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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

John C. Hayes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRIAN HENRY DAVIS,

APPELLANT

APPELLATE CASE NO. 2014-001107

RECORD ON APPEAL

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State of South Carolina.,)
)
)
County of York..)

In the General Sessions
Of York
Case No.: 2013-GS-46-04129

State of South Carolina.,)
)
Plaintiff.,)
)
-vs-)
)
Brian Henry Davis.,)
)
Defendant..)
_____)

Transcript of Record

May 14-15, 2014
York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III, Judge, and a jury.

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Wanda Nelson, CVR-M
Official Court Reporter
To the Honorable John C. Hayes, III
Sixteenth Judicial Circuit

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1	St.1	Motel records indicating	
2		driver's license	P.48 . . . P.50
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9	St.8	Photo-view through fence	P.82
10	St.9	Photo-night view/Executive Inn.	P.82
11	St.10	Photo-front view into	
12		breezeway	P.82
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18		direction	P.82
19	St.16	Photo-ice machine.	P.46
20	St.17	Photo-ice machine.	P.46
21	St.18	Photo-substance found	NOT ENTERED
22	St.19	Photo-Drugs	NOT ENTERED

I-N-D-E-X - CON'TE-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
St.20	Photo-Drugs	NOT ENTERED	
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Reporter's Note: All Exhibits were filed with the York
County Clerk of Court's Office.

1 (COURT IN SESSION IN THE MATTER OF STATE V. BRIAN
2 HENRY DAVIS ON WEDNESDAY, MAY 14, 2014, *** AT *** P.M..)

3 THE COURT: All right. Are we ready on the next case,
4 the case of State versus Brian Henry Davis?

5 SOLICITOR HAMILTON: Yes, Your Honor, we are ready to
6 proceed.

7 THE COURT: Is this Mr. Davis?

8 MS. ANDERSON: Yes, Your Honor.

9 THE COURT: Have a seat with your attorney.
10 Call your case.

11 SOLICITOR HAMILTON: Thank you, Your Honor. This is
12 the case of Brian Henry Davis. He is charged and indicted
13 for trafficking crack cocaine ten grams or more. This was
14 The indictment was true billed on November 14, 2013. The
15 defendant has rejected the State's offer and has pleaded
16 not guilty in this case. Indictment No. is
17 2013-GS-46-04129.

18 THE COURT: Ms. Anderson, do you represent Mr. Davis?

19 MS. ANDERSON: Yes, Your Honor.

20 THE COURT: And does he enter a plea of not guilty?

21 MS. ANDERSON: Yes, Your Honor.

22 THE COURT: Do you any motions before we get the jury
23 out?

24 MS. ANDERSON: I do, Your Honor.

25 THE COURT: Motions in limine. That's - Number one is

1 the State complies with discovery as required by Rule 5 and
2 Brady?

3 SOLICITOR HAMILTON: We have, Your Honor.

4 THE COURT: The prior record of Mr. Davis, if any, to
5 impeach?

6 SOLICITOR HAMILTON: None, Your Honor.

7 THE COURT: Criminal histories of non-lay-witnesses
8 for the State?

9 SOLICITOR HAMILTON: We have, we handed over the rap
10 sheet on one of our non-law enforcement witnesses.

11 THE COURT: All right. Motion to Sequester will be
12 granted reciprocally. Any Lyle testimony regarding Mr.
13 Davis in this charge?

14 SOLICITOR HAMILTON: No, Your Honor, but we would ask
15 that our case agent be Officer Vreeland in this case;
16 therefore, not be sequestered.

17 THE COURT: Yeah, we'll allow the case agent.

18 SOLICITOR HAMILTON: Thank you, Your Honor.

19 THE COURT: How about any statements by Mr. Davis?

20 SOLICITOR HAMILTON: No statements the State intends
21 to introduce.

22 THE COURT: All right. We have here --

23 MS. ANDERSON: Just for clarification, Your Honor.
24 There was an audiotaped interview of my client by Officer
25 Riley, so I guess just for clarification that none of that

1 substantive that is going to be brought up or I just wanted
2 to make -- clarify ---

3 THE COURT: Okay. Well ---

4 MS. ANDERSON: --- because I anticipated a Denno
5 haering based on the fact that was provided with recording
6 --

7 THE COURT: Well, the next question or the next motion
8 is to redact the audio, so what's the situation with the
9 audio, Ms. Anderson?

10 SOLICITOR HAMILTON: It - we're not doing anything
11 with the audio. Nothing.

12 THE COURT: Okay.

13 SOLICITOR HAMILTON: I just handed over everything as
14 a precaution.

15 THE COURT: Number eight is pretty standard that you -
16 until it's or that the chemist is the only one who could
17 say it's a chemical substance, crack cocaine or cocaine
18 base, that the officers involved should not refer to it as
19 crack or crack cocaine and they refer to it is what
20 appeared to them and that it not in actuality was by the
21 chemist. A motion to exclude any testimony regarding the
22 distribution of marijuana of Jennifer Deas.

23 SOLICITOR HAMILTON: Your Honor, we are not going to
24 bring that up unless she opens the door in any way in her
25 case ---

1 THE COURT: Is that right?

2 SOLICITOR HAMILTON: --- or --

3 THE COURT: All right. We need a Biggers hearing, in
4 court identification?

5 SOLICITOR HAMILTON: No, Your Honor.

6 THE COURT: All right.

7 MS. ANDERSON: Your Honor, just for the record, I
8 think it was Jennifer Deas who did conduct a line off. I
9 know that the State did not have her on the witness list,
10 so that was there in the circumstances we, we had to deal
11 with motions regarding Ms. Deas' testimony.

12 THE COURT: All right. Exclude evidence connected to
13 the execution of the search warrant. What's the situation?

14 SOLICITOR HAMILTON: Well, Your Honor, we would like
15 to have a hearing as to the search warrant on this case ---

16 THE COURT: All right.

17 SOLICITOR HAMILTON: --- because we do intend to
18 introduce evidence found with that search warrant.

19 THE COURT: Well, it's kind of an oddly-worded motion.
20 The motion does not contest the validity of the search
21 warrant. As I read it, apparently the search warrant was
22 for marijuana, and apparently they found the crack, and so
23 the motion appears to be not that the search warrant was
24 defective, but that they found something that they weren't
25 looking for.

1 MS. ANDERSON: Well, Your Honor, I think for
2 clarification just -- and I struggled with quite how to
3 word this, I think, and to give the the Court a rough of
4 how I read the incident report.

5 The motion that referenced an alleged distribution
6 basically to a Ms. Jennifer Deas who then spoke to law
7 enforcement at this - in regard to that. Officers - I
8 believe, Officer Thomas with the Rock Hill Police
9 Department then went to seek a search warrant for a hotel
10 room on the basis of an alleged marijuana distribution to
11 Ms. Deas originally.

12 As I read it, in the meantime, at that point, there
13 was no discussion of any information linking Mr. Davis to
14 any crack cocaine of anything of that nature, anything
15 other than Ms. Deas' allegation of receiving marijuana from
16 an individual who possibly was named Ryan in a room at the
17 Executive Inn.

18 As I read the incident report, the officers and they
19 will testify there was an Officer Vreeland was performing
20 surveillance at the time on the parking lot. His, I guess,
21 testimony would be believing that he saw an individual
22 coming from Room 312 with a bag that he hid and then placed
23 in an ice machine unconnected again with any -- the search
24 warrant at that point had not been executed of the room.

25 The officers then detained Mr. Davis was out walk --

-11-

1 out to the sidewalk, that they then searched this area of
2 an ice machine, recovered a bag with what they believed to
3 be crack cocaine. They arrested Mr. Davis on that, and
4 then execute a search warrant which was related to the
5 allegation of Ms. Deas on the room. There is no crack
6 cocaine found in the room. There is some marijuana seeds,
7 according to the search warrant return. Some marijuana
8 seeds which, ultimately, were not able to be tested, a lap
9 top, some plastic - a box of plastic sandwich bags and I
10 believe a cell phone listed on the search warrant return as
11 being taken from the room registered to Mr. Davis.

12 My concern is - well, for clarity of the record, the
13 lap top, plastic bags, and marijuana seeds are the only
14 thing listed as an inventory of property taken pursuant to
15 the search warrant.

16 Trafficking in this case, it's the State's theory
17 presumably a possession of an amount over the weight and
18 there is no allegation of a - it's not a possession and
19 intent to distribute, and I think everything in connection
20 with the search warrant sort of goes to this prior
21 allegation for which Mr. Davis was never arrested or
22 charged regarding a distribution of marijuana.

23 I see nothing in the return of the search warrant that
24 would fit in the res gesta of the State's requirements or
25 their theory of the case to prove the trafficking of crack

1 cocaine indictment. So based on that, I would argue that
2 that would be irrelevant to the State's argument as to the
3 trafficking crack cocaine charge that he is on trial for
4 today, and prejudicial because it brings in these sort of
5 other allegations for which he's not on trial. It's not a
6 circumstance where some sort of - something related to
7 crack cocaine that links Mr. Davis to the crack cocaine the
8 officers are charging him with found in the room.

9 I think that might explain a little bit more of what
10 my motion is in connection with that and given the sort of
11 unusual facts of the case.

12 THE COURT: I think I follow you.

13 Ms. Hamilton, why do you need the thing on the search
14 warrant ---

15 MS. ANDERSON: Mr. ---

16 THE COURT: --- if the -- if the substance was found
17 in a privacy -- in an ice machine and which I would suggest
18 he had no rights of privacy and that's already been raised.
19 What's the items out of the motel room have to do with the
20 case - this case?

21 SOLICITOR HAMILTON: This actually goes also to the
22 motion that she made for our motion twelve to exclude the
23 recovery of a quantity of marijuana.

24 There was marijuana actually in the bag also and a
25 scale in the bag with the crack cocaine in that ice

-13-

1 machine, so that was three items. Not just the crack
2 cocaine. There's the marijuana, 20.7 grams actually found
3 in that same bag and a scale. That goes to also what's
4 found in the hotel room. There were seeds of marijuana
5 which corroborate the fact that he also had marijuana in a
6 bag that officers believe he stuffed in the ice machine.

7 THE COURT: What's that got to do with his being
8 charged with possessing the crack cocaine?

9 SOLICITOR HAMILTON: Because he's -- It shows that, in
10 fact, he did try to empty out that room. There was
11 marijuana in that room. The seeds are present there.

12 THE COURT: Well, that's not charged with that. He's
13 charged with being in possession - Let's see what the
14 indictment says.

15 SOLICITOR HAMILTON: He is charged in Magistrate Court
16 with the marijuana.

17 THE COURT: He is charged with - And this indictment
18 says crack cocaine.

19 SOLICITOR HAMILTON: It does, but he's also charged
20 with marijuana in Magistrate's Court but --

21 THE COURT: I understand that, but that's not what
22 he's being tried for in this court.

23 SOLICITOR HAMILTON: We believe that this goes to the
24 res gesti of the whole - This goes to what his actions is
25 what he did in this case. In our mind, what's found in

1 that room just corroborates the fact that there was also
2 marijuana in that room and that he probably possessed that
3 marijuana also found in the bag of crack. It's all wrapped
4 together.

5 THE COURT: But, but I - But what you got him charged
6 with is knowing being -- at least from what I've heard so
7 far, there is no evidence of any of the litany of things in
8 trafficking which -- which to base your charge other than
9 that he was in actual constructive possession of 10 grams
10 of crack or more, isn't that what -- isn't that the heart
11 of this case?

12 SOLICITOR HAMILTON: It is the heart of this case,
13 Your Honor.

14 THE COURT: So what's the other -- what's the
15 marijuana got to do with it? What's the res gesti got to
16 do with what he's - in his in possession?

17 SOLICITOR HAMILTON: Because what happened was this is
18 so closely connected with how he deposed of that crack
19 cocaine and the --

20 THE COURT: But what -- I understand that. I follow
21 you on that, but what has it got to do with whether he
22 actually or constructively possessed the crack cocaine?

23 SOLICITOR HAMILTON: Because he's saying he didn't
24 possess that bag at all. That's going to be his defense,
25 so what we're trying to say is if you --

-15-

1 THE COURT: Well, if they open the door, that's --
2 that's different. I mean, if they open the door and he
3 testifies that it wasn't his and he - of course, he has no
4 obligation to testify and has a right to remain silent, but
5 if he testifies and opens the door to something like that,
6 then that's different, but the case - The case in chief is
7 as I understand it, that he was in actual or constructive
8 possession of ten grams or more of crack cocaine.

9 SOLICITOR HAMILTON: Yes, Your Honor. But like I said
10 just to reiterate what the State said, we believe that it
11 helps tie everything together and he is, again, charged
12 with the crack cocaine.

13 THE COURT: It ties everything -- what does it tie
14 together? That's what I --

15 SOLICITOR HAMILTON: The res gesti of the case,
16 meaning there is marijuana seeds found in the room.

17 THE COURT: Well, maybe we're just disconnected. How
18 does that prove actual or constructive possession of a gram
19 of crack cocaine --

20 SOLICITOR HAMILTON: Because what we're saying is he
21 possessed that marijuana that he took out of the room and
22 put it in the bag.

23 THE COURT: I'm not asking about the marijuana. I'm
24 asking you how - What does the marijuana have to do with
25 the gram of crack cocaine - the ten grams or more of crack

1 cocaine, the possession, the actual possession?

2 SOLICITOR HAMILTON: Our argument was just that it was
3 back together and that since he did have that bag in his
4 possession and the marijuana seeds corroborate.

5 THE COURT: We'll, I'm won't - I'm not going to let
6 you go into anything about the marijuana and - and I think
7 your officers can testify - they will tailor their
8 testimony appropriately, because a couple of things, one is
9 he's charged with that apparently in another charge and
10 that's not being tried and also, just it doesn't -- he
11 either did or did not actually or constructively possession
12 the ten grams of crack or more.

13 And I thought that was going to be based on the
14 testimony from an officer who saw him with the bag, place
15 it in the ice - in or around the ice machine. All right.
16 So we're not going into the marijuana unless the door is
17 opened.

18 SOLICITOR HAMILTON: Yeah, I just want to just
19 clarify, the scale was also found in the bag with the crack
20 cocaine.

21 THE COURT: Well, I think you can go into the scale.

22 SOLICITOR HAMILTON: Okay.

23 THE COURT: I think the scale is a little different
24 even though you're talking about actual or constructive
25 possession. The scales based on the testimony of previous

-17-

1 cases are used in the trade regarding all for both
2 marijuana and crack, so I don't - I'll let you go into the
3 scales.

4 MS. ANDERSON: Well, Your Honor, I think it may raise
5 a potential with me on that as it's a little unclear prior
6 to hearing what the State said in regard to that the
7 incident report, not the General Sessions case file, but
8 the incident report indicates that Officer Thomas says he
9 recovered the bag in the ice machine with crack cocaine,
10 marijuana, and a set of scales; however, the photographs
11 that were provided to me by the State of the scale in
12 evidence, in the front of the evidence bag lists this
13 evidence as being found in Room 312. So, I guess, I'm in a
14 position of clarifying of what the State's position is as
15 to --

16 THE COURT: Cross-examination - that's what - you all
17 are wonderful at cross-examination.

18 MS. ANDERSON: Okay.

19 THE COURT: And did you put this in your report?
20 Aren't your reports supposed to be accurate? Isn't that
21 what you all learned in the Academy? I think you -- I
22 think you -- you all do a fantastic job on that.

23 MS. ANDERSON: Well, I guess, I just question is if in
24 questioning on that regarding it being filled out as a
25 room, am I opening the door in the Court's ruling to any

1 issues as to the -- what's inside the room.

2 THE COURT: I - I don't - I can't - I can't rule in
3 advance, I've got to hear what the testimony is on that.

4 MS. ANDERSON: Yes, Your Honor.

5 THE COURT: Anything else before we get the jury up?

6 SOLICITOR HAMILTON: Beg the Court's indulgence.

7 Your Honor, the State did want to just bring up before
8 - There is an issue as to the purpose of this surveillance.
9 Officers were out there for an extended period of time,
10 specifically like I'd say three weeks is what I've been
11 told, every day out there doing surveillance. And the
12 purpose of that was for drug activity and we just wanted to
13 make the court aware that that would be something that they
14 wanted to testify as to as they were watching out for drug
15 activity, that's why they were there, complaints from the
16 hotel, and I just wanted to make the Court aware of that.

17 THE COURT: I think -- I think the case is allowed,
18 and, Ms. Anderson, I'll let you respond, but I think the
19 cases allow the officers to testify as to why they were in
20 the area at the time.

21 MS. ANDERSON: And, Your Honor, I think my position is
22 I would probably bring up at some point that it's an area,
23 I believe, the officers believe to be known for drug
24 activity. I guess for clarity of the record, that doesn't
25 extend -- nothing I have been provided in discovery shows

-19-

1 any indication they were somehow focused on Mr. Davis or he
2 was the purpose. I think as long as we're not going into
3 something like that that hasn't been disclosed, I don't see
4 an issue with it.

5 THE COURT: Okay. All right. Anything else?

6 SOLICITOR HAMILTON: That's it from the State, Your
7 Honor.

8 THE COURT: Anything else from the Defense.

9 MS. ANDERSON: No, Your Honor.

10 THE COURT: We'll get the panel up. I'll take a -
11 I'll step out while we're waiting on the panel to come up.
12 And Mr. Davis will be subject to, his bond is now gone, so
13 he will be subject to remain in custody until the end of
14 the trial. All right. Just let me know when the jury is
15 up.

16 MS. ANDERSON: Yes, Your Honor.

17 (COURT IN RECESS AT 03:35 P.M..)

18 (JURY ENTERS COURTROOM AT 03:41 P.M..)

19 (COURT BACK IN SESSION AT 03:44 P.M..)

20 THE COURT: Thank you. You may take your seats.

21 Members of the jury panel, I'm - I don't know if I -
22 all of you been up here yet, but I'm John Hayes who, along
23 with Judge Addy, is holding court here this week. I am
24 actually from Rock Hill and I'm up here most of the time.

25 We're now starting our second trial in this courtroom

1 this week and it is the case of the State versus Brian
2 Henry Davis. Mr. Davis would you please stand.

3 (DEFENDANT STOOD.)

4 THE COURT: Mr. Davis he is by Ashley Anderson.

5 (ATTORNEY ANDERSON STOOD.)

6 THE COURT: You may be seated.

7 The State is represented by Marina Hamilton and
8 Jennifer Colton.

9 (SOLICITORS HAMILTON AND COLTON STOOD.)

10 THE COURT: You may be seated.

11 Mr. Davis is charged with the offense called
12 trafficking in crack cocaine and it's alleged that here in
13 York County on or about June 27th of 2013, he was involved
14 in what the law calls trafficking cocaine, in that he did
15 have actual or constructive possession of that controlled
16 substance in an amount of ten or more grams. To this he
17 has entered a plea of not guilty and his plea of not guilty
18 places on the State the burden of proving him guilty beyond
19 a reasonable doubt.

20 I have a few questions to go over regarding your
21 service on this panel. First, are any of you related by
22 blood or marriage, or, are you a close personal friend or
23 acquaintance of any of the four individuals I have just
24 introduced: Mr. Davis, Ms. Anderson, Ms. Colt and Ms.
25 Hamilton?

1 If so, please stand.

2 Yes, ma'am, your name?

3 A. Allison Flowers. We went to school together.

4 THE COURT: Okay. Would that affect your ability to
5 be far and impartial in the trial this case?

6 MS. FLOWERS: Oh, well, yes.

7 THE COURT: Okay. Well, I'll let you - I'll excuse
8 you. Just don't leave. Have a seat. We'll excuse you and
9 I appreciate you letting us know that.

10 Have any of you been represented by Mr. Brackett or
11 anyone with his office through the Solicitor, that is - I
12 know you probably haven't been represented by him but have
13 been a witness for or have been a victim and dealt with his
14 office or volunteered time with his office; if so, please
15 stand.

16 No one stands.

17 THE COURT: Are any of you or a member of your
18 immediate family been represented by anyone through Mr.
19 Harry Dest's office, the public defender in this county?

20 If so, please stand.

21 No one stands.

22 THE COURT: Are any of you members of the Grand Jury
23 which passed on this indictment against Mr. Davis at an
24 earlier time?

25 If so, please stand.

1 No one stands.

2 THE COURT: Do any of you know anything about this
3 case? Have any of you heard about it from any source
4 whatsoever, or, have any of you formed or expressed an
5 opinion about any matter or issue which would be involved
6 in this case?

7 If so, please stand.

8 No one stands.

9 THE COURT: All right. Are any of you or a member of
10 your immediate family involved in law enforcement, or, in
11 the prosecution of criminal cases at any level? Anything
12 from a solicitor to a DA to a US attorney, judge advocate
13 general, MP, sheriff, city policeman, anything like that,
14 please stand.

15 What I'd like you to do is give me your name and
16 number, and then tell me why you're standing, something
17 like "Uncle Joe works for the Department of Public Safety
18 or whatever."

19 A. I'm Ashley Berry, Number 17, and my uncle works for
20 Charlotte/Mecklenburg Police Department.

21 THE COURT: All right. Just remain standing.

22 Yes, sir?

23 A. My name is Matthew Leonard, Juror Number 251. My
24 sister-in-law is a solicitor for York County and my
25 brother-in-law is a Highway Patrol officer in the State of

1 South Carolina.

2 THE COURT: All right. Your sister-in-law works for
3 the Solicitor's Office?

4 MR. LEONARD: Yes, sir.

5 THE COURT: Well, I'll excuse you from serving on this
6 particular case then. You can have a seat. All right.

7 Yes, sir. Your name and number?

8 A. Your Honor, sir, my name is - my number is 227. My
9 name is Michael J. Thompson. I am currently employed with
10 the Mecklenburg County Sheriff's Office as an arrest
11 processing handler.

12 THE COURT: All right. Would the two of you that
13 remain standing, if your connection with law enforcement
14 would prevent you from being fair and impartial in this
15 trial, please raise your right hands?

16 All right. Your name again?

17 MS. BERRY: Berry, Ashley Berry.

18 THE COURT: Ashley Berry indicates that she cannot, so
19 we'll excuse you and you can just have a seat.

20 And both of the other gentlemen -- and not the other
21 gentlemen cause she's not a gentleman. The gentleman also
22 has raised his hand, so he'll be excused also. Again,
23 don't leave, just have a seat.

24 The following are possible witnesses in this case:
25 Armond James, Pat Keefer, Officer C. Riley, Vishnupeasad

1 Patel of the Executive Inn Hotel, Lieutenant Carlos
2 Culbreath of the Rock Hill Police Department. Also from
3 the Rock Hill Police Department, Officer Michael Vreeland,
4 Detective Ryan Thomas and Rebecca Pryor, and then from the
5 Sheriff's Office Drug Lab, Cynthia Mitchum.

6 Are any of you related by blood or marriage or a close
7 personal friend or acquaintance of any of these
8 individuals?

9 If so, please stand.

10 Yes, ma'am. Your name and number?

11 A. I'm Caralynn Starnes, Number 221. I went to high
12 school with Ryan Thomas.

13 THE COURT: All right. Would that affect your ability
14 to be fair and impartial in the trial of this case?

15 MS. STARNES: I think it would.

16 THE COURT: All right. Well, I'll excuse you then.

17 Just have a seat.

18 You gentlemen may be seated also.

19 The next question could be somewhat sensitive, so I'm
20 not going to ask you to get into great detail about this,
21 but have any of you have had some adverse situation in your
22 life that you felt was the result of someone being involved
23 with or addicted to illegal substance please stand?

24 All right. Again, I don't want you to go into the
25 details, because that's -- because I don't want to go

1 digging into people's private lives, but I do need to ask
2 that question. Just if you would starting at the front and
3 working the way back, just tell me your name and number and
4 that's all I need to know at this point.

5 A. Greg Bancroft, Number 177.

6 THE COURT: All right. Yes, ma'am?

7 A. Debra Farrow, 66.

8 A. Jessica Palmer, 176.

9 THE COURT: All right. To the three of you standing,
10 this case does involve allegations of trafficking in crack
11 cocaine. If having that as part of your life experience
12 would prevent you from being fair and impartial, please
13 raise your right hand.

14 (ALL THREE JURORS RAISED THEIR HAND.)

15 THE COURT: All three do, so all three will be excused
16 from this trial. You may be seated. Thank you.

17 Are any of you or a member of your immediate family
18 involved - contributors to, or members of organizations
19 such as Students Against Drunk Drivers, Mother's Against
20 Drunk Drivers, Citizens Against Violence, Sheriff's
21 Association, Fraternal Order of Police, the Trooper's
22 Association, anything like that; if so, please stand?

23 All right. Just give me your name and what your
24 organization?

25 A. My name is Madison Taft, Number 175, and I give

1 proceeds Against Drunk Driving.

2 THE COURT: Just remain standing.

3 Yes, sir?

4 A. Patrick Coffey, Number 37; Mothers Aagainst Drunk
5 Driving.

6 THE COURT: All right. If either of you would be
7 unable to be fair and impartial because of that, please
8 raise your right hand?

9 Both of them do. All right. You can be seated.
10 Thank you. You're both excused.

11 All right, anything further from the State?

12 SOLICITOR HAMILTON: No, Your Honor.

13 THE COURT: Anything further from the defense?

14 MS. HAMILTON: No, Your Honor.

15 THE COURT: Strikes five and five; is that correct?

16 The State, five and five?

17 SOLICITOR HAMILTON: Yes, Your Honor.

18 THE COURT: And one -- we'll draw one alternate and
19 strikes will be one and two.

20 Finally, do any of you know of any reason whatsoever
21 why you could not or should not serve as a fair and
22 impartial juror in the trial of this particular case; if
23 so, please stand.

24 (NO RESPONSE.)

25 THE COURT: All right. Everybody - Have all of you

1 seen how we draw juries in this Court or some of you are up
2 here for the first time? All right. Well, everybody
3 should know then come forward and what to do when they hear
4 the Solicitor comments and then the State -- I mean, then
5 the Defense.

6 All right, Madam Clerk

7 MADAM CLERK: Number 147, Tanus McIver.

8 (WHITE FEMALE COMING FORWARD.)

9 MADAM CLERK: What say ye the State?

10 SOLICITOR HAMILTON: Please present the juror.

11 MADAM CLERK: Defense.

12 MS. ANDERSON: Please seat this juror.

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

14 Number 6, Richard Arnold.

15 (WHITE MALE COMING FORWARD.)

16 MADAM CLERK: What say ye for the State?

17 SOLICITOR HAMILTON: Please present the juror.

18 MADAM CLERK: Defense.

19 MS. ANDERSON: Please excuse this juror.

20 MADAM CLERK: You are excused from this case.

21 Number 117, Krista Coster.

22 (WHITE FEMALE COMING FORWARD.)

23 MADAM CLERK: What say ye for the State?

24 SOLICITOR HAMILTON: Please excuse this juror.

25 MADAM CLERK: You are excused from this case.

1 Number 26, Crystal Brown.

2 (WHITE FEMALE COMING FORWARD.)

3 MADAM CLERK: What say ye for the State?

4 SOLICITOR HAMILTON: Please present the juror.

5 MADAM CLERK: Defense?

6 MS. ANDERSON: Please seat this juror.

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

8 Number 253, Janet Rainey.

9 (WHITE FEMALE COMING FORWARD.)

10 MADAM CLERK: What say you for the State?

11 SOLICITOR HAMILTON: Please present the juror.

12 MADAM CLERK: Defense?

13 MS. ANDERSON: Please seat this juror.

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

15 Number 10, Joseph Barnes.

16 (WHITE MALE COMING FORWARD.)

17 MADAM CLERK: What say you for the State?

18 SOLICITOR HAMILTON: Please present the juror.

19 MADAM CLERK: Defense?

20 MS. ANDERSON: Please excuse this juror.

21 MADAM CLERK: You are excused from this case.

22 Number 113, Krutarious Kirk.

23 (BLACK MALE COMING FORWARD.)

24 MADAM CLERK: What say you for the State?

25 SOLICITOR HAMILTON: Please excuse this juror.

1 MADAM CLERK: You are excused from this case.
2 Number 123, Samuel Lafarge.
3 (WHITE MALE COMING FORWARD.)
4 MADAM CLERK: What say ye for the State?
5 SOLICITOR HAMILTON: Please present the juror.
6 MADAM CLERK: Defense?
7 MS. ANDERSON: Please seat this juror.
8 MADAM CLERK: Please have a seat in the juror box.
9 Number 189, David Pritchard.
10 (WHITE MALE COMING FORWARD.)
11 MADAM CLERK: What say ye for the State?
12 SOLICITOR HAMILTON: Please present the juror.
13 MADAM CLERK: Defense?
14 MS. ANDERSON: Please seat this juror.
15 MADAM CLERK: Please have a seat in the jury box.
16 Number 154, Joshua Mifflin.
17 (WHITE MALE COMING FORWARD.)
18 MADAM CLERK: What say ye for the State?
19 SOLICITOR HAMILTON: Please seat the jury.
20 MADAM CLERK: Defense?
21 SOLICITOR HAMILTON: Or please present the juror.
22 MADAM CLERK: Defense.
23 MS. ANDERSON: Please seat this juror.
24 MADAM CLERK: Please have a seat in the jury box.
25 Number 161, Rebecca Moore.

1 (WHITE FEMALE COMING FORWARD.)

2 MADAM CLERK: What say you for the State?

3 SOLICITOR HAMILTON: Please present the juror.

4 MADAM CLERK: Defense?

5 MS. ANDERSON: Please seat this juror.

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

7 Number 25, Howard Brakefield.

8 (WHITE MALE COMING FORWARD.)

9 MADAM CLERK: What say ye for the State?

10 SOLICITOR HAMILTON: Please present the juror.

11 MADAM CLERK: Defense?

12 MS. ANDERSON: Please excuse this juror.

13 MADAM CLERK: You are excused from this case.

14 Number 126, Wendy Lenhart.

15 (WHITE FEMALE COMING FORWARD.)

16 MADAM CLERK: What say ye for the State?

17 SOLICITOR HAMILTON: Please present the juror.

18 MADAM CLERK: Defense?

19 MS. ANDERSON: Please seat this juror.

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

21 Number 148, Joan McLean.

22 (WHITE FEMALE COMING FORWARD.)

23 MADAM CLERK: What say ye for the State?

24 SOLICITOR HAMILTON: Please present the juror.

25 MADAM CLERK: Defense?

1 MS. ANDERSON: Please excuse this juror.
2 MADAM CLERK: You are excused from this case.
3 Number 135, Craig Lowe.
4 (WHITE MALE COMING FORWARD.)
5 MADAM CLERK: What say you for the State?
6 SOLICITOR HAMILTON: Please present the juror.
7 MADAM CLERK: Defense?
8 MS. ANDERSON: Please seat this juror.
9 MADAM CLERK: Please have a seat in the jury box.
10 Number 163, Kendall Adair.
11 (WHITE FEMALE COMING FORWARD.)
12 MADAM CLERK: What say you for the state?
13 SOLICITOR HAMILTON: Please present the juror.
14 MADAM CLERK: Defense?
15 MS. ANDERSON: Please seat this juror.
16 MADAM CLERK: Please have a seat in the jury box.
17 Number 237, Joshua Vann.
18 (WHITE MALE COMING FORWARD.)
19 MADAM CLERK: What say you for the State?
20 SOLICITOR HAMILTON: Please excuse this juror.
21 MADAM CLERK: You are excused from this case.
22 Number 192, David Pruitt.
23 (WHITE MALE COMING FORWARD.)
24 MADAM CLERK: What say you for the State?
25 SOLICITOR HAMILTON: Please excuse this juror.

1 MADAM CLERK: You are excused from this case.
2 Number 87, Robert Hamilton.
3 (WHITE MALE COMING FORWARD.)
4 MADAM CLERK: What say you for the State?
5 SOLICITOR HAMILTON: Please present the juror.
6 MADAM CLERK: Defense?
7 MS. ANDERSON: Please excuse this juror.
8 MADAM CLERK: You are excused from this case.
9 Number 226, Karen Thompson.
10 (BLACK FEMALE COMING FORWARD.)
11 MADAM CLERK: What say you for the State?
12 SOLICITOR HAMILTON: Please present the juror.
13 MADAM CLERK: Defense?
14 MS. ANDERSON: Please seat the juror.
15 MADAM CLERK: Please have a seat in the jury box.
16 Number 52, Jonathan Daniels.
17 (BLACK MALE COMING FORWARD.)
18 MADAM CLERK: What say you for the State?
19 SOLICITOR HAMILTON: Please excuse this juror.
20 MADAM CLERK: You are excused from this case.
21 Strikes are five and five.
22 Number 169, Leah Norket.
23 (WHITE FEMALE COMING FORWARD.)
24 MADAM CLERK: What say you for the State?
25 SOLICITOR HAMILTON: Please present the juror.

1 MADAM CLERK: Defense?

2 MS. ANDERSON: Please seat the juror.

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

4 THE COURT: Strikes on the alternate will be one and
5 two.

6 MADAM CLERK: Number 74, Jocquin Fuller.

7 (BLACK MALE COMING FORWARD.)

8 MADAM CLERK: What say ye for the State?

9 SOLICITOR HAMILTON: Please present the juror.

10 MADAM CLERK: Defense?

11 MS. ANDERSON: Please seat this juror.

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

13 THE COURT: And anything from the State involving the
14 striking of the panel?

15 SOLICITOR HAMILTON: Nothing from the State, Your
16 Honor.

17 THE COURT: Anything from defense involving striking
18 of the panel?

19 MS. ANDERSON: No, Your Honor.

20 THE COURT: All right.

21 Those of you who are not chosen, I'm going to allow
22 you to leave. Please call back tonight after seven and
23 receive and you will follow whatever instructions are on
24 the message. And please leave quietly so I can start
25 talking with this panel. Thank you.

1 (JURY DISMISSED AT 04:05 P.M..)

2 THE COURT: Those of you who were chosen, if you'll
3 stand, the Clerk is going to administer the oath and, Ms.
4 Thompson, I'm going to ask you to be the foreperson. If
5 you would, come down here and take this first seat, and I'm
6 going to let this gentleman move back to your seat.

7 All right. Now that we're situated, if everyone will
8 raise your right hand, the Clerk will administer the oath.

9 (PETIT JURY SWORN AT 04:06 P.M..)

10 MADAM CLERK: Thank you. Please be seated.

11 THE COURT: You may be seated. Members of the jury
12 panel, in just a minute, the attorneys for the State - an
13 attorney from the State and an attorney on -- an attorney
14 on behalf of the Defendant have the right but no obligation
15 to stand before you and make what are called opening
16 statements. Now these opening statements are not evidence
17 because the attorneys are not witnesses and they're not
18 arguments. That is, they're not trying to tell you what
19 your verdict should be. It's too early for that. They are
20 simply giving you an outline of the trial.

21 To the charge, Mr. Davis has entered a plea of not
22 guilty, the charge of trafficking in crack cocaine, and
23 that places on the State the burden of proving his guilt
24 beyond a reasonable doubt. He is by law presumed innocent
25 of this charge and so presumed until a jury is convinced

1 beyond a reasonable doubt by evidence presented, applying
2 the law, that he is guilty.

3 I have three jobs. I rule on evidence. I handle the
4 logistics of the trial, making sure we take breaks, those
5 sort of things, and I am the sole judge of the law in this
6 case. You must take, accept and apply the law as I charge
7 it, whether you think I charge the law in error or even if
8 you think the law should be different. Your oath requires
9 you to take, accept and apply the law as I charge it.

10 You're not to infer from anything I say or do at
11 anytime during the trial as indicating any opinion of mine
12 on the facts. Our law does not allow a trial judge to
13 formulate or express to a jury any opinion on the facts.
14 That's solely your job. It's solely up to you to examine
15 the evidence, give to the evidence the effect, the value,
16 and the weight, and the truth that you believe it should
17 have.

18 In doing this, you may believe one witness as opposed
19 to several, several witnesses as opposed to one, you may
20 believe all, part or none of a witness's testimony. Use
21 your common sense, your sense of logic, your sense of
22 reason, and your experiences in life as you analyze the
23 evidence.

24 As judges of the facts, you also must judge the
25 credibility, that is the believability, of the witnesses

1 who testify. In assessing believability, credibility, use
2 the things I just talked about, use the things that you in
3 your day-to-day life find as indicating truthfulness in an
4 individual, and you can use certain evaluators, how the
5 witness acts on the stand, that is their demeanor. Are
6 they hesitant or straightforward? Is their testimony
7 consistent or inconsistent? Consider the opportunity the
8 opportunity the witness had to know those things to which
9 the witness testifies.

10 Look to see if any witness has any bias or prejudice,
11 that is any reason to help or hurt one side or the other.
12 All these things you consider, determine the true facts and
13 you will be in a position to return a verdict that speaks
14 the truth.

15 Do not try to make up your mind or discuss the case
16 without - among yourselves until I instruct you to jointly
17 deliberate and return a unanimous verdict. Prior to that
18 time, you don't have all the tools you need to make a fair
19 and reasonable decision. Do not let anyone discuss this
20 case with you outside the courtroom. If anyone tries to
21 discuss this case with you, report that back to me,
22 hopefully, giving me that person's identity.

23 Do not let yourself be exposed to any news coverage if
24 there is any. Don't use any electronic media to access any
25 information that could deal with this trial. Don't look up

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1 anything about the law, anything about me, anything about
2 the lawyers, anything about Mr. Davis, anything about crack
3 cocaine. All your information must come in regard to the
4 verdict you reach through what is presented here in the
5 trial. It would be a violation of your oath to access any
6 information outside the courtroom at all, including through
7 any electronic media, including social media.

8 You might think there wouldn't be any - there would be
9 no harm in putting on a Facebooks or Facebook or some other
10 like social media that you're serving as a juror, but
11 someone may respond to you or something that would be a
12 problem in the trial, so don't - just stay away from that
13 at least as far as your jury service.

14 You do not need to take notes. If you can't see or
15 hear, let me know, cup your ear or give me a voice raising
16 gesture or a nudging gesture and I'll try to correct
17 whatever the problem is.

18 We take breaks about every hour-and-a-half. I find
19 that's a comfortable time for people to break. If you need
20 a break at anytime, raise your right hand, with no
21 questions asked, we'll take a break. I know it's hard to
22 pay attention if you're not comfortable, so if you need a
23 break, we'll take it and I extend that to Counsel and Mr.
24 Davis also. At this time, I turn the matter over to the
25 attorneys for their opening statements.

1 SOLICITOR HAMILTON: Good afternoon, ladies and
2 gentlemen.

3 We are here today as the defendant Mr. Brian Davis is
4 charged with trafficking crack cocaine, more than ten
5 grams. Now this incident occurred on June 27th, 2013, at
6 the Executive Inn on North Anderson Road.

7 You will hear that officers were performing
8 surveillance at the Executive Inn. While performing that
9 surveillance, they saw the defendant Mr. Davis. We will go
10 into details in a little while as to what they saw but Mr.
11 Davis was staying at that Executive Inn.

12 You will hear from an employee at that Executive Inn
13 and he will tell you and verify for the records that the
14 defendant was staying in a room at that motel. He rented
15 that room for a week. He was staying in Room 312 on June
16 27th, 2013.

17 You will then hear from Lieutenant Culbreath.
18 Lieutenant Culbreath works with Rock Hill P.D., and he
19 performed a traffic stop on a car that the defendant was a
20 passenger in that same day. Performed a traffic stop on
21 that car and spoke with the driver who had a suspended
22 driver's license and searched the car, searched the driver.
23 Subsequently found some marijuana, the same car that the
24 defendant was a passenger in. Cited them - the driver for
25 the marijuana they found and sent them on their way.

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1 Back at the Executive Inn, you will hear from Officer
2 Vreeland who was watching the back of that hotel still. He
3 had been watching that hotel all day long.

4 A few minutes later, he sees that car that the
5 defendant was a passenger in coming back in the parking
6 lot. The car parks the defendant gets out; walks to Room
7 312.

8 You will hear from Officer Vreeland that as he's
9 watching, he sees the defendant look out the door, look
10 both ways down the walkway. Puts something down his pants.
11 Officer Vreeland will testify that he saw a baggy being
12 stuffed down the defendant's pants.

13 The defendant starts walking down the breezeway. He
14 walks in - or walkway. He walks into a covered walkway
15 where there is an ice machine. And Officer Vreeland will
16 tell you that he watched the defendant stuff that bag into
17 that ice machine after he pulled it back out of his pants
18 and put it in the ice machine.

19 Officer Vreeland will testify that he called out to
20 all officers on scene. This was a task force out there
21 trying to do surveillance on this location. He would call
22 out other officers on the radio and say there's something
23 in that ice machine.

24 At that time, you will hear from Detective Thomas who
25 will take the stand and let you know that he's the one who

1 responded to that and went to that ice machine and
2 recovered the bag that Officer Vreeland watched the
3 defendant place in the ice machine.

4 He recovered that bag. What he found in that bag was
5 a white powder-like substance in that bag what he believed
6 and he will tell you to be crack cocaine.

7 And lastly, you will hear from Cynthia Mitchum. She
8 is a forensic chemist here at the York County Sheriff's
9 Office. She will testify today, or tomorrow actually, that
10 that white powdery substance that was found in that bag the
11 defendant placed in the ice machine tested positive for
12 crack cocaine and weighed approximately - or actually
13 weighed 10.53 grams.

14 This is a simple case, ladies and gentlemen. You will
15 hear all the facts from the witnesses on the stand and I
16 ask you to listen to them carefully as you weigh this case.

17 Now, I'm going to explain to you now the law as to
18 trafficking. Like I said he is charged, the defendant,
19 with trafficking crack cocaine more than ten grams.

20 Now there are two elements to this crime. The first
21 one is the defendant knowingly possessed, and the second
22 element is going to be possessed that crack cocaine, more
23 than ten grams.

24 Now, going back to the first element, the defendant
25 actually possessed that drug. There are two types of

1 possession. There's actual and there's constructive and
2 actual possession is actually having it in your hand;
3 having physical contact with that item, which we do have in
4 this case.

5 Then there's constructive possession. Construction
6 possession is where there is no physical contact with the
7 object but the person has the ability to exercise dominion
8 and control over that object.

9 What that means is, say you have a cell phone and you
10 are at lunch and you have your cell phone. You are talking
11 on it, you lay it down next to you. You are not touching
12 the object but you know if that phone rings again, that you
13 can pick it up because you have control, dominion and
14 control of that cell phone. That's constructive
15 possession.

16 Now, the second element, more than ten grams of crack
17 cocaine. You will hear from the witnesses on the stand,
18 Cynthia Mitchum. She will tell you the weight of the crack
19 cocaine found in this case.

20 Now, as you heard the Judge say prior to the beginning
21 of opening statements, it is the State's burden to prove
22 beyond a reasonable doubt the elements of this crime, the
23 two elements that I just told you.

24 Now, beyond a reasonable doubt is not beyond any and
25 all doubt, not a hundred percent certainty. Beyond a

1 reasonable doubt is proof beyond a reasonable doubt that is
2 proof that leaves you firmly convinced of the defendant's
3 guilt.

4 Ladies and gentlemen, I ask you to listen and weigh
5 all the evidence that you hear in this case, the witnesses
6 that we put forth and the witnesses that they put forth.
7 And I ask that you reach a verdict that speaks the truth in
8 this case at the conclusion and that verdict I would ask
9 that it be that you find the defendant guilty of
10 trafficking crack cocaine more than ten grams.

11 Thank you.

12 MS. ANDERSON: May it please the Court.

13 Ladies and gentlemen, I know it's kind of late in the
14 afternoon. You've been here a while. You probably don't
15 want to hear a lot of talking so I won't be too detailed or
16 too crude.

17 But what I ask you as you look at this case, as I talk
18 to juries sometimes about looking at it through certain
19 lenses, and in this case I think two particular lenses to
20 look through. And if you think about a pair of glasses, do
21 you have a prescription for the glasses, are there certain
22 lenses and that prescription enables you to see the world
23 clearly, to understand what's going on, understand what's
24 around you and just to see things clearly.

25 When a criminal case, lenses would be some particular

1 idea or concept or theory for you to look at the testimony
2 and evidence in the case before you. And by looking
3 through those lenses, you get a clear understanding of what
4 happened and what didn't happen, which is just as important
5 in a criminal case.

6 And so in this case, one of those lenses gives the
7 idea of the State's burden of proof, which the Judge talked
8 to you briefly about and what you will hear more detailed
9 instructions on at the close of the testimony in this case.
10 You will hear the Judge's instructions on the law.

11 But as you've heard briefly and as you may be familiar
12 with sort of your life experiences or experiences with what
13 you see on television or movies, the burden of proof in
14 every criminal case, and indeed in this criminal case, its
15 always on the State. And the State must prove each and
16 every element of the case beyond a reasonable doubt.

17 And our system is such that if the State comes even a
18 hair short, even a millimeter, that that does not satisfy
19 the burden of proof. And a just verdict in this case, and
20 what our system requires of you, is that you return a
21 verdict of not guilty. And so when you look at this case,
22 what you have to look at is look at it through that lense.

23 Brian Davis is presumed innocent. He is sitting here;
24 he is presumed innocent throughout the course of this
25 trial.

1 The burden of proof is on the State. It is their job
2 to bring to you the witnesses and testimonies to try to
3 prove their case. And when they fail to prove their case,
4 when they fail to prove their verdict - excuse me - prove
5 their burden, whether it comes close or very far away, then
6 the just verdict in this case and the verdict I will ask
7 you to return in this case is a verdict of not guilty.

8 Now the second lens I want to briefly talk to you
9 about is the idea of when you look at something, not
10 necessarily taking it on face value, but to stop, to think
11 and to look at it in sort of a logical way.

12 Sometimes you may hear things and at first, what the
13 State told you, they are making this sound like it's a
14 simple case. But what I tell you or ask you to do is to
15 stop, take a lens, stop, looking at it critically and
16 thinking about whether what the State says really makes
17 sense. Would it really happen that way? Logically would
18 it have happened that way.

19 Because ladies and gentlemen, I know probably all of
20 you had to keep certain items of your car when you came
21 into the courthouse today, you probably all had to leave
22 your cell phones in the car, but what you are never
23 required to leave in the case is something like your common
24 sense. Your life experience.

25 You bring that with you here into the courthouse and

1 here into the jury box. And so I ask you to stop and think
2 and think critically when you hear the testimony of the
3 State, when you hear the arguments, and to think about it
4 and think, does this really make sense. Because I submit
5 to you ladies and gentlemen, when you stop and you think
6 about it, and there will be things I want to highlight to
7 you when we stand back in front of you and have closing
8 arguments, that don't add up; that don't make sense.

9 But what it does add up to is reasonable doubt. And
10 when there is reasonable doubt, which you'll hear the
11 instruction on what that means, that that has been defined
12 as a kind of doubt that would cause a person to hesitate to
13 act.

14 Think about the tiny doubt that caused you to
15 hesitate, a reasonable person to hesitate to take a step
16 forward. And reasonable doubt in our system also adds up
17 that a verdict should be not guilty.

18 So, ladies and gentlemen, I ask you to think about
19 those lenses and to look at this case through those lenses,
20 and what I think you will find, and what I argue you to
21 find and you will hear from me tell you at the end, is that
22 I will ask you to find and return a verdict that is the
23 just verdict in this case. That is the verdict finding
24 that Brian Davis is not guilty of this charge.

25 Thank you, ladies and gentlemen.

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1 THE COURT: You may call your first witness.

2 SOLICITOR HAMILTON: Thank you.

3 MADAM CLERK: Raise your right hand. Place your
4 left hand on the Bible.

5 (WHEREUPON, VISHNUPRASAD
6 PATEL, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
7 FOLLOWS:)

8 MADAM CLERK: Thank you. Please have a seat.

9 THE COURT: Just have a seat over here. You'll see a
10 chair and a microphone.

11 DIRECT EXAMINATION

12 VISHNUPRASAD PATEL BY SOLICITOR HAMILTON:

13 Q. Good afternoon, Mr. Patel.

14 A. Good afternoon.

15 Q. Can you please state your full name for the Court?

16 A. My name?

17 Q. Yes, your name.

18 A. Vishnuprasad Patel.

19 Q. And what is your job? Do you have a job?

20 A. I'm a desk manager.

21 Q. A desk manager where?

22 A. At Executive Inn.

23 Q. And where is Executive Inn located?

24 A. At 659 North Anderson Road.

25 Q. Okay. And where is that? Is that in York County,

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1 South Carolina?

2 A. Yeah, York County. 21 bypass.

3 Q. Okay. And how long have you worked there?

4 A. Almost -- more than fifteen years.

5 Q. How many years?

6 A. More than fifteen years.

7 Q. Okay. And what do you normally do on a normal work
8 day?

9 A. I rent the rooms and keep the records, see when people
10 check in. Take their I.D. and file it in the computer as
11 soon as people check in and I get their ID and scan it in
12 and keep that in the computer.

13 Q. Okay. So you basically work the front desk?

14 A. Yeah, the front desk.

15 Q. Okay. And do you keep records of when a room is
16 rented out to someone?

17 A. Yeah.

18 Q. And who keeps -- Who creates those records?

19 A. When people check in, we just scan their I.D.

20 Q. And --

21 A. We scan the I.D. and it's automatically stored in the
22 computer and we keep it that way.

23 Q. Okay. And you enter those records?

24 A. Yeah.

25 Q. Okay. So you scan the I.D. What else do you enter

1 into there, into the computer?

2 A. Just I.D.'s, address and I.D. numbers, driver's license
3 numbers.

4 Q. Do you enter their names?

5 A. Names and everything, yeah.

6 Q. Okay. And who has access to these guest records in
7 the computer?

8 A. The employees too like a whole part-time work and
9 full-time work and when they check it - when they work,
10 when they check in, they do the same thing like I do.

11 Q. Okay.

12 (WHEREUPON, STATE'S EXHIBIT NUMBER ONE, TWO, AND
13 THREE, REMARKED FOR IDENTIFICATION.)

14 Q. I'm going to hand you what has been marked for
15 identification purposes State's Exhibit Numbers One, Two
16 and Three. Can you just take a look at those?

17 A. Okay.

18 Q. Do you recognize those?

19 A. Yeah

20 Q. Okay. Are these the guest records slips kept in the
21 course - or what are these in your hand? What are these?
22 Can you tell the jury.

23 A. Just Brian Davis's picture I.D.'s and hard copies of
24 registration card when he check in.

25 Q. Okay. And what is the second?

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1 A. Second page is a whole record, each day when he check
2 in to the check out.

3 Q. So these are your guest records?

4 A. Guest records. Yeah.

5 Q. And are these guest record slips kept in the course of
6 regularly conducted business?

7 A. Yeah.

8 Q. And was this particular guest record - when was this
9 created?

10 A. As when he check in.

11 Q. Okay. Has this - those - What you have in your hand,
12 has that been altered in any way or edited since you
13 printed it off the day for me on April 14th, 2014?

14 A. Yeah.

15 Q. Has it been edited?

16 A. No, no, no.

17 SOLICITOR HAMILTON: Your Honor, the State's offers
18 Exhibits One through Three for admission into evidence.

19 MS. ANDERSON: Your Honor, I haven't seen them. I
20 don't know what they are.

21 (DEFENSE ATTORNEY ANDERSON REVIEWING STATE'S EXHIBITS
22 ONE, TWO, THREE.)

23 MS. ANDERSON: No objection, Your Honor.

24 THE COURT: You're offering them into evidence at this
25 time?

1 SOLICITOR HAMILTON: Thank you, Your Honor. Yes.

2 THE COURT: In without objection. You want to just
3 mark one - Okay, they've been marked.

4 SOLICITOR HAMILTON: They have been marked.

5 THE COURT: Okay.

6 (WHEREUPON, STATE'S EXHIBITS ONE, TWO, THREE,
7 IDENTIFIED AND MARKED, RECEIVED INTO THE RECORD.)

8 THE COURT: Go ahead.

9 SOLICITOR HAMILTON: Your Honor, the State asks to
10 publish these for the jury.

11 THE COURT: Okay. You may.

12 (STATE'S EXHIBIT NUMBERS ONE, TWO, THREE PUBLISHED TO
13 THE JURY.)

14 Q. Mr. Patel.

15 A. Yeah.

16 Q. On this screen I publish the first exhibit and I'm
17 going to ask you a few questions about it.

18 A. Okay.

19 Q. I'm going to hand you what's a pointer.

20 It has like a - you press this middle button ---

21 A. Okay.

22 Q. --- and it serves as a pointer so you can point to
23 specific things. All right.

24 A. Okay.

25 Q. Well it seems that we're having technical

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1 difficulties, but can you look at Exhibit Number One.

2 A. Okay.

3 Q. It has a Number One on it. On that, what does the
4 driver's license say on there?

5 A. Number?

6 Q. No. Who is it?

7 A. Mr. Brian Davis.

8 Q. Okay, and on that record that you have in your hand,
9 what does the top of the record say? Does it give a
10 number?

11 A. Yeah. Room Number 312 and the name and address and ID
12 number is on it.

13 Q. Okay. Now, let's go to Exhibit Number Two. Okay.

14 Now, the dates on there at the end of that report,
15 what are those dates? The last two dates.

16 A. Last two dates?

17 Q. Yes.

18 A. Like are you talking about the 6-22nd?

19 Q. Yes.

20 A. Yeah. He paid that day.

21 Q. Okay.

22 A. Like a half payment. And then after two days he pay
23 again for the whole week.

24 Q. Okay.

25 A. And his check out date is 6-30-2013.

- 1 Q. Okay. So he was checked in ---
- 2 A. He was checked in. Yeah.
- 3 Q. --- for a week on 6-22?
- 4 A. No, he wasn't - he was checked in on 4-27-2013.
- 5 Q. So he's been staying there --
- 6 A. He's been staying yes since then every week.
- 7 Q. Okay. And he comes and pays you for each week?
- 8 A. Each week. Yeah.
- 9 Q. Okay. And what room does that report say?
- 10 A. Same room, 312.
- 11 Q. Okay. And again, the check out date on that?
- 12 A. 6-30-2013.
- 13 Q. Now, can you go to Exhibit Number Three.
- 14 A. Okay.
- 15 Q. What is this?
- 16 A. It's an audit report. We print out every day one.
- 17 Q. Okay. And is this kind of like a daily record?
- 18 A. Daily record, yeah, for each guest staying in the
- 19 rooms.
- 20 Q. Okay. And what is the date on this one, on this
- 21 report?
- 22 A. It is 6-27.
- 23 Q. Okay. And do you see the defendant on that report?
- 24 A. Yes. It's number 39 for Davis, Brian Room Number 312.
- 25 Q. Okay. Now I know you can't testify that he was

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1 actually in the room when this incident occurred on June
2 27th, 2013, but can you say that those records reflect that
3 he did rent that room?

4 A. Yeah.

5 Q. And he had paid for that room?

6 A. He paid for the room, yeah.

7 Q. 312?

8 A. Yeah, 312.

9 Q. And what day was that that he paid for it that we have
10 looked at?

11 A. Yeah, he paid for number -- he paid on 6-22 for the
12 Eighty Dollars and then after two days he paid Eighty
13 dollars again so for the whole weekend.

14 Q. And your records reflect that he did stay ---

15 A. Yeah, he did stay.

16 Q. --- and paid for the room on June 27th?

17 A. On June 27th. Yeah.

18 Q. Thank you.

19 SOLICITOR HAMILTON: Please answer any questions the
20 defense may have.

21 CROSS EXAMINATION

22 VISHRUPRASAD PATEL BY MS. ANDERSON:

23 Q. Mr. Patel, I think we covered Mr. Davis was paying his
24 bill. Correct?

25 A. Yeah.

1 Q. And you didn't have any problems with him?

2 A. No, no.

3 Q. Okay. And they asked you about that State's Number
4 Three and you said that was a daily report; is that
5 correct?

6 A. It is, yeah.

7 Q. Okay. And what that report shows is that Room 312
8 wasn't the only room anyone was in that day. Correct? On
9 June 27th, 2013? You had a number of rooms rented that
10 day. Correct?

11 A. Yeah.

12 Q. Okay. And on that list, some of the rooms kind of
13 around the general area of Room 312, those were also
14 occupied; is that correct? It kind looks like 311, 317.

15 A. Yeah, but 312, I think it was just at that time.

16 Q. Okay. Well, I'm just asking, you did have some other
17 people staying in that area too. Correct?

18 A. Yeah.

19 Q. Okay. So in other words, your hotel wasn't empty on
20 June 27th ---

21 A. No, no.

22 Q. --- of 2013?

23 A. No.

24 Q. Okay. And that's reflected. Now, that list that
25 you've got, that Number Three, is all of the rooms in your

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1 hotel or is that just --

2 A. Yeah each one. Each one is entered. They're showing
3 everybody one by one.

4 Q. Okay. And so that covers all the rooms ---

5 A. All the rooms.

6 Q. --- on your hotel on that day?

7 A. Yeah.

8 Q. Okay. Mr. Patel, does your hotel have any sort of
9 cameras anywhere? Any security cameras anywhere?

10 A. Not outside but inside the lobby.

11 Q. In the lobby. Okay. But not outside?

12 A. Not outside.

13 Q. Okay. And did you know the police were out at your
14 hotel on June --

15 A. No, I didn't. I didn't know about that.

16 Q. Okay.

17 A. A matter of fact, last year I did but I was working
18 or another employee was working.

19 Q. Okay. But you don't remember them coming in and
20 asking or telling you they were going to be out there?

21 A. No, I don't. I don't remember.

22 Q. Okay.

23 MS. ANDERSON: That's all I have, Your Honor.

24 Thank you, Mr. Patel.

25 MR. PATEL: You're welcome.

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1 SOLICITOR HAMILTON: Nothing further from the State,
2 Your Honor.

3 THE COURT: You can step down and be excused. We
4 appreciate your time. Thank you.

5 MR. PATEL: Thank you, Your Honor.

6 (WITNESS LEAVING WITNESS STAND.)

7 THE COURT: Call your next witness.

8 MADAM COURT REPORTER: Mr. Patel, may I have those
9 exhibits.

10 MR. PATEL: Oh, I'm sorry.

11 MADAM COURT REPORTER: Thank you.

12 THE COURT: Call your next witness.

13 SOLICITOR HAMILTON: Your Honor, the State calls
14 Lieutenant Culbreath.

15 THE COURT: Step up here and be sworn.

16 (WHEREUPON, CARLOS CULBREATH,
17 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

18 DIRECT EXAMINATION

19 LIEUTENANT CARLOS CULBREATH BY SOLICITOR HAMILTON:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Would you please state your name for the record?

23 A. My name is Carlos Christopher Culbreath.

24 Q. Okay. And what is your occupation?

25 A. I'm a Lieutenant at the Rock Hill Police Department.

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1 Q. And what type of work do you do in that position?

2 A. Currently I'm the Lieutenant over the Violent Crimes
3 Unit.

4 Q. And how long have you been employed with the Rock Hill
5 Police Department?

6 A. Since 2003.

7 Q. And were you employed as an officer in your current
8 capacity on June 27th, 2013?

9 A. Yes.

10 Q. And your position was the same then?

11 A. At that particular time I was the lieutenant over the
12 Street Crimes Unit.

13 Q. Okay. Now I'd like to draw your attention to that
14 evening of June 27th, 2013. What were you doing that
15 evening?

16 A. On that particular day I was helping the Street Crimes
17 Unit conduct surveillance at the Executive Inn. The
18 Executive Inn was our contact initiative which was assigned
19 to us by Mitchell Parker. Comstat is by weekly meetings
20 with majors, lieutenants and captains, have with the chief
21 crime analysis where we discuss current crimes trends where
22 if we have a particular problems in a certain area, or we
23 have an increase in drug activity, burglaries then in that
24 nature, well by me being a lieutenant on the Street Crimes
25 Unit we don't answer calls for service I may get there just

1 to be proactive so Major Parker gave us the Executive Inn
2 and I our contact initiate and he wants to go out and do
3 surveillance for the day and we'll conduct surveillance
4 Investigator Vreeland was behind the Executive Inn in the
5 wood line and I was parked across the street at a Rock Hill
6 School District office which is located on Anderson Road
7 and I was in the parking lot in my white, unmarked Tahoe
8 and I was parked in a parking lot.

9 Investigator Vreeland's job was to call out any kinds
10 of suspicious activity. If it was a suspicious person, a
11 suspicious vehicle, or he saw a wanted person it was my job
12 to either pull the car over or make contact with the person
13 who he thought was suspicious and make sure that they
14 didn't have any illegal contraband on 'em.

15 Q. And you said you were parked across the street in your
16 unmarked car?

17 A. Yes at the Rock Hill School District.

18 Q. Okay. But you had visual? Where was the Executive
19 Inn in relation to that?

20 A. All right. You have the Rock Hill School District
21 and right across the street is the Executive Inn. While I
22 was parked there I could see the front - the whole front
23 parking lot and both entrances. There was also a store I
24 was able to see. And for me to cross the street from where
25 I was took me about ten to thirty seconds to pretty much

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1 get to the front parking lot of the Executive Inn.

2 Q. Okay. And what happened if anything?

3 A. Well, like I said I was parked at the Rock Hill School
4 District office. Investigator Vreeland said that he saw a
5 black male looking suspicious get into a burgundy Pontiac
6 Gran Prix so he said the black male got in the passenger
7 side seat. There was a black female driving. So like I
8 said I'm parked across the street.

9 I saw the vehicle come up to the front entrance of the
10 Executive Inn make a left onto Mt. Gallant so I make -
11 Excuse me, not a left on Mt. Gallant, a left on Anderson
12 Road. So the vehicle made a left on Anderson Road. I made
13 a right on Anderson Road.

14 There was a Dairy Queen between us so we get in the
15 left turn lane to make a left on Mt. Gallant. So you have
16 the burgundy Gran Prix - the Pontiac - the vehicle in the
17 middle and my car. Made a left hand turn on Mt. Gallant.
18 I'd say we drove almost a quarter of a mile and there's a
19 store on Mt. Gallant right when we cross Cherry Road.

20 They made a right into the store, I made a left into
21 the church parking lot. The front passenger got out of the
22 car and went inside the store. I would say, you know, from
23 two to five minutes. I was parked right across the street
24 from the store in the church parking lot and I was able to
25 see the vehicle to see if anybody came to the vehicle or

1 see who got out.

2 The front passenger was in the store as I said
3 anywhere from two to five minutes. He got back into the
4 car they made a left back onto Mt. Gallant and at this
5 particular time I pulled right behind the vehicle. I
6 noticed that they had a unreadable temporary tag. I then
7 initiated a traffic stop on Mt. Gallant because I didn't
8 want to block the traffic on Mt. Gallant and Cherry so the
9 driver made a right on Cherry Road I made a right right
10 behind it. I initiated a traffic stop right in front of
11 Cee Cee's Pizza which is the Compare Food shopping Center.
12 She made a right hand turn I pulled in behind her she
13 parked in the Cee Cee's parking lot.

14 Q. Lieutenant Culbreath, can I stop you there?

15 A. Yes.

16 Q. I want to be able to show the jury some visuals as to
17 what you're explaining. I'm handing you some - two
18 pictures.

19 A. Okay.

20 Q. And I want you to take a look at those.

21 (WITNESS REVIEWING PHOTOS.)

22 Q. What I've handed you is what's been marked as for
23 identification purposes State's Exhibit Four and Five.

24 Now what are these? Do you recognize these?

25 A. This is an aerial view of the Executive Inn both and

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1 this is the Executive Inn and across the street is where I
2 was parked at a Rock Hill School District office.

3 Q. Well how - You can keep them to yourself. I'm gonna
4 ask you some questions before we ---

5 A. Okay.

6 Q. --- start describing them. How are you familiar with
7 these locations on the map?

8 A. Well in my ten years of service at the Rock Hill
9 Police Department, I respond at the Executive Inn several
10 times for as calls to service. I was once also on street
11 crimes where we put up a surveillance there numerous times
12 for drug activity. And as a Lieutenant I was with street
13 crimes we had set up a surveillance at the Executive Inn
14 for three weeks so I have a lot of knowledge about the
15 Executive Inn.

16 Q. Okay. And so do these photos fairly and accurately
17 depict the roads around that Executive Inn, the buildings
18 as they appeared on June 27th, 2013?

19 A. Yes.

20 Q. Okay. And have there been any alterations to these?
21 Any deletions from these photos that you tell?

22 A. No.

23 Q. Okay. Can I grab those from you please?

24 A. Yes you may.

25 Q. Thank you.

1 SOLICITOR HAMILTON: Your Honor, the State ask
2 permission to admit these into evidence.

3 MS. ANDERSON: No objection.

4 THE COURT: In without objection.

5 (WHEREUPON, STATE'S EXHIBITS FOUR AND FIVE, IDENTIFIED
6 AND MARKED, RECEIVED INTO EVIDENCE.)

7 SOLICITOR HAMILTON: Your Honor, may the State publish
8 these for the jury?

9 THE COURT: You may.

10 (STATE'S EXHIBIT NUMBERS FOUR AND FIVE PUBLISHED TO
11 THE JURY AT 04:45 P.M..)

12 SOLICITOR HAMILTON: Thank you, Your Honor.

13 Q. Okay, Lieutenant Culbreath, I'm going to show you
14 Exhibit Number Four up on the screen.

15 Okay, could you point to where you were parked before
16 you saw the defendant pull out of the Executive Inn? Could
17 you show us the Executive Inn and where you were parked?

18 A. Okay. This is the Executive Inn and as you can see
19 there is a store. You have an exit and entrance right
20 here. And an exit and an entrance right here. I was
21 parked across the street at a Rock Hill School District
22 office somewhere right across the street from the Executive
23 Inn.

24 Q. And you said that he pulled out of the parking lot and
25 you followed him.

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1 A. Yes. When he pulled out of the parking lot they made
2 a left onto Anderson Road and I made a right onto Anderson
3 Road and I was right behind 'em.

4 Q. Okay. Before I interrupted you I know that you said
5 that you were at the stop at Compare Foods.

6 A. Yeah.

7 Q. Okay. So what happened once you stopped that vehicle?

8 A. Okay. So I initiated a traffic stop. We pulled into
9 the Compare Food parking lot. I approached the vehicle and
10 I made contact with the driver Ms. Adams. Immediately she
11 told me she didn't have any driver's license so at that
12 point I ask her to step out of the vehicle and I ask her if
13 she had anything in her car illegal. She said there
14 shouldn't be. When I ask her who was the owner of the
15 vehicle she said she was the owner of the vehicle then ask
16 consent to search the vehicle and she gave me consent.

17 So at that time I'm still the only officer on scene by
18 myself I went to the passenger side and I ask the front
19 passenger for his ID. I ask him to step out of the
20 vehicle. He presented his driver's license and it was a
21 Mr. Brian Davis. There was also a kid in the car and a
22 pitt bull. So when I got Mr. Davis out of the car I ask
23 for consent to search his person, he gave me consent, I
24 didn't find anything on him.

25 When my backup arrived I ask for the kid to get out of

1 the car and told him to hold on to the - I think it was a
2 pitt bull if I'm not mistaken - then I began to search the
3 car.

4 In the middle console I found a marijuana blunt in a
5 Pepsi can containing liquor so I went back to the driver
6 and I ask her who do the liquor and who do the marijuana
7 belong to. She said that somebody was in her car earlier
8 smoking weed and drinking liquor. So I told Ms. Adams to
9 look to be honest with me and be cooperative I help you
10 out. If you have anything illegal in your person? She
11 said, Officer, I have some - a marijuana blunt inside my
12 bra so I was able to recover the marijuana that was inside
13 her bra.

14 At that point I started talking to her. I said since
15 you were so cooperative and since your kid is here I'm not
16 gonna arrest you but I'm gonna issue a citation for the
17 driving offense and for the marijuana but I did not take
18 her to jail. I told her to contact her baby's father
19 because I didn't feel comfortable with the kid going back
20 with them with marijuana in the car and also with liquor.

21 So the child's father arrived on scene. He took
22 custody of the kid. I didn't want to tow her vehicle so I
23 gave Mr. Davis an opportunity, I said since you have a
24 valid driver's license you can drive the car. If you don't
25 drive the car we gonna have to tow it. So he said he would

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1 drive the car and he took ownership of the car. Issued her
2 citations and I told them both they were free to leave.

3 Q. Okay. And you told them they were free to leave. Did
4 they leave the scene at that point?

5 A. Yes they left the scene.

6 Q. Okay. And where did you go at that point?

7 A. When they left the scene, I had another officer there,
8 I maybe talked to her for about two minutes and I went to
9 my same position at the Rock Hill School District office
10 where I was at before so we could finish conducting
11 surveillance.

12 Q. Did you give any radio calls to anyone in the
13 meantime?

14 A. Yeah. I contacted Vreeland and told him I was through
15 with the stop and I was clear so I was able to get back in
16 position. When we say clear it means free and you pretty
17 much can get back in the position. So if he has a
18 suspicious person or he has a deal I was pretty much
19 letting them know I was back if you need me.

20 Q. And what happened next once you were at your post
21 again?

22 A. I was at my post and I would say a few minutes later -
23 I can't give you a approximate time - Investigator Vreeland
24 came back on the radio and said that Mr. Davis was leaving
25 a Executive Inn room he had a plastic bag in his hand.

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1 MS. ANDERSON: Your Honor, I object cause the
2 testimony of the officer is hearsay.

3 THE COURT: Yeah, I sustain the objection.

4 BY SOLICITOR HAMILTON:

5 Q. What did - So this is - What did you do next? What
6 did you physically do next?

7 A. Okay. While I was finishing to do next was I was
8 cross the street and I saw Mr. Davis walking. I
9 thought he was getting a contact as I was advised he was
10 leaving the room and I saw him making small talk with him
11 because I had just pulled him over so I stated talking to
12 him in front of the office of the Executive Inn.

13 They have an office and over the office they have like
14 a cover so if you come in you can park under that cover and
15 you can go inside the office in case it was raining. So I
16 parked under the cover I made contact with Mr. Davis. I
17 can't remember what we was talking about, it was small talk
18 because I had just made a traffic stop on him so right now
19 I was just talking to him. Then --

20 Q. Just give me one second.

21 SOLICITOR HAMILTON: Your Honor, may we approach?

22 THE COURT: Yes.

23 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
24 THE JURY AT 04:50 P.M..)

25 BY SOLICITOR HAMILTON:

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1 Q. Okay. Sorry. Now without saying anything the
2 defendant said, what did you proceed to do after speaking
3 with him?

4 A. You talking about when I saw him in the office?

5 Q. Yes. Let me just show you. Let me bring up State's
6 Exhibit Number Five.

7 Now you said that you came over based on a call.

8 A. Yes.

9 Q. You came over to the Executive Inn?

10 A. Yes.

11 Q. Okay. Now where - Can you show the jury where you
12 came over to the Executive Inn? Where you parked your
13 vehicle and where you saw the defendant.

14 A. As you can see just the cover and this is the front
15 office, and this is where I had my vehicle parked, and I
16 was talking to Mr. Davis in this same area.

17 Q. Okay. All right. And then after speaking with him,
18 again don't say any statements that he said, but after
19 speaking with him what happened?

20 A. I was notified over the radio that Detective Thomas -

21 Q. Don't give the specifics but what did you proceed to
22 do at that point?

23 A. Detective Thomas - I pretty much detained him.

24 Q. Okay. All right. And you detained him. Do you see
25 the person who was the passenger in that burgundy Gran Prix

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1 that you pulled over? Do you see him - the person that you
2 detained and eventually arrested that night of June 27th,
3 2013? Do you see him in the courtroom today?

4 A. Yes.

5 Q. Okay. Could you please point him out?

6 A. Mr. Brian Davis.

7 Q. What is he wearing?

8 A. A gray shirt, button up shirt.

9 SOLICITOR HAMILTON: Please answer any questions the
10 Defense may have.

11 CROSS-EXAMINATION

12 LIEUTENANT CARLOS CULBREATH BY MS. ANDERSON:

13 Q. Lieutenant Culbreath, you said the Rock Hill Police
14 Department was conducting a surveillance on the Executive
15 Inn back on June 27th, 2013.. Correct?

16 A. Yes, ma'am.

17 Q. And what we're talking about, you testified to, that's
18 happening in the evening hours. Correct?

19 A. Well we usually do surveillance in the evening always
20 because our schedule is from two to twelve so that's the
21 time we conduct surveillance it was in the evening hours.

22 Q. Okay. But the sequence you just testified to, this
23 initial traffic stop, and then your detaining Mr. Davis,
24 that is actually happening in the evening. Correct?

25 A. Yes, ma'am.

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1 Q. Time of day?

2 A. Yes, ma'am.

3 Q. I think the traffic stop is somewhere around eight,
4 eleven p.m.; is that correct? Or eight o'clock somewhere
5 around that range?

6 A. I can agree. I can agree.

7 Q. And the reason the Rock Hill Police Department you
8 said you have this sort of Comsat program and the Executive
9 Inn was an area of focus. Correct?

10 A. Yes.

11 Q. And you got experience on the Street Crimes Unit you
12 said?

13 A. Yes, ma'am. Me personally I did four years on the
14 Street Crimes Unit before I was promoted to Sergeant. Then
15 I went to the Sergeant on patrol and then I was promoted to
16 Lieutenant over Street Crimes and I eventually was
17 transferred to Lieutenant over Violent Crimes.

18 Q. Okay. And as part of your experience with that,
19 you're familiar with the Executive Inn. Correct?

20 A. Yes, ma'am.

21 Q. And that's an area the Rock Hill Police Department
22 would consider a high drug and high crime area; is that
23 correct?

24 A. Yes, ma'am.

25 Q. And you probably personally responded to calls or been

1 involved in cases out there; is that correct?

2 A. Yes, ma'am.

3 Q. And you wouldn't consider it uncommon that drugs would
4 be found on that property. Correct?

5 A. I wouldn't say it would be uncommon.

6 Q. Wouldn't be uncommon. And you testified you were
7 doing surveillance in a parking lot across the street.
8 Correct?

9 A. I wasn't doing any surveillance. I was just pulling
10 cars over that he told me --

11 Q. Okay. So you were situated. Let me put it that way.

12 A. Yes.

13 Q. You were probably situated across the street?

14 A. Yes, ma'am.

15 Q. And you said that was an unmarked car; is that
16 correct?

17 A. A unmarked white police Tahoe.

18 Q. Okay. Was that a car without any sort of video
19 equipment in it?

20 A. Yes it did have video equipment.

21 Q. It did have video equipment?

22 A. Yes.

23 Q. It did? Okay.

24 A. It was video capable.

25 Q. Video capable. Okay. And you testified as to this

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1 traffic stop with Ms. Adams. Correct?

2 A. Yes I did.

3 Q. Okay. But there is - Your video equipment was
4 inactivated for that traffic stop; is that correct?

5 A. I don't have the video so I don't have the video for
6 it.

7 Q. Okay. And I think you testified you testified that
8 you were told to stop this car essentially. Correct? Or
9 your instructions were to stop this car.

10 A. Yeah he told me it was a suspicious - -

11 Q. Well I won't ask you the specifics. Okay, I'm sorry
12 about that. I didn't mean to interrupt you.

13 And the car, I think you testified pulled out drove
14 down the street stopped at the store; is that correct?

15 A. Yes it did.

16 Q. And the passenger got out and went in for a few
17 minutes and came back and got in the car.

18 A. Yes.

19 Q. And so that is the only thing you observed the
20 vehicle doing at that point. Correct?

21 A. At that point yes.

22 Q. Okay. And you stopped the vehicle actually for a tag
23 that you couldn't see the expiration date on; is that
24 correct?

25 A. Yeah it was a older temporary tag.

1 Q. Okay.

2 A. You couldn't hardly read.

3 Q. And just so we're clear, everything you testified to
4 in terms of the tag violation, the marijuana in that car,
5 that was attributable to Ms. Adams. Correct?

6 A. Yes that's correct.

7 Q. Okay. So what you all testified in that traffic stop
8 none of that had anything to do with Mr. Davis. Correct?

9 A. No it didn't.

10 Q. Okay. And I think you testified you ask Mr. Davis to
11 get out of the car and he did do that. Correct?

12 A. Yes he did.

13 Q. Okay. And you ask for his ID and he gave that to you?

14 A. Yes he did.

15 Q. And you also testified you ask for consent to
16 search his person. Correct?

17 A. Yes, ma'am.

18 Q. And you did search him?

19 A. Yes I did.

20 Q. Okay. And you did not find anything illegal on him?

21 A. No I didn't.

22 Q. Okay. And Ms. Adams also gave you consent to search
23 the car as well. Correct?

24 A. Yes.

25 Q. And there was not anything that in your experience

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1 resembled crack cocaine in that car. Correct?

2 A. Not in the vehicle no, ma'am.

3 Q. And you testified then a few minutes later you
4 encountered Mr. Davis again. Correct?

5 A. Yes.

6 Q. Okay. And he was walking down the sidewalk at that
7 point?

8 A. He was near the office.

9 Q. Near the office?

10 A. Yeah the office.

11 Q. But not in a car at that point. He was just - -

12 A. He was on foot.

13 Q. On foot? Okay. And you detained him at that point?

14 A. Yes.

15 Q. Okay. And you also - You also conducted what we call
16 a pat down search of him at that time?

17 A. When I got with him at the Executive?

18 Q. Near the office area when you encountered him on foot.

19 A. I didn't search him at that time. I was just talking
20 to him.

21 Q. Okay.

22 MS. ANDERSON: Beg the Court's indulgence.

23 (PAUSE.)

24 Q. Did you have any conversation with Mr. Davis about

25 Well, let me scratch that. After he left the vehicle and

1 you searched him outside of the vehicle.

2 A. Yes, ma'am.

3 Q. Did you search him at any point back at the Executive
4 Inn?

5 A. I don't recall. I remember talking to him. I don't
6 recall if I searched him or not.

7 Q. Okay, don't recall. Okay. Over all, Lieutenant
8 Culbreath, Mr. Davis was cooperative with you on that
9 evening; is that correct?

10 A. Yes he was.

11 Q. Okay.

12 MS. ANDERSON: Nothing further for this witness, Your
13 Honor.

14 THE COURT: Any redirect?

15 SOLICITOR HAMILTON: Nothing further from the State,
16 Your Honor.

17 THE COURT: All right, you can step down and be
18 excused.

19 (WITNESS LEAVING WITNESS STAND.)

20 THE COURT: Call your next witness.

21 SOLICITOR HAMILTON: Your Honor, may we approach
22 briefly?

23 THE COURT: Yes.

24 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
25 THE JURY AT 05:01 P.M..)

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1 THE COURT: I'm advised it's best to stop for the day
2 and start back at nine in the morning. So have a pleasant
3 evening.

4 Madam Forelady, you will be the liaison between the
5 jury and myself and preside over the jury's deliberations
6 and ultimately sign the unanimous verdict. I'm gonna let
7 you go for the night. Keep in mind don't let yourself be
8 exposed to anything outside the courtroom. News, social
9 media, electronic devices, other people, and we'll see you
10 back at ten in the morning. Have a pleasant evening.

11 (JURY EXITS COURTROOM AT 05:02 P.M..)

12 THE COURT: Anything from the State before we stop
13 for the day?

14 SOLICITOR HAMILTON: Nothing from the State, Your
15 Honor.

16 THE COURT: From the Defense?

17 MS. ANDERSON: No, Your Honor.

18 THE COURT: Just for logistic purposes, I guess next
19 is Officer Vreeland?

20 SOLICITOR HAMILTON: Yes, Your Honor.

21 THE COURT: And start at ten. State ought to be
22 through by lunch time.

23 SOLICITOR HAMILTON: The State should be done by lunch
24 time, Your Honor. Yes.

25 THE COURT: All right, we'll see you ten in the

1 morning.

2 (COURT IN RECESS AT 05:04 P.M..)

3 (COURT BACK IN SESSION THURSDAY, MAY 15, 2014 AT 09:30
4 A.M., IN THE MATTER OF NIRA ROSEBORO RE-SENTENCING WITH PD
5 MELISSA INZERILLO.)

6 (COURT BACK IN SESSION IN THE MATTER OF STATE V. BRIAN
7 HENRY DAVIS AT 09:44 A.M..)

8 THE COURT: Is the State ready? And the Defense?

9 We'll get Mr. Davis out and while he's coming out I'm
10 gonna step out just one moment.

11 (COURT AT EASE AT 09:44 P.M..)

12 (COURT BACK IN SESSION AT 09:45 A.M..)

13 THE COURT: Ms. Anderson, you ready?

14 MS. ANDERSON: Yes, Your Honor.

15 THE COURT: Bring in the jury.

16 (JURY REENTERS COURTROOM AT 09:48 A.M..)

17 THE COURT: Members of the jury panel, let me first
18 apologize for the confusion on the time. I told you two
19 different times and I was informed of that shortly after
20 you left and it was too late to get word to you and I
21 apologize for that. Everybody acted appropriately and it's
22 just dyslexic time I guess. I don't know.

23 Anyway, call your next witness.

24 MS. ANDERSON: Your Honor, may we approach briefly?

25 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF

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1 THE JURY AT 09:49 A.M..)

2 SOLICITOR HAMILTON: May it please the Court?

3 THE COURT: Yes.

4 SOLICITOR HAMILTON: The State calls Officer Vreeland.

5 (WHEREUPON, MICHAEL DENNIS
6 VREELAND, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
7 FOLLOWS:)

8 MADAM CLERK: Thank you. You may have a seat.

9 DIRECT EXAMINATION

10 OFFICER MICHAEL VREELAND BY SOLICITOR HAMILTON:

11 Q. Good morning.

12 A. Good morning.

13 Q. Would you please state your full name for the Court?

14 A. Michael Dennis Vreeland .

15 Q. And, Officer Vreeland, what is your occupation?

16 A. Police officer.

17 Q. Okay. And what position do you hold as a police
18 officer?

19 A. I'm a Police Officer II with the Rock Hill City Police
20 Department.

21 Q. Okay. And how long have you been employed with Rock
22 Hill?

23 A. A little over four years, ma'am.

24 Q. Okay. And were you employed in your present capacity
25 with Rock Hill Police Department on June 27th, 2013?

1 A. Yes, I was, ma'am.

2 Q. And what were you working? What position were you
3 working at that time on June 27th, 2013?

4 A. At that time, I was assigned to the Street Crimes
5 Unit, and we were doing surveillance on 659 North Anderson
6 Road, the Executive Inn which is in Rock Hill, South
7 Carolina, County of York.

8 Q. Now, was that during the day, during the evening that
9 you were doing surveillance?

10 A. Evening hours, ma'am.

11 Q. Okay. Now, how long have you been sitting in
12 surveillance at that specific location?

13 A. Approximately three weeks ---

14 Q. Okay.

15 A. --- I was doing surveillance over in that area.

16 Q. And, specifically, that day, how long had you been
17 there?

18 A. I was there from 7:15 p.m. that night. I would say up
19 till about either 9:30-10:00 p.m. that evening.

20 Q. Okay. So you said you'd been sitting there doing
21 surveillance for three weeks. So were you familiar with
22 the layout of that hotel?

23 A. Yes, ma'am.

24 Q. Officer Vreeland, I'm going to hand you what's been
25 marked as State's Exhibit Number Six ---

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1 A. Yes, ma'am.

2 Q. --- for identification purposes. Could you please
3 take a look at that picture?

4 A. Yes, ma'am.

5 Q. Do you recognize that?

6 A. Yes, ma'am. That's the Executive Inn.

7 Q. Okay. And how are you familiar with these locations
8 on this map?

9 A. Well, I can tell, obviously, with the hotel in the
10 front it says the sign there Executive Inn. Again, we've
11 been dealing with this location for a little bit due to the
12 Comp Stat initiative that we had there for that particular
13 location.

14 Q. And does this photograph fairly and accurately depict
15 the roads, location, buildings of The Executive as it was
16 on June 27th, 2013?

17 A. Yes, ma'am.

18 Q. Are there any material alterations, any deletions to
19 that photograph that have been made?

20 A. Not that I've seen.

21 SOLICITOR HAMILTON: Your Honor, the State offers
22 Exhibit Six for admission into evidence.

23 MS. ANDERSON: No objection.

24 THE COURT: In without objection.

25 (WHEREUPON, STATE'S EXHIBIT NUMBER SIX, IDENTIFIED AND

1 MARKED, RECEIVED INTO EVIDENCE.)

2 SOLICITOR HAMILTON: Your Honor, the State requests
3 permission to publish for the jury.

4 THE COURT: You may.

5 (STATE'S EXHIBIT NUMBER SIX PUBLISHED TO THE JURY AT
6 09:53 A.M..)

7 Q. Officer Vreeland, now can you - there is a pointer
8 right next to you.

9 A. Yes, ma'am. I have it in my hand.

10 Q. Could you please point on this map to where you were
11 sitting surveillance so we can give the jury aware of where
12 you were located?

13 A. In this area over here. I'm sorry about the
14 unsteadiness, but my hand.

15 Q. Okay.

16 A. Right in this area right here.

17 Q. All right. And on this map, where was Room 312?

18 A. You see - I don't know if you're able to see it. I
19 can barely see it from this location here. It's showing
20 that the light post right there?

21 Q. Okay.

22 A. So right down from that light pole to the left over
23 here would be where 312 would be, and I was up over here.

24 Q. Okay. And were you in front of the fence, behind that
25 fence or it's - that's right there?

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1 A. Yes, along this line here. As you can see, it's a
2 wooden fence. It's approximately six feet tall, and I was
3 behind that fence.

4 Q. Okay. Now, that evening on June 27th, what was the
5 weather like?

6 A. It was clear and it was sunny.

7 Q. And what was the lighting like?

8 A. At that time, it was still sunny out.

9 Q. All right. And I am going to hand to you the
10 exhibits.

11 Officer Vreeland, I am handing you what's been marked
12 for identification purposes, State's Exhibit Seven through
13 Fifteen.

14 A. Yes, ma'am.

15 Q. Could you just take a look at those photographs?

16 A. Yes, ma'am.

17 (WITNESS REVIEWING EXHIBITS.)

18 A. Yes, ma'am.

19 Q. Okay. How do you recognize those photos? Do you
20 recognize those photos? I'm sorry.

21 A. Yes, I do.

22 Q. And how do you recognize those photos?

23 A. Being these photos are showing the rear portion of the
24 Executive Inn and, well, this first photo which would be
25 Exhibit Seven, it's showing the fence line going from the

1 higher number units to the lower unit numbers heading
2 towards Anderson -- Anderson Road along the fence line.

3 Q. And so do these photographs depict where you were that
4 night on June 27th, 2013?

5 A. Yes, ma'am.

6 Q. And that is the Executive Inn. Correct?

7 A. That's correct, ma'am.

8 Q. Okay. Have these photographs been altered or any
9 deletions made to them?

10 A. No, ma'am.

11 SOLICITOR HAMILTON: Your Honor, the State offers
12 Exhibits Seven through Fifteen for admission into evidence.

13 MS. ANDERSON: No objection.

14 THE COURT: In without objection.

15 (WHEREUPON, STATE'S EXHIBIT SEVEN THROUGH FIFTEEN,
16 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

17 SOLICITOR HAMILTON: Your Honor, we request permission
18 to publish for the Jury.

19 THE COURT: You may.

20 SOLICITOR HAMILTON: Thank you, Your Honor.

21 Q. Officer Vreeland, I am going to publish one through --
22 or Seven through Nine and ask you to describe these for us.

23 A. Yes, ma'am.

24 (STATE'S EXHIBITS SEVEN THROUGH NINE PUBLISHED TO THE
25 JURY.)

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1 A. Okay. This --

2 Q. This is Exhibit Seven.

3 A. Yes, ma'am. With Exhibit Seven, this is what I was
4 just talking about. This is the fence line. Over here are
5 the higher number units - you can't see them in the photo -
6 going to the lower end. And over this way is heading back
7 towards Anderson Road. I was on the other side of this
8 fence. As you can see right here, there is a portion -
9 there's one piece of wooding that's missing, which seems to
10 be about three or four feet down from the top.

11 Q. Okay. And is that where you were located?

12 A. That's correct, on the other side of that fence.

13 Q. Okay. And now where is Room 312 where the Defendant
14 was staying in relation to that fence?

15 A. Right up in this area.

16 Q. Okay. Now, we're going to go to the next one.

17 A. Yes, ma'am.

18 Q. This is Exhibit Eight. What is this a photo of?

19 A. This is the other side of the fence, okay, where I was
20 sitting. When you enter to this rear location, it's flat,
21 and then it drops down about a foot-and-a-half as you get
22 nearer to the fence. In this particular location here, I
23 had a folding chair. I sat it down and I was looking right
24 through this here and right there is 312.

25 Q. So this is your viewpoint through the fence hole that

- 1 you just showed us in the prior exhibit?
- 2 A. Yes, ma'am.
- 3 Q. Now this, this is Exhibit Number Nine.
- 4 A. Yes, ma'am.
- 5 Q. Is this a fair representation of what it looked like
- 6 that night?
- 7 A. That's correct.
- 8 Q. Okay. And could you please show the jury where Room
- 9 312 is?
- 10 A. Right up here.
- 11 Q. Is that a person standing in front of it?
- 12 A. Approximately, yes.
- 13 Q. Now, of course, that isn't the defendant but --
- 14 A. No it is not.
- 15 Q. Okay. It just shows a relation. Is this the kind of
- 16 lighting that was there that night?
- 17 A. That's correct.
- 18 Q. Okay.
- 19 A. As you can tell, there was a - they have lightings on
- 20 the walkway - walkways.
- 21 Q. Okay. And what's on the bottom of the photo, is that
- 22 the fence line?
- 23 A. Yes. Yes, ma'am. This is how it looks. As I said,
- 24 it dropped off about a foot-and-a-half, so when I stood up
- 25 behind that fence where I had my chair, that fence was

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1 coming up to the middle of my chest.

2 Q. Okay. Okay. So - Okay, around what time on June 27th
3 did you initially see the defendant?

4 A. It was approximately 8:20 p.m. that evening.

5 Q. And where did you see him?

6 A. I saw him exit Unit 312 and I noticed a black male,
7 approximately five-eight, 180 pounds. He was wearing a
8 white tank top. He was wearing shorts. These shorts were
9 longer shorts that came down to like the top portion of his
10 shin, so it would be from the waist to the shin that's how
11 long his shorts were.

12 He exited the room. There was a burgundy vehicle that
13 was in front of that location with a female black that was
14 wearing a yellow shirt. As the male was walking to the
15 vehicle, I saw in his right hand he had a - sort of a
16 plastic bag in his hand at which point I saw him reach --
17 reach to his rear and stick it in his rear pocket and got
18 into the vehicle, and then they drove off.

19 Q. Can you - Do you remember what type of car it was that
20 he left in?

21 A. It was a burgundy vehicle and it had a temporary plate
22 on it.

23 Q. Okay. And was he the driver or the passenger?

24 A. He was - he was the front passenger.

25 Q. Okay. So you saw him leave and saw him get in the

1 car. What happened next?

2 A. I alerted the team that - what I observed with the
3 male with the plastic bag and that he entered the vehicle
4 and that they were driving off in a burgundy vehicle with
5 temporary plates.

6 Q. Okay. You said, alerted the team?

7 A. Yes, ma'am.

8 Q. Okay. How do you - What does that mean? How do you
9 alert the team?

10 A. I went over the radio on our street crimes frequency I
11 let them know that the vehicle, the male was leaving in the
12 vehicle.

13 Q. Okay. And when you say you go over the radio, who
14 does that go out to?

15 A. My lieutenant and my other coworkers. That'll be
16 Lieutenant Culbreath at that time, Shawn Watson, Detective
17 Thomas, I mean, yeah, Detective Thomas and Detective Riley.

18 Q. Okay. Okay. So you put out a radio call, and then
19 what happens? When is the next time that you see the
20 Defendant?

21 A. It was approximately 8:55 that same evening, I see the
22 burgundy vehicle coming back around, and you got to realize
23 too, when they're coming from around that building, there
24 were a few people that were located at 306 which is down a
25 portion closer towards Anderson Road from these photos, and

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1 as cars come around, you see everybody looking because you
2 can hear cars going by, so they just want to make sure
3 who's coming around as their driving, so you see I was
4 watching that group when Mr. Davis at that time was away
5 from his unit and this - they heard a cough and everybody's
6 looking that way. A car rolled up and he parked in front
7 of the vicinity of 312. At this time, the male black was
8 driving the vehicle.

9 Q. Okay. So you heard the car come around?

10 A. Uh-huh.

11 Q. What did you see the defendant do next?

12 A. He exited the driver's side. He came from behind the
13 wheel of the vehicle, and then he entered into 312 - Room
14 312.

15 Q. Into Room 312?

16 A. Yes, ma'am.

17 Q. And that's at what location?

18 A. At 359 North Anderson Road, the Executive Inn.

19 Q. Okay. So he entered Room 312, and then what happened?

20 A. As he was entering, the female black was still with
21 him in that yellow shirt. She walked down to the lower
22 apartments towards 306. He was in the room approximately
23 five minutes or so at which point the door opened. I
24 observed the same male black with the white t-shirt and
25 shorts. He looked to his left out the door, looked out to

1 the right to his door, and then he left the door cracked.

2 At that time, the door is cracked to maybe about a
3 foot-and-a-half, two feet. I could see from where I was
4 that the lighting was right by that doorway from the
5 inside. He went back into the apartment. A moment or so
6 later, he came back out. He came back to the door and
7 looked again. This time the door was opened wider,
8 obviously, because he was in the frame of the door. He was
9 partially in the threshold of that unit and on the walkway
10 when I observed from - from my angle his left side, a short
11 - a short portion of a clear bag. I saw the defendant
12 motioning as to stick something - something into the front
13 of his shorts.

14 Q. What was his demeanor during all of this?

15 A. Well, from what I was noticing, I thought it was kind
16 of weird just looking back and forth considering nobody
17 came to his door or nobody was walking by his door at the
18 time for him to look out to see if somebody was there or
19 not and then looking back and forth, I mean it was what I
20 noticed.

21 Q. Okay. And so he puts the bag in his pants, and then
22 what happens? What do you observe him do?

23 A. He shuts the - he shuts his - he shuts the door to
24 312, and then he walks on the walkway towards the higher
25 numbers, higher units, and then he gets to a breezeway and

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1 he enters - enters the breeze way.

2 Q. Okay. And to enter the breezeway, does he have to
3 make a right or a left?

4 A. He - I'm sorry. He would have to make a right into
5 that breezeway.

6 Q. Okay. And so he enters that breezeway, and you still
7 have clear visual of him?

8 A. Oh, yes, ma'am. Yes, ma'am.

9 Q. Okay.

10 A. As he's walking, he was actually coming to where I was
11 set up and then went into that breezeway, I got up from my
12 location and moved over. This way I had a direct line into
13 that breezeway from where I was.

14 Q. And then what did you see happen next?

15 A. As he entered the breezeway, there's going to be a
16 stairway to the right and with those stairs, you can
17 actually see through the stair - the stair ways. They have
18 the open stairways, I guess you would call them. He walked
19 past the stairway and then he came upon an ice machine and
20 he stopped.

21 At that time, his body was facing front ways to the
22 ice machine. He looked to his left and to his right. I
23 heard the ice machine get banged, and then I saw him going
24 into his front pants and come back out again. I saw a
25 clear bag and I saw the bag get placed in that vicinity of

1 that ice machine.

2 Q. Okay. And what did you do once you saw him do that?

3 A. Again, I alerted the team of what I saw, again that
4 would be Lieutenant Culbreath, Detective Riley,
5 Investigator Watson and Detective Thomas of what I
6 observed. Once he placed the bag at that - that vicinity
7 of that ice machine, I informed that - that he left that
8 location and went to the covered walk.

9 Q. And where would that be going towards, back towards
10 his room or going away from it?

11 A. That'll be going away - away from his room, ma'am.

12 Q. Okay. So he entered the covered walk. What else did
13 you say, did you - over the radio, did you alert anyone?

14 A. Oh, yes. I just said I need somebody to come over to
15 that ice machine, because I saw the - I saw the male black
16 place something there ---

17 Q. Okay.

18 A. --- the clear bag there.

19 Q. I am going to hand you - Actually you might actually
20 have them. Would you look at Exhibit Ten and Thirteen?

21 A. Yes, ma'am.

22 Q. And I'm going to put 'em up on the big screen. Okay.
23 This is going to be Exhibit Ten.

24 (STATE'S EXHIBIT NUMBER TEN PUBLISHED TO THE JURY.)

25 Q. Now, could you please explain to the jury what they're

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1 seeing here?

2 A. Yes, ma'am. Again, this is from - from where I was
3 looking into that breezeway. When he was walking from his
4 room, he was walking from this way, made the right, passed
5 these stairs and you can see the darkness through the -
6 those stairs there, that's where the ice machine is
7 located, right here, right behind the stairs.

8 Q. Okay. And was that car there blocking your view that
9 day or not?

10 A. No, there was no - no vehicle. That was a clear -
11 clear ---

12 Q. Okay.

13 A. --- I was able to look clear right through.

14 Q. Okay. And is this a viewpoint from where you were
15 sitting?

16 A. Right, but at this time, I was standing ---

17 Q. Okay.

18 A. --- but I was in that same location behind the rear of
19 that fence.

20 Q. This is Exhibit Number Eleven.

21 (STATE'S EXHIBIT NUMBER ELEVEN PUBLISHED TO THE JURY.)

22 Q. Could you explain ---

23 A. Yes, ma'am.

24 Q. --- to the jury what they're seeing here?

25 A. Now, this is over from where I was originally sitting.

1 This is where I walked over and was able to get that - the
2 better look at this point. I was standing, looking,
3 watching. Again you can see the stairway right here, and
4 right in this area there is the ice machine.

5 Q. This is Exhibit Twelve.

6 (STATE'S EXHIBIT NUMBER TWELVE PUBLISHED TO THE JURY.)

7 Q. Now, is this what it looked like? Is this a better
8 depiction of the lighting that night or not?

9 A. This one here is a little bit lower. There is
10 actually a light that's inside there but this was the
11 location where I was looking. These trees were my overhang
12 when I was looking in there, but there is a light there
13 that's right there that was on.

14 Q. A light under the walkway is that where you're
15 pointing?

16 A. Inside the breezeway.

17 Q. Okay. All right. And could you show the jury the
18 direction the defendant came from?

19 A. Again, and he came from this location here and made
20 that right-hand turn to there.

21 Q. Okay. And where did he exit? You said he left
22 through a covered walkway.

23 A. Okay. The covered walkway, if you keep walking
24 straight here, it leads right into the covered walkway.
25 And with the covered walkway, it's just the top portion

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1 that's covered. It's not completely enclosed like that
2 walkway. It's just a hood thing, I guess, to protect you
3 from rain I would - I'm guessing they use it for.

4 Q. And this is Exhibit Thirteen.

5 (STATE'S EXHIBIT NUMBER THIRTEEN PUBLISHED TO THE
6 JURY.)

7 A. Yes, ma'am.

8 Q. Is this just another view?

9 A. Yeah, that's another view but that's how the lighting
10 was with that light. That light was on compared to what
11 the first picture showed.

12 Q. Okay. Okay. Could you explain to the jury what we're
13 seeing here?

14 A. Okay. This would be coming from where the covered
15 walk was, and this right here is the ice machine. You got
16 the encasement, and then you got the ice machine. There's
17 the open stairs that I was talking about. Now, he came
18 from - from this photo he'd be coming from this way down.
19 As you could see, this is where I was initially sitting,
20 and then I walked up over here as I watched him go into
21 that walkway.

22 Q. You walked up where, could you give us a pinpoint?

23 A. Where he -- where he walked to, ma'am.

24 Q. Where you --

25 A. I'm sorry, can you rephrase that? I'm sorry.

1 Q. Where you walked to, could you show us with the
2 pointer?

3 A. Where he came from?

4 Q. No, where you were located?

5 A. Oh, where I was located. Yes, ma'am. Right there you
6 can see the portion of a fence missing, that's where I was
7 initially sitting. When I saw him walk into that
8 breezeway, I started walking over to where these shrubs
9 here are.

10 Q. And was your vision skewed in any way?

11 A. No, ma'am. As you can see from Exhibit Number Eleven,
12 that is - that slide right there.

13 Q. Right here?

14 A. No. Come back down to the next slide. Well, it
15 should be Number Eleven if I'm not mistaken. That would be
16 it right there.

17 Q. Okay. Now, we're going to go to the last one ---

18 A. Yes, ma'am.

19 Q. --- Number Fifteen.

20 (STATE'S EXHIBIT NUMBER FIFTEEN PUBLISHED TO THE
21 JURY.)

22 Q. Now this, could you explain to the jury what this is
23 to the jury?

24 A. Okay. This is the actual breezeway. Back over here
25 that's not in the picture would be where the stairs are up

OFFICER MICHAEL VREELAND: DIRECT BY SOLICITOR HAMILTON

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1 over here. This again is the ice machine with the
2 encasement. And over here would be where that covered
3 walkway is that I was talking about once you pass the end
4 of that breezeway.

5 Q. And you - Can you please point out the lighting in
6 this picture?

7 A. Okay. You have a light bulb right there.

8 Q. Okay. Now, so we left off is you notified over the
9 radio that you just saw him place something in the vicinity
10 of the ice machine. What happens next?

11 A. A short time later, once I saw the defendant place
12 that bag there, I was continually watching and making sure
13 nobody else came into that breezeway. I alerted one of the
14 members I needed somebody over to that ice machine to check
15 that - that bag that I saw. And a short time later
16 Detective Thomas came and he walked over to the ice machine
17 and a short time later he recovered the bag.

18 Q. Did you - You've had an eye on that machine from the
19 moment the Defendant put something in that machine and when
20 you saw Officer Thomas?

21 A. Yes, ma'am.

22 Q. Did you see anyone else come into that walkway at all?

23 A. No, ma'am.

24 Q. Okay. And when you saw Officer Thomas, what did you
25 see Officer Thomas do?

1 A. Okay. Initially, he checked the bottom part where the
2 ice would come through. There was debris that was in that
3 particular area inside the - actually where the ice would
4 come out. He pulled it out. I was like no, that's not the
5 bag, that's not the bag, and then he went to the side of
6 the encasement and that's when - as he's pulling the bag
7 out I said, "That's it."

8 Q. So you recognized it?

9 A. Yes, ma'am.

10 Q. And the bag that you recognized, is that the one you
11 saw in the defendant's hand?

12 A. Yes, ma'am.

13 Q. Did the defendant have control over that bag, physical
14 contact with that bag?

15 A. Yes he did from the time he left Room 12 -- 312, to
16 the time he went into that breezeway until he took it out
17 in front of - in front of that ice machine and when he
18 placed that - that bag in the vicinity of that ice machine.

19 Q. Did you get a good look at the suspect's face on June
20 27th, 2013?

21 A. Yes, I did.

22 Q. All right. And do you see that person who you saw put
23 the bag in that ice machine in the courtroom today?

24 A. Yes, ma'am, I do.

25 Q. Okay. And would you please point to him?

OFFICER MICHAEL VREELAND: DIRECT BY SOLICITOR HAMILTON
CROSS BY MS. ANDERSON

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1 A. Yes, Mr. Brian Davis.

2 Q. Okay. And what's he wearing?

3 A. He's wearing a grey-collared shirt, a button down
4 shirt.

5 SOLICITOR HAMILTON: Please let the record reflect
6 that the witness has identified the defendant.

7 (WITNESS INDICATED TO DEFENDANT.)

8 Q. Now, after your investigation, what did you ultimately
9 charge the Defendant with?

10 A. I charged him with crack cocaine, trafficking.

11 SOLICITOR HAMILTON: Please answer any questions that
12 the defense may have.

13 OFFICER VREELAND: Yes, ma'am.

14 CROSS-EXAMINATION

15 OFFICER MICHAEL VREELAND BY MS. ANDERSON:

16 Q. Officer Vreeland, you've been designated as the case
17 agent in this case. Correct?

18 A. That's correct, ma'am.

19 Q. And that essentially means you have access to any of
20 the materials in connection with this case; is that
21 correct?

22 A. Yes, ma'am.

23 Q. Okay. And one of your duties as the case agent in
24 this case was to write the incident report; is that
25 correct?

1 A. With the ticket, with that with our team we split it
2 up. With this particular case, Detective Thomas did the
3 Incident Report. I did the Summary.

4 Q. Okay. And so there is an initial Incident Report
5 written and then there is a General Sessions Case File
6 Summary; is that correct.

7 A. That's correct.

8 Q. Okay. And you wrote the General Sessions Case File
9 Summary?

10 A. That's correct.

11 Q. Okay. And the General Sessions Case File Summary
12 would essentially be a narrative of what your investigation
13 consisted of, what evidence you were attributing to the
14 case. Correct?

15 A. Yes, ma'am.

16 Q. Written out a narrative for that?

17 A. That's correct.

18 Q. And that's something that you will then write once you
19 get back to the police department and write later. You are
20 not writing in other words as you are out on the scene.
21 Correct?

22 A. That's correct.

23 Q. Okay. And I want to go through to make sure that the
24 sequence is correct that some of what you testified to.
25 You testified about 8:20 p.m. you see a black male in a

OFFICER MICHAEL VREELAND: CROSS BY MS. ANDERSON

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1 white tank top and shorts. Correct?

2 A. Approximately 8:20. That's correct, ma'am.

3 Q. Okay. And this is in the evening hours. Right?

4 A. It was still light out but it was considered evening.

5 Yes, ma'am.

6 Q. Close to sunset at 8:20 but not quite sunset. Is that
7 accurate?

8 A. I think it was a little bit lighter than that.

9 Q. Okay.

10 A. Again, it doesn't get really - it doesn't get dark out
11 here until a little bit later. About a quarter to nine or
12 so.

13 Q. Okay. So sunset would have been somewhere around
14 8:30, 8:45 on this evening you think?

15 A. I couldn't even tell you.

16 Q. Okay. Would the lights - would the sort of lights of
17 the hotel that you talked about with the rooms, had those
18 illuminated yet at 8:20?

19 A. Not at 8:20. It was still light.

20 Q. Okay. Not at 8:20?

21 A. That's correct, ma'am.

22 Q. And you described these are long shorts; is that
23 correct?

24 A. Yes, ma'am. I don't know what the proper name is but
25 they are basically from the hip and they come to almost the

- 1 top of the shin I guess that area it would be.
- 2 Q. Would you describe them as loose fitting or tight
- 3 fitting?
- 4 A. They were sagging when I saw him.
- 5 Q. Okay.
- 6 A. Initially the first time I saw him.
- 7 Q. Okay. So looser fitting, longer sort of shorts?
- 8 A. Yes, ma'am.
- 9 Q. Okay. And you testified that when this individual
- 10 came out about 8:20 ---
- 11 A. Yes, ma'am.
- 12 Q. --- he got into the passenger seat of a vehicle; is
- 13 that correct?
- 14 A. Front passenger. Yes, ma'am.
- 15 Q. Okay. And there was a black female driving the --
- 16 A. In a yellow top. Yes, ma'am.
- 17 Q. Okay. And I think you testified on direct that you
- 18 saw -- you testified you saw a plastic bag in his hand; is
- 19 that correct?
- 20 A. In his right hand.
- 21 Q. In his right hand. And that was when getting into
- 22 that vehicle the first time?
- 23 A. Actually, he was walking to the vehicle he had it in
- 24 his hand. Before he got into the vehicle he replaced it
- 25 into his rear pocket.

OFFICER MICHAEL VREELAND: CROSS BY MS. ANDERSON

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1 Q. Okay. So the sequence is at 8:20 he gets in the - a
2 black males gets in the front passenger seat, something in
3 his hand and he then places it in his pocket?

4 A. That's correct.

5 Q. Okay. I wanted to make sure I had that clear
6 sequence.

7 A. Yes, ma'am.

8 Q. And you said at that point, you radioed the other
9 officers on scene?

10 A. Yes, ma'am.

11 Q. And one of those was Lieutenant Culbreath?

12 A. That's correct.

13 Q. And you are aware from your role as case agent that
14 Lieutenant Culbreath performed a traffic stop on that
15 vehicle. Correct?

16 A. That's correct, ma'am.

17 Q. And he also testified to that as well.

18 A. Yes, he did, ma'am.

19 Q. Okay. And you remained out from your position at
20 surveillance at this point. Correct?

21 A. I was there the whole time from about 7:15 to
22 approximately 9:30, ten p.m. that night.

23 Q. Okay. And where you are positioned you talk about was
24 behind a fence at sort of a tree line on the property?

25 A. That's correct, ma'am.

1 Q. And you described that that was a six foot tall fence?

2 A. That's correct.

3 Q. Okay.

4 A. Again, as you're walking through the yard, it dips
5 down about a foot and a half, two feet, so when you are
6 standing on that hill area, it comes up at - that fence
7 comes up to me, I'm six, three, it comes up to the middle
8 of my chest.

9 Q. Okay. When you were behind the fence were you sort of
10 standing where you were visible over the fence or were you
11 below it?

12 A. Initially I was sitting - again, I had one of those
13 folding chairs ---

14 Q. Folding chair. Okay.

15 A. --- that you use if you go hunting. I had that
16 sitting there.. When I saw a door open, at which point I
17 went down into that little smaller area and I was looking
18 still through the picket area of that fence.

19 Q. Okay. And so essentially when you are out there doing
20 surveillance, you don't want anybody to notice that you are
21 sitting there watching the parking lot. Correct?

22 A. That's correct.

23 Q. Okay. So you are in a place that if someone's in the
24 parking lot, they are not necessarily going to see you
25 sitting out there for several hours. Right?

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1 A. That's correct.

2 Q. Because in other words, when you are doing
3 surveillance, you don't want people there to notice you and
4 think, well why is this person standing there for hours?

5 A. That's correct.

6 Q. And that's the reason you sort of positioned behind
7 the fence in a place where you are not as visible or
8 noticeable. Correct?

9 A. Yes, ma'am.

10 Q. Okay. And this was a wooden fence? In other words, a
11 solid wooden fence. It was not a chain link fence or
12 anything like that?

13 A. It wasn't a chain link fence.

14 Q. Okay.

15 A. It was a wood fence, ma'am.

16 Q. And the fenced area from, I guess, the rooms of the
17 hotel, that's approximately is about twenty-five, thirty
18 feet away. Is that accurate?

19 A. I don't know the exact but -- from where I was sitting
20 at?

21 Q. Uh-huh.

22 A. I would go with that. I don't know the exact
23 measurements from where I was.

24 Q. Okay. Approximately --

25 A. But again, I had that angle from where I was to where

1 that unit was.

2 Q. Okay. In other words, some of the photos she showed
3 where the - Let me see, I can maybe reference which one to
4 help you.

5 A. Here you go.

6 Q. Thank you. I'm looking at this one. It's State's
7 Exhibit Number Ten.

8 A. Right.

9 Q. In other words, that's taken from a closer distance
10 than where you were. Correct?

11 A. Yes. This one here looks - was more inside the
12 parking lot taking the photo. This way you can see a
13 better idea of how - the steps.

14 Q. Okay.

15 A. You can see the steps and stuff like that.

16 Q. Okay. And you then testified that you see the car
17 pull back into the parking lot somewhere around 8:55 p.m.?

18 A. Approximately. Yes, ma'am.

19 Q. And at this point, we are getting sort of after
20 sunset. Correct? 8:55, 9:00 p.m..

21 A. Right. It's dusk.

22 Q. Okay. And the lights have illuminated. The pictures
23 you saw with the lights on the hotel, that is illuminated
24 at this point. Correct?

25 A. They were are starting to kick on at that point.

OFFICER MICHAEL VREELAND: CROSS BY MS. ANDERSON

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1 Q. Okay. And you just testified there were some other
2 people out in the parking lot at this time. Correct?

3 A. Down towards - closer towards the end North Anderson
4 side.

5 Q. Okay.

6 A. The lower numbers. Apartment 306.

7 Q. Okay. Number 306?

8 A. Uh-huh.

9 Q. And your testimony then was that you saw the door to
10 312 open and your testimony was you observed this
11 individual sort of in the - I guess, is it standing on the
12 threshold; is that correct?

13 A. Okay. The car returned back. He exited the vehicle.
14 He went into the room. He was in there for a short time.
15 Came back out of the room. Looked back and forth and at
16 that point he left the door cracked open, approximately a
17 foot and a half, two feet open. The inside was lit up.
18 Then he went back inside the building and then he checked
19 again, back and forth, and at this point I just said yes he
20 was standing. Basically, part in the threshold and part in
21 the walkway.

22 Q. Okay. And so at that point your testimony is you saw
23 him put or obscure - hide a bag in his shorts at that
24 point?

25 A. Right. From the angle I had I saw the bag as I was

1 looking this way and I saw him go in and stuff it into his
2 pants.

3 Q. Okay. In other words, this is with the door open,
4 correct? You're not looking sort of through the window
5 into the room?

6 A. No. The door was open.

7 Q. Okay. The door was open?

8 A. Yes, ma'am.

9 Q. Okay. Let me show you what has been State's Exhibit
10 Number Twelve.

11 A. Yes, ma'am.

12 Q. And see if we can see it a little bit. But this would
13 be an accurate, pretty accurate view from where you were
14 standing; is that correct?

15 A. Right, as I saw him already inside that.

16 Q. Okay.

17 A. Inside the breezeway at that point. Again, that
18 inside light isn't illuminated ---

19 Q. Okay.

20 A. --- yet. But it was when I --

21 Q. Okay. And this is the breezeway we're talking about.
22 That's basically an interior breezeway. Correct? Like in
23 between rooms?

24 A. Right. As you go through that breezeway - through
25 that walkway - the rooms are on the other side of that

OFFICER MICHAEL VREELAND: CROSS BY MS. ANDERSON

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1 building as well.

2 Q. And this is a staircase up here in the front?

3 A. Right. Immediately you come around and make that
4 right turn and the stairway is on your immediate right
5 which I see through the stairways and then a couple feet
6 past that is the encased ice machine.

7 Q. Okay. So in other words, the ice machine is against
8 the wall behind the stairs in this breezeway; is that
9 correct?

10 A. Yes.

11 Q. Okay. And I'm going to show you what has been marked
12 as State's Exhibit Number Thirteen. This is the light. Is
13 that the light you were referencing that was in the breeze-
14 way?

15 A. Yes, ma'am.

16 Q. Okay. And so that's an accurate view of what the
17 light that night was?

18 A. Yes, ma'am.

19 Q. Okay.

20 MS. ANDERSON: I beg the court's indulgence.

21 Q. And just so we're clear, when you were initially
22 watching through the fence, you pointed out there was sort
23 of a hole essentially in the fence and initially you were
24 looking through that. Correct?

25 A. Right. What I first said I thought I was sitting out

1 this way looking through that area, yes, ma'am.

2 Q. Okay. Did you actually draw up the warrant in this
3 case?

4 A. Drew up the warrant in this case?

5 Q. Yes.

6 A. Yes, ma'am.

7 Q. Okay. And you were also aware in the course of this
8 case that - well one thing first. The baggy you talked
9 about, you talked about on direct testimony, you could
10 recognize the bag; is that correct?

11 A. Well, the bags that he was pulling out initially, were
12 all paper bags so when I saw him come out I saw him put
13 plastic on it then. That was the bag that I saw.

14 Q. Okay. Let me make sure. The bag that you are
15 testifying you saw him put in the ice machine, was that a
16 paper bag or a plastic bag?

17 A. It was a plastic bag.

18 Q. Okay. And you describe that in your report as a clear
19 plastic bag; is that correct?

20 A. That's correct.

21 Q. Okay. Not an unusual color or anything like that?

22 A. Yeah.

23 Q. From where you were doing surveillance, you could not
24 read the room numbers on the door at that point; is that
25 correct? The distance would be too much.

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1 A. Well, I also had a pair of binoculars with me as well
2 that evening. But I just knew this from the general
3 location from where the light pole was that two doors down
4 from there is 312.

5 Q. Okay. And you are aware as part of your status with
6 the case agent, you are aware that the bag in this case was
7 submitted to the Forensic Service Unit. Correct?

8 A. That's correct, ma'am.

9 Q. In April of this year?

10 A. Yes, ma'am.

11 Q. Okay. And that was submitted to the Forensic Service
12 Unit for processing for fingerprints; is that correct?

13 A. That's correct.

14 Q. Okay. Not for DNA?

15 A. Just for fingerprints.

16 Q. Just for fingerprints. Okay. And are you familiar
17 with your law enforcement experience about touch DNA?

18 A. I'm sorry. Touch DNA, ma'am?

19 Q. Touch DNA. Had any encounter with basically DNA
20 recovered from skin cells by touching something?

21 A. Not that I'm aware of, ma'am. I haven't heard of
22 that.

23 Q. Okay. Not familiar with that?

24 A. Not familiar, I'm sorry.

25 Q. But the only thing requested of Forensic Service Unit

OFFICER MICHAEL VREELAND: CROSS BY MS. ANDERSON

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1 was just fingerprint testing. Correct?

2 A. That's correct.

3 Q. Okay. And the results they did process that bag for
4 fingerprints. Correct?

5 A. Yes, ma'am.

6 Q. And the results were negative for fingerprints?

7 A. That's correct. But with plastic bags also, if they
8 are crimped up and there is a fingerprint, obviously it
9 would expand or shrink depending on how the bag was held
10 and folded and stuff of that nature, but yes, it did come
11 back --

12 Q. Okay. But the bag was submitted for forensics to try
13 to recover fingerprints. Correct?

14 A. That's correct.

15 Q. And Mr. Davis' fingerprints were not recovered on it
16 either. Correct?

17 A. That's correct, ma'am.

18 Q. Okay.

19 MS. ANDERSON: Nothing further, Your Honor.

20 SOLICITOR HAMILTON: Nothing further from the State,
21 Your Honor.

22 THE COURT: You can step down and be excused. Well
23 you are the case agent, you can stay in here.

24 OFFICER VREELAND: Yes, sir. Thank you.

25 (WITNESS LEAVING WITNESS STAND.)

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON

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1 THE COURT: Call your next witness.

2 SOLICITOR HAMILTON: The State calls Detective
3 Thomas.

4 (WHEREUPON, RYAN THOMAS,
5 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

6 DIRECT EXAMINATION

7 DETECTIVE RYAN THOMAS BY SOLICITOR HAMILTON:

8 Q. Good morning.

9 A. Good morning.

10 Q. Please state your full name for the court.

11 A. Detective Ryan Thomas.

12 Q. And, Detective Thomas, what's your occupation?

13 A. I'm a detective with the Criminal Investigations
14 Division.

15 Q. And what type of work do you do in your position?

16 A. I investigate violent crimes against persons like
17 robberies and attempted murders and things like that.

18 Q. Were you doing that kind of work, were you in that
19 same position on June 27th, 2013?

20 A. No, ma'am.

21 Q. Okay. What were you doing then?

22 A. I was assigned to the Street Crimes Unit at that time.

23 Q. Okay. Now, I would like to draw - Well, let me first
24 ask. How long have you been employed as a police officer?

25 A. This is my eighth year.

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON

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1 Q. I would like to draw your attention to the evening of
2 June 27th, 2013.

3 A. Yes, ma'am.

4 Q. What were you doing that evening?

5 A. We were conducting surveillance at the Executive Inn.

6 Q. And where is that located?

7 A. 659 North Anderson Road in Rock Hill.

8 Q. Is that York County?

9 A. It is.

10 Q. Okay. And were you at that hotel around 8:50, 8:45
11 p.m.?

12 A. Yes, ma'am.

13 Q. And what happened around that time?

14 A. At that time I was by myself in one of our unmarked
15 vehicles and I was listening to the radio and Officer
16 Vreeland called out some suspicious activity and had asked
17 us to assist him with that.

18 Q. Okay. And that suspicious activity, what did you go
19 do based upon that call?

20 A. He said that he had witnessed a male stash a white bag
21 near an ice machine. He asked someone to intercept the
22 male and someone to go to the ice machine.

23 Q. And what did you do?

24 A. I started driving through the parking lot and I saw
25 Lieutenant Culbreath get out with the male and so I just

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON

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1 kept going past him and decided to go on to the ice machine
2 so I drove around to the back side of the parking lot and
3 got out there.

4 Q. And what did you once you got out of the car?

5 A. I asked Officer Vreeland to guide me to the location
6 that he was talking about. He gave me directions and I
7 walked over to the ice machine. He said, yes that's the
8 ice machine, and I started searching for the white bag that
9 he was talking about.

10 Q. Okay. And did you find anything?

11 A. I did. I looked in the - the ice machine itself has
12 like a dispenser and a little drain, I guess. There was
13 some trash in there. I looked through that. There was
14 just trash and I kind of stepped back and noticed that
15 there was like an encasement around the machine made of
16 like wood or particle board and I saw a white plastic bag
17 stuffed in between the machine and the wood, just wedged
18 there.

19 Q. Okay. And what did you do with that bag once you saw
20 it?

21 A. I reached in, pulled it out, and opened it up.

22 Q. And what did you find in that bag?

23 A. There was a clear plastic baggy inside of that that
24 contained what I believed to be crack cocaine.

25 Q. What did that look like?

1 A. It's a white or kind of off-white colored rock like
2 substance. Some of it was kind of broke into pieces.

3 Q. Okay. I'm going to hand to you or actually put up on
4 the big screen State's Exhibit Fourteen and Fifteen which
5 the Court admitted through Officer Vreeland. This is
6 Exhibit Fourteen.

7 (STATE'S EXHIBIT NUMBER FOURTEEN PUBLISHED TO THE
8 JURY.)

9 Q. Could you tell the jury or explain to them what
10 they're seeing here from your perspective of what you saw?

11 A. Sure. This is the breezeway that Officer Vreeland
12 directed me to and where I ended up on the left side of the
13 screen you can see the encasement and the ice machine there
14 on the lower half of it.

15 That's the ice machine where I found what I believed
16 to be the crack cocaine in the white plastic baggy on the
17 side of it. And then, what you are doing is you are
18 looking into the back parking lot and that wooden fence was
19 where Officer Vreeland was conducting surveillance.

20 Q. Did you ever see Officer Vreeland behind that fence?

21 A. I did not.

22 Q. Okay. I want to show you the next exhibit, Number
23 Fifteen.

24 (STATE'S EXHIBIT NUMBER FIFTEEN PUBLISHED TO THE
25 JURY.)

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON

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1 Q. And what are we seeing here?

2 A. It's the exact same location just turned around the
3 other way. It's the same ice machine and that covered
4 walkway leads out to the office of the hotel. It's just a
5 covered walkway all the way around.

6 Q. Okay. And what was out there?

7 A. This is the breezeway that Mr. Davis walked through
8 where Lieutenant Culbreath intercepted him just off camera
9 view there in that walkway.

10 Q. All right. I'm going to hand to you what's been
11 marked for identification purposes, State's Exhibit Sixteen
12 and Seventeen.

13 Could you take a look at these photographs.

14 (WITNESS REVIEWING STATE'S EXHIBIT SIXTEEN AND
15 SEVENTEEN.)

16 Q. Do you recognize these?

17 A. I do.

18 Q. Okay. What are they?

19 A. This is the ice machine where I located the bag and
20 the encasement around it.

21 Q. Do these photographs fairly and accurately depict the
22 ice machine at the Executive Inn that you saw the night of
23 June 22nd, 2013?

24 A. Yes, they do.

25 Q. And have there been any deletions or alterations to

1 these photographs?

2 A. No.

3 Q. Okay.

4 SOLICITOR HAMILTON: Your Honor, the State offers
5 Exhibit - Exhibits Sixteen and Seventeen for admission into
6 evidence.

7 MS. ANDERSON: No objection.

8 THE COURT: In without objection.

9 (WHEREUPON: STATE'S EXHIBITS SIXTEEN AND SEVENTEEN,
10 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

11 SOLICITOR HAMILTON: Your Honor, the State would ask
12 to publish these to the jury.

13 THE COURT: You may.

14 SOLICITOR HAMILTON: Thank you.

15 (STATE'S EXHIBITS SIXTEEN AND SEVENTEEN PUBLISHED TO
16 THE JURY AT 10:40 A.M..)

17 Q. Detective Thomas, I am showing you State's Exhibit
18 Number Sixteen. Can you please describe, and there is a
19 pointer, a little black pointer. In the middle there is
20 red button. If you can use that to point to specific
21 locations. Could you explain to the jury when you got up
22 to this ice machine what happened and where items were
23 located?

24 A. Yes, ma'am. This is the first area I searched. I
25 pulled some trash out of that little spot there. I reached

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1 up in the dispenser and searched it and I didn't locate
2 anything so I took a step back and I asked Officer
3 Vreeland, you know, am I at the right spot? He said, yeah,
4 its right there keep looking. So I stepped back and looked
5 at the whole area and I noticed that the white like grocery
6 bag was stuffed right about that level back into here, just
7 right about there.

8 Q. This is Exhibit Number Seventeen.

9 (STATE'S EXHIBIT NUMBER SEVENTEEN PUBLISHED TO THE
10 JURY.)

11 A. So that's just a more straight on view so it was
12 stuffed right about in that spot there in between.

13 Q. Was it tucked in there tight or loose?

14 A. It was just tight enough that it held. It didn't like
15 fall down to the ground, so it was, you know, it was thick
16 enough that it just stayed right there but it wasn't very
17 hard to get out.

18 Q. Was that bag dirty at all or was it clean?

19 A. It was not dirty, no. It was just normal.

20 Q. Okay. Now, Detective Thomas, you said you'd been in
21 law enforcement for eight years. Am I correct?

22 A. Yes, ma'am.

23 Q. Do you have experience in investigating drug crimes
24 within that eight years?

25 A. Extensive experience.

1 Q. And based on your experience in the field and your
2 knowledge of what certain drugs look like, what did you
3 believe to be in that grocery bag that you recovered?

4 A. As soon as I saw it, I believed it to be crack
5 cocaine.

6 Q. I'm going to hand to you what has been marked as
7 State's Exhibit Eighteen through Twenty.

8 Again, I'm handing you what's been marked State's
9 identification as Eighteen through Twenty.

10 Could you take a look at those photographs?

11 (WITNESS REVIEWING STATE'S EXHIBITS EIGHTEEN THROUGH
12 TWENTY.)

13 Q. Do you recognize these photographs?

14 A. Yes, ma'am.

15 Q. Okay. And what are they?

16 A. This is the - what I believe to be crack cocaine that
17 I recovered that night and the white plastic bag that it
18 was recovered in.

19 Q. Do these photographs fairly and accurately depict
20 those items that you found in the ice machine the night of
21 June 27th, 2013?

22 A. Yes, they do.

23 Q. Okay. Are there any alterations, deletions to these
24 photos?

25 A. No there is not.

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1 Q. Okay.

2 SOLICITOR HAMILTON: Your Honor, the State offers
3 Exhibits Eighteen through Twenty for admission into
4 evidence.

5 MS. ANDERSON: Your Honor, I do objection to these
6 photographs.

7 THE COURT: Let me let the jury go. This is probably
8 a good time to take a little break anyway. I'm going to
9 let the jury go to the jury room while we take up some
10 legal matters.

11 (JURY EXITS COURTROOM AT 10:43 A.M..)

12 THE COURT: All right.

13 MS. ANDERSON: May it please the court.

14 Your Honor, my objection as to State's Eighteen,
15 Nineteen and Twenty.

16 THE COURT: Can I see them so I know what we are
17 talking about?

18 (STATE'S EXHIBITS EIGHTEEN, NINETEEN AND TWENTY
19 RECEIVED UP BY THE COURT.)

20 THE COURT: Thank you.

21 MS. ANDERSON: Your Honor, is that there is no
22 testimony these were taken on the day they were said to be
23 recovered. As I'm looking at the photographs, these are
24 with a chemist notation and in a different evidence bag so
25 my position would be I object to these. I don't think they

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON
IN CAMERA

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1 were taken at the time and they don't fairly and accurately
2 represent what he's testified he's recovered so I object to
3 that.

4 THE COURT: Okay. Lay a better foundation. I mean
5 this has CJM which I can't speculate but it appears to be
6 the initials of the chemist Cynthia Mitcham and one has -
7 the Number Twenty does not have the notation as Nineteen
8 and Eighteen do on the bag itself it appears.

9 You need to lay a better foundation.

10 SOLICITOR HAMILTON: Okay. We're just doing it for
11 purposes of showing the substance of the drugs. I'll ask
12 him if --

13 THE COURT: I don't care why you are doing it. I am
14 just asking you to do it.

15 SOLICITOR HAMILTON: I will. Okay.

16 THE COURT: Go ahead.

17 SOLICITOR HAMILTON: Lay a better foundation for this
18 is that what you mean?

19 THE COURT: Yeah. I mean there is no testimony he
20 took them. There is no testimony they been marked with his
21 initials or anything. How does he identify these as the
22 bags that are at issue?

23 DIRECT EXAMINATION - IN CAMERA

24 OFFICER RYAN THOMAS BY SOLICITOR HAMILTON:

25 Q. Detective Thomas, I'm going to hand to you what's

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON
IN CAMERA

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1 marked as State's Exhibit, for identification purposes,
2 Twenty-one.

3 Would you take a look - I know it's kind of hard to
4 see around the - take a look at that and and tell me if you
5 recognize the substance of the bags?

6 (WITNESS REVIEWING STATE'S EXHIBIT NUMBER TWENTY-ONE.)

7 A. I do.

8 Q. What is the substance in those bags? How do you
9 recognize that?

10 A. This is what I believe to be crack cocaine that I
11 recovered in this white bag that evening from that ice bag,
12 - from the ice machine.

13 Q. Okay. And the bag that it's sealed in, do you
14 recognize that bag?

15 A. The bag? Not this exterior one but the one that's
16 inside with all the writing on it, I recognize.

17 Q. How do you recognize that?

18 A. Because I filled this out. I signed that and
19 submitted that to evidence with the items inside of it that
20 same way.

21 Q. And the writing on those bags - can you flip it over -
22 the green writing?

23 A. Yes.

24 Q. Was that there the night that you recovered the drugs?

25 A. No, it was not.

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IN CAMERA

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1 Q. Okay. But what is in the bags - is?

2 A. This - The items in the bag here, this white bag. Not
3 this yellow packaging. That's subsequent.

4 SOLICITOR HAMILTON: Beg the court's indulgence, Your
5 Honor.

6 (PAUSE.)

7 Q. Now, there is another bag in there.

8 A. Huh-hum.

9 q. Is that the bag that you - Can you please explain to
10 the court which bags you placed into that evidence bag?

11 A. Okay. The two, the smaller bags here that have the
12 zip lock kind of seal on them that have what I believe to
13 be crack cocaine inside, those, this white grocery bag with
14 the red lettering on it, is the bigger bag that I found
15 them in. And so I put those into the evidence bag with the
16 writing on it and submitted that.

17 Q. You sealed it the night of June 27th, 2013?

18 A. Yes, I did.

19 SOLICITOR HAMILTON: Your Honor, the State would offer
20 the photos into evidence now that he has testified as to
21 the contents of them.

22 THE COURT: Well he hasn't connected that to the
23 photos and the photos are offered. I mean the - He hasn't
24 testified to it, and you hadn't ask him, but these have
25 2-B2CJM on Numbers Eighteen and Nineteen. There has been

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON
IN CAMERA

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1 no explanation by him to what those are. And he might can
2 take another look at Twenty but it does not have those
3 initials on and while they are numbered and lettered.

4 SOLICITOR HAMILTON: He did state that those were not
5 on there the night that he did recover the drugs. It was
6 just the contents of the bag but that writing was not on
7 the bag when he recovered it.

8 THE COURT: Well but now you're putting into evidence
9 something that has something else on it but he doesn't know
10 about it so I sustain the objection as to those two.

11 And ask him again about Number Twenty.

12 SOLICITOR HAMILTON: Number Twenty, Exhibit Twenty
13 which he said that Twenty was --

14 SOLICITOR COLTON: Your Honor, may we have a moment?

15 THE COURT: We'll take a short break and let you
16 regroup. It's time to take a break anyway.

17 Don't talk to anybody. If you need to use the restroom
18 certainly feel free to do that but otherwise don't discuss
19 the case.

20 OFFICER THOMAS: Yes, sir.

21 (COURT IN RECESS AT 10:50 A.M..)

22 (COURT BACK IN SESSION AT 11:02 A.M..)

23 THE COURT: Thank you. Take your seats.

24 Get Mr. Davis out.

25 (DEFENDANT BRIAN DAVIS, BLACK MALE, REENTERS

1 COURTROOM.)

2 THE COURT: All right, are you ready? You've
3 regrouped?

4 SOLICITOR HAMILTON: Yes, Your Honor.

5 THE COURT: All right. What you ready to do?

6 SOLICITOR HAMILTON: We're just gonna move on.

7 THE COURT: Beg your pardon.

8 SOLICITOR HAMILTON: We're just gonna move on. We're
9 not gonna put any of the photos in.

10 THE COURT: All right. Bring in the jury.

11 (JURY REENTERS COURTROOM AT 11:05 A.M..)

12 THE COURT: You may continue.

13 SOLICITOR HAMILTON: May it please the Court.

14 DIRECT EXAMINATION

15 DETECTIVE RYAN THOMAS BY SOLICITOR HAMILTON:

16 Q. Okay, Detective Thomas, you stated that you recovered
17 a baggy of what you believed to be crack cocaine. What did
18 you do once you recovered it?

19 A. I immediately put it into my cargo pants pocket.

20 Q. And were you able to determine how much, what you
21 believe to be, crack cocaine was in that bag?

22 A. Later on once we got back to the Law Center, I weighed
23 it.

24 Q. Okay. And how much did you believe it to be?

25 A. Just a little over fifteen grams.

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1 Q. And how did you determine that?

2 A. We have several digital scales at the Law Center we
3 use. Just place them on a scale and write down what it
4 shows.

5 Q. Okay. And can weight on-scene differ from weight
6 later?

7 A. It usually does.

8 Q. Now, once you determine the weight of what you believe
9 to be crack cocaine, what did you do after you put it in
10 your pants?

11 A. Well, the weight - the weighing that came later?

12 Q. Yes.

13 A. Yeah. I just put it in my pants pocket and kept it
14 there until we were completely finished with our
15 investigation on the street, and then went back to the Law
16 Center and processed, you know, filled out the evidence
17 bags and forms, and then submitted it to evidence.

18 Q. Okay. Did you put it into anything?

19 A. The - what I recovered, I put into the - an external
20 property bag that's just got some information on it. I
21 seal that, and then I submit it to the Evidence Room.

22 Q. Okay. And was that clear baggy continuously in your
23 custody and control before you sealed it in an evidence
24 envelope?

25 A. Yes, it was.

1 Q. Did anyone else have access to it?

2 A. No, they did not.

3 Q. Now, once you sealed it in that envelope, what was the
4 condition of that envelope once it left your possession?

5 A. Did - just completely sealed shut. It's got kind of a
6 sticky strip on it, so once you close it, if you tear it
7 back open, you'll know it's been torn open.

8 Q. And what did you do with that envelop?

9 A. I submitted it to our drug locker.

10 Q. Okay. And would you explain to the jury what that
11 drug locker is?

12 A. It's essentially a - like a bank deposit that you
13 would see in the outside wall of a bank. Our evidence room
14 is closed off to even officers and it's secured and so on
15 the outside wall they have one of those drop boxes and you
16 just open the door and you set the bag in there and you
17 shut the door. The bag slides down into a safe in the
18 Evidence Room and it's secured there until the evidence
19 officers handle it at their next appropriate time.

20 Q. So if I was to come behind you and open that box, I
21 wouldn't be able to access what's in there?

22 A. There would be nothing there, uh-uh.

23 Q. Okay. And where is this evidence room at?

24 A. It's at the police department at 120 East Black
25 Street, Rock Hill.

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON

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1 Q. Okay. Rock Hill Police Department?

2 A. Yes, it is.

3 Q. Now, I'm going to hand you what's been marked for
4 identification purposes as Exhibit - State's Exhibit Number
5 Twenty-one. Take a look at this bag.

6 (WITNESS REVIEWING STATE'S EXHIBIT NUMBER TWENTY-ONE.)

7 Q. How do you recognize this bag?

8 A. This is the evidence that I submitted that evening.

9 Q. Okay. And which bag did you submit it in?

10 A. So this - This external bag right here that's a square
11 shape is not the one I submitted it in. It's the one that
12 you see inside with the writing on it, "Evidence Property
13 Bag," that's the actual bag that I put into the locker.

14 Q. Okay. And is your signature on that bag?

15 A. It is, right here.

16 Q. Okay. And what's the date that you submitted it on?

17 A. June 27th, 2013.

18 Q. Okay. And if you flip that over ---

19 A. Uh-huh.

20 Q. --- yes, you have it correct. Was - What is the in --
21 the contents of that bag that you submitted, do you
22 recognize those contents?

23 A. I do. There is two small plastic bags here that
24 contain what I believe to be the crack cocaine that I
25 recovered. Behind that is the grocery - plastic grocery

DETECTIVE RYAN THOMAS: DIRECT BY SOLICITOR HAMILTON
CROSS BY MS. ANDERSON

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1 bag, the white bag with the red lettering, that it was
2 inside of stuffed in next to the ice machine, and then
3 there is some other - this yellow bag here and some writing
4 that appears to me to be from the evidence processing.

5 Q. Okay. Now, the yellow plastic that's in there, was
6 that there when you submitted it?

7 A. No.

8 Q. Okay.

9 SOLICITOR HAMILTON: Please answer any questions the
10 Defense may have.

11 DETECTIVE THOMAS: Yes, ma'am.

12 CROSS-EXAMINATION

13 DETECTIVE RYAN THOMAS BY MS. ANDERSON:

14 Q. Detective Thomas, what you testified to recovering
15 from this ice machine was a white plastic grocery bag; is
16 that correct?

17 A. Yes, ma'am.

18 Q. Okay. And you said - I think you just said just now a
19 white plastic grocery bag with red lettering on it?

20 A. Yes, ma'am.

21 Q. And when you went over to the ice machine in this
22 breezeway, you did testify there was some other debris or
23 trash in that area?

24 A. There was.

25 Q. Okay. And this breezeway is open basically to two

DETECTIVE RYAN THOMAS: CROSS BY MS. ANDERSON

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1 sides of the hotel; is that correct?

2 A. Yes.

3 Q. Okay. And you did not take any photographs on the
4 evening of June 27th, 2013, of this ice machine. Correct?

5 A. No. Yeah, we did not take any that night.

6 Q. And so there are no photos of the original condition
7 you've testified you've found this in?

8 A. Correct.

9 Q. Okay. Were you involved in the, I guess, arrest
10 process or booking process of Mr. Davis?

11 A. No, I was handling the evidence.

12 Q. And you said you handled them. You processed the
13 evidence once you got back to the Rock Hill Police
14 Department?

15 A. Correct.

16 Q. Okay. And you testified that you use a digital scale
17 to weigh the substance you recovered?

18 A. Yes, ma'am.

19 Q. And your scale gave a result of fifteen grams?

20 A. I believe it was just - just a little over and 15.1 or
21 something like that.

22 Q. Okay. But it is your testimony you were using a scale
23 about that?

24 A. Yes.

25 MS. ANDERSON: Beg the Court's indulgence.

1 (PAUSE.)

2 Q. You were out, I think you testified to, in unmarked
3 vehicles on that evening. Correct?

4 A. Yes, ma'am.

5 Q. And so there is no video from - where there is no
6 patrol cars that have video, there is no video equipment in
7 those cars. Correct?

8 A. One - I believe Lieutenant Culbreath's vehicle may
9 have had a camera. I don't remember exactly, because it
10 was brand-new, but the other one didn't.

11 Q. Okay. So the other - So Lieutenant Culbreath's
12 vehicle may have had video capability. The vehicle you
13 were in did not; is that correct?

14 A. Correct.

15 MS. ANDERSON: Nothing further for this witness, Your
16 Honor.

17 SOLICITOR HAMILTON: Nothing further from the State.

18 THE COURT: You can step down.

19 OFFICER THOMAS: Thank you, Your Honor.

20 THE COURT: Thank you. We appreciate your time and
21 thank you.

22 (WITNESS LEAVING WITNESS STAND.)

23 THE COURT: Call your next witness.

24 SOLICITOR HAMILTON: Thank you, Your Honor. The State
25 calls Rebecca Pryor.

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1 THE COURT: If you'll step up her and put your left
2 hand on the Bible and raise your right.

3 MADAM CLERK: Thank you. You may have a seat right up
4 there.

5 (WHEREUPON, REBECCA PRIOR,
6 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

7 DIRECT EXAMINATION

8 REBECCA PRYOR BY SOLICITOR HAMILTON:

9 Q. Good morning.

10 A. Good morning.

11 Q. Could you please state your name for the Court?

12 A. Rebecca Pryor.

13 Q. Okay. And what is your occupation?

14 A. I'm an evidence technician.

15 Q. And where do you work?

16 A. Rock Hill P.D..

17 Q. And what are your duties in the evidence department?

18 A. I maintain control of the evidence in our department.

19 Q. How long have you worked there?

20 A. I've worked for the department six years. I've been
21 in evidence for a year-and-a-half.

22 Q. I'm going to hand you what's been marked for
23 identification purposes State's Exhibit Twenty-one.

24 Have you had contact with this ---

25 A. Yes.

1 Q. --- before? And how did this exhibit come into your
2 possession?

3 A. It was left in our evidence locker and when I come in
4 in the morning, I pull it out of the locker.

5 Q. Okay. And who submitted that into evidence?

6 A. Detective Ryan Thomas.

7 Q. And you said he submitted it into a locker. Is that
8 locker locked?

9 A. Yes, ma'am. Once they put it in, they lock it and no
10 one can get into it.

11 Q. And no one can get into it?

12 A. Uh-uh.

13 Q. Okay. When you received that bag, did it appear to
14 have been tampered with in any way?

15 A. No.

16 Q. And when did you get that bag? When did you come into
17 possession of that bag?

18 A. June 28th.

19 Q. Was that bag completely sealed?

20 A. Yes.

21 Q. And was it signed?

22 A. Yes.

23 Q. Now, when you had the evidence and it was with you,
24 did anyone else have access to it?

25 A. No.

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1 Q. What did you do with the evidence once you received
2 it?

3 A. I put a bar code on it and I log it in and put it
4 away.

5 Q. And do you see the bar code on the bag?

6 A. Yes.

7 Q. And did you sign the bag before it left your
8 possession?

9 A. Yes.

10 Q. And when was that?

11 A. June 28th.

12 Q. Did you come into contact with this bag at any later
13 date?

14 A. As far as?

15 Q. Is that the last time that you came in contact with
16 this bag?

17 A. Yeah, I put it ---

18 Q. Okay.

19 A. --- I put it in the proper bin.

20 Q. Okay. And did this bag remain sealed during the
21 entire time that you had contact with it?

22 A. Yes.

23 SOLICITOR HAMILTON: Please answer any questions the
24 defense may have.

25 CROSS-EXAMINATION

REBECCA PRIOR: CROSS BY MS. ANDERSON.
CYNTHIA MITCHAM: DIRECT BY SOLICITOR HAMILTON

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1 REBECCA PRYOR BY MS. ANDERSON:

2 Q. Ms. Pryor, and just to make sure, you said that the
3 contact you had on the bag was just on June 28th, 2013,
4 when you logged it in. Correct?

5 A. Correct.

6 Q. Okay.

7 MS. ANDERSON: Nothing further, Your Honor.

8 THE COURT: All right. You can step down and be
9 excused. We appreciate your time. Thank you.

10 (WITNESS LEAVING WITNESS STAND.)

11 THE COURT: Call your next witness.

12 SOLICITOR HAMILTON: The State calls Cynthia Mitcham.

13 (WHEREUPON, CYNTHIA MITCHAM,
14 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

15 DIRECT EXAMINATION

16 CYNTHIA MITCHUM BY SOLICITOR HAMILTON:

17 Q. Good morning.

18 A. Good morning.

19 Q. Would you please state your name for the record?

20 A. It's Cynthia Mitchum.

21 Q. And, Ms. Mitchum, what is your occupation?

22 A. I am the drug chemist with the York County Sheriff's
23 Office.

24 Q. And what do you - Where do you work?

25 A. I work over at the Moss Justice Center in the

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1 basement.

2 Q. And in the Drug Lab, what are your duties?

3 A. I receive into evidence from the officers when they
4 submit it and then I will test those evidence for
5 controlled and non-controlled substances.

6 Q. How long have you worked in that Drug Lab?

7 A. I have been here at the Sheriff's Office now for
8 fourteen years.

9 Q. Do you have education and training that qualifies you
10 in identifying illegal drugs?

11 A. Yes.

12 Q. Have you ever been qualified in court as an expert in
13 drug identification and analysis?

14 A. Yes, I have.

15 Q. How many times?

16 A. In excess of two hundred times.

17 SOLICITOR HAMILTON: Your Honor, the State would offer
18 Ms. Mitchum as an expert on the analysis and identification
19 of illegal drugs and controlled substances.

20 THE COURT: Any - Any voir dire?

21 MS. ANDERSON: No, Your Honor. No objection on her
22 qualifications.

23 THE COURT: Then I find she is qualified.

24 SOLICITOR HAMILTON: Thank you, Your Honor.

25 Q. Now, Ms. Mitchum, I hand you what's been marked for

1 State's identification purposes as Exhibit Number Twenty-
2 one.

3 Would you please take a look at that. Now, do you
4 recognize this?

5 A. Yes, I do.

6 Q. Now, how did this exhibit come into your possession?

7 A. It came to me from the Rock Hill P.D. on 7/15 of 2013.

8 Q. When you first received the bag, did it appear have -
9 to have been tampered with in any way?

10 A. No, and I know this - what I received first was this
11 inner bag and it has "Okay" the date, and my initials
12 there, and that lets me know that I checked the bag to make
13 sure everything was sealed.

14 Q. And how did you receive this bag?

15 A. I received it from Ray Hamilton with Rock Hill P.D.,
16 in-person.

17 Q. And what does Ray Hamilton - where does he work?

18 A. He works in the Evidence Department over at the Rock
19 Hill P.D.

20 Q. And when you received this bag, it was completely
21 sealed?

22 A. Yes.

23 Q. And was it signed?

24 A. Yes.

25 Q. And while the evidence was with you at the Drug Lab,

CYNTHIA MITCHAM: DIRECT BY SOLICITOR HAMILTON

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1 did any other person have access to it?

2 A. No, they do not.

3 Q. What was contained in the bag once you received it?

4 A. What was in the bag?

5 Q. What do you believe to be in the bag once you received
6 it?

7 A. It was a rock substance that was believed to be crack
8 cocaine.

9 Q. So did the evidence - So the evidence bag itself had
10 another bag inside of it?

11 A. That's correct.

12 Q. And did you analyze the substance in that bag?

13 A. Yes.

14 Q. And what did you find it to be?

15 A. State's Exhibit Twenty-one, which is Item Number Two
16 in this case was found to be cocaine base, also known as
17 crack, a total weight of 10.53 grams or 162.47 grains
18 controlled II substance.

19 Q. And what test did you run to determine this?

20 A. What I do is I do a color test and I do an
21 instrumental test.

22 Q. And how well-regarded and respected is this type of
23 test in the scientific community in terms of publication
24 and peer review?

25 A. They're the ones that's typically used in the drug

1 analysis laboratories.

2 Q. And how many times have you performed this specific
3 test?

4 A. Thousands of times.

5 Q. And how reliable have you found these tests to be in
6 your own experience?

7 A. Very reliable.

8 Q. Are there any quality control measures associated with
9 the test to help ensure that there are no other
10 contaminations from prior samples or other evidence tested?

11 A. Yes, there is.

12 Q. Okay. And what is - Is the method consistent with
13 what you know about scientific principles and procedures?

14 A. Yes.

15 Q. Did you make a written report of the findings in this
16 case?

17 A. Yes, I did.

18 Q. And based on your experience in weighing drugs,
19 testing drugs, do drugs sometimes weigh less over time once
20 you received them?

21 A. Yes, they can.

22 Q. And why is that?

23 A. Sometimes when you have a larger quantity of crack
24 cocaine, it may be wet when it comes in, or and it can dry
25 down and it can weigh less.

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1 Q. And do you have a copy of your findings?

2 A. Yes, I do.

3 SOLICITOR HAMILTON: Your Honor, the State would ask
4 to admit Exhibit Number Twenty-two into evidence.

5 MS. ANDERSON: I do have an objection.

6 THE COURT: I'll let the jury go to the jury room just
7 a minute while we take up this matter.

8 (JURY EXITS COURTROOM 11:25 A.M..)

9 THE COURT: All right, what's the objection?

10 MS. ANDERSON: Your Honor, at this point my
11 understanding, and I haven't seen the exhibit, but my
12 understanding is, is Exhibit Number Twenty-two is her
13 report. At this point, the State hasn't offered State's
14 Exhibit Number Twenty-one, though I do have an objection to
15 the admission of that as well, so I think, one,
16 procedurally, I think, if State's Exhibit Twenty-one is
17 not been admitted into evidence and procedurally I don't
18 think a report based on an analysis of Twenty-one should be
19 admitted into evidence, but also I guess have an exhibit --
20 an objection as to the chain that would also encompass
21 State's Exhibit Number Twenty-two, as well, based on that
22 being an analysis of State's Exhibit Number Twenty-one.

23 I can go into that if Your Honor wishes me to do that.
24 as well.

25 THE COURT: Yeah, I think you need to do that. The

1 first objection as I understand it is - what's - As far as
2 the numbers, what are Twenty-one and Twenty-two?

3 MS. ANDERSON: Your Honor, my understanding is what
4 the State had as State's Exhibit Number Twenty-one was the
5 - what was said to be crack cocaine but or they ---

6 THE COURT: That's right, twenty ---

7 MS. ANDERSON: --- just for identification that is
8 Twenty-one.

9 THE COURT: --- twenty was something else. All right.
10 Twenty-one. All right.

11 MS. ANDERSON: And then I believe - I haven't viewed
12 the State's Exhibit Number Twenty , but that is identified,
13 I believe, as Ms. Mitchum's report of an analysis of
14 State's Exhibit Twenty-one to clarify that.

15 THE COURT: What's the State's position?

16 SOLICITOR HAMILTON: We would move to admit Number
17 Twenty-one first, and then the report second, Your Honor.

18 MS. ANDERSON: Well, at that point, Your Honor, I'm
19 going to place my objection then to State's Exhibit Number
20 Twenty-one.

21 Your Honor, based on the ground of an insufficient
22 chain, Your Honor, based on what does appear on the
23 evidence bag as well as the testimony. Officer Thomas'
24 testimony was he recovered the bag at some time on June
25 27th, 2013. His testimony was that he placed the bag in

1 his pocket. I don't believe he testified that he
2 immediately placed it in a sealed bag but testified he
3 processed the item when he got back to the police
4 department. He also testified in the course of that and
5 that he weighed it on a digital scale weighing it at 15.1
6 grams which is a substantial different weight than what is
7 featured on State's Exhibit Number Twenty-two which is a
8 weight of ten - just over 10 grams. Your Honor, he did --
9 Officer Thomas did not testify as to what time on September
10 the --

11 THE COURT: Didn't he testify that those tests weren't
12 exactly accurate and sometimes they came back different?

13 MS. ANDERSON: Yes, Your Honor. He did not testify as
14 to what time he placed the item in the evidence locker at
15 the Rock Hill Police Department. I'm looking on a
16 photograph of State's Exhibit Twenty-one that was provided
17 by the State. There is no time noted on that.

18 THE COURT: Well, what difference does the time make?

19 MS. ANDERSON: Your Honor, I think that the State
20 would have to establish that it was kept by - in Officer
21 Thomas' possession in a secure manner, a manner that might
22 be tampered, altered, damaged in any way, and we had a
23 situation of where it's not immediately sealed in a secure
24 bag, it was kept in his pocket. And then we have a period
25 of time where we don't know exactly where it was until it

1 was place in the evidence locker.

2 My argument would be that that does show a potential
3 lapse in the chain or an unaccounted for period of time.

4 THE COURT: All right. Let's take this kind of
5 piece-meal.

6 What do you have to say about that?

7 SOLICITOR HAMILTON: Your Honor, Detective Thomas on
8 the stand stated that he kept it in his pocket until he got
9 back to the police station. No one had contact with that
10 bag. Once he got to the police station, he weighed it, put
11 it in a sealed envelope and stated he then placed it into
12 an evidence locker ---

13 THE COURT: All right. Now ---

14 SOLICITOR HAMILTON: --- and he sealed it in a Best
15 evidence bag. And he did testify that he had the sole
16 custody and no one else had access to that bag.

17 THE COURT: I - That's what I recall, but go ahead.

18 MS. ANDERSON: Yes, Your Honor and to not to belabor
19 that point, I would just, you know, say as part of that, I
20 don't believe that would be sort of a standard evidence
21 procedure where we haven't had it in an unaltered bag and
22 sealed bag with confirmation it was in his pocket and some
23 amount of time, again with not testimony as to the time he
24 returned to the police department or when it was placed
25 into evidence.

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1 THE COURT: I thought he - I thought he just testified
2 to what you said to me, that is that he had it the entire
3 time. I don't think there is anything that requires a -
4 within seconds of obtaining contraband that it be placed in
5 some sort of sealed bag in an instant.

6 MS. ANDERSON: Well, I think the normal manner of
7 processing evidence, most people - most officers would
8 probably place it in a bag to - to basically to have it
9 sealed, to have that chain. I would certainly argue that
10 would be the - I guess maybe the ideal way of doing that to
11 avoid any risk of confusion.

12 THE COURT: Well, I don't find any problem at that
13 part of the chain so far. So far as the State's okay on
14 the chain, so you can keep on going now if you want to.

15 MS. ANDERSON: All right. Your Honor, next the State
16 called a Rebecca Pryor. She testified of recovering the
17 item on June 28th, 2013 from the evidence locker and
18 logging it in. She had no further contact with the bag
19 after that.

20 Your Honor, Ms. Mitchum has testified as to receiving
21 - I guess receiving the bag from Ray Hamilton. There -
22 there is - The name, there is just an E.R. R.H. on the bag
23 itself, which indicates received on July 15th, 2013,
24 according to her testimony on the bag, though there - the
25 State has not called Mr. Hamilton and has not indicated how

1 it was transported from Rock Hill to the chemical lab over
2 at the York Sheriff's Office so that would be an
3 unaccounted for that it was in - Mr. Hamilton was, in fact,
4 the individual who transported it, the manner of its
5 transport, whether it was in his custody or control at the
6 time. Ms. Pryor did not testify any knowledge of that and
7 Mr. Hamilton has not been called at this point to indicate
8 the manner of his transport and how the bag made its way
9 from - when it was taken out of the Rock Hill evidence
10 facility, when it was transported.

11 We just have that gap in the bag. I understand Ms.
12 Pryor has testified it was locked into a secure facility
13 but, basically, we don't have any link in the chain
14 confirming how it came from the Rock Hill facility at Black
15 Street over to the Sheriff's Office to Ms. Mitchum's lab.

16 THE COURT: All right. And we'll - Let's address
17 that.

18 SOLICITOR HAMILTON: Your Honor, the - Ms. Mitchum did
19 stand up and testify that she did receive the bag. She
20 recognized the signature of Mr. Ray Hamilton. When she
21 received it, she recognized that he brought it to her and
22 signed it in at that date.

23 Additionally, she just stated that it was sealed in a
24 Best evidence bag, had not been tampered with when she
25 received it and that - That's the State's position that she

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1 stated that she received it from Ray Hamilton. She
2 recognizes his signature. She knows he works at Rock Hill
3 and that that it was sealed. It had not been tampered
4 with.

5 THE COURT: All right. Do you not have any - Do you
6 have any case law to support that position?

7 SOLICITOR HAMILTON: According to my co-counsel, she
8 stated that State versus Taylor. She believes that is the
9 case law that holds up as to as long as it's sealed that
10 it's sufficient.

11 THE COURT: Let me see a copy of that, please?

12 SOLICITOR HAMILTON: Excuse me, Your Honor.

13 THE COURT: I need a copy of the case. Is that the
14 case that talks about the State being able to prove a
15 substantial chain?

16 SOLICITOR COLTON: May I, Your Honor?

17 THE COURT: You may.

18 SOLICITOR COLTON: Your Honor, I believe it is, and I
19 believe it's the State versus Taylor, I will double-check,
20 but it is as well as the State proves that the chain was
21 substantially established and that there was no tampering
22 or evidence of that circumstantially that that would be
23 sufficient to prove the chain and that the State is not
24 required to call every individual in the chain as long as
25 they do as far as - I don't think it says as far as

1 possible, but as far as the chain is established
2 circumstantially, there is no evidence of tampering, that
3 that's sufficient; that we're not required to bring in
4 every witness, but I'll get the case citation.

5 THE COURT: Yeah, I'd like to see the case. As I
6 recall, substantial is the word that usually comes to mind
7 but there has to be a substantial, but I want to see the
8 language of the case. While we're looking for that,
9 anything else?

10 MS. ANDERSON: Your Honor, just to add in, and I just
11 add in as to that, you know, I think that the State had the
12 ability to call Mr. Hamilton to testify as to that. Based
13 on that as on the bag, that gives us a gap between June 28,
14 2013 at 8:40 and July 15th, 2013 at 14:30.

15 I've added as well as part of my motion just for the
16 chain that that is the end of the notation on the bag.
17 There is no notation of the bag being returned, on what
18 date it was returned from the chemist's lab, that it was in
19 Ms. Mitchum's possession back to anywhere in Rock Hill and
20 where it was maintained after that.

21 I've added as well as to his testimony during the
22 direct testimony of Officer Vreeland, the case agent, that
23 the bag was put into the Forensic Service Unit for testing
24 in April of this year and processed. There is also no
25 notation on the bag of State's Exhibit Twenty-one either

1 reflecting that so we have an additional.

2 There is nothing to account for after Ms. Mitchum
3 receives the bag on July 15th, 2013 to account for where
4 the bag was after that. Based on the testimony of Officer
5 Vreeland on the State's case, we do know that the bag was
6 moved from Rock Hill at some point as the testing was done
7 in the York County Forensic Services Unit, I would add in
8 as well that none of that is noted on the chain.

9 THE COURT: That was - that was his fingerprints. The
10 fingerprints.

11 MS. ANDERSON: Oh, excuse me, Your Honor, for the
12 fingerprints. So that would also be a location we have no
13 notation that the State has shown in any way what was
14 happening to the bag and how - where it was stored in Rock
15 Hill subsequent to that, or to account for any of that
16 movement of the bag which we know based on prior testimony
17 he did, Your Honor, and I add that in as well.

18 THE COURT: All right.

19 SOLICITOR HAMILTON: Your Honor, it does have all of
20 that noted on the bag, what she is saying.

21 THE COURT: May I see the bag.

22 SOLICITOR HAMILTON: Yes. And additionally --

23 THE COURT: May I see the bag.

24 SOLICITOR HAMILTON: Yes, Your Honor. She has it.

25 THE COURT: Well, I know but that - She's got a job to

1 do.

2 SOLICITOR HAMILTON: Okay.

3 THE COURT: I don't - I have never quite understood
4 why attorneys don't understand when I asked for something
5 that it behooves them to get it and give it to me and not

6 ---

7 SOLICITOR HAMILTON: Yes, sir.

8 THE COURT: --- and not start pointing at people to do
9 your job.

10 SOLICITOR HAMILTON: I apologize, Your Honor.

11 THE COURT: All right. And I've got the bag now.

12 SOLICITOR HAMILTON: And, Your Honor, the State's
13 position would be after it's tested from her, at that
14 point, we - There is a chain, but the State's position is
15 that we don't need to proceed on the chain after it's been
16 tested, because it has been tested, the weight has been
17 determined and anything after that is just not relevant in
18 this case.

19 THE COURT: Well, the chain-of-custody on what's been
20 referred to as your Best evidence or the Best evidence -
21 the Best bag shows it going from Thomas to Evidence and
22 eleven o'clock to Pryor, from Pryor to Mitchum. It doesn't
23 show another person being involved and there's testimony
24 that someone else handled the bag between Pryor and
25 Mitchum.

1 SOLICITOR HAMILTON: Yes, Your Honor. I was unaware
2 of that, but Ms. Pryor works in the same office as Mr.
3 Hamilton does and she - he brought it over to Ms. Mitchum
4 from the evidence locker after it was taken out at that
5 time, so the State's position would be that it's still
6 going from that location in a custody of Ms. Pryor to Ms.
7 Mitchum.

8 MS. ANDERSON: And, Your Honor, I my position would
9 be, Ms. Pryor didn't testify to that. The only time - The
10 thing on the bag is just an ER/RH which, which frankly
11 looking at it, I don't know who that is. It was Mitchum
12 who just indicated she received it from Mr. Hamilton. Ms.
13 Pryor - Ms. Pryor was clear on both direct and cross. The
14 only thing she testified to was her contact with the bag on
15 June 28, 2013, and she did not testify to anything as to
16 Mr. Hamilton or the movement of the bag after that.

17 And Ms. Mitchum - it's beyond her ability to testify
18 as to the manner in which it was brought over from Rock
19 Hill. She can only -- you know, she's only testified as to
20 what she knows when she received it.

21 SOLICITOR HAMILTON: She has stated, Your Honor, that
22 that - it has not been tampered with, it has not been
23 opened, that it was sealed once she received it. The
24 evidence has not been tampered with at all. And she stated
25 that she did recognize the signature of the person who

1 brought it over to her to be Mr. Ray Hamilton, so there is
2 some kind of signature on this bag because she --

3 THE COURT: Well there isn't. I mean you recognize
4 the signature, but I don't see a signature on the bag ---

5 SOLICITOR HAMILTON: Okay.

6 THE COURT: --- and that's one of the issues is that -
7 and I'm not questioning what Ms. Mitchum testifies to, but
8 his name doesn't even appear on here, let alone his
9 signature. We might want to while the jury's out and we're
10 waiting on this case, ask - follow up on that as to the
11 signature, if you want to while you've got her on the
12 stand.

13 SOLICITOR HAMILTON: As to the signature of Ray
14 Hamilton?

15 THE COURT: Well, it's - I think she did testified she
16 recognized the signature, but I'm not sure from what,
17 because it's not on here ---

18 SOLICITOR HAMILTON: Okay.

19 THE COURT: --- which when I say "here" that is
20 proposed number - was proposed Number Twenty-one.

21 SOLICITOR HAMILTON: All right, Your Honor.

22 May it please the Court, Your Honor?

23 Your Honor, may I approach with the case law in
24 regards to the chain-of-custody?

25 THE COURT: Yeah.

CYNTHIA MITCHAM: DIRECT BY SOLICITOR HAMILTON
IN CAMERA

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1 SOLICITOR HAMILTON: I have provide one to --

2 THE COURT: All right.

3 DIRECT EXAMINATION - IN CAMERA

4 CYNTHIA MITCHUM BY SOLICITOR HAMILTON:

5 Q. Ms. Mitchum, how do you recognize Mr. Hamilton's
6 signature? Where is the signature on this?

7 A. On this one, the ER/RH is "Evidence Room/Ray Hamilton"
8 and that's the way he always signs the evidence, so he puts
9 his initials, not the total signature.

10 Q. Okay. So you're fairly - you're familiar with Ray
11 Hamilton's signature and how he signs?

12 A. Yeah, with a - this - He also has a piece of paper
13 that he gives me that has his signature, but on the
14 evidence, this is the way he always signs it.

15 Q. Okay. And what time did he bring that over to you?

16 A. 7/15/2013 at 14:30.

17 Q. Okay.

18 THE COURT: Anything else, Ms. Anderson?

19 MS. ANDERSON: Your Honor, can I just look at it just
20 so I --

21 THE COURT: You may.

22 (ATTORNEY ANDERSON REVIEWING EXHIBIT.)

23 THE COURT: Ms. Anderson, you have now looked at the
24 bag, proposed Exhibit Twenty. Twenty-one, I'm sorry.

25 Anything else?

1 MS. ANDERSON: I don't think any further questions,
2 Your Honor.

3 THE COURT: I mean any further argument.

4 MS. ANDERSON: Your Honor, I think my argument would
5 still be we still have it, you know, Ms. Mitchum has
6 testified that it's not a signature. She's testified
7 that's the way he signed it. I would still say we don't
8 have it accounted for how it arrived to her, obviously that
9 was beyond her ability to testify to. And I would still
10 argue the State certainly could have filled that --

11 THE COURT: What was the last part you said, beyond
12 her ability to testify how she got it?

13 MS. ANDERSON: No. As to how Mr. Hamilton brought it
14 to her.

15 THE COURT: Oh.

16 MS. ANDERSON: And I - we wouldn't expect her to have
17 the knowledge of how it got from Rock Hill to her, and that
18 was what I meant. I may have misspoken. I would still say
19 that the State it was certainly practical for the State to
20 bring in a Rock Hill evidence person who was involved in
21 transporting a critical piece of evidence to here for
22 testing.

23 I would argue that, you know, that was a link they
24 should have been made. Would to me perhaps made more sense
25 to call him and not Ms. Pryor because he had more dealing

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1 with the evidence in the case. I was able to look - at
2 having been able to look at State's Twenty-one. I think I
3 had previously argued about from the front of the bag only
4 showing the chain up to 7-15-2013. I will note just to
5 correct it, I do see notations on the back, however, I
6 would again just add in that with my motion even if it's
7 documented on the back, that we haven't heard any testimony
8 as to those individuals as to their handling of the bag
9 between I believe about - it looks like about November
10 2013, if I'm remembering correctly, up until April of 2014.

11 But I would still move that this evidence not be
12 allowed into evidence based on the failure to account for
13 the baggy between June 28th, 2013, and when Ms. Mitchum
14 received it July 15th, 2013.

15 THE COURT: All right. I gonna deny the motion. The
16 real issue is what the situation was at the time it was
17 tested. The chain of custody is required to be established
18 so that prior to testing, fungible items can be - it can be
19 assured that fungible items have not be adulterated,
20 altered, enhanced or affected in any way from the time they
21 are recovered until the time they are tested because the
22 testing is the matter of main importance.

23 Here I find that the analyzed substance that which is
24 offered as Number Twenty-one, even though it's passed
25 through several hands, I find that this does not leave to

1 conjecture as to what was done with the evidence between
2 the time it was seized and the time it was analyzed. I
3 find that chain of custody has been established as far as
4 practical.

5 Now I hedge on that a little bit because I haven't
6 heard why the other piece of chain was not testified to and
7 it may have been - that may be a problem for the State down
8 the road, because I'm not sure I can find that it was not -
9 that the chain of evidence has been established as far as
10 practical because of somebody who hasn't testified.

11 But I do find that the evidence has been handled to
12 the extent that it may be as a weakness but that it is
13 still - the evidence is admissible. Any weakness that
14 maybe exist in the chain would be up to the credibility and
15 not be admissibility and the weight of the testimony.

16 Again, this is based on Taylor, State versus Taylor,
17 360 S.C. 18, and admittedly I have some concern about this
18 word practical, but I do find that looking at the totality
19 of the case and the totality of the facts in this case,
20 that the chain of custody has been sufficiently and
21 substantially established such that the evidence does not
22 lead to conjecture as to who had it and what was done with
23 it between the time of the seizure and analysis so I'll
24 allow it in.

25 Bring in the jury.

CYNTHIA MITCHUM: DIRECT BY SOLICITOR HAMILTON

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1 And while the jury is out, your objection to Twenty-
2 two was that it had to be predicated on the introduction of
3 Twenty-one and since I'm allowing Twenty-one, does that
4 negate your argument as to Twenty-two?

5 MS. ANDERSON: No, Your Honor. I would still maintain
6 my objection to Twenty-two as well.

7 THE COURT: All right. Over ruled.

8 (JURY REENTERS COURTROOM AT 11:50 A.M..)

9 THE COURT: You may proceed.

10 SOLICITOR HAMILTON: I beg the Court's indulgence.

11 DIRECT EXAMINATION

12 CYNTHIA MITCHAM BY SOLICITOR HAMILTON:

13 Q. Now going back to State's Exhibit Number Twenty-one,
14 what has been marked for identification as State's Exhibit
15 Number Twenty-one. Had that bag been tampered with in any
16 way since it had been placed in that Best Evidence bag?

17 A. In this one? No, it has not.

18 Q. And how would you have known if it had been tampered
19 with?

20 A. The way the bags are set up is there's a one seal all
21 the way around the bag. It's complete all the way around
22 so the only way the officer can put the drugs in, or the
23 suspected drugs, is in at that top and then they seal it on
24 the back. I can look at that seal and see if it's in place
25 and also with the blue lines going down the bag on the

1 side, you can tell if the blue lines have been tampered
2 with because they wouldn't be in the same place. You could
3 see where it had been cut. And the plastic is thick enough
4 that if somebody tried to open it, it would give the
5 appearance of being pulled, that you can see the plastic's
6 been pulled, and none of that was in this case.

7 SOLICITOR HAMILTON: Your Honor, the State would
8 offers Exhibit Number Twenty-one for admission into
9 evidence.

10 THE COURT: Over objection I'll allow it in.

11 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-ONE,
12 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

13 SOLICITOR HAMILTON: Thank you, Your Honor.

14 Q. And you stated you tested the contents of this bag?

15 A. Yes, I did.

16 Q. Okay. And what were your findings as to the contents
17 of this bag?

18 A. State's Exhibit Number Twenty-one, which is Item
19 Number Two in this case, was found to be cocaine base, also
20 known as crack. A total weight of 10.53 grams or 162.47
21 grains controlled two substance.

22 Q. And did you make a written report of your findings?

23 A. Yes.

24 Q. And do you have that report with you today?

25 A. Yes, I do.

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1 Q. Can I hold that?

2 This has been marked for State's identification
3 purposes as Exhibit Number Twenty-two.

4 When did you create this report?

5 A. Typically this particular report and any others at the
6 request of the solicitor's office before a case is going to
7 court.

8 SOLICITOR HAMILTON: Your Honor, the State would offer
9 Exhibit Number Twenty-two for admission into evidence.

10 THE COURT: Over objection of the defense its in.

11 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-TWO,
12 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

13 SOLICITOR HAMILTON: Thank you, Your Honor.

14 Q. Now looking in that plastic bag, could you hold it up
15 for the jury. What is that yellow bag? Was that in there
16 when you tested it?

17 A. No. What I had was two plastic bags - I mean, various
18 other bags that were tied that had the rock substance in
19 it. After my analysis and after it had been returned back
20 to Rock Hill, from the chain of custody it's been taken
21 out, and this is prints, and I can remember that I helped
22 the officer when he came over here to do the prints to
23 repackage it because I put these bags, these other zip
24 locks, in here and it's got lab on it and that tells me
25 that's my bag that I put in there. And that was done on

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CROSS BY MS. ANDERSON

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1 4/10 of '14 and the different bags.

2 The yellow stuff is the print substance that they used
3 to try to do fingerprints.

4 Q. Okay.

5 A. And I'm not sure what the name of that substance is,
6 but I've seen it done.

7 SOLICITOR HAMILTON: Please answer any questions the
8 Defense has.

9 CROSS-EXAMINATION

10 CYNTHIA MITCHUM BY MS. ANDERSON:

11 Q. Ms. Mitchum, the first time you saw State's Number
12 Twenty-one was July 15th, 2013. Correct?

13 A. That is correct.

14 Q. You didn't have any sort of dealings with it prior to
15 that?

16 A. Correct.

17 Q. And when you received it, you received it at your lab
18 at the York County Sheriff's Office. Correct?

19 A. That's correct.

20 Q. And that's located down at the sheriff's office just
21 next to this building?

22 A. Yes.

23 Q. Okay. And you indicated you tested the contents of
24 the bag?

25 A. Yes.

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1 Q. And you weighed those contents as part of your
2 testing?

3 A. Yes.

4 Q. On a digital scale?

5 A. Correct.

6 Q. And your weight was 10.53 gram; is that correct?

7 A. That's correct.

8 Q. And you indicated from I think -- The bag, it does
9 indicate other individuals -- another individual with
10 forensics dealt with that bag later. Correct?

11 A. Right, and I do not recognize that signature. Of
12 course I cannot tell you who it is, but the bag was sealed
13 because here, this piece in here that says sealed 10/23,
14 that was the heat seal that was on the bottom of it before
15 it was cut off so it was sealed before they got it.

16 Q. Okay. But the bag does reflect other people did have
17 contact with that exhibit after you dealt with it?

18 A. Correct.

19 MS. ANDERSON: Nothing further, Your Honor.

20 SOLICITOR HAMILTON: Nothing further from the State.

21 THE COURT: You can step down and be excused. We
22 appreciate your time. Thank you.

23 (WITNESS LEAVING WITNESS STAND.)

24 THE COURT: Call your next witnesses.

25 SOLICITOR HAMILTON: Your Honor, the State has no

1 further witnesses.

2 THE COURT: The State resting?

3 SOLICITOR HAMILTON: Yes, Your Honor.

4 THE COURT: All right. Members of the jury panel, the
5 State is resting and that means they have told us - are
6 telling us that they have presented their case so this is a
7 good time to break for lunch. I know you have been in and
8 out a good bit this morning, but we do have to at times
9 take up matters outside your presence and we've had several
10 to do this morning.

11 We're going to break for lunch until two o'clock and I
12 know that's a long two hour lunch period but I have another
13 hearing that's suppose to start in five minutes that may
14 take a while so I want to have some lunch too. So we'll
15 break until two o'clock. Please be back at two o'clock and
16 ready to go.

17 And this time, I didn't mess up and give you two or
18 three different times. Two o'clock.

19 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 11:55 A.M..)

20 THE COURT: The jury has been dismissed. Anything
21 from the state?

22 SOLICITOR HAMILTON: Nothing from the State.

23 THE COURT: Defense?

24 MS. ANDERSON: Yes, Your Honor. Your Honor, initially
25 just for the record, I think Your Honor had ask me when the

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1 jury was coming in about my objection to State's Number
2 Twenty-two. I wanted to make it clear on the record my
3 sole objection was not to seeking to admitting that prior
4 to the admission of - or seeking to admit State's Twenty-
5 one, so for the record I put in my objection to State's
6 Twenty-two and would also incorporate my arguments as to my
7 objections to State's Twenty-one.

8 Since State's Number Twenty-two is a report of the
9 analysis of the substance of State's Twenty-one, I would
10 also incorporate anything stemming from State's Twenty-one.
11 I just wanted to make that clear for the record as well.

12 Your Honor, at this time as well, I would move for a
13 directed verdict on Mr. Davis' behalf and incorporating all
14 of my objections and arguments on the ground that the State
15 has not met it's burden to prove that Mr. Davis was
16 actually or knowingly in possession of more than ten grams
17 of crack cocaine and on his behalf at this time, we'll just
18 move for a directed verdict.

19 THE COURT: What's the State have to say about that?

20 SOLICITOR COLTON: Your Honor, in looking at the light
21 - and the evidence in the light most favorable to the State
22 would be the testimony from the officer that saw him with
23 the bag, putting it down his pants, circumstantially
24 looking around as if in a nervous fashion, observes him
25 going to the ice machine. And the second officer finding

1 and recovering the plastic bag that contained crack cocaine
2 in there, I believe that directly it would be enough
3 evidence to prove that he had actual possession but also
4 constructive possession to crack cocaine that Mr. Davis hid
5 in the ice machine; that it was immediately recovered and
6 that there is sufficient evidence to bring that to the
7 jury; that there was either actual or constructive
8 possession of crack cocaine as identified and confirmed
9 that it was crack cocaine by the chemist. I believe that's
10 all possession actual or constructive coupled with the
11 knowledge.

12 THE COURT: All right. I will deny the motion. I
13 find that there is direct and substantial circumstantial
14 evidence from which a jury could in looking at the evidence
15 in the light most favorable to the State could determine
16 that the State has carried it's burden of proof.

17 Not to say that it had but that the jury could
18 conclude that. That's up to the jury of course.

19 Mr. Davis, can you hear me?

20 MR. DAVIS: Yes, sir.

21 THE COURT: We've reached a point in the trial where
22 you have a right to call witnesses if you wish. You may
23 have heard me tell the jury earlier that you are presumed
24 innocent and you do not have to prove your innocence but
25 the State has to prove your guilt beyond a reasonable

1 doubt.

2 Now, you can call witnesses if you wish but you don't
3 have to because you don't have to prove anything. You can
4 testify or you can remain silent.

5 Does he have any impeachable offenses?

6 SOLICITOR HAMILTON: He does not, Your Honor.

7 THE COURT: If you testify, you will be under oath and
8 the State will ask you questions about what happened or ask
9 you questions regarding the events of that night or late
10 afternoon or evening.

11 But you have an absolute constitutional right to
12 remain silent. You do not have to testify. Again, the
13 State has to prove your guilt, you do not have to prove
14 your innocence.

15 If you exercise your right to remain silent, I will
16 tell the jury that they cannot hold that against you; that
17 they cannot discuss in the jury room your decision to
18 remain silent. That they cannot factor that into their own
19 consideration and I will remind them that you are presumed
20 innocent and need not prove your innocence, the State must
21 prove your guilt beyond a reasonable doubt.

22 Do you understand all that?

23 MR. DAVIS: Yes, sir.

24 THE COURT: Did you discuss that with him, Ms.
25 Anderson?

1 MS. ANDERSON: Yes, Your Honor.

2 THE COURT: You believe he understands it?

3 MS. ANDERSON: Yes, Your Honor.

4 THE COURT: All right. Mr. Davis, your decision is
5 your's. It's not your attorney's. It's not mine of course
6 or the States, it's up to you to determine whether to
7 testify or not. Do you understand that?

8 MR. DAVIS: Yes.

9 THE COURT: Do you have any questions about any of
10 that?

11 MR. DAVIS: No, sir.

12 THE COURT: All right. Have you made a decision yet
13 as to whether to testify or exercise your right to remain
14 silent?

15 MR. DAVIS: I will exercise my right to remain silent.

16 THE COURT: All right. I'll ask Ms. Anderson if we
17 have any --

18 Do you have any witnesses? You have several listed.

19 Three I think.

20 MS. ANDERSON: Your Honor, if I could just maybe have
21 a - to talk with Mr. Davis and sort of square that away and
22 just get that squared away.

23 THE COURT: Well, if we - Either way, whether you have
24 witnesses or not, it looks like we'll be getting the case
25 to the jury shortly after lunch, so if you have any

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1 requests to charge. I don't believe there are any lesser
2 included's because this is that category of offense that's
3 based on weight and I think the law - This is the second
4 one of these I tried this week, so I feel pretty
5 comfortable saying that there are no lesser included's.

6 And I can't think of any other charges that would be
7 peculiar to this trial but if either side has a request to
8 charge, if they'll hand them up after lunch so I can get
9 them.

10 MS. ANDERSON: Yes, Your Honor.

11 THE COURT: All right. We'll be back at two o'clock.

12 We'll take a short break and I've been told but don't
13 have any - This can be off the record.

14 (COURT IN RECESS AT 12:00 P.M..)

15 (COURT BACK IN SESSION IN THE MATTER OF STATE VERSUS
16 RONALD GREGORY WITH SOLICITOR KEVIN BRACKETT AND ATTORNEY
17 BRUCE POORE AT 12:08 P.M..)

18 (COURT IN LUNCH RECESS AT 12:40 P.M..)

19 (COURT BACK IN SESSION IN THE MATTER OF STATE VERSUS
20 BRIAN HENRY DAVIS AT 02:00 P.M..)

21 THE COURT: Thank you, you may take your seats.

22 Is the State ready to proceed?

23 SOLICITOR HAMILTON: The State is ready, Your Honor.

24 THE COURT: Defense?

25 MS. ANDERSON: Yes, Your Honor.

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1 THE COURT: Does the Defense have any witnesses?

2 MS. ANDERSON: No, Your Honor.

3 THE COURT: All right. So you're resting?

4 MS. ANDERSON: Yes, Your Honor, the Defense rests.

5 THE COURT: Either side have any request to charge?

6 SOLICITOR HAMILTON: We don't have any specifics
7 request.

8 MS. ANDERSON: No, Your Honor. I think Your Honor
9 probably has the standard charge.

10 THE COURT: All right. Bring in the Jury.

11 The State will open and the Defense has the right to
12 last closing arguments.

13 (JURY RE-ENTERS THE COURTROOM AT 02:03 P.M..)

14 THE COURT: Members of the Jury Panel, before you went
15 out, the State had rested and the Defense has now rested,
16 so we are at the point of the trial where you will hear the
17 closing arguments of the attorneys, and then I will give
18 you my charge on the law and we will place the case in your
19 hands for your consideration, so we'll call on the State to
20 begin at this time.

21 SOLICITOR HAMILTON: May it please the Court, Your
22 Honor.

23 Ladies and Gentlemen, as you've heard the Defendant is
24 charged with trafficking crack cocaine more than ten grams.
25 Now, when you hear trafficking, I know you probably think

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1 of the sensational, huge amounts of drugs that you see in
2 TV's and movies being trafficking over a Mexican border,
3 but that sensational scene is not something you're going to
4 see in this case because in South Carolina, the Legislature
5 has come up with the word trafficking to merely mean
6 possessing more than ten grams of crack cocaine.

7 Now, ten grams in trafficking level can be less than
8 the palm of your hand. That's how small of an amount it
9 would be. In this case we have 10.53 grams, which is the
10 amount that can be less than this.

11 Now, there are two basic requirements that I talked to
12 you all about at the beginning of this trial to the crime
13 of trafficking crack cocaine. The first one is that the
14 Defendant was in knowing, actual or constructive
15 possession. The second element of crack cocaine over ten
16 grams.

17 Now, I'm going to go over the actual and constructive
18 possession again in this case because in this case, based
19 on the facts that you have heard and the witnesses that you
20 have heard, this Defendant, he qualifies under actual
21 possession and constructive. He actually possessed these
22 drugs and he constructively possessed these drugs.

23 Again, actual possession, he had physical contact with
24 these drugs. They have physical contact with an object.
25 The second type of possession is constructive and I gave

1 you the example of a cell phone. Dominion and control of
2 an object even though you don't have physical possession of
3 it, you have dominion and control of that object. The cell
4 phone rings, you can pick it up. That constructive
5 possession is when Mr. Brian Davis put the bag in that ice
6 machine and walked away from it because, ladies and
7 gentlemen, he was going to come back for that later. He
8 was going to leave it there and come back for it.

9 The actual possession, you heard from Officer Vreeland
10 on the stand, he saw him have that bag of crack cocaine in
11 his hand, put it in his pants, walked down - still in the
12 actual possession of that crack cocaine, take it back out
13 and put it in the machine - actual possession.

14 Now, I kind of just went over actual constructive
15 possession and the facts that are relevant to that, but I
16 just want to go through everything that you heard today and
17 go through the checklist and show you why these elements
18 are satisfied by the State.

19 Now, you heard Lieutenant Culbreath tell you on the
20 stand yesterday that he stopped a vehicle that the
21 Defendant was a passenger in, and when he stopped that
22 vehicle, he cited the driver, a lady, for possession of
23 marijuana. The Defendant is a passenger. He sees all this
24 going on. He sees that the cops have seen there are drugs
25 in a car that he was actually in and at that point, the

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1 Defendant and that woman leave after the traffic stop
2 concludes.

3 Lieutenant Culbreath said that the traffic stop
4 concluded, he radioed back to Vreeland who was at the
5 Executive Inn. Officer Vreeland testified that he saw that
6 car that the Defendant was a passenger in, now a driver,
7 pulling into the Executive Inn. Officer Vreeland told you
8 that he saw when that Defendant got to that hotel, saw the
9 Defendant go into his Room 312, look in and out the door in
10 an odd manner looking both ways and looking for someone.
11 And you want to why? He was looking for cops. He thought
12 cops are onto him. And what did he do?

13 He goes in his room and he empties out any drug that
14 can be found. That crack cocaine specifically. He empties
15 it out so that if the cops are following him like he thinks
16 they are, they're not going to find anything in that room.
17 Puts it in his pants and walks it down and puts it in the
18 ice machine. And the reason that he did that is because
19 those drugs, that 10.53 grams of crack cocaine is worth
20 money. He doesn't want to flush it down the toilet to get
21 rid of it. That's money to him. It's worth something. So
22 he's going to take it and he's going to put it somewhere
23 where he knows he can come back for it later and that's
24 exactly what he did in this case.

25 Now, I want to show you, and these are exhibits that

1 you will be able to take back into the jury room, but I
2 just want to show you. Now I anticipate, and I have the
3 first argument, so I have to try to anticipate what the
4 Defense is going to come up with. What I anticipate is
5 they're going to say he doesn't have a viewpoint. Officer
6 doesn't have a clear viewpoint of that ice machine.

7 Ladies and gentlemen, you've heard Officer Vreeland
8 tell you that he could see directly through those stairs.
9 He could see that ice machine. And if you look at these
10 pictures, you can see that ice machine and you can see the
11 lighting, ladies and gentlemen. It's well-lit. He saw the
12 face of Mr. Brian Davis. He saw Mr. Davis walk into this
13 breezeway and he saw Mr. Davis put that bag in the ice
14 machine. And you'll have an opportunity to view these
15 photos. That's his viewpoint. Clear view. And he told
16 you unobstructed clear view, he saw it happen.

17 Now, ladies and gentlemen, that bag that was found by
18 Detective Thomas in that ice machine wasn't dirty. It
19 didn't have anything on it. It was still in the same place
20 he had put it, up in the ice machine. It hadn't fallen to
21 the ground. It hadn't gotten dirt on it and you want to
22 know why? Because he had just put it there. It didn't
23 have an opportunity to shift, to fall to the ground to get
24 dirty. It hadn't been there a while. He'd just put it
25 there. An officer saw him just put it there.

CLOSING ARGUMENT: BY SOLICITOR HAMILTON

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1 Look at this bag, ladies and gentlemen. Clean. You
2 will see when you take this back to the deliberation room,
3 you can look closely and you're not going to see dirt on
4 this bag. A clean bag, because it'd just come out of his
5 possession seconds before.

6 So, ladies and gentlemen, after everything that I've
7 just told you, the Defendant had actual and constructive
8 possession of that crack cocaine the night of June 27th,
9 2013. Element one met.

10 So let's go to element two which is that he had that
11 crack cocaine, ten grams or more. You heard Cynthia
12 Mitchum on the stand who is a forensic chemist. She told
13 you that when she got that bag that it hadn't been tinkered
14 with. It was sealed. No one had opened it and she tested
15 those drugs from that sealed Best evidence bag that she was
16 given from Detective Thomas, from Rebecca Pryor, and Ray
17 Hamilton. When she got that bag, she tested those drugs
18 and they tested positive for 10.53 grams of crack cocaine.

19 And I anticipate the Defense is going to talk about
20 the 15.1 grams, what Detective Thomas said it weighed on
21 the scene. And it may have weighed that much on the scene.
22 When he weighed it, it probably did, because it was wet.
23 And you heard Cynthia Mitchum on the stand say that's
24 normal for it to weigh heavier when it's on-scene and to be
25 lighter when she tests it, because the wet drives out and

1 it loses that weight. So, ladies and gentlemen, the second
2 element, Ms. Mitchum told you it was 10.53 grams of crack
3 cocaine. The second element met.

4 Now, the Judge is going to go over the types of
5 evidence at the conclusion of the trial. He is going to
6 say there is direct evidence and he is going to say there
7 is circumstantial evidence and he is going to explain to
8 you what they mean and he is going to tell you that their
9 weigh the same.

10 But in this case, ladies and gentlemen, we have direct
11 evidence. We have direct evidence. No need to even go to
12 the circumstantial. We have direct evidence. And you
13 heard it on the stand from Officer Vreeland. He saw with
14 his own eyes that crack cocaine being placed in that ice
15 machine by Mr. Brian Davis. You heard Detective Thomas
16 tell you he grabbed that bag seconds later. A simple case,
17 ladies and gentlemen.

18 Now, it is the State's responsibility to prove beyond
19 a reasonable doubt the elements of this crime and beyond a
20 reasonable doubt is not beyond any and all circumstance -
21 not beyond all doubt. It's proof beyond a reasonable
22 doubt. It's prove that leaves you firmly convinced of the
23 Defendant's guilt.

24 Now, how do you know if the State has met that burden,
25 ladies and gentlemen? After discussing the what-ifs, what

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1 could have been, what should have been, the maybes by the
2 Defense, once she gets all that out, I want you to think
3 about that when we go to a break. At the conclusion of
4 trying to figure out these maybes, what-ifs, the holes
5 she's trying to poke in the case, if you are still
6 convinced and you believe that that is the Defendant's
7 crack cocaine, then the State has proven this case beyond a
8 reasonable doubt and you are to find the Defendant - or
9 your verdict must be guilty because the State has proven
10 their case at that point.

11 And you do need to listen and weigh all the evidence
12 when you get back to the jury room. Try to piece together
13 what happened and find the truth. That is the important
14 part. You'll find the truth. The Defense is going to make
15 you believe this is a search to find doubt within the case
16 and that's not this case. It's finding the truth. She's
17 going to try to distract you with things that are not
18 important, poke holes in this case, attempt to distract you
19 with things that are not relevant to the fact that he
20 possessed this crack cocaine.

21 I want you to look at the real issue. I want you to
22 look at the big picture in this case and, again, don't be
23 fooled by distractions. The Defense said at the beginning
24 of their case, use your commonsense. You came in with your
25 commonsense, use it. Look at this case. Think about

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1 everything the officer said. Think about everything that
2 the witness said and when you go in that deliberation room,
3 I hope that you come to the verdict of guilty in this case.

4 Thank you, ladies and gentlemen.

5 THE COURT: Ms. Anderson.

6 MS. ANDERSON: May it please the Court.

7 Ladies and gentlemen, I don't have to try to poke
8 holes in this case because the holes are already there.
9 The State doesn't want to talk about them, but they are
10 there. And there are a lot of things in this case that
11 when the Solicitor just addressed you she doesn't talk
12 about. And the only thing that she talks about in this
13 case was well, Officer Vreeland said he saw all that,
14 because there is absolutely, outside of those claims that
15 Officer Vreeland made in court today, nothing, no evidence
16 that links Brian Davis to these drugs. The State has
17 nothing else to bring to you.

18 And there are a lot of problems with what Officer
19 Vreeland said and I'm going to talk to you about those,
20 because the things that the State didn't talk to you about,
21 whether in the presentation of their case, or in their
22 address to you and just now, are important. And those
23 things are vitally important in this case, because all of
24 those things add up to reasonable doubt. And all of those
25 things are the reason that the just verdict in this case is

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1 a verdict finding Brian Davis not guilty.

2 This is a very important case, ladies and gentlemen.
3 Brian Davis sits here charged and his liberty is at stake
4 and our system entrusts you with this important decision
5 and with such an important decision, I submit that it's
6 right for a jury to look critically at his case. It
7 appears obvious, ladies and gentlemen, that the State just
8 took everything at face value. It didn't look at what
9 doesn't make sense. It doesn't look at any
10 inconsistencies. It doesn't look at holes. But I trust
11 that you our jurors are not going to do that, that you are
12 going to look critically at all the holes and all the
13 things that don't fit in this case.

14 Let's talk about it a little bit. One thing you may
15 have noticed is when Officer Vreeland testified that he
16 sees this bag, and we'll talk a little bit about his
17 viewpoint a little later, but just to highlight this. He
18 says it is a clear plastic bag.

19 When Detective Thomas testifies, he says it is a white
20 plastic bag with red lettering. And he testified, I
21 believe, in his direct that Officer Vreeland told him to
22 look for a white plastic bag. Now, that may seem like a
23 small detail but, ladies and gentlemen, what I'll highlight
24 is one of those is not correct. One person is either
25 mistaken, or is not telling the truth, and if everything in

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1 the State's case rests only what Officer Vreeland says and
2 doesn't call into question that what he says is correct.
3 And let me point out a bigger one.

4 Officer Vreeland testified, and this was on both
5 direct and cross, that he saw Mr. Davis leave the room with
6 a clear plastic bag in his right hand. He testified he saw
7 Mr. Davis put it in his shorts pocket and get in a front
8 passenger seat of a car being driven by a black female.
9 And that he then notifies the other officers, Lieutenant
10 Culbreath to stop this car. And Lieutenant Culbreath
11 testified to you yesterday, if you remember, about this
12 traffic stop and the State brought up this traffic stop a
13 little bit but not the most important part of this traffic
14 stop, because Officer -- Lieutenant Culbreath testified
15 yesterday Mr. Davis was in the car, he got out of the car
16 when he asked. He was cooperative with him. He handed his
17 ID. Lieutenant Culbreath he testified he asked and
18 searched the car and there was no crack cocaine in the car,
19 and he asked - he testified he asked Brian Davis for
20 consent to search his person and Brian Davis gave him
21 consent and Lieutenant Culbreath searched him and he had
22 nothing on him.

23 So Officer Vreeland's claim here in the courtroom
24 today that he sees Brian Davis leave the room, get in the
25 passenger seat of a car with the plastic bag that the State

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1 wants to claim is - were drug - are drugs, that Officer
2 Vreeland's implication is it's a bag of drugs, was not
3 found either on him or in the car by the officer who
4 searched them just a short time later.

5 And, ladies and gentlemen, I'll submit to you if you
6 have any question at that point that Officer Vreeland's --
7 what he said he saw wasn't reliable, that's confirmation
8 for you right there, because you heard from Lieutenant
9 Culbreath a search of Brian Davis' person and of the car
10 and there is no crack in that car even though Officer
11 Vreeland's testimony, the testimony that the State's whole
12 case rests on, says he took the crack in the car with him.

13 SOLICITOR HAMILTON: Objection, Your Honor. May we
14 approach?

15 THE COURT: Yes.

16 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
17 THE JURY AT 02:22 P.M..)

18 THE COURT: Members of the Jury Panel, you - The
19 lawyers have the right to and do argue what they recall as
20 the testimony. It is up to you to remember exactly what
21 the testimony was and utilize the testimony as it was.

22 Thank you.

23 Go ahead.

24 MS. ANDERSON: I talked in opening about sort of
25 stopping and looking at things more carefully and

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1 rationally and I want to talk to you about that because, as
2 I said, what the State ultimately relies on this case is
3 what Officer Vreeland says he saw.

4 Now, if you recall, Officer Vreeland is doing
5 surveillance and what that means, and there was some
6 discussion on that with him, is he is positioning himself
7 in a place where he can't be seen. He's out there for
8 several hours. This is a police department, even though
9 Mr. Patel didn't know they were even out there, doing
10 surveillance. And logically he's got to want to be in a
11 place where other people don't notice this person just
12 standing around for hours.

13 Now, what I think you can also construe from that is
14 he's not out in the open with a clear view of vision
15 either. He's got to be obscured in a way or he's
16 noticeable. We know from Mr. Patel, you can see the hotel
17 records, there are a number of other people staying at the
18 hotel at the time. Officer Vreeland testified as to there
19 were other people outside on the sidewalk or out in front
20 of the rooms, I think, he said maybe near Room 306. There
21 are people getting in, going in cars presumably. So he's
22 gonna be positioned in a way where he's not obviously to be
23 seen.

24 Ladies and gentlemen, I would submit to you that you
25 may very well can construe from that his vision isn't clear

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1 either, but we know his vision isn't clear. He's behind a
2 six-foot solid wood fence, twenty-five to thirty feet away
3 behind or in some trees peeking through a crack in the
4 wood. And, ladies and gentlemen, you can look at that and
5 see how clear of a vision that really is. And remember
6 this is at daytime. When Officer Vreeland is testifying
7 that he sees Brian Davis go to this ice machine, it's dark,
8 but let's see the State's exhibit, it looks about like
9 this.

10 But yet when this field of vision through a crack in
11 the wood and from the looks of this, this picture wasn't
12 taken through the crack so you can imagine his field of
13 vision maybe very even less. Through this, he sees
14 everything he claims to see even to the point of saying he
15 can tell Mr. Davis looks nervous in the dark, twenty-five
16 to thirty feet away, peeking through a crack trying to keep
17 himself hidden so no one can see him.

18 Ladies and gentlemen, I submit to you logically and
19 reasonably and rationally, he couldn't see all of that.
20 It's dark. You can look at the photos and see if that's a
21 recreation of how dark it is and how well lit it was.
22 Officer Vreeland testifies that Mr. Davis goes up into his
23 room or goes up into the room, looks around nervously,
24 opens the door, has the door cracked but where Officer
25 Vreeland says he can see, and hides a bag in his shorts.

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1 Commonsense, ladies and gentlemen, if you were a
2 person with illegal narcotics that the State's argument is,
3 oh, they're trying to get rid of, you have a hotel room
4 with a door with a window that probably has some sort of
5 covering, with a bathroom inside of the room, would you
6 really hid the drugs with the door open where everyone can
7 see?

8 Just thinking about human behavior, does that make any
9 sense that someone would do that? Open the door and hide
10 it in view of everyone? If that's the State is arguing,
11 the theory they are arguing in their closing that because
12 of this traffic stop - the one remember where they didn't
13 find any crack cocaine - he knows the police are there;
14 that his purpose in coming back is supposedly to retrieve
15 these drugs and hide them. Does it make any rational sense
16 you would do that with the door open?

17 Does it instead call into question that Officer
18 Vreeland didn't really see that but after that fact, it's
19 an easy way to try to put some sort of evidence linking
20 Brian Davis to those drugs. It's easy to say now oh yeah,
21 I saw that.

22 Think about there was testimony as well which sort of
23 may have gotten lost in everything else. It was with
24 Officer Vreeland and Lieutenant Culbreath testifying up
25 there that the traffic stop on this car, this car was

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1 suspicious. What was testified to is that a man walked out
2 of a hotel room, got into a car, they drove out of the
3 parking lot, they drove to a store, they parked the car,
4 someone went into the store for a few minutes and they came
5 back in the car. Commonsense, ladies and gentlemen, what
6 is suspicious about that? Absolutely nothing. But when
7 you come into court and everything hinges on what Officer
8 Vreeland says he saw, it's suspicious now. Isn't it easy
9 potentially to just portray it that way afterwards.

10 Made a big deal in the State talking about the
11 well-lit the ice machine. You can look at this photo and
12 you can't see that. I submit I can't see that ice machine
13 behind those stairs. Remember, this is sort of a larger
14 view than what Officer Vreeland would have had through a
15 crack in a fence, but even in this photo, those stairs
16 obscure that ice machine. The State wanted to make a big
17 deal and Officer Vreeland clarified that one of the photos
18 didn't show the light. I asked him specifically, I think
19 it was this one, does this show the light? Here's the
20 light. Does that illuminate that entire area so that you
21 can clearly see through those stairs to an ice machine to
22 someone stuffing it in a crevice beside an ice machine.

23 Here's the photo right here. This is a better view
24 than what Officer Vreeland had and you can't see it I
25 submit to you. He couldn't see what he said he saw. But

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1 when there is nothing else linking him to it, because
2 remember the fingerprints, no fingerprints on it. Brian
3 Davis' fingerprints not on it. The State didn't bring that
4 up. Didn't even argue it to you in closing. Didn't bring
5 it out on testimony. Didn't bring anyone in who tested it.
6 No fingerprints. No other officer ever sees him with a
7 bag. Everything rests solely on what Officer Vreeland says
8 he saw.

9 The State talked about a little bit with this bag and
10 wanted to make a big deal the bag wasn't dirty trying to
11 say that meant it was just put there. Well, I can't say,
12 ladies and gentlemen, because there is no testimony about
13 whatever else was out there. We know there was debris and
14 trash. Was it dirty? Was it not? I don't necessarily
15 know that means that if something is shoved up in here,
16 it's not conclusive to me.

17 Detective Thomas testifies the bag is wedged in
18 between the spot here so that it's kind of sticking in
19 there, this little small bag. Not this big bag, remember,
20 just that little small inner bag.

21 SOLICITOR HAMILTON: Judge, we're going to have to
22 object to that as well when we --

23 THE COURT: All right. Let me let the jury go to the
24 jury room just for a minute while we take up the matter.

25 Don't start deliberating yet.

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1 (JURY EXITS COURTROOM AT 02:31 P.M..)

2 THE COURT: Yes, ma'am.

3 SOLICITOR COLTON: Your Honor, with all due respect to
4 the Court, I don't want to keep interrupting, but I think
5 this is a little different than just a recollection of
6 evidence. In this particular case, we're not permitted to
7 talk about the marijuana and other items found in that bag
8 that may have affected the shape of it, certainly he did -
9 more items were in that.

10 I think, Ms. Anderson's argument was this little bag,
11 how could it be wedged there? There were other items in
12 that bag that made it larger, and I think that that becomes
13 the proper argument for arguing the spatial dimension and
14 what could have fallen down and why it was wedged in there
15 when they had - they made the motion to not us - to have us
16 talk about those other items in the bag, and we'd ask that
17 that be stricken just that part of the - part of the
18 argument, Your Honor.

19 Because we certainly wanted to have that - those items
20 in. We weren't permitted to, and I'm fine with ruling, but
21 when we're talking about how physically those items could
22 be there and that that reflects on the grasping of the
23 officers testimony, that size of those items, that makes a
24 difference and we - we have - those were suppressed and,
25 unfortunately, I just feel that that becomes an improper

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1 argument when they had it suppressed when we're talking
2 about the size and the physicality of being able to hide
3 something into a machine or certain space.

4 THE COURT: Ms. Anderson.

5 MS. ANDERSON: Your Honor, that's fine. We can strike
6 it and I will move on.

7 THE COURT: Okay.

8 MS. ANDERSON: I'll avoid this sort of issue. I'll --
9 I will move on from that.

10 THE COURT: Bring in the jury.

11 While he's getting the jury, exactly what do you want
12 me to say to the jury?

13 SOLICITOR COLTON: Your Honor, I imagine just strike
14 the last argument regarding the spatial dimensions of the
15 item.

16 THE COURT: How about size and --

17 SOLICITOR COLTON: Size. Yes, sir. And that would
18 probably be a better choice of words.

19 THE COURT: Found in the ice machine.

20 (JURY REENTERS COURTROOM AT 02:34 P.M..)

21 THE COURT: Members of the jury panel, I have stricken
22 and ask you to disregard the last argument about the size
23 of the item that the officers found and where they indicate
24 the found it. Thank you.

25 MS. ANDERSON: One thing I would like to point out,

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1 ladies and gentlemen, about this area. There was some
2 testimony from Lieutenant Culbreath and the officers
3 testified they were out there focusing on Executive Inn.

4 There was testimony by Officer Culbreath where it's
5 not uncommon or agreeing that it's not uncommon to find
6 drugs in this area. And why I say that is significant,
7 ladies and gentlemen, is that we know there were other
8 people staying at the hotel. You have the records of that.
9 You can look at the records Mr. Patel brought. You can
10 look at Room 300 occupied, Room 301, 303, 304, 305, 307,
11 308, 309, 310, 311, 317, and that's just the rooms right
12 around this breezeway which is a common area which is
13 accessed both from a parking lot side and the side that
14 lead out to the office. It's an open area. Anyone could
15 walk it.

16 We know some people had been there. There's trash
17 around there. Officer Thomas recalls that. There aren't
18 any photographs of it but he does say there was some debris
19 out there. There was trash. There was trash in the ice
20 machine. There were people out and we know on that evening
21 and there were people staying there. There was other
22 people around. Other people could have put that there.

23 One thing to consider is well, I'd say, is the quality
24 of the investigation. Are there things in this case that
25 you hear that just sort of don't sit right or don't seem

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1 right. Well, let's talk about some of those things because
2 I think those also contribute to reasonable doubt in this
3 case.

4 Officer Thomas testified that he recovered this item
5 from this area. And his testimony was that his initial
6 thing he did was stick it in his pocket and that it's
7 bagged to believe, my recollection, if you remember
8 something different, that it was bagged when he got back to
9 the police department. What I don't remember is any
10 testimony of Officer Thomas saying when he did that; how
11 long after it was.

12 And I point that out, ladies and gentlemen, because I
13 know real life isn't always like television and movies, but
14 does it seem right to you that the way to handle evidence,
15 evidence that the State wants to come in and to ask you to
16 convict Brian Davis of possessing, that the officer who
17 recovers it not to immediately bag it but to stick it in
18 his pocket. And then not tell - not to testify as to when
19 it was actually bagged up and put into evidence. So we've
20 got, and you can see this on the front of the bag, Officer
21 Thomas puts into evidence sometime on June 27th, 2013,
22 there is no time on it next to that notation. Ms. Prior
23 testified that she saw it on June 28th, 2013, picked it up
24 from this evidence locker.

25 The next person who testified to that was Ms. Mitchum,

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1 the chemist. She first saw it on July 15th, 2013. Now she
2 referenced receiving it from someone, Ray Hamilton. Well
3 where is Mr. Hamilton? They didn't bring him in here to
4 testify to you and so you have no information between June
5 28th and July 15th, from Rock Hill to York, as to how the
6 bag got here and who brought it and what circumstances he
7 brought it under. That's a gap. That's something not
8 accounted for.

9 And the State brought up because we talk about the
10 difference in the weights. Officer Thomas testifies he
11 weighs it on digital scales and it's 15.1 grams. And then
12 in July Ms. Mitchum weighs it on digital scales and it's
13 10.53 grams and that to me seems like a big difference.
14 It's just another thing that just doesn't seem like
15 someone's got it right.

16 The State said they had some questions about if the
17 weight can change. They commented about the bag - the
18 substance was wet, that can make a difference. Argued that
19 in closing.

20 Well, they also want to make a big deal that the bag
21 wasn't dirty. And I believe Officer Vreeland testified it
22 was sunny clear. There was no mention of any rain. So
23 where is this supposed hypothetical wet, wetness, that
24 accounts for a five gram weight difference? There's
25 testimony from Officer Thomas that the bag was dripping

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1 wet, sopping wet, when he recovered it. No testimony it's
2 raining. How does that really explain it?

3 And that added with the inconsistencies from the
4 officers, and none of them were consistent with each other,
5 ladies and gentlemen, that is a reasonable doubt. There
6 are flaws in the State's case. There are holes in the
7 State's case. There are things that in your mind add up to
8 reasonable doubt.

9 And remember, when they fingerprinted the bag, and
10 Officer Vreeland is the case agent that was aware of, it
11 was in April of this year. There are no fingerprints.

12 I would submit to you it's easy to come into court and
13 say this looks suspicious, I saw this. No video or
14 anything of that that confirms that. And the State wants
15 to ignore the things in Officer Vreeland's testimony that
16 either don't make sense, conflict with others, and just
17 don't add up.

18 Ladies and gentlemen, I submit to you that that is not
19 enough to convict Brian Davis beyond a reasonable doubt.

20 The Judge is going to talk to you about the
21 instruction of the law and obviously you will follow the
22 Judge's instructions, but I just remind you of thinking of
23 beyond a reasonable doubt. Reasonable doubt is when the
24 kind of doubt causes a person to hesitate to act.

25 People in - colleagues of mine have described a

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1 carnival game where you take a hammer or mallet and you
2 strike something and a light has to go all the way up to
3 the top. And the significance of that illustration is, the
4 State's burden is to go all the way to the top and it
5 doesn't matter if it is half-way, if it's seventy-five
6 percent of the way. If it's 99.9 percent of the way up,
7 when they don't reach all the way and they don't satisfy
8 the burden, then our system declares that the just verdict
9 requires a verdict of not guilty.

10 Brian Davis was not in possession of that crack
11 cocaine on June 27th, 2013. I submit to you that Officer
12 Vreeland did not see all he said he saw. And that Officer
13 Vreeland's testimony of what he said he saw is not enough
14 to overcome the holes in this case, to overcome the
15 unanswered questions. To overcome the things that don't
16 make sense in this case, and I ask you to return a verdict
17 finding Brian Davis not guilty.

18 Thank you, ladies and gentlemen.

19 THE COURT: Members of the jury panel, I appreciate
20 the attention that you have given to the attorneys and to
21 the witnesses and to me to this point. It is now my duty
22 to charge you the law that you are to apply to the facts as
23 you determine them to be in this case.

24 Mr. Davis is charged with trafficking in crack cocaine
25 and this is set forth in this indictment that you will have

1 with you in the jury room.

2 The indictment is not evidence. It contains the
3 charge against Mr. Davis and it is where the unanimous
4 verdict of the jury will later be enrolled, and I will tell
5 the Forelady who will preside over your deliberations later
6 how to enroll on the indictment the jury's unanimous
7 verdict, but do not consider the indictment as evidence.
8 It is the charge against Mr. Davis and that charge is
9 trafficking in crack cocaine, a charge to which he has
10 entered a plea of not guilty, which places on the State the
11 burden of proving his, Mr. Davis', guilt beyond a
12 reasonable doubt.

13 As to this charge, Mr. Davis is presumed innocent.
14 Anyone charged with any offense in our legal system is
15 presumed innocent of the charge unless the State is able to
16 prove to a jury your guilt beyond a reasonable doubt.

17 As to the charge, the State as I said must prove his
18 guilt beyond a reasonable doubt before you as the trial
19 jury in this case could convict him.

20 This presumption of innocence is a substantial right.
21 It is not a legal theory, a mere legal theory, but it is a
22 substantial right which enures to the benefit of anyone
23 charged in our system with an offense.

24 This presumption of innocence attached to Mr. Davis at
25 the time of his arrest; has remained with him as his case

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1 is processed through our court system. The presumption of
2 innocense in Mr. Davis' favor remains with him at this
3 moment and even continues with him and in his favor as you
4 deliberate.

5 The presumption of innocense as to Mr. Davis is
6 removed if and when, and only if and when, you determine
7 that the State has proven his guilt beyond a reasonable
8 doubt.

9 Now the State is not required to prove his guilt
10 beyond all or beyond every doubt, but beyond a reasonable
11 doubt. A reasonable doubt has been defined by our courts
12 as the kind of doubt that would cause a reasonable person
13 to hesitate to act.

14 Proof beyond a reasonable doubt is proof that leaves
15 you firmly convinced of someone's guilt. There are very
16 few things in our world that we can know with absolute
17 certainty and our law does not require that in a case such
18 as this.

19 If based on your consideration of the evidence you are
20 firmly convinced that Mr. Davis is guilty of this offense,
21 you would find him guilty.

22 On the other hand, if you think there is a real
23 possibility that he is not guilty, you would give him the
24 benefit of that doubt and find him not guilty. He is
25 entitled to the benefit of any reasonable doubt you have as

1 to any issue in this case.

2 I am charging you the law now. I told you earlier
3 that I am the sole judge of the law and you must take,
4 accept and apply the law as I charge it. This is true even
5 if you think I charge the law in error, or even if you
6 think the law should be different. Your oath requires you
7 to take, accept and apply the law as I charge it.

8 You are not to infer from anything I say or do, or
9 anything I have said or done, as being an indication of an
10 opinion of mine on the facts of this case. Our law does
11 not allow a trial judge to formulate or to express any
12 opinion about the facts of a case. It is solely your job
13 to examine the evidence and to give to it the effect, the
14 value, the weight, and the truth you believe that evidence
15 should have.

16 In doing this, you may believe one witness as opposed
17 to several; several witnesses as opposed to one. You may
18 believe all, part, or none of a witness's testimony.

19 In analyzing the evidence use your common sense; your
20 sense of reason; your sense of logic. Use your experiences
21 in life. And as judges of the facts, you must necessarily
22 judge the credibility, the believability of the witnesses
23 who have testified.

24 In assessing believability, use those things I've
25 already talked about. Use the things that you find in your

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1 day to day life as being indicative of truthfulness. And
2 you can use certain evaluators. The witness's demeanor,
3 how they act on the stand. Are they hesitant or
4 straightforward. Is their testimony consistent or
5 inconsistent. Does the witness have any bias or privilege,
6 that is, any reason to help or hurt one side or the other.
7 And consider the opportunity a witness had to actually know
8 those things to which they testified.

9 Now in this case, we've had expert testimony. Someone
10 who is qualified as an expert to testify about chemical
11 analysis. Generally one can only testify as to something
12 they sensed with one of their five senses. Usually it's
13 something that they've seen or heard, but it could be
14 taste, touch or smell.

15 However, where one has certain skill, training,
16 education and experience in a certain area, that person can
17 be qualified to take facts and from those facts render an
18 opinion.

19 The expert's opinion, that testimony, is allowed into
20 evidence to assist you. It is not binding on you. You
21 look at the testimony of an expert through the same lense
22 that you look at every other witness. And in addition as
23 to an expert, you also consider whether you determine that
24 the witness had the qualifications to render then opinion.
25 Even though I had found her qualified; you determine

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1 whether you believe she had the experience, training, skill
2 and experience to reach the opinion that she reached. And
3 you can also consider the reasons that she reached the
4 opinion.

5 The opinion of experts are allowed to assist you.
6 They are not binding on you and you can accept or reject,
7 in whole or in part, an expert witness's testimony just as
8 you can any other witness's testimony.

9 In this case, Mr. Davis has exercised his
10 constitutional right to remain silent. His exercise of
11 that right cannot be used against him in any way
12 whatsoever.

13 You cannot discuss in the jury room that Mr. Davis
14 exercised his constitutional right to remain silent, and
15 you cannot factor it into your deliberations. You cannot
16 use it to mitigate against him in any way whatsoever. The
17 fact that he exercised his constitutional right is not to
18 be used, as I said, in any fashion by you as the trial jury
19 in this case.

20 Mr. Davis, I remind you, is presumed innocent of this
21 charge, need not prove his innocence. The State must prove
22 his guilt beyond a reasonable doubt before you as the trial
23 jury in this case could convict him and find him guilty.

24 There are generally two types of evidence that are
25 presented in trials such as this, direct and circumstantial

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1 evidence.

2 Direct evidence is evidence which directly proves the
3 existence of a fact and does not require a deduction.

4 Circumstantial evidence is proof of a chain of facts
5 and circumstances which indicate the existence of a fact.

6 Offenses may be proven by circumstantial evidence.

7 Our law makes no distinction between the weight or value to
8 be given either direct or circumstantial evidence. However
9 to the extent the State relies on circumstantial evidence,
10 all the circumstances must be consistent with each other
11 and when taken together point conclusively to the guilt of
12 the accused, that's Mr. Davis of course here, beyond a
13 reasonable doubt.

14 If the circumstances merely portray the defendant's
15 behavior as suspicious, the proof has failed.

16 The State has the burden of proving a defendant guilty
17 beyond a reasonable doubt and this burden rests with the
18 State regardless of whether the State relies on direct
19 evidence or relies on circumstantial evidence or relies on
20 a combination of the two.

21 An issue in this case is the identification of Mr.
22 Davis as the person who committed the offense with which he
23 is charged. The State has the burden of proving identity
24 beyond a reasonable doubt. You must be satisfied beyond a
25 reasonable doubt of the accuracy of the identification of

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1 Mr. Davis before you may convict him.

2 Identification testimony is an expression of belief or
3 impression by a witness. You must determine the accuracy
4 of the identification of the defendant by a witness.

5 You must consider the believability of each
6 identification witness in the same way as you look at the
7 testimony of other witnesses.

8 You may also consider whether a witness had an
9 adequate opportunity to observe the defendant at the time
10 of the offense. This consideration will be effected by
11 things like how long or short a time was available. How
12 far or close the witness was. The lighting conditions.
13 And whether the witness had the chance to see or know the
14 person in the past.

15 Again, I instruct you the burden of the State extends
16 to every element of the crime charged and this specifically
17 includes the burden of proving beyond a reasonable doubt
18 the identity of the defendant, Mr. Davis, as the person who
19 committed this offense.

20 If after examining the testimony you have a reasonable
21 doubt as to the accuracy of the description and the
22 accuracy of the identification of Mr. Davis by the
23 witnesses as the person who committed this - who was
24 involved in this event, then you would find him, Mr. Davis,
25 not guilty.

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1 Mr. Davis is charged with trafficking in crack
2 cocaine. The State must prove beyond a reasonable doubt in
3 this case that he was knowingly in actual or constructive
4 possession, or, that he knowingly attempted to become in
5 actual or constructive possession of crack cocaine.

6 The State must prove the substance at issue was crack
7 cocaine. Again, all of these things must be proven beyond
8 a reasonable doubt.

9 The term knowingly means with knowledge. That is
10 something that is knowingly is not - something that is
11 knowing is not something that is done accidentally.

12 Actual possession means that the crack cocaine was in
13 the actual, physical custody of Mr. Davis.

14 Constructive possession means that he had dominion or
15 control, or the right to exercise dominion or control, over
16 either the crack cocaine itself or the property on which it
17 was found.

18 The mere presence by one at the scene where drugs are
19 found alone is not enough to prove possession. Actual
20 knowledge of the presence of crack cocaine is strong
21 evidence of a defendant's intent to control it's
22 disposition or use.

23 A defendant's knowledge and possession may be inferred
24 where a substance is found on the property under a
25 defendant's control. However, this inference is simply a

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1 fact to be taken into consideration by you along with the
2 other evidence in this case and it should be given such
3 weight if any as you determine it should have.

4 I have already told you that the State must prove that
5 the substance involved was crack cocaine and as to this
6 charge, the State must also prove that the crack cocaine -
7 not only was the substance crack cocaine, but that it's
8 weight was ten grams or more.

9 Now your verdict must be unanimous. All twelve jurors
10 must agree on your verdict. Once all twelve have agreed,
11 Madame Forelady, you will enroll the jury's verdict and I
12 will tell you more about that in just a moment.

13 Your verdict cannot be based on sympathy, passion,
14 prejudice, public opinion or matters outside the record.
15 If you have a question, Madame Forelady, write it down,
16 knock on the door. The bailiff will bring it to me. I
17 will consult with the attorneys and I will respond. It may
18 be that I can write an answer on the note and send it back.
19 If I do that, keep the note and turn it in with the
20 evidence because it has to be part of the record.

21 I may have to bring you here in the courtroom and
22 answer your question. We do not send in a charge on the
23 law, but if you wish me to go over any part or all of the
24 legal principles I have charged you, I will bring you back
25 here - just ask me and I'll bring you back in here in open

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1 court and answer whatever - charge you whatever you wish to
2 be recharged.

3 We can have testimony replayed. If you need to hear
4 some testimony, we can have that replayed.

5 I am going to ask you when you go to the jury room do
6 not start deliberating yet because I must go over with the
7 attorneys my charge and make sure I have not made an error.

8 If I have made an error, I can have bring you back in
9 and correct it. If I have made no errors in my charge, I
10 will send in to you the exhibits and the verdict form and
11 the bailiff will tell you to start deliberation.

12 When you have reached a verdict, knock on the door.
13 Tell the bailiff, the bailiff will come and tell me. I
14 will probably be doing some other work but I will stop that
15 as promptly as I can to send for you.

16 The verdict form, Madame Forelady, has a - I mean the
17 indictment has on the back a word verdict and four lines
18 beneath it. The bottom line is for your signature and
19 there is a place for you to date below it and today is the
20 15th.

21 On one of the lines above your signature, you will
22 write the jury's unanimous verdict. If the jury
23 unanimously determines that the State has failed to prove
24 Mr. Davis guilty beyond a reasonable doubt, your verdict
25 would be two words and you would write those two words, not

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1 guilty.

2 If on the other hand the State has proven to the
3 jury's satisfaction beyond a reasonable doubt Mr. Davis is
4 in fact guilty, you would write the one word, guilty.

5 Again, knock on the door and let the bailiff's know
6 when you have reached a verdict.

7 Mr. Fuller, you will remain with us as the alternate.
8 You will not need to participate any further. And I'm
9 going to allow the jury to go to the jury room but do not
10 start deliberating until the bailiff tells you to do so.

11 (JURY EXISTS COURTROOM TO DELIBERATE AT 02:58 P.M..)

12 THE COURT: Mr. Fuller, I'll be with you in just one
13 second.

14 All right, anything from the State?

15 SOLICITOR HAMILTON: Nothing from the State.

16 THE COURT: Defense?

17 MS. ANDERSON: No, Your Honor.

18 THE COURT: All right. If you'll go over the exhibits
19 and the indictment and make sure everything is in order,
20 we'll send it back and have them start deliberating and I
21 believe the jury is through.

22 All right, Mr. Fuller, thank you for your help. You
23 are through for the week. You can certainly stay and see
24 what the jury does, but you don't have to, and you don't
25 have to call back and we appreciate your help and you will

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1 be mailed a check - not a big one - but a check.

2 All right, we'll be at ease. Solicitor, let me know
3 what else they've got for me to do.

4 (COURT AT EASE AT 03:00 P.M..)

5 (JURY NOTE AT 03:20 P.M..)

6 (COURT BACK IN SESSION IN THE MATTER OF STATE VERSUS
7 MICKY DALE PASSMORE WITH SOLICITOR JESSICA HOLLAND AND
8 ATTORNEY PETE NOSAL AT 03:30 P.M..)

9 (STATE VERSUS ROBERT WILLIAM NEAL PLEA WITH SOLICITOR
10 MARINA HAMILTON AND ATTORNEY PHIL BAITY.)

11 (JURY NOTE RECEIVED AT 03:34 P.M..)

12 THE COURT: All right, we will be at ease for just a
13 few minutes.

14 (COURT AT EASE.)

15 (JURY REENTERS COURTROOM AT 04:03 P.M..)

16 THE COURT: Madam Forelady, we received your note.
17 We're ready to play it. It took us a few minutes to
18 isolate exactly or come close to isolating what I
19 understand you want to hear. If this does not cover it
20 then as soon as you go back tell me and we will bring you
21 back out. We're gonna play now what we think covers what
22 you were looking for.

23 MADAM FORELADY: Thank you.

24 (TESTIMONY OF OFFICER VREELAND REPLAYED FOR THE JURY
25 AT 04:05 P.M../ STOP AT 04:34 P.M..)

1 THE COURT: I'll let you go back and continue your
2 deliberations.

3 MADAM FORELADY: Thank you.

4 (JURY EXITS COURTROOM AT 04:35 P.M..)

5 THE COURT: Anything from the State involving the
6 replaying of testimony?

7 SOLICITOR HAMILTON: Nothing.

8 THE COURT: Defense?

9 MS. ANDERSON: No, Your Honor.

10 THE COURT: All right. I understand we have another
11 plea we can do.

12 SOLICITOR HAMILTON: Yes, Your Honor.

13 (STATE VERSUS JENNA MELTON PLEA WITH SOLICITOR MARINA
14 HAMILTON AND ATTORNEY PHIL BAITY.)

15 (COURT IN RECESS AT 04:40 P.M..)

16 (COURT BACK IN SESSION AT 04:52 P.M..)

17 (STATE VERSUS DENICO CLYBURN PLEA WITH SOLICITOR JENNY
18 DESCH - PRO SE DEFENDANT.)

19 (COURT IN RECESS AT 05:04 P.M..)

20 (JURY NOTE RECEIVED AT 05:08 P.M..)

21 (COURT BACK IN SESSION AT 05:11 P.M..)

22 THE COURT: Take your seats. I understand we have a
23 verdict.

24 Is the State ready?

25 SOLICITOR HAMILTON: State is ready, Your Honor.

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1 THE COURT: Mr. Davis is present. Is the Defense
2 ready?

3 MS. ANDERSON: Yes, Your Honor.

4 THE COURT: All right. Bring in the jury.

5 (JURY REENTERS COURTROOM AT 05:14 P.M..)

6 THE COURT: Madam Forelady, I understand the jury has
7 reached a verdict?

8 MADAM FORELADY: We have, Your Honor.

9 THE COURT: If you'll hand the indictment to the
10 bailiff, he will bring it up to me.

11 (VERDICT RECEIVED UP BY THE COURT.)

12 THE COURT: Thank you.

13 MADAM CLERK: In the State of South Carolina versus
14 Brian Henry Davis, under indictment 2013-GS-46-04429,
15 indicted for trafficking in crack cocaine, the jury finds
16 the defendant guilty, signed by the foreperson, dated
17 today's date.

18 If this be your verdict, so say you all by raising
19 your right hand.

20 Let the record show all jurors affirmed this verdict.

21 (ALL JURORS INDICATED IN THE AFFIRMATIVE.)

22 THE COURT: Anything from the State before the jury is
23 dismissed?

24 SOLICITOR HAMILTON: Nothing from the State, Your
25 Honor.

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1 THE COURT: Anything from the Defense?

2 MS. ANDERSON: No, Your Honor.

3 THE COURT: All right. Thank you for your help this
4 week. I will allow you to leave. This finishes your work
5 for the week. You will be mailed a check and thank you so
6 much for your help.

7 (JURY DISMISSED AT 05:15 P.M..)

8 THE COURT: Anything from the Defense?

9 MS. ANDERSON: Yes, Your Honor. On Mr. Davis' behalf,
10 I would at this time make a motion to set aside the verdict
11 and make a motion for a new trial. I would also renew all
12 prior arguments and objections.

13 THE COURT: Well, the motion is denied. I find as I
14 said several times, there is evidence - not the strongest
15 case I've ever seen but the evidence was sufficient with
16 which a jury could reach the verdict which they reached.

17 Please bring Mr. Davis around for sentencing.

18 (DEFENDANT, BRIAN HENRY DAVIS, BROUGHT TO THE BAR.)

19 THE COURT: Is this a first offense? Second offence?

20 SOLICITOR HAMILTON: First.

21 THE COURT: First. Okay.

22 And if you will tell me his prior record, if any.

23 SOLICITOR HAMILTON: Okay. Here is the sentencing
24 sheet.

25 His prior record, he has from 2002 assault and battery

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1 of a high and aggravated nature; a 2005 resisting arrest,
2 non-violent; 2009, a DUS first, DUI first, operating
3 uninsured motor vehicle, resisting arrest, open container
4 and simple assault and battery.

5 THE COURT: Ms. Anderson, I would be glad to hear from
6 you on behalf of your client.

7 MS. ANDERSON: May it please the court, Your Honor.

8 As you heard, he has absolutely no prior drug
9 convictions on his record. He has no sort of prison
10 sentences or anything like that. It looks that all were
11 misdemeanors as well so I would point that out to the
12 court.

13 Your Honor, I would last point out, he has - Mr. Davis
14 obtained his GED in July of 2012. He is currently employed
15 and works full-time at Metrolina Greenhouses in York. He
16 has actually been promoted up to a team leader at that job
17 and so he has been gainfully employed and certainly his
18 being promoted up there speaks, I think, to his work
19 ability, his ability, his work ethic and what his job
20 thinks of him. He was actually in working this week and
21 when I talked to him in order to inform him of his trial,
22 then he was also at work there, so I would point that out
23 to the court as well.

24 Your Honor, obviously I understand this is a situation
25 with a sentencing range and a mandatory minimum. We would

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1 certainly ask Your Honor to consider the minimum sentence
2 in this case considering his lack of any sort of prior drug
3 record and the fact he was working and only prior
4 misdemeanors on his record, as well.

5 Obviously Your Honor has heard sort of the defense we
6 put forward and the arguments made in trial, but we would
7 ask Your Honor for the minimum in this case.

8 THE COURT: Before I go further, I've got this down as
9 a violent and serious, but that's not marked on the
10 sentencing sheet.

11 SOLICITOR HAMILTON: I did not mark them because I
12 wanted to get the sentencing sheet to her to get signed,
13 but it is violent and serious, Your Honor.

14 THE COURT: Mr. Davis, is there anything you want to
15 say?

16 MR. DAVIS: I want to say that, you know, I'm a great
17 guy. I've got a good heart. I don't know how did this go
18 wrong, but, you know, I've got a family of two little boys.
19 Like I say, I just got my GED been working. My younger
20 life, you know, I had problems coming up, but you know I'm
21 a grown man. I've got a job, a full-time job. I'm a team
22 leader. They just gave me a raise. You know I just want
23 to just get my life together right now. It's just like - I
24 just can't see how I went wrong right now, you know. Just
25 beg for your mercy, Your Honor.

SENTENCING

-207-

1 THE COURT: All right. Sentencing - Has your client
2 served any time on this already?

3 MR. DAVIS: Like a month or two.

4 MS. ANDERSON: Your Honor, I will have to see if I can
5 get that exact count.

6 SOLICITOR HAMILTON: Looks like he bonded out on
7 August 10th, 2013. The bond paperwork if you would like to
8 see it.

9 MS. ANDERSON: Your Honor, if *you will give me just a
10 moment, I got a computer program that will probably be
11 faster than me. He served several months.

12 Your Honor, it would be a total of forty-four days.

13 THE COURT: All right. Sentence is six years. I'll
14 give you credit for forty-four days.

15 Thank you.

16 SOLICITOR HAMILTON: Thank you, Your Honor.

17 THE COURT: Anything else from the Solicitor?

18 SOLICITOR HAMILTON: Nothing.

19 THE COURT: Anything else from the Solicitor's office?

20 SOLICITOR COLTON: No. No, sir. We're done for the
21 day.

22 THE COURT: We'll be at ease then until - let's say
23 9:30 in the morning.

24 SOLICITOR COLTON: Yes, sir.

25 THE COURT: Thank you.

1 (WHEREUPON, COURT'S EXHIBITS ONE, TWO, THREE,
2 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

3 (COURT IN RECESS AT 05:30 P.M../END OF TRANSCRIPT.)
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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 14th and 15th days of May, 2014.

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

Wanda Nelson
Wanda Nelson, CVR
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE:

July 15 / 2014

WITNESSES

RHPD/Vreeland

In

ARREST WARRANT NUMBER

2013A4620302775

ACTION OF GRAND JURY

TRUE BILL

Kathryn Lee Neal
Foreperson of Grand Jury
Date: *11-14-2013*

VERDICT

Guilty

Karen B. Thompson
Foreperson of Petit Jury
Date: *5-15-14*

DOCKET NO. 2013-GS-46- *04129*

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

November 14, Term 2013

THE STATE

vs.

BRIAN HENRY DAVIS

Indictment for

TRAFFICKING IN CRACK COCAINE

SC Code: 44-53-375(C)(1)(a)
CDR Code: 0450

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

CERTIFIED TRUE COPY INDICTMENT

2013 MAY 19 AM 9:41

DAVID HAMILTON

At a Court of General Sessions, convened on November 14, 2013, the Grand Jurors of York County present upon their oath.

CLERK OF COURT
YORK COUNTY, SC

TRAFFICKING IN CRACK COCAINE

On or about June 27, 2013, the Defendant, Brian Henry Davis, did knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of ten (10) grams or more of crack cocaine, a cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2). Said incident occurred in York County, South Carolina, all in violation of Section 44-53-375, Code of Laws of South Carolina, (1976, as amended).

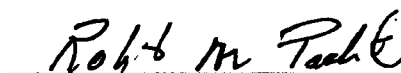
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

August 27, 2014

A handwritten signature in black ink, reading "Robert M. Pachak", is written over a horizontal line.

Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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

August 27, 2014

Robert M. Pachak

Robert M. Pachak
Appellate Defender

RECEIVED

AUG 27 2014

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

John C. Hayes, III, Circuit Court Judge

RECEIVED

AUG 27 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRIAN HENRY DAVIS,

APPELLANT

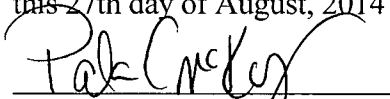
APPELLATE CASE NO. 2014-001107

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 27th day of August, 2014.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 27th day of August, 2014

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