number to
15 me and asked me to go back to the house and find out what was
16 going on. I then called his mother, went back to the house
17 and as I pulled up, the officers were there. I got out of the
18 car, Mr. Kent Donald, I think was the officer's name, met me
19 at the end of the driveway, told me that I needed to leave. I
20 told him that I was on the phone with the owner of the house,
21 that she wanted to know what was going on. And he then asked
22 me again to leave. He asked me numerous times to leave and I
23 did. So, then he handcuffed me and put me in the back of the
24 car.

25 Q: Did you tell him anything about your residency at the

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 house?
- 2 A: He asked me did I live there and in order to see the
- 3 search warrant, I told him that I did.
- 4 Q: Now, why did you feel that you needed to tell him you
- 5 lived there?
- 6 A: Just so he would show me search warrant.
- 7 Q: Okay. And why did you go back to the house that morning?
- 8 A: Wesley asked me to go back and see what was going on.
- 9 Q: So, Mr. Gore knew that he was in custody at the time and
- 10 he wanted you to go back.
- 11 A: Yes, sir.
- 12 Q: Did you go in the house on the search warrant?
- 13 A: No, sir.
- 14 Q: Now, you just told the jury that you were on the phone
- 15 with the home's owner, the mother -- is that Mr. Gore's
- 16 mother?
- 17 A: Yes, sir.
- 18 Q: Now, she owns the home. Did she live there?
- 19 A: No, sir.
- 20 Q: And how do you know this?
- 21 A: There was nothing in that house that ---
- 22 Q: Did you ever see ---
- 23 A: No, sir.
- 24 Q: --- the defendant's mother over there?
- 25 A: No, sir.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 Q: So, she was kind of like the landlord?
- 2 A: I guess you could say that, yeah.
- 3 Q: And you would stay over there the majority of the week,
- 4 four -- three to four nights a week?
- 5 A: Yes, sir.
- 6 Q: Once again, at any point, whenever you were staying over
- 7 there, tell us anybody else you saw over at the house?
- 8 A: The only person that I recall coming over there was his
- 9 daughter's mom's brother.
- 10 Q: So, nobody else spent the night over there?
- 11 A: No, sir.
- 12 Q: And you indicated you went to school during the day?
- 13 A: Yes, sir.
- 14 Q: So, what business went on during the day, you wouldn't
- 15 have known?
- 16 A: No, sir.
- 17 Q: After you got arrested, how long were you in J. Reuben?
- 18 A: Five days.
- 19 Q: Five days. Now, when you got served with these warrants,
- 20 what was your reaction?
- 21 A: Shocked.
- 22 Q: You were shocked?
- 23 A: Yes.
- 24 Q: Why?
- 25 A: I had no idea about any of that. I mean, when I was put

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 in handcuffs, I was told I was being arrested for interfering
2 in an investigation which is, I guess, is considered resisting
3 arrest. When I was served with drug charges, drug trafficking
4 on top of that, I was in shock, I mean, you know...

5 Q: Because it wasn't your house?

6 A: No, sir. Definitely wasn't my drugs.

7 Q: Well, did you ever talk to the defendant about it, about
8 these charges?

9 A: After he got out, yes, we talked about it.

10 Q: What did you talk about?

11 A: Just told me that he didn't know what was going on and --
12 but I didn't have anything to worry about.

13 Q: So, he told you you didn't have anything to worry about?

14 A: Yes, sir.

15 Q: Did there come a time when you moved back in that house?

16 A: No, sir.

17 Q: So, you never moved into the Junco Lane house?

18 A: No, sir. I stayed there off and on more than three or
19 four nights a week.

20 Q: So, you maintained your residence in North Carolina but
21 you'd still stay at Junco?

22 A: Yes, sir.

23 Q: And for how long? What period of time would you stay off
24 and on at Junco.

25 A: A couple of weeks at a time.

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

1 Q: And I'm sorry, I may not be clear. We're talking about
2 after you got out?

3 A: After.

4 Q: Until -- what date did you cease staying at Junco Lane?
5 About what time -- what year?

6 A: Last January.

7 Q: Of 2011?

8 A: Yes, sir.

9 Q: So, you were -- you continued to go over to Junco Lane
10 through 2011?

11 A: Yes, sir.

12 Q: And whenever you would go over at that point, who was
13 living in that house?

14 A: Just Wesley.

15 Q: Just Wesley?

16 A: Yes, sir.

17 Q: So, just the defendant?

18 A: Yes, sir.

19 Q: Anybody else staying over whenever you'd be over there?

20 A: No, sir.

21 Q: When you'd spend the night, did anybody else lay their
22 head down there?

23 A: No, sir.

24 Q: How long did you and the defendant date?

25 A: It was an off-and-on relationship. I can't really say, I

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ANGEL DEANGELO - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 mean...
- 2 Q: For what period of time did the off-and-on relationship
- 3 go on?
- 4 A: A year.
- 5 Q: A year, so through 2011?
- 6 A: Yes, sir.
- 7 Q: Now, at any point during y'all's relationship, on again,
- 8 off again, Rachel and Ross, did -- did you ever know him to
- 9 live at any other addresses?
- 10 A: No, sir.
- 11 Q: So, you never knew him to live at Starbluff or anywhere
- 12 else, just at Junco?
- 13 A: Just at Junco.
- 14 Q: And to your knowledge, who had control of Junco Lane?
- 15 A: That residence?
- 16 Q: Yes.
- 17 A: He did.
- 18 Q: And whose cars were in the garage at Junco Lane?
- 19 A: His vehicles.
- 20 Q: Whose clothes were in the closet in that master bedroom?
- 21 A: His clothes.
- 22 Q: Whose side of the bed was that handgun found on?
- 23 A: His side of the bed.
- 24 Q: All right. Coming up towards the end, Ms. Deangelo. Let
- 25 me show you what's been previously introduced as State's

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 Twenty-six and Twenty-seven, have you ever seen these
2 photographs before?

3 A: Yes, sir.

4 Q: Whose photographs are those?

5 A: Wesley's.

6 Q: So, these are not your photographs?

7 A: No, sir.

8 Q: These aren't boyfriend photographs of yours?

9 A: No, sir.

10 Q: Did you have any drawers in that master bedroom?

11 A: No, sir.

12 Q: The drawers in that master bedroom, who did they belong
13 to?

14 A: Wesley.

15 Q: The kitchen, who did that belong to?

16 A: Wesley.

17 Q: Everything in that closet, who did that belong to?

18 A: Wesley.

19 Q: Thank you.

20 THE COURT: Does that conclude your examination at this
21 time?

22 MR. RICHARDSON: Yes, sir, Your Honor.

23 THE COURT: You may examine, Mr. Truslow.

24 MR. TRUSLOW: May it please the Court.

25 CROSS EXAMINATION OF ANGEL DEANGELO BY MR. TRUSLOW:

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

- 1 Q: Ms. Deangelo, everything you're testifying today and all
2 this that you're saying, this is according to you, right?
- 3 A: Yes, sir.
- 4 Q: Coming from you?
- 5 A: Yes, sir.
- 6 Q: You realize you're the only one that's testified as to
7 anything to do with Wesley living in that house?
- 8 A: Yes, sir.
- 9 Q: Okay. Now, when we picked the jury, you were sitting
10 over here, do you recall that?
- 11 A: Yes, sir.
- 12 Q: Okay. And you've had about two years to tell these folks
13 in law enforcement or anybody what you're telling this jury
14 today; do you realize that?
- 15 A: Yes, sir.
- 16 Q: So, you don't tell that until the day that they are gonna
17 try you for these drugs, correct?
- 18 A: Yes, sir.
- 19 Q: Okay. So, what changed between you picking the jury with
20 us and you sitting up there telling these stories that you're
21 telling today; what changed?
- 22 A: I'm not telling stories; I'm telling the truth.
- 23 Q: According to you. What changed?
- 24 A: Well, I spoke with my lawyer numerous times and this just
25 came about.

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

- 1 Q: Well, no, they offered you the opportunity of doing this
2 a long time ago, haven't they?
- 3 A: I haven't spoke with them until yesterday.
- 4 Q: To your lawyer -- you never knew that you offered to tell
5 the truth a long time ago or to tell on Wesley or to testify
6 for them because they needed help?
- 7 A: No, sir.
- 8 Q: When is the first time you learned that they wanted you
9 to testify and you've had this opportunity to get out of
10 trouble?
- 11 A: Yesterday.
- 12 Q: Okay. And speaking of getting out of trouble, did they
13 also tell you you're facing twenty-five years in prison?
- 14 A: They didn't tell me I'd get out of trouble ---
- 15 Q: Did you know that?
- 16 A: --- if I testified.
- 17 Q: They didn't tell you you could get out of trouble?
- 18 A: No, sir.
- 19 Q: Okay. Well, we're gonna get to that. First of all, did
20 you understand what kind of trouble you are in?
- 21 A: Yes, sir.
- 22 Q: What is that?
- 23 A: I'm facing twenty-five years.
- 24 Q: And that's not just twenty-five years if you get it,
25 that's mandatory twenty-five.

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 A: Yes, sir.

2 Q: Right. That means that's the only thing the judge can
3 do, right?

4 A: Yes, sir.

5 Q: You can't get twenty-four.

6 MR. RICHARDSON: Your Honor, I object. He's going into
7 sentencing at this point and I ---

8 MR. TRUSLOW: This goes to credibility.

9 THE COURT: No, he's entitled ---

10 MR. RICHARDSON: He's entitled to say a lengthy sentence,
11 I believe by the case law, Your Honor, he's not entitled to go
12 into ---

13 THE COURT: No, sir. I'm not going any further and he's
14 entitled to ascertain from her what she was potentially facing
15 and our case law -- we're not going into details ---

16 MR. TRUSLOW: I'm not. I just have one last ---

17 THE COURT: I understand but you're entitled to go that
18 far.

19 BY MR. TRUSLOW:

20 Q: You can't get twenty-four, you have to get twenty-five by
21 law, right, for trafficking this weight; do you understand
22 that?

23 A: Yes, sir.

24 Q: No parole, right?

25 MR. RICHARDSON: Your Honor, he's still going beyond

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

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1 that.
2 THE COURT: No, sir, he's through with that.
3 BY MR. TRUSLOW:
4 Q: Now, you're saying that they didn't offer to do anything
5 for you, right?
6 A: No, sir.
7 Q: Where are you currently housed?
8 A: In North Carolina.
9 Q: No, I mean, currently. In jail?
10 A: Yes, sir.
11 Q: You're in jail, right?
12 A: (Indicates affirmatively.)
13 Q: So, after our jury selection, they carted you off to
14 jail, correct?
15 A: Yes, sir.
16 Q: Did these prosecutors come see you in jail?
17 A: Yes, sir.
18 Q: Which ones? Both of them?
19 A: Yes, sir.
20 Q: Was your lawyer there?
21 A: Yes, sir.
22 Q: So, your lawyer and the two prosecutors drive out to the
23 jail -- and do you recall being kind of in tears during jury
24 selection?
25 A: Yes.

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

- 1 Q: You were worried, right?
- 2 A: Uh-huh (affirmative response).
- 3 Q: You're sitting in jail -- it's kind of cold over there,
- 4 too, isn't it?
- 5 A: Yes.
- 6 Q: You don't want to sit there twenty-five; you want to get
- 7 out, don't you?
- 8 A: Yes, sir.
- 9 Q: These two prosecutors drive to the jail and they tell you
- 10 what? You testify for us and we're not gonna do anything for
- 11 you? Is that what they happened?
- 12 A: That's what they told me.
- 13 Q: Did you sign this?
- 14 A: I signed that this morning.
- 15 Q: Okay, Exhibit Number Thirty-four. Did you read it?
- 16 A: Yes, sir.
- 17 Q: Okay. Can you read Paragraph Number Four of your
- 18 agreement for the jury, please?
- 19 A: The State shall consider the extent and degree of
- 20 cooperation of Angel Deangelo in the election of charges and
- 21 at the sentencing of Angel Deangelo and shall advise the Court
- 22 of Angel Deangelo's extent and degree of cooperation in
- 23 connection with the matter.
- 24 Q: Okay. So, do you not think they are offering to do
- 25 something for you?

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

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- 1 A: No.
- 2 Q: Well, I mean, what you just read says that they can give
3 you another different charge other than this one, the bad one,
4 right, if they elect to do so, right?
- 5 A: Yes.
- 6 Q: They can tell the judge what they think your sentence
7 should be, right?
- 8 A: Yes.
- 9 Q: You don't think that's doing something for you?
- 10 A: They can't make me any promises, though.
- 11 Q: Well, did they tell you to say that?
- 12 A: No, sir.
- 13 Q: Did they tell you to say if I asked you that you weren't
14 promised anything?
- 15 A: No, sir.
- 16 Q: Okay. This promises you something, though. I mean, you
17 can't -- you read paragraph four, you get that, right?
- 18 A: Yes.
- 19 Q: Are we on the same page there ---
- 20 A: Yes.
- 21 Q: --- of what they can do for you if you testify?
- 22 A: Yes.
- 23 Q: Okay. Now, do you think if you testified that this was
24 your dope that they would change the charges or get you a
25 lesser sentence?

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

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- 1 A: No, sir.
- 2 Q: Okay. So, it's very specific what they want you to say,
3 right? I mean, if you weren't gonna throw Wesley under the
4 bus, they wouldn't be interested in having you stand up here
5 and testify.
- 6 A: Probably not.
- 7 Q: Probably not. Probably I would, right, if you'd be
8 honest about it, right?
- 9 A: Yes.
- 10 Q: Now, you brought in a lease agreement the last minute
11 that you had back during that time and I don't doubt that you
12 had a residence in North Carolina as well but you definitely
13 spent a lot of time at 309 Junco Circle, didn't you?
- 14 A: Yes, sir.
- 15 Q: Before and after this matter happened, right?
- 16 A: Yes, sir.
- 17 Q: All right. And you have a child that's how old?
- 18 A: Six.
- 19 Q: Okay. And you need to be there for him, don't you?
- 20 A: Yes, sir.
- 21 Q: And you don't think you would bend the truth or lie to
22 get out of this trouble for your child?
- 23 A: No, sir.
- 24 Q: No?
- 25 A: The truth is the truth.

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 Q: Truth is the truth? Well, let's talk ---

2 A: And I'm under oath on the Bible.

3 Q: Okay, let's talk about the truth. You -- the father of
4 your child has custody?

5 A: No, sir.

6 Q: Okay. The father of your child live in North Carolina?

7 A: Yes, sir.

8 Q: Did you call my office and ask me to represent him on
9 drug charges?

10 A: I asked if you were ---

11 Q: You said the truth is the truth.

12 A: It is.

13 MR. RICHARDSON: Your Honor, relevance ---

14 THE COURT: Yes, I'm gonna sustain ---

15 MR. TRUSLOW: Your Honor, this goes to her drug
16 involvement. She's involved with drugs in other ---

17 MR. RICHARDSON: Your Honor, that doesn't go to ---

18 THE COURT: Wait a minute.

19 MR. TRUSLOW: --- and I'm saying that these are her
20 drugs.

21 THE COURT: Wait a minute. I'm gonna have to let -- step
22 outside, I'll call you back in just a second.

23 (REPORTER'S NOTE: The jury retires to the jury room.)

24 THE COURT: Mr. Truslow, I'm gonna hear what you say but
25 you understand if you open the door to her drug involvement,

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 then you may be opening the door to who she had drug
2 involvement with.

3 MR. TRUSLOW: Judge, I'm simply asking her about the drug
4 involvement of her ex-husband.

5 THE COURT: And what relevancy does that have to this
6 case?

7 MR. TRUSLOW: The relevance is that she's involved with
8 somebody other than my client with drugs and guns. He was
9 arrested by the Feds for drugs and guns. She called me for
10 representation.

11 THE COURT: If you start getting into her involvement
12 with drugs now, they're entitled to say who else she's
13 involved with and it may or may not involve Defendant Gore.

14 MR. TRUSLOW: You're saying she may testify she dealt
15 drugs with Mr. Gore and she already said she didn't.

16 THE COURT: I don't know. I don't know that. I'm just
17 saying to you if you start with her about drug involvement or
18 her husband's drug involvement, you may be opening the door to
19 who else it possibly -- I don't know that it does but you're
20 getting ready to open the door.

21 MR. TRUSLOW: I want to make sure it doesn't open the
22 door to his prior stuff. It would open the door if she wants
23 to change her testimony now and say she was dealing drugs with
24 him too is what you're saying.

25 THE COURT: I don't understand -- I don't mind you asking

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 her did she call you about her husband's drug involvement and
2 stopping that.

3 MR. TRUSLOW: All right. I will. I'll stop there.

4 THE COURT: But if you're getting ready to go into some
5 other drug involvement, you -- I'm telling you, you are
6 opening the door.

7 MR. TRUSLOW: I'm not going any further than that then.

8 THE COURT: You understand that?

9 MR. RICHARDSON: Yes, sir, Your Honor. I would just
10 object to the relevance on this. It has nothing to do with
11 impeachment purposes.

12 THE COURT: I understand we're gonna stop it at this
13 point because it does not have anything to do with it.

14 MR. RICHARDSON: I just ask that he not go any further
15 than what he had already.

16 THE COURT: Well, he said he wasn't so ---

17 MR. TRUSLOW: I'm not going any further than that.

18 MR. RICHARDSON: So, it's asked and answered and won't be
19 brought up again?

20 MR. TRUSLOW: No, I didn't get -- you interrupted me, I
21 didn't get to ask the question.

22 MR. RICHARDSON: Well, Your Honor, that'd be my objection
23 ---

24 MR. TRUSLOW: All I want to ask that one question that
25 goes to credibility. That's it. I'm not going into her

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 involvement with it.

2 THE COURT: How does the fact that she called you about
3 representing her husband go into her credibility.

4 MR. TRUSLOW: Because, Judge, it's a big drug case and

5 ---

6 A: It's not my husband

7 MR. TRUSLOW: --- she is involved with drugs.

8 THE COURT: Again, if you get there now, I'm telling you
9 you've opening the door.

10 MR. TRUSLOW: I'm just -- you said I could ask that one
11 question and leave it alone.

12 THE COURT: Let's do this, I'm gonna sustain his
13 objection to that so that there won't be any problem. The
14 fact that she called you about representing her husband is not
15 relevant in this case and if ---

16 MR. TRUSLOW: Simply the fact that that's probably where
17 those drugs came from, Judge.

18 THE COURT: Well, if you do that now, you're opening the
19 door for her further information on drugs.

20 MR. TRUSLOW: She already testified she didn't have any
21 information with him.

22 THE COURT: I'm telling you this, I'm not telling you not
23 to go into it, I'm telling you if you do, you are opening a
24 door that you may not want to do.

25 MR. TRUSLOW: Which would be drug involvement between her

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1 and him.

2 THE COURT: Which would be drug involvement with anybody.

3 MR. TRUSLOW: All right.

4 THE COURT: Do you understand what I'm saying?

5 MR. TRUSLOW: No, sir, I don't but I understand your
6 ruling.

7 THE COURT: You need to understand it. I'm not gonna let
8 you talk about her drug involvement with one individual and
9 not them go into what other drugs she had.

10 MR. TRUSLOW: Well, I understand that, I mean, they could
11 go into whatever other drugs she had.

12 MR. RICHARDSON: Your Honor, he's talking about charges
13 that are pending against her ex-husband, then fine we should
14 be able to talk about the other charges pending ---

15 THE COURT: Why, sure, it's ---

16 MR. TRUSLOW: All right. I understand.

17 THE COURT: I don't want -- I don't want you to open that
18 door unless you want to.

19 MR. RICHARDSON: I would just like a clean trial, Your
20 Honor, and it has no relevance.

21 THE COURT: I sustain your objection.

22 MR. RICHARDSON: Thank you, Your Honor.

23 MR. TRUSLOW: Neither did those photographs of him
24 holding money that ---

25 THE COURT: Now, let it be one more clear to me, I'm

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 telling you that the fact that she may have called you about
2 hiring you for -- to represent her husband, I sustain the
3 objection. It has no relevancy in this case. However, if you
4 wish to cross examine her about her drug involvement with
5 different individuals, I'm telling you you are opening the
6 door to the totality, if any, if her drug involvement
7 including, if any, this defendant, and that's all I'm saying.
8 Do you understand that?

9 MR. TRUSLOW: I understand that but that would -- that
10 would then mean not his prior drug involvement with other
11 people but with her.

12 THE COURT: No, sir. If you start going into her drug
13 involvement with anybody, they're entitled to expand it if
14 there's evidence of drug involvement with this defendant. You
15 can't have it just your way and limit it to that portion that
16 you want to bring in. I'm not telling you not to do it; I'm
17 just telling you if you do you're opening the door.

18 MR. TRUSLOW: All right, sir.

19 THE COURT: All right. At this point, I sustain the
20 objection.

21 MR. RICHARDSON: Thank you, Your Honor.

22 THE COURT: If he desires to go into her drug involvement
23 with anybody, I'm not precluding him from doing that, I'm just
24 saying to him he may be opening a door.

25 MR. TRUSLOW: But Your Honor, you sustained his objection

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 as to me -- was asked and answered. You sustained his
2 objection as to me asking it again.

3 THE COURT: That's correct.

4 MR. TRUSLOW: Okay.

5 THE COURT: I'm gonna let it stay like it is.

6 MR. TRUSLOW: That stands and then we're starting from
7 scratch.

8 THE COURT: I'm gonna let it stay -- it's in there, I'm
9 gonna let it stay like it -- I'm just not gonna let you pursue
10 it but I'm not telling you not to ask further drug --
11 questions about her drug involvement, I'm just saying you're
12 opening the door where the solicitor can ask of the totality
13 of it. Do you understand?

14 MR. TRUSLOW: Yes, sir.

15 THE COURT: All right. I'm not telling you not to do it;
16 that's your call.

17 Bring the jury in.

18 THE COURT: I'm not gonna give a curative instruction
19 unless ---

20 MR. RICHARDSON: I would not ask for one, Your Honor.

21 THE COURT: Sir?

22 MR. RICHARDSON: I would not ask for one.

23 THE COURT: All right. That's fine.

24 (REPORTER'S NOTE: The jury returns to the courtroom.)

25 THE COURT: Mr. Foreman, ladies and gentlemen, from time

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 to time, matters may be coming into court that are not
2 necessarily appropriate as evidence and sometimes we have to
3 call the jury out to go into it to make sure whether it's
4 admissible or not or whether it's relevant or not but be
5 assured that this court and the attorneys for the State and
6 defendant at no time want to deprive you of those facts to
7 which are you entitled. Nobody is trying to hide anything.

8 All right. You may resume your examination.

9 BY MR. TRUSLOW:

10 Q: Regardless of the fact that you had a lease in North
11 Carolina, you were living also at Junco Circle, if living is
12 eating and sleeping, if you're saying you spent three or four
13 nights there a week, right?

14 A: I stayed three or four nights a week.

15 Q: Okay. Whether in -- there's times when Wesley would
16 visit you there; is that what was going on?

17 A: Visit me where?

18 Q: At Junco Circle?

19 A: No, I would visit him.

20 Q: I mean, you were spending more time at Junco Circle,
21 weren't you, then you were in North Carolina?

22 A: No, sir.

23 Q: Four nights a week is more time ---

24 A: Not when ---

25 Q: --- than seven because you've got seven days in a week.

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

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- 1 A: It was three or four nights.
- 2 Q: Okay, well three or four, you're spending at least equal
3 time at Junco Circle, correct, going back and forth from North
4 Carolina to Longs, North Carolina to Longs, correct?
- 5 A: Yes, sir.
- 6 Q: Now, they said you didn't have any drawers in that house
7 to put your clothes, you kept all your clothes in a bag,
8 right?
- 9 A: Yes, sir.
- 10 Q: That's where all this cocaine was found, it was in a bag,
11 wasn't it?
- 12 A: Not in my red bag.
- 13 Q: Was it found in a bag?
- 14 A: I have no idea.
- 15 Q: Huh?
- 16 A: If it was, I have no idea.
- 17 Q: Who was at the door demanding to see the search warrant;
18 who made it back to the house? You, right?
- 19 A: Yes.
- 20 Q: And you told them that you wanted to see the search
21 warrant, right?
- 22 A: Yes, sir.
- 23 Q: You told them you lived there and you demanded to see the
24 search warrant, correct?
- 25 A: Yes, sir.

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ANGEL DEANGELO - CROSS EXAMINATION BY MR. TRUSLOW

1 Q: Now, when you say that Wesley or his mother or somebody
2 called you, is there anybody else that could substantiate or
3 back that up?

4 A: I called his mother like he asked me to.

5 Q: Okay, right. He called you. Now you said he was in
6 custody, he pulled out of there and got stopped, correct?

7 A: Yes, sir.

8 Q: He was in police custody. Did you -- do you know if any
9 of the police testified that they handed him the cell phone
10 and ---

11 MR. RICHARDSON: Your Honor ---

12 Q: --- let you call him?

13 THE COURT: Wait a minute.

14 MR. RICHARDSON: He's asking about other people's
15 testimony.

16 THE COURT: She was not in here when the testimony was
17 ---

18 Q: All right. Do you think it's logical ---

19 THE COURT: Well, she couldn't possibly answer that
20 question, she wasn't in here.

21 MR. TRUSLOW: Yes, sir.

22 BY MR. TRUSLOW:

23 Q: Do you think it's logical that if he's in custody, he can
24 make cell phone calls to you?

25 A: No, he didn't make a cell phone call. When I pulled back

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ANGEL DEANGELO - REDIRECT EXAMINATION BY MR. RICHARDSON

1 up to the store, they were taking him out of one car and
2 putting him into the other. He shouted me his mother's
3 telephone number and asked me to call her.

4 Q: Where were the police officers when he shouted this to
5 you?

6 A: Right there.

7 Q: They were right there?

8 A: Yes, sir.

9 Q: Okay. So, they would've heard that, right?

10 A: Yes, sir.

11 Q: Thank you. I have no further questions.

12 THE COURT: Can she come down?

13 MR. RICHARDSON: I've just got a couple of brief ones,
14 Your Honor, very brief.

15 REDIRECT EXAMINATION OF ANGEL DEANGELO BY MR. RICHARDSON:

16 Q: Did you ever stay at Junco Lane without Wesley Gore?

17 A: No, sir.

18 Q: And Mr. Truslow asked you about it's been two years since
19 you were arrested and this is the first we're hearing. What
20 was it that Wesley told you when you asked him -- when you
21 talked to him about your arrest?

22 A: He said that I didn't have anything to worry about.

23 Q: So, he told you, you ain't got nothing to worry about;
24 don't worry about anything?

25 A: Yes, sir.

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ANGEL DEANGELO - RECROSS EXAMINATION BY MR. TRUSLOW

1 Q: Thank you.

2 THE COURT: Come down.

3 MR. TRUSLOW: I've got one question, Your Honor.

4 THE COURT: Yes, sir.

5 RECROSS EXAMINATION OF ANGEL DEANGELO BY MR. TRUSLOW:

6 Q: You've had a lawyer for almost two years, haven't you?

7 A: Yes, sir.

8 Q: Okay. So, you had your own lawyer for almost two years?

9 A: Yes, sir.

10 Q: All right. Thank you.

11 THE COURT: You may come down.

12 MR. RICHARDSON: Thank you, Your Honor.

13 (REPORTER'S NOTE: Witness leaves the witness stand.)

14 THE COURT: All right. It's 1 o'clock, it's time to a

15 lunch. Your other witness will be here at 2:00; is that

16 right, solicitor?

17 MS. COTE: Sir? I'm sorry, Your Honor; would you repeat

18 the question?

19 THE COURT: Your other witness will be here?

20 MS. COTE: We do -- we are calling Ms. Lewis from the

21 Clerk of Court's office briefly.

22 THE COURT: Is she here? If it's brief, we can do that.

23 MS. COTE: Yes, sir.

24 THE COURT: Is she here?

25 MS. COTE: Yes, sir.

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1 THE COURT: All right.

2 MS. COTE: The State calls Heather Lewis.

3 HEATHER LEWIS, HAVING BEEN SWORN,

4 TESTIFIED AS FOLLOWS:

5 THE COURT: All right. Thank you.

6 Is this something we can stipulate to?

7 MR. TRUSLOW: No, sir.

8 MS. COTE: No, Your Honor.

9 DIRECT EXAMINATION OF HEATHER LEWIS BY MS. COTE:

10 Q: Ms. Lewis, where are you employed?

11 A: I work for the Horry County Clerk of Court's office.

12 Q: And what's your job there?

13 A: I handle court proceedings, criminal court proceedings, I
14 enter criminal dispositions of cases and I assist the public
15 with any criminal matters that they may have questions about.

16 Q: As part of your duties, are you a custodian of records?

17 A: I am.

18 STATE'S EXHIBIT NUMBER THIRTY-SIX

19 MARKED FOR IDENTIFICATION

20 Q: I'm going to show you what's been marked as
21 identification for -- as State's Number Thirty-six. Do you
22 recognize that?

23 A: Yes, ma'am. It looks like a bond form on Alton Wesley
24 Gore, Jr.

25 Q: And would that have been a document that would be kept in

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HEATHER LEWIS - DIRECT EXAMINATION BY MS. COTE

1 the Clerk of Court's office in your custody and control?

2 A: Yes, ma'am.

3 Q: Does it appear to have been altered in any way?

4 A: No, ma'am.

5 Q: Can you please read for the jury what he lists as his
6 address on that bond form?

7 MR. TRUSLOW: Objection, Your Honor, there's no evidence
8 he listed that. He didn't fill that paperwork out. That's
9 his bond paperwork from the -- at the jail.

10 THE COURT: I will permit her to testify as to what the
11 document said, not gonna permit you to testify as to if he
12 wrote it or not.

13 MS. COTE: Okay.

14 THE COURT: You'll have to call somebody as to that
15 issue.

16 MS. COTE: Okay. Thank you.

17 THE COURT: The only thing I'm permitting here to see --
18 that's a document, a business record and she's entitled to
19 have it.

20 MS. COTE: Yes, sir.

21 THE COURT: But she can say what the contents of it but
22 not -- she can't testify that he did it.

23 MS. COTE: Correct.

24 THE COURT: He didn't -- it's not his record.

25 BY MS. COTE:

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HEATHER LEWIS - CROSS EXAMINATION BY MR. TRUSLOW

1 Q: What's the name -- what's the address on that document?

2 A: It looks like 309 Juno Circle, Longs, South Carolina
3 29568.

4 Q: Is there a signature next to that?

5 A: Yes, ma'am.

6 Q: And what's the signature?

7 A: It looks like Alton Gore, Jr.

8 Q: Is that written in script?

9 A: Yes, ma'am.

10 Q: And what's the name on the document again?

11 A: Alton Wesley Gore, Jr.

12 Q: And what's the date of that document?

13 A: He dated it March 6th of 2010.

14 MS. COTE: Thank you, Your Honor. Nothing further from
15 this witness.

16 CROSS EXAMINATION OF HEATHER LEWIS BY MR. TRUSLOW:

17 Q: Now, you've been in the courtroom today, haven't you?

18 A: Yes.

19 Q: Did you hear the officers say that they filled in 309
20 Junco Circle on all his paperwork? Did you recall that
21 testimony?

22 A: I don't recall.

23 Q: Are you familiar with the procedure at the jail in
24 filling out bond paperwork at J. Reuben Long?

25 A: No, sir.

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HEATHER LEWIS - CROSS EXAMINATION BY MR. TRUSLOW

1 Q: Okay. I have nothing further.

2 THE COURT: Thank you.

3 MS. COTE: I have nothing further from this witness, Your
4 Honor.

5 THE COURT: Is this document to be introduced into
6 evidence?

7 MR. TRUSLOW: No, sir.

8 MS. COTE: No, sir, Your Honor.

9 THE COURT: All right. Thank you. You may come down.

10 (REPORTER'S NOTE: Witness leaves the witness stand.)

11 THE COURT: Let's break for lunch. Please be back at
12 2:30. Remember my admonitions, don't discuss the case with
13 anybody, let no one discuss it with you. You must not even
14 discuss it among yourselves until I've given you the case for
15 your deliberation. Be back promptly at 2:30.

16 (REPORTER'S NOTE: The jury is excused for lunch break.)

17 (RECESS)

18 *****OFF THE RECORD*****

19 (On the Record.)

20 THE COURT: Good afternoon, please be seated.

21 MR. TRUSLOW: Your Honor, can we approach briefly.

22 THE COURT: Sure.

23 MR. TRUSLOW: You had asked about charges.

24 THE COURT: Uh-huh (affirmative response).

25 MR. TRUSLOW: And it's not specific jury charges but I

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HEATHER LEWIS - CROSS EXAMINATION BY MR. TRUSLOW

1 was gonna be seeking a charge for possession based upon this
2 -- this amount that was found separate from the big amount.
3 They could find him guilty of that. They were in two
4 different places.

5 MS. COTE: That wasn't even tested, Your Honor.

6 THE COURT: No, sir. I'm not gonna do that. Well, that
7 was found, that just adds to what else was found, it's not a
8 ---

9 MR. TRUSLOW: It was found in two separate bedrooms.

10 MR. RICHARDSON: It hasn't been tested. There's no
11 evidence as to weight on it.

12 THE COURT: I'm not gonna do that. Everybody knows
13 what's was -- can't do that. There's no evidence or testimony
14 in the record about that, there's no weight.

15 MR. TRUSLOW: The other thing is that I just got word
16 that the State was to call a brand new witness that's not on
17 the witness list and I had no knowledge of that whatsoever.

18 THE COURT: Who's the witness?

19 MR. TRUSLOW: They want to call a home detention person
20 and get into his monitoring on his bond monitoring about his
21 address. We've already been through his bond form and
22 everything else.

23 MR. RICHARDSON: Your Honor, the defendant was found, I
24 believe in August of 2011 still living at Junco. Mr. Truslow
25 asked questions about the defendant listing his address as of

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HEATHER LEWIS - CROSS EXAMINATION BY MR. TRUSLOW

1 May 2011 being some other address, so it just ---

2 THE COURT: I don't see that's prejudicial. The issue

3 ---

4 MR. RICHARDSON: And I'm not gonna ask him about what he
5 was being monitored for or was he monitoring pursuant to ---

6 THE COURT: Oh, no, you can't do that. How you gonna get
7 it in without telling the jury why he happened to have that
8 knowledge?

9 MR. RICHARDSON: The jury already knows that he's been on
10 bond, I would just ask if he was being monitored ---

11 MR. TRUSLOW: But that's prejudicial that he was on the
12 ankle bracelet.

13 MR. RICHARDSON: No, we're not even gonna ask about the
14 ankle bracelet. I'm gonna say were you monitoring him
15 pursuant to his bond; yes; at what address were you monitoring
16 him.

17 THE COURT: I will permit that.

18 MR. RICHARDSON: And did he sign off on that.

19 MR. TRUSLOW: As far as relevancy, that was after the
20 drug bust.

21 THE COURT: I know but that may be ---

22 MR. TRUSLOW: So, it doesn't show that he was living
23 there at the time.

24 THE COURT: Well, that may be -- well, it may or may not
25 be, that would be the jury to consider whether he was -- where

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HEATHER LEWIS - CROSS EXAMINATION BY MR. TRUSLOW

1 he was living right after it happened. They may infer from
2 that he was living there before; so, I'll let that in.

3 MS. COTE: And you brought up the driver's license form
4 in 2011 so that he had put a different address in 2011.

5 MR. TRUSLOW: Well, I mean, that's ---

6 MR. RICHARDSON: But his current ---

7 MR. TRUSLOW: If I had any witnesses, I'd let you know.

8 THE COURT: Irrelevant.

9 MR. RICHARDSON: Didn't realize that was gonna come up
10 until today.

11 THE COURT: Be careful now in your examination of that
12 witness because the issue that he was on bond is there's a
13 record.

14 MR. RICHARDSON: Yes, sir. I'm gonna talk with him very
15 briefly.

16 THE COURT: And I would conclude that where he was living
17 after the arrest may be information for the jury that he lived
18 there before.

19 MR. RICHARDSON: Your Honor, I just talked with Deputy
20 Johnson about thirty minutes ago, so I'd just ask for about
21 three minutes to speak with him just to make sure that he's
22 aware of where he's limited. It shouldn't delay the trial
23 any.

24 THE COURT: That's fine.

25 MR. RICHARDSON: Thank you, Your Honor.

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SHARON LILLY - DIRECT EXAMINATION BY MS. COTE

1 (REPORTER'S NOTE: The jury returns to the courtroom.)

2 THE COURT: Good afternoon, Mr. Foreman, members of the
3 jury.

4 The jury is present, you may proceed.

5 MS. COTE: Thank you, Your Honor. The State calls Sharon
6 Lilly to the stand.

7 SHARON LILLY, HAVING BEEN SWORN,
8 TESTIFIED AS FOLLOWS:

9 CLERK: Please state your full name and spell your last
10 name.

11 MS. LILLY: Sharon Lilly, L-I-L-L-Y.

12 DIRECT EXAMINATION OF SHARON LILLY BY MS. COTE:

13 Q: Ms. Lilly, where are you employed?

14 A: Horry County Police Department as an evidence technician.

15 Q: How long have you been employed with Horry County as an
16 evidence technician?

17 A: About three years.

18 Q: Okay. So, were you employed there in March of 2010?

19 A: Yes, I was.

20 Q: Can you please discuss for the jury generally when an
21 officer brings in a BEST kit and drops it in the drug drop
22 box, what is the procedure from there?

23 A: I retrieve the drug kit and then I enter the information
24 into the computer and I hold it for court.

25 Q: I'm gonna show you what's been marked for identification

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SHARON LILLY - DIRECT EXAMINATION BY MS. COTE

1 as State's Exhibit Number Twenty-four. Do you recognize that
2 item?

3 A: Yes, I do.

4 Q: How do you recognize that item? Are there identifying
5 features on it?

6 A: It has the drug kit number on it and it has Officer Ard's
7 name on it and the date that he dropped it.

8 Q: What date did he drop it?

9 A: I believe on the chain it's March the 10th. It's not
10 visible on what I'm looking at here.

11 Q: I have your chain of custody.

12 A: Uh-huh (affirmative response).

13 Q: If I showed it to you, would that help refresh your
14 memory?

15 A: Yes, uh-huh (affirmative response).

16 MS. COTE: Your Honor, is that allowable?

17 THE COURT: You may.

18 MS. COTE: Thank you.

19 A: It was dropped on March the 5th, 2010.

20 BY MS. COTE:

21 Q: And when did you come into contact with that bag?

22 A: March the 5th, 2010.

23 Q: Okay. And what was the next step, where did it go next?

24 A: I have a -- we have a drug vault that we have locked up.
25 We put -- I put the drug kit in that drug vault until April

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SHARON LILLY - DIRECT EXAMINATION BY MS. COTE

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1 14th, 2010.

2 Q: Who all has access to that drug vault?

3 A: Me and my supervisors and another coworker.

4 Q: And on that date in April, I believe, what happened at

5 that point?

6 A: On April 14th, we received notice in the courts that it

7 needed to be tested and it was then pulled and given to Lisa

8 Floyd, the chemist, to be tested for court.

9 Q: And when you pick that bag up for the first time out of

10 the drug drop box, do you examine it and make sure that it's

11 intact?

12 A: I do.

13 Q: And do -- did that bag appear to be intact ---

14 A: It was.

15 Q: And it had not been tampered with in any way?

16 A: No, it hasn't.

17 Q: And when you gave it to Ms. Floyd to test it, was it

18 still intact?

19 A: It was still intact.

20 Q: And did it appear to have been tampered with in any way?

21 A: No, it didn't.

22 Q: Did you alter it or tamper with it at all while it was in

23 your possession?

24 A: Not at all. If I had, she would've given it back to me;

25 she would've rejected it.

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 Q: Thank you. I have no further questions.

2 MR. TRUSLOW: Nothing, Your Honor.

3 THE COURT: You may come down and are then excused. Thank
4 you, Ms. Lilly.

5 MS. LILLY: Thank you.

6 (REPORTER'S NOTE: Witness leaves the witness stand.)

7 MR. RICHARDSON: Proceed, Your Honor?

8 THE COURT: Please.

9 MR. RICHARDSON: State would call the chemist, Lisa
10 Floyd.

11 LISA FLOYD, HAVING BEEN SWORN,

12 TESTIFIED AS FOLLOWS:

13 CLERK: Please state your full name and spell your last,
14 please.

15 MS. FLOYD: Lisa Floyd, F-L-O-Y-D.

16 DIRECT EXAMINATION OF LISA FLOYD BY MR. RICHARDSON:

17 Q: Ms. Floyd, how are you doing this afternoon?

18 A: Good, thank you.

19 Q: Could you please tell us a little bit about where you're
20 employed, in what capacity and how long?

21 A: Yes. I work for the Horry County Police Department and I
22 run the Regional Drug Analysis Laboratory for the Fifteenth
23 Judicial Circuit. I'm a forensic drug analyst and I've been
24 running the lab since September of 2002.

25 Q: What's the purpose of that, the Horry County Regional

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 Drug Laboratory?

2 A: We test drugs for pretty much any agency in the Fifteenth
3 Judicial Circuit that requests drugs to be tested.

4 Q: And so you're the chemist there that actually does the
5 analysis?

6 A: That's correct.

7 Q: Now, with regard to forensic drug analysis -- is that
8 what it's called?

9 A: Yes.

10 Q: With regard to forensic drug analysis, what type of
11 training do you have with regard to that, educational
12 background?

13 A: I have a Bachelor of Science degree in biochemistry from
14 Clemson University and approximately twenty-four hours toward
15 a Master's degree in biochem also from Clemson. My training
16 is a fourteen-week drug training program for forensic drug
17 analysis and I undertook that at the Spartanburg County
18 Sherriff's office with a former SLED ---

19 THE COURT: Can we stipulate her as an expert in this
20 field?

21 MR. TRUSLOW: Yes, sir, Your Honor.

22 THE COURT: I conclude that based on her training,
23 education and experience, she is an expert in the area of
24 chemical analysis.

25 MR. RICHARDSON: Thank you, Your Honor. That'll shorten

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 it up; I appreciate it.

2 THE COURT: Okay.

3 BY MR. RICHARDSON:

4 Q: And you've been doing that how long?

5 A: Since September of 2002.

6 Q: And always at the Horry County Regional Drug Laboratory?

7 A: Yes.

8 Q: And so you were so employed back in, I believe it was

9 April of 2010?

10 A: Yes, I was.

11 Q: Now, in the course of your work as a forensic drug
12 analysis, narcotics analysis, educate us a little bit, what
13 does that entail?

14 A: I receive drugs packaged in what's called a BEST kit
15 which is simply a tamper-evident envelope and the associated
16 paperwork with that. That's so that I can make sure that
17 there's been no tampering done to the evidence before I
18 receive it for testing. When I receive it, I inspect it to
19 make sure it has not been tampered with and make markings
20 accordingly. If it has been tampered with in any way it would
21 be immediately returned to evidence and not tested. At that
22 point, I would either analyze it or store it for analysis.
23 And when it's ready to be analyzed, I would simply open the
24 package where it indicates to be opened. I would do what's
25 called a presumptive test which in most cases is simply a

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 color test similar to the field test kits that you see
2 officers use and then if it's pills, then I would use
3 different reference materials to make sure that I can identify
4 a manufacturer and have a picture to compare it to. And then
5 what's called a confirmatory analysis is done at that point
6 which is typically done by gas chromatography with a mass
7 selective detector. It's short GC-MS. It's a very standard
8 forensic drug analysis tool that's been used for decades.

9 Q: You use any kind of scales or anything?

10 A: Yes, I do. I use certified scales to get a weight and
11 then at that point everything is repackaged and held back in
12 evidence for ---

13 Q: By certified scales, what do you mean?

14 A: They're certified annually by an outside company.

15 Q: Calibrated?

16 A: Uh-huh (affirmative response), yes.

17 Q: And you've been doing this for a while. This is your
18 job. In the course of your work with Horry County Regional
19 Drug Laboratory, from what agencies do you receive drug
20 requests?

21 A: For the most part now it's just agencies within Horry
22 County.

23 Q: And Horry County Police Department is that one of the
24 agencies?

25 A: Yes, it is.

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 Q: In the course of your work, let me show you what's been
2 previously marked and identified as State's Number Twenty-
3 four. If you'll take a look at that, please, Ms. Floyd, do
4 you recognize State's Number Twenty-Four?

5 A: Yes, I do.

6 Q: And how do you recognize State's Number Twenty-four?

7 A: By my lab number which is L100187.

8 Q: State's Number Twenty-four, did it ever come into your
9 possession?

10 A: Yes, it did.

11 Q: When was that?

12 A: I need to look at it.

13 Q: Would it help if you look in your notes to refresh your
14 recollection?

15 A: That would be great.

16 MR. RICHARDSON: Your Honor, I'd ask permission to let
17 her ---

18 THE COURT: She's entitled to that. Go ahead.

19 BY MR. RICHARDSON:

20 Q: Please, Ms. Floyd, thank you.

21 A: I received the BEST kit from Sharon Lilly on April 14th
22 of 2010.

23 Q: So, you received this from Ms. Lilly April -- I think you
24 said 14th; is that correct?

25 A: 14th, yes.

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 Q: 2010?
- 2 A: That's correct.
- 3 Q: Now, when this came to you -- just help us understand,
- 4 Ms. Lilly hands this BEST kit off to you. I guess the BEST
- 5 kit is -- this whole plastic bag, is that the BEST kit?
- 6 A: No, it's not.
- 7 Q: It's just this blue item here, blue-ringed item?
- 8 A: Yes. The inner bag that's folded in half.
- 9 Q: Okay. So, this is the BEST kit. So, whenever Ms. Lilly
- 10 hands you this BEST kit, April 14th, 2010, what happens?
- 11 A: I inspected it, as I told you earlier, to make sure that
- 12 none of the tamper-evident markings showed any evidence of
- 13 tampering and they did not so at that point I put my initials,
- 14 the letter OK to make sure that there was no evidence of
- 15 tampering and the date that I opened it along with the
- 16 agency's case number and my lab number.
- 17 Q: And you received that and checked it to make sure it was
- 18 intact, the BEST kit was intact?
- 19 A: Yes.
- 20 Q: Not tampered with?
- 21 A: Correct.
- 22 Q: And once again, I think you stated that if it would've
- 23 been tampered with, you would've sent it back?
- 24 A: That's right.
- 25 Q: Rejected it. You take it from Ms. Lilly on the 14th and

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 inspect it. What happens next?
- 2 A: At that point it's analyzed again according to ---
- 3 Q: Did you analyze it that day?
- 4 A: No. My notes indicate I analyzed it on April 20th.
- 5 Q: Now, from April 14th to April 20th, what did you do with
- 6 it?
- 7 A: It was stored in the laboratory.
- 8 Q: Still sealed?
- 9 A: Yes.
- 10 Q: So, it was stored in the laboratory how?
- 11 A: When I received the BEST kits, they're actually in this
- 12 outer envelope. It contains the paperwork as well as the BEST
- 13 kit itself.
- 14 Q: But I'm saying what kind of storage space was it in?
- 15 A: Oh, it -- there's a special storage space I keep in the
- 16 laboratory for drug cases that are untested. The lab itself
- 17 is built to the same specifications as the evidence room for
- 18 property and evidence, which is a eighteen-inch steel
- 19 reinforced concrete facility that only I and the chief have
- 20 access to.
- 21 Q: So, just you two people have access to that room?
- 22 A: That's correct.
- 23 Q: So, April 14th, you have it stored in the lab. April
- 24 20th, I think you said, you went to analyze it?
- 25 A: Yes.

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 Q: Now, take us through April 20th, what do you do first?

2 A: I would empty the contents of this envelope that you see
3 folded in half and analyze each item individually and then
4 repackage it in which you see these red topped Ziploc bags and
5 then weights are noted, the analyses are made notes of and
6 everything is repackaged back into this clear outer envelope
7 that you see and then my initials, the date that it's sealed
8 and the lab number are all heat sealed into the inside of this
9 bag.

10 Q: So, you retrieved the BEST kit that day and do you
11 examine it again, the BEST kit?

12 A: I'm sorry?

13 Q: Do you examine the BEST kit when you take it back out of
14 your storage space?

15 A: Yes.

16 Q: Okay. And you opened it at that point?

17 A: That's correct, yes.

18 Q: With regard -- and how can you be sure this is the BEST
19 kit you received from Sharon Lilly?

20 A: There's actually three tracking numbers on it. I
21 referred the lab number earlier, the L100187. There's also a
22 preprinted control number that is on each of these envelopes
23 that I don't assign it, it just came preprinted. And that one
24 is H011046. And then I also write the agency's case number
25 again on there.

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 Q: So ---
- 2 A: And all three of those match my notes.
- 3 Q: This is all for control purposes, correct?
- 4 A: Correct, yes.
- 5 Q: It's all documented?
- 6 A: Yes, it is.
- 7 Q: Now, you get State's Twenty-four in, you open the BEST
- 8 kit and you start analysis. What's the first step you did in
- 9 analyzing -- let's just go over the white-powder substance,
- 10 okay? What's the first step you did an analyzing the white-
- 11 powder substance?
- 12 A: I believe if I may again refer to my notes.
- 13 Q: Sure.
- 14 A: All of the white rock substance that was in the BEST kit
- 15 was all packaged individually in sandwich baggies so each
- 16 individual sandwich baggie was separated from each other and
- 17 any of the over evidence was separated into different items
- 18 and inspected and then analyzed according to the procedure
- 19 that I told you earlier.
- 20 Q: How many baggies were there of white powder or white ---
- 21 A: There were fourteen items with white-rock substance in
- 22 sandwich baggies.
- 23 Q: So, fourteen bags of white powder that were in the BEST
- 24 kit. As you go through the analysis, you told us before you
- 25 do a -- what's the first test you do?

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 A: A presumptive test.
- 2 Q: And you did that with each baggie?
- 3 A: Yes, I did.
- 4 Q: And what did you find out by doing the presumptive test?
- 5 A: All of the presumptive tests indicated the presence of
- 6 cocaine.
- 7 Q: So, in -- it indicated the presence of cocaine, what did
- 8 that tell you you needed to do?
- 9 A: Well, at that point I would do a standard confirmatory
- 10 analysis which is simply a base in methylene chloride
- 11 extraction and then run it on the instrument, the GC-MS that I
- 12 referred to earlier.
- 13 Q: And you did that on each baggie?
- 14 A: Yes, each of the fourteen bags.
- 15 Q: Now, in your analysis, which you got the first test and
- 16 then you're -- the confirmatory test, what if anything -- what
- 17 were your results?
- 18 A: In every case of those fourteen items, cocaine was found.
- 19 Q: You separate -- you actually numbered the bags, correct,
- 20 into items?
- 21 A: Yes.
- 22 Q: Let's go over -- and all those items are in this bag,
- 23 correct?
- 24 A: Yes, they are and they're numbered when they were
- 25 repackaged.

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 Q: Now, and items -- you did a report?

2 A: Yes, I did.

3 Q: And you're in possession of your report at this time?

4 A: Yes.

5 Q: Now, in reviewing your report, you've got fourteen
6 baggies of white rock-like substance, let's just go through
7 items one through fourteen. Item 1, what substance was it?

8 A: Item 1 was found to be cocaine in the amount of 27.74
9 grams, which is 428.02 grains.

10 Q: So, that's 27.74 grams in Baggie 1. How about Baggie 2,
11 Item 2?

12 A: Item 2 was found to be cocaine in the amount of 27.90
13 grams.

14 Q: And when you're talking about the grams, this is when
15 you're going back and weighing them?

16 A: Yes. This is the scale weight in grams.

17 Q: And does that include the baggie it's in or just the
18 powder itself?

19 A: No, it's simply the substance itself without any type of
20 packaging.

21 Q: So, this is the naked substance itself?

22 A: Yes.

23 Q: Let's go to Item 3.

24 A: Item 3 was found to be cocaine in the amount of 28.02
25 grams.

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 Q: Item 4?
- 2 A: Item 4 was cocaine in the amount of 27.77 grams.
- 3 Q: Item 5.
- 4 A: Cocaine found in the amount of 27.76 grams.
- 5 Q: Item Number 6.
- 6 A: Item 6 was found to be cocaine in the amount of 27.74
- 7 grams.
- 8 Q: How about Item 7?
- 9 A: Item 7 was found to be cocaine in the amount of 27.72
- 10 grams.
- 11 Q: And I know this is getting long; we're about halfway
- 12 there now. Item Number 8?
- 13 A: Item 8 was found to be cocaine in the amount of 27.76
- 14 grams.
- 15 Q: Item Number 9.
- 16 A: Item 9 was found to be cocaine as well, 27.92 grams was
- 17 the weight.
- 18 Q: Item 10?
- 19 A: Item 10, cocaine was found, 27.79 grams was the weight.
- 20 Q: Item Number 11.
- 21 A: Item 11, cocaine was found in the amount of 14.25 grams.
- 22 Q: So, about half of what you'd found in the other bags?
- 23 A: Approximately.
- 24 Q: Item Number 12.
- 25 A: Item 12 was found to be cocaine in the amount of 27.68

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

- 1 grams.
- 2 Q: How about Item 13?
- 3 A: Item 13 was cocaine found in the amount of 27.87 grams.
- 4 Q: And finally, Item Number 14.
- 5 A: Item 14 was found to be cocaine in the amount of 27.96
- 6 grams.
- 7 Q: Okay. So, in all fourteen baggies you found cocaine?
- 8 A: Yes.
- 9 Q: And you weighed the cocaine out in these?
- 10 A: Yes, sir.
- 11 Q: Now, taking all those numbers, Items 1 through 14, have
- 12 you had the opportunity to add them together to figure out
- 13 what the total weight was of the white powder?
- 14 A: Yes, I have.
- 15 Q: And how much cocaine was in those fourteen baggies total?
- 16 A: The total weight for Items 1 through 14 was 375.88 grams.
- 17 Q: 375.88 grams. And that's what we find in here today?
- 18 A: Yes, it is.
- 19 Q: So, in your expert testimony, how much cocaine is in
- 20 State's Number Twenty-four?
- 21 A: There's a total of 375.88 grams.
- 22 Q: Now, after you got done with your analysis, what did you
- 23 do?
- 24 A: At that point, everything was repackaged in the Ziploc
- 25 bag you see inside and then everything was sealed together in

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 that clear outer envelope.

2 Q: And did you do anything to initial it or anything?

3 A: Yes, my name or my initials, excuse me, the date and the
4 lab number were all sealed, heat-sealed into the top.

5 Q: And State's Number Twenty-four, is it in the same
6 condition today as it was when it left your -- left your lab?

7 A: Aside from a marking on the outside of it, yes, it
8 appears to be the same.

9 Q: Does the bag appear to be tampered with in any way?

10 A: No, it does not.

11 MR. RICHARDSON: Your Honor, at this time, the State
12 would seek to introduce Number Twenty-four into evidence.

13 MR. TRUSLOW: Just subject to the prior objection.

14 THE COURT: Permitted subject to.

15 MR. RICHARDSON: State's Twenty-four into evidence.

16 MR. TRUSLOW: Subject to the prior objection.

17 THE COURT: Admitted subject to.

18 MR. RICHARDSON: State's Twenty-four into evidence.

19 STATE'S EXHIBIT NUMBER TWENTY-FOUR

20 ADMITTED INTO EVIDENCE

21 BY MR. RICHARDSON:

22 Q: Ms. Floyd, in your expert opinion, State's Twenty-four is
23 more than 200 grams but less than 400 grams, correct?

24 A: Yes, that's correct.

25 MR. RICHARDSON: Your Honor, I have no further questions

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LISA FLOYD - DIRECT EXAMINATION BY MR. RICHARDSON

1 of this witness.

2 THE COURT: You may examine.

3 MR. TRUSLOW: Nothing, Your Honor.

4 THE COURT: You may come down and are excused. We thank
5 you.

6 (REPORTER'S NOTE: Witness leaves the witness stand.)

7 MR. RICHARDSON: Court's indulgence for just a moment.

8 THE COURT: All right, sir.

9 MR. RICHARDSON: And I would ask that -- I believe you
10 already excused her, I ---

11 THE COURT: Yes, sir.

12 MR. RICHARDSON: Thank you, Ms. Floyd.

13 THE COURT: You are to be excused and we thank you.

14 MR. RICHARDSON: The State would call ---

15 THE COURT: Wait one minute. Inasmuch as you have not
16 been previously listed, would you care to talk to him first?

17 MR. TRUSLOW: No, sir. I'll talk to him on cross.

18 THE COURT: Okay. That satisfies -- let the record
19 reflect I'll give you an opportunity to ---

20 MR. TRUSLOW: Yes, sir.

21 THE COURT: All right. Thank you. Call your witness.

22 MR. RICHARDSON: Yes, sir.

23 State would call Deputy Tom Johnson, Horry County
24 Sherriff's Department.

25 THOMAS JOHNSON, HAVING BEEN SWORN,

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THOMAS JOHNSON - DIRECT EXAMINATION BY MR. RICHARDSON

1 TESTIFIED AS FOLLOWS:

2 CLERK: Please state your full name and spell your last
3 name.

4 MR. JOHNSON: Okay. Thomas, J-O-H-N-S-O-N, Johnson.

5 DIRECT EXAMINATION OF THOMAS JOHNSON BY MR. RICHARDSON:

6 Q: Deputy Johnson, could you please tell this jury where
7 you're employed?

8 A: Horry County Sherriff's Office, Home Detention Section.

9 Q: And as part of your duties as a home detention officer,
10 do you monitor some people on bond?

11 A: Yes, I do.

12 Q: In the course of your duties, have you had the
13 opportunity to monitor the defendant while he's on bond?

14 A: Yes, I have.

15 Q: Now, when you're monitoring someone on bond, how do you
16 ascertain where they're located?

17 A: From the client.

18 Q: So, the person on bond would tell you where they're
19 living, correct?

20 A: Yes.

21 Q: Now, in the course of your duties, you say that you have
22 monitored the defendant, when did you begin the monitoring?

23 A: Initially, March 11th of 2010.

24 Q: And were you still monitoring him on into 2011?

25 A: Yes.

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THOMAS JOHNSON - CROSS EXAMINATION BY MR. TRUSLOW

1 Q: And during the course of your monitoring the defendant,
2 what did the defendant list as his address?

3 A: 309 Junco Circle in Conway, South Carolina.

4 Q: Okay. And it's Conway or is it the north end?

5 A: Conway, off Highway 90.

6 Q: Off Highway 90, okay. Is that the Longs section or it's
7 Conway?

8 A: I'm not sure what section. It's right at 22 and Highway
9 90; I've been out to the house.

10 Q: But it's off 90, it's Junco?

11 A: Yes, sir. I've been out there before.

12 Q: Okay. And you observed the defendant out at the address?

13 A: Yes.

14 MR. RICHARDSON: Your Honor, I have no further questions
15 of this witness.

16 THE COURT: Thank you.

17 CROSS EXAMINATION OF THOMAS JOHNSON BY MR. TRUSLOW:

18 Q: Did you bring any paperwork with you today?

19 A: On such short notice, I didn't have a whole lot of time
20 to prepare but I did bring some paperwork with me, yes.

21 Q: Now, this computer form here, would these be forms off of
22 your computer?

23 A: That's the -- that's actually a internet program that we
24 use with the tracking device.

25 Q: And so this is information that you maintain but that you

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1 enter or somebody working with you enters?

2 A: Yes.

3 Q: Is that how it get's entered? Were you present when he
4 was served with his arrest warrants and the addresses were put
5 on his arrest warrants by the arresting officer?

6 A: I don't recall.

7 Q: Okay. Were you present when his bond paperwork was
8 filled out by the magistrate judge and any addresses were put
9 on that initial bond paperwork?

10 A: I don't recall.

11 MR. TRUSLOW: Thank you, Your Honor, nothing further.

12 THE COURT: All right, sir.

13 MR. RICHARDSON: I'd just ask this witness be excused,
14 Your Honor, to return to his duties.

15 THE COURT: He may do so.

16 MR. RICHARDSON: Thank you, Your Honor.

17 MS. COTE: Your Honor, at this time, the State of South
18 Carolina rests its case.

19 THE COURT: All right. The State has now concluded its
20 testimony and evidence. I'll gonna send you to the jury room
21 for few minutes. I'll be calling you back out very shortly.
22 Thank you.

23 (REPORTER'S NOTE: The jury retires to the jury room.)

24 THE COURT: Any motions on behalf of the State?

25 MS. COTE: No, Your Honor.

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1 THE COURT: Any on behalf of the Defense?

2 MR. TRUSLOW: Motion for a directed verdict, Your Honor,
3 based upon the lack of evidence to convict the defendant based
4 upon a lack of evidence of him living or having custody and
5 control over the drugs as well as knowledge of the drugs being
6 in the home, which knowledge being an element at that time.

7 THE COURT: Care to respond?

8 MS. COTE: Yes, Your Honor. In the light most favorable
9 to the State, there's ample evidence to go to the jury. It's
10 a question for the jury at this point. There's been evidence
11 and testimony that law enforcement knew him to live in that
12 home. His girlfriend has testified that he lived in the home.
13 And just now, Your Honor, the home detention officer stated
14 that this defendant gave 309 Junco Drive as his address. The
15 drugs were found in his closet where his clothes were located.
16 That's plenty evidence, Your Honor, to pass directed verdict
17 and go to the jury.

18 THE COURT: In my view, it's a question for the jury but
19 there's ample evidence, if believed, that this defendant lived
20 at those premises prior to March the 5th and subsequently.
21 And of course, there is a permissible inference that I will
22 charge that the jury can accept or reject that property found
23 on the premises has knowledge of it or possession of it and
24 I'll charge the appropriate law on that. But given the
25 totality of the evidence I conclude that your motion for a

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ALTON WESLEY GORE, JR. - EXAMINATION BY THE COURT

1 directed verdict is and should be respectfully denied.

2 Now, let me make inquiry of the defendant with reference
3 to his desire to testify or to present evidence. Mr. Gore,

4 ---

5 CLERK: Do you want to swear him in, Judge?

6 THE COURT: Yes.

7 ALTON WESLEY GORE, JR., HAVING BEEN

8 SWORN, TESTIFIED AS FOLLOWS:

9 THE COURT: This, of course will be only as to that
10 issue, you understand?

11 MR. GORE: Yes.

12 THE COURT: Mr. Gore, we're at the stage of the case
13 where you have the right to present any witness against you if
14 you care to. Do you understand that?

15 MR. GORE: Yes, sir.

16 THE COURT: Or present any witnesses in your behalf. You
17 also have the absolute right to testify in your own behalf.
18 Do you understand?

19 MR. GORE: Yes, sir.

20 THE COURT: Under our laws you are presumed innocent and
21 you don't have to prove a thing. The State's got to prove you
22 guilty if they can by evidence beyond a reasonable doubt and
23 thus, you have the absolute right not to testify. Do you
24 understand that?

25 MR. GORE: Yes, sir.

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ALTON WESLEY GORE, JR. - EXAMINATION BY THE COURT

1 THE COURT: If you elected not to testify, I would charge
2 the jury that the fact that you did not testify could not,
3 must not be hold as any inference of guilty against you. I
4 would charge the jury further that the fact that you did not
5 testify cannot even enter into their deliberations in the jury
6 room. They will be instructed that there is absolutely no
7 adverse inference because you did not testify if that be your
8 decision. Do you understand that?

9 MR. GORE: Yes, sir.

10 THE COURT: Now, the question as to whether you desire to
11 testify or not obviously is one that you would discuss with
12 your distinguished counsel. However, I tell you that the
13 final decision as to whether you testify or not rests with
14 you. Do you understand that?

15 MR. GORE: Yes, sir.

16 THE COURT: You cannot later to be heard to say, well, I
17 wanted to do one thing or another but my lawyer wouldn't let
18 me. You understand that?

19 MR. GORE: Yes, sir.

20 THE COURT: Let it be abundantly clear you have the
21 absolute right to testify, you have the absolute right not to
22 testify, the decision ultimately rests with you. Do you
23 understand that?

24 MR. GORE: Yes, sir.

25 THE COURT: Do you have any questions about what I say to

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1 you on this issue?

2 MR. GORE: No, sir.

3 THE COURT: Mr. Truslow, is there any other inquiry you
4 would have me make as to this issue?

5 MR. TRUSLOW: No, Your Honor.

6 THE COURT: What is your decision? Do you desire to
7 testify or not?

8 MR. GORE: Not testify.

9 THE COURT: Do you desire to have any witnesses on your
10 behalf called?

11 MR. GORE: No, sir.

12 THE COURT: Do you desire to put up any testimony?

13 MR. GORE: No, sir.

14 THE COURT: I certainly accept.

15 Mr. Truslow, is there anything further on that issue?

16 MR. TRUSLOW: No, sir, other than the fact I just wanted
17 to clarify that I would opt to close last given the fact that
18 we've presented no evidence.

19 THE COURT: There's no question about it, you've got that
20 right.

21 MR. TRUSLOW: Thank you.

22 THE COURT: All right. To save time, I'm gonna let you
23 make any motions now. No need in me bringing the jury out and
24 then you say he does not testify and desire to come back in
25 when -- can we hear any further motions such as the end of all

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1 the testimony?

2 MR. TRUSLOW: Well, Your Honor, at -- I would renew the
3 motion for a directed verdict at this time.

4 THE COURT: All right, sir.

5 MR. TRUSLOW: Seeing as how we've rested and we're not
6 putting on a case.

7 THE COURT: All right, sir. In accordance with my
8 previously ruling, of course, I deny that motion.

9 MR. TRUSLOW: Yes, sir, Your Honor.

10 THE COURT: I conclude that there's evidence for the jury
11 to determine and -- they've got to do several things. First,
12 they've got to determine that it was his residence and then
13 they've got to determine whether or not he had sufficient
14 control, actual or constructive. And then they've got to
15 determine if the amount covered was between 200 and less than
16 400.

17 MR. TRUSLOW: Yes, sir.

18 THE COURT: Do you have any requests to charge for the
19 State?

20 MS. COTE: No, Your Honor. We discussed the traffick --
21 the standard charges on reasonable doubt, of course, and then
22 the trafficking charge, constructive and actual possession.

23 THE COURT: How about you, Mr. Truslow?

24 MR. TRUSLOW: Well, for the record, I -- we talked about
25 it the -- up there but I would for the record request a charge

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1 of possession on this case. There was a trace amount of white
2 powder located in a separate bedroom and there's questions
3 about whose bedroom was whose and I would think ---

4 THE COURT: Well, he's not being tried for that nor has
5 been indicted for that. He's been indicted as a document will
6 disclose ---

7 MR. TRUSLOW: I understand but possession is a lesser
8 included offense. They could find that just that little
9 baggie is his that was tucked under the mattress.

10 THE COURT: Then they would have to find him not guilty
11 because I'm going to charge the jury that they must find he
12 possessed 200 or more or less than 400. And if they found
13 some amount less than that, they can find him not guilty but
14 they're gonna be charged -- they must under this indictment
15 find that he possessed actual or constructive 200 or more
16 grams of cocaine. So, I respectfully deny your motion with
17 reference to simple possession.

18 MR. TRUSLOW: That's all we have.

19 THE COURT: All right. Thank you.

20 All right. Let's take a short break. We're in recess.

21 MS. COTE: Thank you, Your Honor.

22 MR. RICHARDSON: Thank you, Your Honor.

23 *****OFF THE RECORD*****

24 (On the Record.)

25 THE COURT: All right. I'm gonna let the record reflect

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1 by consent of counsel, I am going to charge the jury prior to
2 summation with the understanding I'll be back with some
3 concluding remarks after summation and this is with consent of
4 counsel for the State and defendant.

5 Bring the jury in please.

6 THE COURT: Mr. Truslow, please say the Defense rests in
7 the presence of the jury.

8 MR. TRUSLOW: Yes, sir.

9 THE COURT: And the record will reflect that you've
10 agreed -- the record will reflect that you've made the motion
11 for directed verdict.

12 MR. TRUSLOW: All right, sir.

13 THE COURT: I'm just doing it this way to save from
14 sending the jury back.

15 (REPORTER'S NOTE: The jury returns to the courtroom.)

16 THE COURT: All right. The record will reflect that
17 prior to the break, the State had rested its case and we
18 thereafter moved to the Defense.

19 MR. TRUSLOW: Your Honor, the Defense rests.

20 CHARGE BY THE COURT

21 THE COURT: Mr. Foreman, ladies and gentlemen, we have
22 now concluded all of the testimony in the trial of this case.
23 You've just heard the fact that the defendant rests its case
24 not desiring to put up any testimony nor desiring to testify
25 which is his absolute right. Now, I charge you and instruct

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1 you and emphasis to you the fact that this defendant did not
2 testify is not a factor to be considered by you in any way in
3 your deliberations and in your consideration of the question
4 of guilt or innocence of this defendant. The fact that he did
5 not testify must not be considered by you in any manner
6 whatsoever. A defendant has the absolute constitutional right
7 to remain silent the same as you do and the same as I do and
8 the assertion of that right to remain silent must not be
9 considered by you in your deliberations. Respectfully, I
10 repeat, under your oath, you are to draw no conclusions
11 whatsoever from the fact that this defendant in this case did
12 not testify.

13 I charge you further, Mr. Foreman, the fact that this
14 defendant did not testify must not even be considered by you
15 in your deliberations in the jury room. The burden of proof
16 is upon the State of South Carolina to prove him guilty beyond
17 a reasonable doubt if they can. The defendant doesn't have to
18 prove a thing; the State's got to prove him guilty. And so I
19 charge you now, you must not even let that fact enter into
20 your deliberations in the jury room. It's his constitutional
21 right, it's an absolute right, it's an important right,
22 reserves and protects your interest and mine. Now, the
23 defendant has pled not guilty to this indictment and that plea
24 puts the burden on the State of South Carolina of proving the
25 defendant guilty. A person charged with committing a criminal

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1 offense in South Carolina is never ever required to prove
2 himself innocent.

3 I charge you that it is an important rule of law that a
4 defendant in a criminal case, no matter how serious may be the
5 charge is always presumed innocent of the crime for which the
6 indictment was issued unless guilt has been established by
7 evidence satisfying you of that guilt unanimously beyond a
8 reasonable doubt.

9 This presumption of innocence does not end when you begin
10 your deliberations but it accompanies the defendant throughout
11 the trial and until you have reached a verdict of guilty based
12 on the evidence satisfactory to you of the guilt beyond a
13 reasonable doubt.

14 The presumption of innocence has been said to be like a
15 robe of righteousness placed about the shoulders of every
16 defendant and particularly this defendant which remains with
17 this defendant until it has been stripped from the defendant
18 by evidence satisfying you of the defendant's guilt beyond a
19 reasonable doubt.

20 Mr. Foreman, ladies and gentlemen, the presumption of
21 innocence is not merely legal theory, it is not just a legal
22 phrase. It is a substantial right to which every defendant is
23 entitled unless you the jury are satisfied by evidence of the
24 defendant's guilt beyond a reasonable doubt.

25 What is reasonable doubt? The State as I've indicated

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1 has the burden of proving the defendant guilty beyond a
2 reasonable doubt. Some of you may have served in civil cases
3 where you were told that the burden of proof was beyond --
4 more than fifty percent, that it is only necessary to prove
5 the fact that it is more likely than not such as by the
6 greater weight of the preponderance of evidence. I charge you
7 though that in criminal cases the State's proof must be more
8 powerful than that. It must be, as I've stated, beyond a
9 reasonable doubt. Ladies and gentlemen, proof beyond a
10 reasonable doubt is evidence that leaves you firmly convinced
11 of the defendant's guilt. There are very few things in this
12 wide world that we know with absolute certainty and in
13 criminal cases, the law does not require proof that overcomes
14 every possible doubt. If, based on your consideration of the
15 evidence, you are firmly convinced that the defendant is
16 guilty of the crime charged, you must find the defendant
17 guilty. If on the other hand you think there is a real
18 possibility that the defendant is not guilty, you must give
19 the defendant the benefit of that doubt and find him not
20 guilty.

21 Now, I remind you that during this trial you and I have
22 certain duties to perform. I touched on this briefly at the
23 beginning of the case. As the trial judge, it is my
24 responsibility to preside over the trial of this case and I
25 also have the duty to rule on the admissibility of the

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1 evidence offered during the trial. You must consider only the
2 competent evidence which is before you and which I have
3 admitted in this trial. If there was any testimony stricken,
4 you must of course disregard that. You are to consider only
5 the testimony which has been presented of this witness stand
6 and such evidence that has been introduced in the trial of
7 this case. You, of course, have the additional duty to
8 preside in this case, Mr. Foreman, during the deliberations.

9 I charge you again as presiding judge, I am not entitled
10 to a factual opinion and I have absolutely have none.
11 Charging you further that if any rule, judgment, mannerism of
12 mine might in any way cause you to suggest what I feel about
13 any factual situation between these parties, please disregard
14 that. I am not entitled to a factual opinion and I have none.
15 Now, I am the sole and only judge of the law and as jurors it
16 is your responsibility to accept the law in this case as I
17 give it to you even though you or I might disagree with what
18 the law is. It is your duty to accept the law as I now charge
19 you remembering you take the facts as you find them to be,
20 applying the facts to the law of the case as I now give it to
21 you.

22 I have told you, too, and emphasis again that you twelve
23 are the sole and only finders of the facts in this case and
24 are the sole judges of the credibility, meaning the
25 believability of every witness who testifies in the trial of

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1 this case. You bring your common sense to bear in judging
2 credibility of believability. You've had your experiences in
3 life in dealing with this issue and there are various tools
4 that we use. I have some, you have some but to you I am
5 emphasizing that it's up to you to judge the credibility and
6 believability. Saying again, you may believe one witness
7 against that of many or the other way around. You may believe
8 a portion of a witness' testimony and disregard the larger.
9 Again, the credibility, believability is for you and you and
10 alone.

11 During the trial of this case, I qualified one witness as
12 an expert in chemical analysis. Under our laws, we are
13 permitted to qualify a person by training, education and
14 experience as an expert and they may give their opinions as an
15 expert in that field. You may or -- you may, if you choose,
16 reject or accept an expert's opinion but she was qualified as
17 an expert.

18 Now, ladies and gentlemen, there are two types of
19 evidence which are generally presented during a trial, direct
20 evidence and circumstantial evidence. Direct evidence is the
21 testimony of a person who claims to have actual knowledge of a
22 fact such as an eyewitness. It is evidence which immediately
23 establishes the main fact to be proven.

24 Circumstantial evidence is proof of a chain of facts in
25 circumstances indicating the existence of a fact. It is

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1 evidence which immediately establishes collateral facts from
2 which the main fact may be inferred. Circumstantial evidence
3 is based on inferences and not on personal knowledge of
4 observation. Now, I charge you that the law makes absolutely
5 no distinction between the weight or value to be given to
6 either direct or circumstantial evidence nor is a greater
7 degree of certainty required of circumstantial evidence than
8 of direct evidence. You should weigh all of the evidence in
9 the case. After weighing all the evidence, if you are not
10 convinced of the guilt of the defendant beyond a reasonable
11 doubt, you must then find him not guilty.

12 Now, as you're well aware, upon this indictment, which
13 I've explained to you is in no sense any evidence, the
14 defendant is charged with trafficking in cocaine in the amount
15 of more than 200 grams and less than 400. And to this
16 indictment and to this charge, this defendant specifically
17 pleads not guilty. Now, this indictment will be with you in
18 the jury room and it contains these various allegations but
19 they are allegations only and they're not any evidence in this
20 case. Any allegations must be proved beyond a reasonable
21 doubt but these assertions in this indictment is not to be
22 considered by you as evidence.

23 As I've indicated now, this defendant is charged with
24 trafficking in cocaine in the amount of 200 grams or more but
25 less than 400 grams and you understand the State must prove if

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1 they can guilt beyond a reasonable doubt that the defendant
2 was knowingly in actual or constructive possession of cocaine
3 or any mixture thereof containing cocaine in the amount of 200
4 grams or more but less than 400 grams.

5 There are certain elements of this offense which the
6 State must prove beyond a reasonable doubt before the
7 defendant can be convicted and found guilty. Each of these
8 elements must be found by you, the jury, beyond a reasonable
9 doubt and should you fail to find beyond a reasonable doubt
10 that all of these elements exist, your verdict must be not
11 guilty.

12 The first element that the defendant is that the
13 defendant did knowingly possess a quantity of cocaine at the
14 time and place and in the manner alleged in this indictment.
15 To prove possession, the State must prove beyond a reasonable
16 doubt that the defendant had both the power and the intent to
17 control the disposition or use of the cocaine. Possession may
18 be either actual or constructive. Actual possession means
19 that the cocaine was in the physical, actual physical custody
20 of the defendant. Constructive possession means that the
21 defendant had the dominion and control of the right to
22 exercise dominion and control over the -- either the cocaine
23 itself or the property on which the cocaine was found.

24 Now, I charge you that mere presence at the scene where
25 the drugs were found is not enough to prove possession. It

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1 must also be shown that the defendant knew he had the cocaine
2 in his possession. Actual knowledge of the presence of the
3 cocaine by this defendant is essential. A defendant's
4 knowledge and possession may be inferred if the cocaine was
5 found on the premises or property under the defendant's
6 control. You the jury are free to accept or reject the
7 permissive inference of knowledge and possession depending
8 upon your view of the evidence. You must first, of course,
9 find that it was the defendant's property. I charge you also
10 that two or more persons may have joint possession of a drug.

11 Now, the second element that you must find beyond a
12 reasonable doubt that such substance was cocaine, which I
13 charge you is a controlled substance.

14 And thirdly, the third element, you must find beyond a
15 reasonable doubt is that the quantity of cocaine was 200 grams
16 or more or less than 400 grams.

17 Now, Mr. Foreman, you will have the indictment in front
18 of you and on the back you will see under the word verdict.
19 Based on your unanimous decision your verdict will either be
20 not guilty or guilty and whatever your verdict is it must be
21 the unanimous verdict of all twelve. It cannot be the verdict
22 of the majority and obviously it would not be one of the
23 minority. Your verdict must be a unanimous verdict and when
24 the jury has agreed on a unanimous verdict of not guilty or
25 guilty, you will so signify to the bailiff and we'll bring you

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1 out in the courtroom to accept that verdict.

2 I have one question that I am required to propound to the
3 attorneys and I'm gonna ask you be excused just a second and
4 I'll be calling you right back.

5 (REPORTER'S NOTE: The jury retires to the jury room.)

6 THE COURT: For the State, any exceptions or additions to
7 the charge?

8 MR. RICHARDSON: Your Honor, in regards to the charge,
9 it's a matter of housekeeping and I know Mr. Truslow spoke
10 with Ms. Deangelo about possible sentence, I just want to make
11 sure that Mr. Truslow wasn't going to be talking about this
12 defendant is facing twenty-five years or anything.

13 THE COURT: Oh, no, he knows ---

14 MR. TRUSLOW: That's in evidence.

15 THE COURT: No, sir. It's in evidence that she would be
16 but ---

17 MR. TRUSLOW: She testified to it, though, that ---

18 MR. RICHARDSON: That's she's facing, not him.

19 THE COURT: You can talk about what she said. The case
20 is very clear, you are permitted to ask ---

21 MR. TRUSLOW: Oh, I'm not gonna say what he's facing, no,
22 sir.

23 THE COURT: All right. That's fine. You know better
24 than that.

25 MR. RICHARDSON: There is a charge with regard to

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1 sentences not before the jury but that's fine, Your Honor.

2 THE COURT: I'm not gonna do that.

3 Any exceptions or additions on behalf of the defendant?

4 MR. TRUSLOW: No, sir, Your Honor.

5 THE COURT: All right. Bring the jury back.

6 He can surely say what she was facing and the case law
7 states that clearly. That was not the law when I first went
8 on the bench twenty-seven years ago.

9 I may in concluding remarks do that charge.

10 MR. RICHARDSON: Yes, sir, Your Honor.

11 THE COURT: Do you want me to say why you're entitled to
12 the last charge or just leave it alone, Mr. Truslow?

13 MR. TRUSLOW: No, sir, that's fine, Your Honor.

14 THE COURT: Do not?

15 MR. TRUSLOW: Yeah, I'm okay.

16 THE COURT: Okay.

17 (REPORTER'S NOTE: The jury returns to the courtroom.)

18 THE COURT: Mr. Foreman, ladies and gentlemen,
19 procedurally, the State will have the first final summation
20 followed by the Defendant's summation. You may proceed.

21 CLOSING STATEMENT BY MS. COTE:

22 MS. COTE: Thank you, Your Honor. May it please the
23 Court?

24 On March 5th, 2010, when officers from the Horry County
25 Police Department entered this defendant's home, the evidence

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1 showed us today that they found that he was running a business
2 from that home. The problem was, he wasn't selling Avon from
3 that home, he wasn't selling Tupperware. Those agents came
4 upon his inventory. This, ladies and gentlemen, was his
5 inventory and all over his house were various tools of the
6 trade. Now, when we first started out earlier this morning, I
7 told you that this case was simple. In fact, it's as simple
8 as one, two, three. One, we have over 200 grams of powder
9 cocaine. Well, over the 200 pounds [sic] of powder cocaine
10 that we have to prove to you. We have that the defendant
11 lived in the home where that cocaine was located and we have
12 the he know -- he knew at the time that it was there.

13 And when I tell you that this case is simple, I'm not
14 trying to minimize it. I don't want to sound like I'm being
15 flippant about it and that I don't understand this importance
16 of this case because it is important. It's important to the
17 State and it's important to the Defense. I'm just trying to
18 show to y'all how straightforward it is. I don't want y'all
19 to get wrapped up in any of these twists and turns that the
20 Defense may be trying to throw to you. It's simple. It's a
21 straightforward case.

22 Now, we've heard from a lot of witnesses today; it's been
23 a long day and I want to go back briefly through each one of
24 the witnesses that you heard from today just very briefly. I
25 don't want to retry the case but I want you to look at each

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1 witness as a piece of a puzzle. You may have thought, hmm, I
2 wonder -- you know, why are they telling me this but there's a
3 reason. Each person was a piece of a puzzle that adds up to
4 our big picture that we're proving to you now.

5 First, we heard from Kent Donald. He was the partner of
6 the lead investigator on this case, Corporal Ard. He talked
7 to you about how they get search warrants which is
8 interesting. They don't just give out search warrants willy-
9 nilly. Officers have to go to a magistrate, testify before
10 them, give them information that gives them probable cause to
11 get that warrant to search the home. He talked to you about
12 how a traffic stop was initiated on the defendant's vehicle
13 and how he was detained at that time. He took the defendant's
14 keys that were located in that car that he was driving. He
15 was the only person in that car and used those keys when they
16 entered the house rather than banging down the door or
17 something like that. They entered in a little bit more civil
18 manner.

19 We talked about how the defendant's license was suspended
20 and how his address hadn't been updated, I believe it was from
21 2006 to 2011 but during that time his license was suspended.
22 So, ladies and gentlemen, use your common sense. Are people
23 gonna update their address when they don't have a driver's
24 license, I don't think so.

25 And then Kent Donald, Officer Donald, was the one that

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1 actually talked to Angel that day when she came back to the
2 house at the defendant's request and he actually had to put
3 her under arrest because she wouldn't leave because she kept
4 -- he kept asking her to leave and she just wouldn't do it.
5 And then Officer Donald help search the house and he found the
6 Glock in the kitchen or a Glock magazine, excuse me, in the
7 kitchen. And then he heard from Officer Cooper who actually
8 was the photographer that day. Thanks to him we have a pretty
9 good picture of where things were located. It's almost as
10 good as being there with them on that day. We have a good
11 picture of the house and where things were found. And you'll
12 have all those pictures back there with you in evidence.

13 And Officer Cooper is actually the person who searched
14 the master bedroom of this house. And he told you there were
15 pictures in there. He actually found these pictures that he
16 identified as being the defendant Alton Gore in a drawer in
17 that master bedroom along with some bandanas and he searched
18 this closet where you can see men's clothing hanging up, no
19 female shoes, only men's clothing similar to the clothing that
20 you see him wearing in this picture and he took these pictures
21 of the bedroom neatly-made bed, neatly-made bed with a Glock
22 tucked in there. Glock tucked in there to protect what he
23 found in that closet. When he started searching that closet,
24 the top shelf, he said there were men's pants stacked up there
25 and he was being real diligent and he was shaking those pants

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1 out and what fell down, a big ole bag of cocaine. And he
2 heard from Corporal Ard who was the lead agent on this case
3 and he talked to you about this particular search warrant,
4 Investigator -- I'm sorry. I'm giving y'all all kinds of
5 titles but -- Detective Donald gave Corporal Ard -- or
6 Detective Donald gave us a general overview of search
7 warrants. Corporal Ard gave us a little more information on
8 this particular search warrant. It was issued based on prior
9 narcotics investigations and they were looking for narcotics
10 information at this particular house at 309 Junco Drive --
11 Junco Circle, excuse me. And this was the residence that he
12 knew the defendant to live in. He had done previous
13 investigation, he had seen the defendant at that home before.
14 He had seen him leaving that morning. He felt no need to
15 search the title of that house. He told you he had no reason
16 to doubt that that defendant lived in that house. He told you
17 that there were pictures of the defendant through that house
18 as well as male's clothing. And both he and Detective Donald
19 told you the two people that he left -- saw leaving that
20 morning, were Angel Deangelo and this defendant Alton Wesley
21 Gore, Jr. There was no other activity at that house, no other
22 people seen leaving, nobody else was there, just the two of
23 them.

24 And Corporal Ard went through a whole bunch of evidence
25 with us, explained to us what these items are. He told us

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1 what these playing cards, bent playing cards -- you know,
2 taken separately might not mean much but when you find it with
3 a box of little plastic baggies and a scale, that all adds up
4 to packaging drugs to sell.

5 They showed us the Glock magazine that was found in the
6 kitchen separate from this Glock that was found tucked in the
7 master bedroom that was loaded as well. And this holster
8 whose gun was missing -- but it's not for that Glock, that's a
9 Fobus holster, so it's a totally different type of gun. Then
10 he talked to us about the cutting agents which was
11 interesting, Inositol powder, also with baggies and playing
12 cards as well. And y'all will have all this back there to
13 look at as well but this was used to get more out of a little,
14 I guess, to stretch the amount of cocaine that could be sold.
15 And he talked to you too about the money that was found in the
16 box in the closet there was \$136, I believe in cash. And also
17 when the defendant was arrested he had \$562 on his person at
18 that time. And he told us too that that amount of drugs,
19 that's not a small amount. He told us that its approximate
20 street value would be about \$14,000. That's not just chump
21 change.

22 Next we heard from Angel Deangelo. She told you she
23 talked to me and Mr. Richardson yesterday and she signed a
24 proffer letter and she told you and she actually read from it
25 a little bit and it said that she wasn't being promised

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1 anything and she told you that she hoped something good will
2 come out of it but she told you the truth is the truth. And
3 the judge charged you, you can take witness credibility into
4 consideration when y'all are deliberating but her testimony
5 was forthright. She answered everybody's questions. She
6 seemed nervous. She seemed scared but that's to be
7 understood. What else did we learn from her? So, she met the
8 defendant in January of that year, just a couple of months
9 before this incident happened. They met in North Carolina.
10 He came to see her sort of a blind date set up and it worked
11 because they went home together that night. He drove her to
12 his house at 309 Junco Drive. So nobody else was there. In
13 fact, she told us that she never saw anybody else there except
14 for her -- I believe she said his son's mother's boyfriend and
15 that's the only other person she ever saw at his house.

16 And she -- that blind date continued to work because she
17 would come down, two, three, four nights a week to see him,
18 drive all the way down from her home in Shallotte. She said
19 she would drive about an hour. She would go to class all day,
20 be tired, then go see him so that she would usually -- you
21 know, it was late evening when she got there, probably dark,
22 it was in March. So, she, you know, they would chill out,
23 watch TV and go to bed, nothing exciting. She had no need to
24 go in the kitchen. She said she wasn't keeping her clothes in
25 the closet, so she didn't have any need to go in there. And

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1 you see in those pictures where her clothes were kept and you
2 see actually where her bag was at the time which corroborates
3 her testimony. These -- this is her bag. You see -- I think
4 there's some ear muffs actually, so it must've been chilly
; 5 about that time and some high heels. This was her bag to the
6 left side of the room and she's told us that she slept on that
7 side of the bed and his side of the bed was where our Glock
8 was found close to where he could protect the \$14,000 worth of
9 drugs sitting in his closet.

10 She told you that he was the one that called her. He
11 promptly called her that day as he's getting pulled over and
12 sends her back to the house, find out what's going on.

13 He would've gone back himself but I don't know why his --
14 a big deal is being made of the fact that she went back. He
15 couldn't go back, he was in custody, so he sent her. She
16 listened to him, she went back to the house. She felt that if
17 she told him she lived there, they'd show her the search
18 warrant and nothing would happen. She was just doing as she
19 was told.

20 Then you heard from Heather Lewis, Clerk of Court for
21 Horry County and she showed us a document or read to us from a
22 document that's kept in the custody and control of the Horry
23 County Clerk of Court's office but it has to do with the
24 defendant's bond information. And she told us that the
25 address listed on that bond form was 309 Junco Circle. And

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1 she told us that there was a signature next to it in script
2 with his name on it. And that was kept -- and that's a court
3 document with his address on it. And then we heard from
4 Sharon Lilly from the Horry County evidence room and I just
5 had to show to y'all that those evidence hadn't been -- those
6 drugs hadn't been tampered with and that's just a step that I
7 have to take and she told you weren't messed with while she
8 had them.

9 And then we heard from Lisa Floyd, the chemist with Horry
10 County and she talked to us about those drugs themselves, the
11 actual composition of those drugs. She told us all fourteen
12 of these bags each wrapped individually were powder cocaine,
13 each weighing about 27 grams a piece and adding up the 375+
14 grams.

15 Last witness was Tom Johnson who told you that this
16 defendant gave him the address of 309 Junco Circle when he was
17 monitored on his bond. He didn't make that up, he didn't get
18 that from another form. This defendant told him that address
19 and he actually went to that house and saw him there, his
20 house.

21 MR. TRUSLOW: Your Honor, I'd object to that. That's
22 facts not in evidence. He did not testify he went to his
23 house.

24 MS. COTE: Yes, he did.

25 THE COURT: I will let the jury make the determination as

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1 to whether he did or did not.

2 MS. COTE: This defendant lived at 309 Junco Circle on
3 March 5th, 2010. The facts show that, ladies and gentlemen.
4 You'll see in all those pictures there's male clothing all
5 throughout the house. The only other evidence that we've
6 heard of who could've lived there was that his mother owned
7 the house. We don't see any female clothing there. She was
8 just his landlady. Don't see anything evidence that she lived
9 there. Angel said she was never there. So, we have him
10 there, him there when Ard goes by the house, him there when
11 Tom Johnson goes by the house, him giving that address to Tom
12 Johnson. There are cars that are known to be driven by him in
13 the garage. He's seen leaving from the house early around
14 7:00-7:30 that morning. He had certainly spent the night
15 there the night before.

16 When you look at these pictures, ladies and gentlemen,
17 they speak for themselves. There's male clothing everywhere.
18 No women's shoes in that closet. It was his house, his
19 closet, his clothes on that shelf in that closet. He knew
20 those drugs were in that house. This is a lot of drugs,
21 ladies and gentlemen, it's \$14,000 more or less of drugs.
22 These aren't drugs that somebody is gonna leave laying around
23 and not knowing where they are. He knew they were there. He
24 had a gun nearby to protect himself and protect those drugs.
25 He had a magazine downstairs and he had another holster which

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1 is evidence of another gun to protect those drugs. You
2 couldn't throw a stone in this house and not find evidence of
3 drug activity. You couldn't go in the kitchen and fix
4 yourself a cup of coffee and open a cabinet to get the coffee
5 out and not find baggies, playing cards and a scale. You
6 couldn't open a cabinet to get some dinner without finding
7 Inositol, that cutting agent. You couldn't put your child to
8 bed without finding a plastic wrapper with a white-powdery
9 substance on it. There was evidence of drug activity all over
10 this house. He knew those drugs were there.

11 You can use your common sense, ladies and gentlemen,
12 that's not something that you had to check at the door when
13 you came in and proceeded as these -- I'm sorry; I can't talk.
14 It's not something you had to check at the door when you were
15 seated as jurors. You're allowed to use your common sense,
16 one of the greatest tools you have as jurors. Think about
17 this. Think about what makes sense to you.

18 Now, the judge made the point and the judge told you that
19 the State has the burden of proof in this case and that's not
20 unusual. We have the burden of proof in every single criminal
21 case. We have to prove each element of this crime beyond a
22 reasonable doubt and that's a burden that we welcome.
23 Reasonable doubt is not proof beyond any or all doubt. It's
24 not one-hundred percent. Very few things we know with a
25 hundred percent certainty but it's proof that leaves you

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1 firmly convinced of the defendant's guilt and I submit that
2 we've done that in this case.

3 The defendant is charged as you are aware with
4 trafficking in cocaine more than 200 grams. Now, let's go
5 ahead and check one of those elements off the list. We know
6 that it was cocaine, Lisa Floyd told us that. And we know
7 that it was more than 200 grams, she also told us that, well
8 over 300 grams so that element has been met.

9 We have to prove that it was in the defendant's
10 possession. His house, his house, ladies and gentlemen, it's
11 where he lived, it's where he laid his head at night. We have
12 to prove that it was in his custody and control. I don't have
13 to prove it was on his person. Somebody's gonna have to be
14 wearing awfully big pants to fit these on him. It just has to
15 in the property that he had dominion over and he had dominion
16 over that house.

17 After you hear from Mr. Truslow, you'll go back in that
18 jury room and deliberate and I want you to remember again,
19 one, two, three, and I really am not trying to downplay the
20 importance of this case but the facts are simple. It's not
21 any more complicated than cocaine, more than 200 grams, the
22 defendant's house and that he knew they were there. And I ask
23 that when you consider the evidence and look through all the
24 evidence and talk about the testimony and the witnesses that
25 you heard from, that you come back with a guilty verdict

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1 against this defendant, Alton Wesley Gore.

2 Thank you.

3 THE COURT: Mr. Truslow?

4 CLOSING STATEMENT BY MR. TRUSLOW:

5 MR. TRUSLOW: May it please the court, Your Honor.

6 I'm not exactly sure of where to start. The prosecutor
7 just basically tried the case again. No matter how many times
8 she tells you he lived there, we know he lived there, that
9 doesn't mean you know he lived there just because she says
10 that. And you know what they do, what they do is they tell
11 you their theory of the case over and over and over and try to
12 drill it into you and they do that when they don't have the
13 evidence to prove it. Now, the judge was very clear about
14 what reasonable doubt is and it's -- you got to be firmly
15 convinced to convict of anything. And I told you when we
16 first started out how powerful and important your job is but
17 what's more powerful and important is that standard because
18 there are people around the country right now, doing the exact
19 same thing that we are. And this system is either strong for
20 Mr. Gore, my friend Wesley, the person in Kansas who is
21 standing trial or anyone of us if we ever get accused of a
22 crime and we sit at that table. So, if firmly convinced is
23 just a play thing or a play word, then it means nothing. But
24 remember this, it means nothing for all of us. We'd better
25 keep this system strong in case one of us wind up in the

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1 chair. And I told you what that took before was pointing a
2 finger and that's what they did, they pointed the finger at
3 him. The first officer that testified said that he didn't
4 have to do any other work, no more investigation, because he
5 was convinced, he was satisfied that Mr. Gore lived there.
6 And I'm not -- I never said he'd never been there, okay.
7 We're talking about living there, we're talking about that
8 being his dope. We're talking about evidence that that's his
9 drugs. That's what I'm looking for. He said he didn't have to
10 do -- now, a case this important and you know how important it
11 is, wouldn't you do some more work? He says he was convinced,
12 he saw him leave that place in the morning and drive off.
13 They followed him because they had a search warrant and they
14 stopped him for driving under suspension, went and searched
15 the house. That's all he needs. So, if I'm leaving my
16 girlfriend's house, I guess I live there if it happens to be I
17 spend the night one night. I married, so that's not gonna
18 happen but you understand my point. There's no doubt that
19 someone was up to no good in that house and somebody had
20 stuff.

21 I was allowed to ask Angel one question but he -- it's
22 improper for me to then go into it with her but she did answer
23 that she called me about her ex and representing him in
24 federal drug and gun charges. Now, this was within the last
25 month. Why would she do that? Why would still be involved

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1 with a man in North Carolina where she's got her lease, why
2 would she be trying to find him a lawyer if Wesley is her boy,
3 if that's her boyfriend why is she doing that? Why is she
4 coming from North Carolina to this house, North Carolina to
5 this house, North Carolina to this house and trying to find a
6 guy in North Carolina, who is her baby's daddy, a lawyer. I
7 tell you why; because she's running dope. And the dope runner
8 just walked out the courtroom, cut a deal because she's pretty
9 and he's a black drug dealer. And I'm not trying to bring
10 race into this but it does make a difference; in this world,
11 it does make a difference if you're a pretty girl. Pretty
12 girl, did you see all those tattoos all up and down her arm?
13 She's not a student. Did they give you any evidence
14 whatsoever she went to school? They said he had 500-and-some
15 dollars but the officer told you he worked at Biminis for
16 eight years. Okay? She had 900-and-something dollars they
17 said and she tells you she's a student and a pancake waitress.
18 Does that make sense to you? Does that add up? Does that
19 leave you firmly convinced that Wesley is responsible for
20 those drugs? Let's look at the most damaging pictures here
21 because, you know what, people live differently. People think
22 this stuff is funny. These pictures were found in that house.
23 I want you to look at the date of these pictures when you go
24 back there. February 12th, 2008, this is more than two years
25 before this happened. This dates back to the addresses that I

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1 was showing you on the driving record. Everybody is telling
2 you that he lived there and the reason they're telling you
3 that is because if he lived there, then obviously he's
4 responsible for anything ever found in that house. They
5 figured that out in five minutes. They did -- they got the
6 search warrant, the found the dope, the saw him drive away
7 from there, he must live there, we got him, we arrested him,
8 we take him to jail, we fill out his arrest warrant, we put
9 down 309 Junco. They didn't take it off his driver's license.
10 The officer told you he figured that's where he lived. What
11 does that then do, that translates into all this testimony
12 about the bond and the bond paperwork. You're gonna -- you
13 know, it doesn't matter what's typed on there, you're bonding
14 out and you're trying to get out of jail, you're gonna sign
15 whatever they tell you to sign when you're going through the
16 bond system and when you're putting papers in front of you in
17 a bond hearing with thirty other people at the jail.

18 Is anybody here willing to convict Wesley on the
19 testimony of Angel after what I just told you. Because
20 really, the state had gotten nowhere with the police officers.
21 I had asked them, I said, you thought he lived there because
22 you saw him drive off. Did you go check any utility bills?
23 Okay. Did you check any cable bills? Did you go talk to
24 anybody that might own that house, find out who was living
25 there? I said, Did you talk to the neighbors? Did you ask

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1 the neighbor who lives in that house? No. Can't even ask the
2 neighbor, How often do you see Wesley there; does he live
3 there? Couldn't do that, couldn't take the time to do that.
4 Did you check the mailbox and see if there was a piece of mail
5 with his name and address on it, anything? We're not gonna do
6 that. So, we get through the four officers, one, two, three,
7 four and we're doing pretty good. And guess what, they knew
8 yesterday that wasn't gonna cut the mustard, they knew it,
9 they knew it. And what do they do, they went out to the jail
10 last night to talk to somebody looking at twenty-five years in
11 prison, no parole, mandatory. If she was the judge's
12 daughter, he couldn't give her twenty-four years, it's twenty-
13 five. She's got a five or six-year-old child. She's out
14 running around trying to get this other drug dealer a lawyer.
15 You don't think she's gonna cut a deal? She said the truth is
16 the truth. Truth is the truth. I don't think it takes
17 villain to lie and pin something on somebody else and take it
18 off of you if you're looking at twenty-five years no parole
19 and you've got a child. I don't. I think that's pretty much
20 human nature. All right. I'm not so sanctified to stand here
21 in front of you and tell you that I wouldn't be tempted to do
22 that but that's what happened. That's what's happened because
23 she's had two years to tell us all this stuff. Two years to
24 say that's a picture of me and Wesley. She's the one that was
25 there three or four nights a week. You got to look at the

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1 evidence, the evidence. Do you have any evidence that he was
2 there even as much as she was? Do you have any evidence
3 whatsoever -- and that's what this case is about, it's the
4 only thing you can consider -- is there any evidence that he
5 was there one day a week when he went by to see her, went by
6 to have sex with her? I don't know. But she admitted she was
7 there three or four times a week. Driving from North Carolina,
8 who does that? Who leases an apartment in North Carolina and
9 spends three or four nights a week down here. She says she --
10 now she says she didn't live there but that's living there.
11 She lived there more than she lived in North Carolina, that's
12 the point I was trying to make when she hits four days in a
13 week, I mean, that's more than -- out of seven, that's most of
14 the week. If you're living in North Carolina, you're sure
15 living there too. We got evidence of that. Do you have
16 evidence that he was living there outside of her? Cars in the
17 garage, the car he drove, where did that come from? That came
18 from her. We do know from the officers that she was the one
19 that went back there, ran up, demanding to see the search
20 warrant because she said they couldn't search, she lived
21 there. Who is the person at the door fighting to keep them
22 out; the one that's spent all this time there and never seen
23 any drugs. The prosecutor said she never had any need to go
24 in the kitchen. You gonna be there three or four nights a
25 week and you're not gonna go in the kitchen? Drugs all over

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1 the house and you never seen a thing? The one thing she
2 didn't testify to is drugs. She testified that a pair of
3 baggie pants, that must be Wesley's pants. Cops didn't even
4 take the clothes, didn't even take the clothes. Why couldn't
5 you at least come in here and ask somebody to testify what
6 size they were. Why didn't they get the shoe size, the shoes
7 in the closet. You look at those pictures and you see that
8 big bag of cocaine ain't in a bag. I don't care who says they
9 fell out of the closet out of male clothes, that sure changed
10 real quick. Fell out of male clothes. There's a picture in
11 there, you look and see if that stuff is not on the floor and
12 if it's not in a bag. Look close at that. And I'm not gonna
13 go through everybody's testimony. I'm not -- maybe I just did
14 but I'm not gonna go through any more of it. But you look at
15 those pictures. I'm not gonna go through each one of them and
16 hold them up because you get to take them back with you.

17 Excuse me one second.

18 When I summarize the testimony of the witnesses, the
19 police officers, I put all on one page. It was pretty close,
20 so I'm not gonna go through that piece by piece. But you know
21 what, he didn't live there based on seeing him drive off one
22 morning. The person who admitted they lived there ran back
23 there and tried to fight the cops off from the door. I know
24 what I missed -- there's another thing I want to point out to
25 you. She said she had to -- she had to change her story. She

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1 said the only reason she went back there and told them that
2 was because of -- let's get Wesley again, Wesley told her to
3 go back there and do it. And I said, Well, how in the world
4 if Wesley's in custody because he just got stopped for driving
5 under suspension, how does he tell you that? Well, she went
6 there, he shouted it to me and shouted my -- shouted his mom's
7 number, so he called her too. Did -- before she said that did
8 one of those police officers and she said the police officers
9 were -- I said, Where were the police officers? They were all
10 right there. They were all right there. And I said, Well,
11 would they've heard it? Yeah, they would've heard it. Did
12 one of those police officers testify, and they would have
13 because it's important, that Wesley yelled to her to go the
14 house and see what's going on? Yelled to her to call my mom
15 and get to the house, any of that kind of stuff? No. The
16 police officers didn't say that because they didn't hear that
17 because that didn't happen because after two years, she came
18 up with that. And I'm gonna tell you, twenty-five years will
19 make you say a lot of things that you ordinarily might not
20 say. And I'm gonna tell you when it becomes real is when you
21 sit at that table and you pick a jury. You saw her there, she
22 was with us. She was with us. She was scared to death
23 because she knew because she knew what her involvement was and
24 she knew what my position was. And what does she do? She cut
25 a deal. Not a -- and it wasn't that difficult either because

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1 you know why, this case is so weak they went to her. She
2 told you, they drove out to the jail and it ain't a short
3 drive from here to the J. Rueben Long, last night. Poor
4 pitiful girl got locked up after we selected the jury because
5 that's what happens when you pick a jury, she's out there at
6 the jail. And she's probably thinking, I can't do another
7 twenty-four years, eleven months and twenty-nine days, I can't
8 do it. I got a kid. I ain't gonna do it. So, she comes in
9 here today. I summarize hers on one sheet of paper and what
10 I'm gonna ask you to do is disregard that, disregard that and
11 look at the evidence without her. Because if you're gonna be
12 firmly convinced, you're gonna convict a man with all that on
13 her credibility and reasons to lie and change her stories --
14 and reason to lie, twenty five years is a big one -- then
15 that's just not fair. What I ask you to do is take Angel's
16 testimony and just call that unreliable and take it out of the
17 picture because that's what I did with it. And that leaves
18 you with the rest of the evidence.

19 Now, if I missed anything, I'm sorry, but I know and I've
20 noticed that you all have been paying fine attention so I'm
21 not gonna go on and on and talk. I will tell you every time I
22 sit down after a closing argument, I remember something that I
23 wished I would've pointed out or wished that I would've said
24 and there's nothing else I can say after I sit down. That's
25 why this was hard for me. I start going back and coming back

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1 but I know you've paid attention. If I said anything that you
2 remembered differently or the evidence shows differently that
3 somebody said, then you go with what you heard. I know you've
4 been paying attention and you have twelve of you that have
5 been listening.

6 I also ask you to keep this system strong. This is a
7 serious case and a man's future is at stake and you have to be
8 firmly convinced and I don't know how you can be firmly
9 convinced that those drugs are his based on this case. That's
10 all I'm asking you and I'm asking you to be strong and
11 everybody take turns talking and just stand by your
12 convictions, please. Thank you.

13 THE COURT: Thank you, Mr. Truslow and thank you, Ms.
14 Cote, counsel for the State.

15 Ladies and gentlemen, you've now heard all of the
16 testimony in the case. You've heard summation from excellent
17 counsel for the State and for the Defense. I have given you
18 the appropriate instructions in the law and your understanding
19 that as finders of the facts, you take the facts as you find
20 them to be, apply it to the law of this case. Understanding
21 too that whatever your verdict is not guilty or guilty must be
22 the unanimous verdict of all twelve.

23 I'm gonna let you go the jury room. Do not begin your
24 deliberations until I send this indictment in along with other
25 matters in evidence. Once this indictment comes in, the

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1 foreman will instruct you to begin your deliberations.

2 Now, Madame Alternate, our rules unfortunately do not
3 permit the alternate to participate in the deliberations
4 unless and until somebody becomes unavailable or sick. So I'm
5 gonna have to ask them to put you in a separate place from the
6 jury. Anytime there's any questions or any additional
7 charges, I want her brought back out.

8 Now, Mr. Foreman, ladies and gentlemen, from time to time
9 jurors have certain pertinent questions and I understand that.
10 There is pencil and paper provided and if you or any member of
11 your jury have a question, please write it down and let the
12 Bailiff know and if I can answer it, I will. Remember now, I
13 cannot answer a question of fact. I'll be glad to answer a
14 question of law or to recharge you on any issue.

15 You may now go to your jury room.

16 And escort the alternate to another place.

17 (REPORTER'S NOTE: The jury retires to the jury room.)

18 Gentlemen, come forward and let's agree as to what's
19 going into evidence.

20 MR. RICHARDSON: Yes, sir.

21 THE COURT: Mr. Truslow.

22 MR. TRUSLOW: Yes.

23 THE COURT: All right. Are we agreed as to what evidence
24 is coming in. What say the Solicitor?

25 MR. RICHARDSON: Yes, sir.

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1 THE COURT: You've examined the evidence going in, are
2 you satisfied?

3 All right. For the State, are we agreed as to what's
4 going into evidence?

5 MR. RICHARDSON: Yes, sir, Your Honor.

6 MS. COTE: Yes, sir, Your Honor.

7 THE COURT: How about defendant?

8 MR. TRUSLOW: Yes, Your Honor.

9 THE COURT: Send it in and tell them to begin
10 deliberations and send in the indictment.

11 Thank you.

12 We are in recess.

13 MS. COTE: Thank you, Your Honor.

14 MR. RICHARDSON: We would just ask, I mean, typically --
15 Judge, typically, I know the judge doesn't want to send the
16 ammunition and the firearm back at the same time.

17 THE COURT: No.

18 MR. RICHARDSON: So, if you would just send a note back
19 to them saying either one they want to view, we'll hold one
20 away from them.

21 THE COURT: Just prepare a note -- we're gonna do it
22 here. The law clerk is writing a little note for me.

23 All right, Mr. Truslow, I'm sending a note in that they
24 have the gun or ammunition at any time but not both.

25 MR. TRUSLOW: Yes, sir.

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1 THE COURT: Hand that to the foreman personally.

2 COURT'S EXHIBIT NUMBER TWO

3 MARKED FOR IDENTIFICATION

4 (REPORTER'S NOTE: Deliberations begin at 4:30 p.m.)

5 *****OFF THE RECORD*****

6 (On the Record.)

7 THE COURT: I understand that the jury has a unanimous
8 verdict. I, of course, are not aware of what it is.

9 Recognizing that whatever it is, it will impact not only on
10 the defendant but perhaps his family. I want it clear now, I
11 will not permit any comment or any outbursts of any kind.
12 Should that occur, the culprit will be dealt with in a serious
13 manner by contempt of court.

14 You understand that, Solicitor?

15 MR. RICHARDSON: Yes, Your Honor.

16 THE COURT: And Mr. Truslow?

17 MR. TRUSLOW: Yes, sir,

18 THE COURT: Bring the jury in, please.

19 (REPORTER'S NOTE: 5:34 p.m. The jury returns to the
20 courtroom.)

21 VERDICT OF THE JURY:

22 THE COURT: All the jurors present. Mr. Foreman, has
23 this jury reached a unanimous verdict?

24 FOREMAN: Yes, sir, Your Honor, they have.

25 THE COURT: If this be the unanimous verdict of all

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1 twelve, please signify by raising your right hand.

2 The jury has so signified.

3 Madame Clerk, accept the indictment and the verdict and
4 bring it to me.

5 Publish the verdict.

6 CLERK: Indictment number 2010-GS-26-2326, State of South
7 Carolina, County of Horry versus Alton Wesley Gore, Jr. on the
8 charge of trafficking cocaine 200 to 400 grams, we the jury by
9 unanimous consent find the defendant guilty. Signed by
10 foreperson Eddie Stevens, dated January the 5th, 2012.

11 Ladies and gentlemen of the jury, if this is your verdict
12 so signify by raising your right hands.

13 (REPORTER'S NOTE: Jury unanimously indicates by raising
14 hands.)

15 THE COURT: Mr. Foreman, this court expresses to you its
16 appreciation for your duties in this case. You know, none of
17 you asked to be here this week giving up your daily pursuits
18 and certainly none of you asked to be on this trial but having
19 done so you've done your duty in accordance with your oath.
20 As Mr. Truslow indicated, I noticed yesterday and all day --
21 day before yesterday and today, too, that all of you were very
22 attentive to the trial throughout the case and that's just a
23 sign of good jury.

24 Now, there may or may not be some, something in the press
25 or in the newspaper with regard to your verdict. You may, if

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1 you choose now, discuss that verdict with anyone that you want
2 to. You all seem -- also may say, I'm not going to discuss
3 it, that's your choice but if you care to, you may do so.

4 Now, I'm going to ask the solicitor to read the prior
5 record of this defendant. And the reason I do that in the
6 press tomorrow, if it's in the paper, you gonna see that he
7 has a significant prior record for drug dealings, that he's
8 presently indicted for three or four distributions and you're
9 gonna ask yourself, why in the world weren't we told that.
10 Well, the reason you weren't told that is that if he was
11 convicted at all, it ought to be on this case, not his prior
12 record or not some pending charges and thus we don't let that
13 become available except as a circumstance of sentence.

14 For the record, though, the jury is entitled now to know
15 his prior record.

16 MS. COTE: Yes, sir, Your Honor.

17 MR. RICHARDSON: Allow me to pass up the sentencing
18 sheet, Your Honor.

19 MS. COTE: The defendant has a 2002 public disorderly
20 conduct charge; 2005 reckless driving; 2007 possession with
21 intent to distribute cocaine for which he received a two-year
22 sentence; failure to stop for a blue light; and unlawful
23 carrying of a pistol charge. Additionally, Your Honor, he has
24 three pending trafficking cocaine 10 to 28 grams from the
25 Horry County Police Department. He has a more recent

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1 trafficking in cocaine charge that's also pending from the
2 Fifteenth Circuit Drug Enforcement Unit that were the result
3 of sales.

4 THE COURT: And those trials for trafficking are on
5 another date and another occasion?

6 MS. COTE: Yes, sir.

7 THE COURT: All right. I just wanted the jury to know
8 that that well may come up and you'll wonder why we didn't
9 tell you about it. But if you convict an individual, convict
10 him on the evidence in this case and not what he may've done
11 in the past. I hope you understand that.

12 Let me say this to you, I deeply appreciate your services
13 in this case and as jurors of Horry County this week, I don't
14 know whether the judge told you or not when he qualified you
15 but I concluded many years ago that other than times of war, a
16 person of this magnificent country will never be called upon
17 to perform a higher duty than that of jurors particularly in a
18 criminal case. This permits you to have participated actually
19 in the judicial system of our state and nation. And you will
20 remember this as you go forward and I'll remember that you
21 were jurors in my courtroom. You are now excused -- thank you
22 -- for the night and for the week. Thank you.

23 Was there anything else required of the jury?

24 MR. TRUSLOW: No, sir.

25 THE COURT: I didn't think so.

State v. Gore (January 5, 2012)
SENTENCE OF THE COURT

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1 (REPORTER'S NOTE: The jury is excused and leaves the
2 courtroom.)

3 THE COURT: All right, sir. Any motions at this time on
4 behalf of the State?

5 MS. COTE: None from the State, Your Honor.

6 THE COURT: Mr. Truslow, on behalf of the Defense?

7 MR. TRUSLOW: Your Honor, we'd renew our motion for
8 directed verdict and in the alternative, we would move for a
9 new trial.

10 THE COURT: I would respectfully deny both of those
11 motions.

12 The questions were for the jury. There was ample
13 evidence if believed and obviously they believed it that he
14 was guilty. The evidence in the case showed that there were
15 evidences of drugs all over that house, kitchen, bedroom,
16 wherever. The evidence is frankly overwhelming and the jury
17 has rendered their verdict.

18 Have the defendant come forward for sentencing.

19 MR. TRUSLOW: You want us here, Your Honor?

20 THE COURT: Have him come forward.

21 Anything further from the state on behalf -- prior to
22 sentencing?

23 MS. COTE: No, Your Honor. We've placed his prior
24 convictions on the record and there's nothing further from the
25 State.

State v. Gore (January 5, 2012)
CERTIFICATE OF COURT REPORTER

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1 SENTENCE OF THE COURT:

2 THE COURT: Mr. Gore, you received an excellent defense
3 from one of the state's best attorneys but we lawyers, as I
4 was a lawyer for thirty-two years, can only deal with the
5 facts that are presented to us at the time and in my opinion
6 it would've been difficult for this jury to have found you not
7 guilty based on the circumstances and evidence found in the
8 dwelling and apparently, they found it was your dwelling and
9 the evidence surely suggests that it was.

10 Mr. Truslow, is there anything else you would care to
11 tell me at this time?

12 MR. TRUSLOW: Not given the fact that what the sentence
13 has to be at this point other than to ask you to suspend that
14 sentence. I know that's not lawful at the time but I would
15 urge you to do that if there's any way to do that but I don't
16 know that you can.

17 THE COURT: Cannot do it and I -- my law clerk and I just
18 reviewed the will of the legislature prior to coming in here.

19 MR. TRUSLOW: Yes, sir.

20 THE COURT: And that document, that statute provides that
21 one who is guilty of this quantity and he was so found more
22 than 200 less than 4' must be sentenced to a period of twenty-
23 five years and \$100,000, no part of which may be suspended.
24 That is the language of the statute. I'm sure you're familiar
25 with it.

State v. Gore (January 5, 2012)
CERTIFICATE OF COURT REPORTER

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1 MR. TRUSLOW: Yes, sir.

2 THE COURT: And that will be the sentence and judgment of
3 the Court that you be confined in the state penitentiary for a
4 period of twenty-five years and fined \$100,000.

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6 (Adjourned.)

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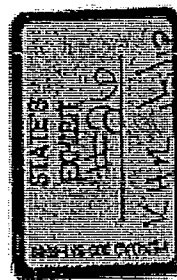
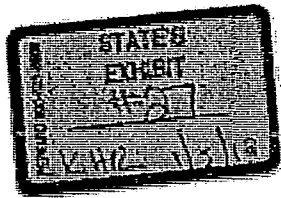
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(78) 02-12-2006



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY

The Honorable Edward B Cottingham, Sr., Circuit Court Judge

Appellate Case No.: 2012-206368

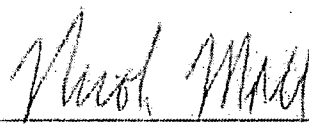
THE STATE.....Respondent

v.

ALTON WESLEY GORE JR.....Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal complies with Rule 211(b),
SCACR.



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