

VOLUME II OF II

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY

Lee S. Alford, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JASON ALAN JOHNSON,

APPELLANT

APPELLATE CASE NO. 2012-206627

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

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

WILLIAM M. BLITCH, JR.
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorney for Appellant

Attorneys for Respondent

INDEX

INDEX	i

TRIAL TRANSCRIPT DATED

January 23, 24, 25, 26, 27, 2012	1

TESTIMONY

DEPUTY TONY BOLIN (IN-CAMERA)

Direct Examination by Ms. Colton	13
Cross Examination by Mr. Yates	32
Cross Examination by Mr. Brown	37
Recross Examination by Ms. Brown	50
Redirect Examination by Ms. Colton	51

DEPUTY JOHN STAGER (IN-CAMERA)

Direct Examination by Ms. Colton	53
Cross Examination by Mr. Yates	95
Cross Examination by Mr. Brown	107
Recross Examination by Ms. Brown	119

JAY RAJA (IN-CAMERA)

Direct Examination by Ms. Colton	121
Cross Examination by Mr. Yates	126
Redirect Examination by Mr. Cronin	129

DEPUTY JOHN CLARK (IN-CAMERA)

Direct Examination by Ms. Colton	133
Cross Examination by Mr. Yates	141
Cross Examination by Mr. Brown	144

January 24, 2012

Mr. COREY SETH CATOE'S PLEA HEARING	154

TESTIMONY

DEPUTY RACHAEL GLADDEN (IN-CAMERA)

Direct Examination by Ms. Colton	170
Cross Examination by Mr. Brown	193

MOTION TO SUPPRESS	199

DETECTIVE JOSHUA WELCH

Direct Examination by Ms. Colton	229
Cross Examination by Mr. Brown	255

January 25, 2012

TESTIMONY

DEPUTY JOHN STAGER

Direct Examination by Ms. Colton	274
Cross Examination by Mr. Brown	303

DEPUTY TONY BOLIN

Direct Examination by Ms. Colton	314
Cross Examination by Mr. Brown	326

DEPUTY JOHN ALEXANDER CLARK

Direct Examination by Ms. Colton	332
Cross Examination by Mr. Brown	337

DEPUTY TRAVIS SHEALY

Direct Examination by Ms. Colton	339
Cross Examination by Mr. Brown	347

DEPUTY RACHAEL GLADDEN

Direct Examination by Ms. Colton	351
Cross Examination by Mr. Brown	366

MOTION ARGUMENTS	368

INVESTIGATOR LEE ALLEN

Direct Examination by Ms. Colton	373
Cross Examination by Mr. Brown	383

BRANDI QUINN (IN-CAMERA)

Direct Examination by Ms. Colton	395

BRANDI QUINN

Direct Examination by Ms. Colton	405
Cross Examination by Mr. Brown	466

January 26, 2012

MOTION ARGUMENTS	489

TESTIMONY

SHELLEY PETTIGREW	
Direct Examination by Ms. Colton	506
SHELLEY PETTIGREW (IN-CAMERA)	
Direct Examination by Ms. Colton	558
SHELLEY PETTIGREW	
Direct Examination by Ms. Colton	564
Cross Examination by Mr. Brown	572
OFFICER SCOTT CRIBB	
Direct Examination by Ms. Colton	587
AMANDA CAUDLE	
Direct Examination by Ms. Colton	597
Cross Examination by Mr. Brown	639
Redirect Examination by Ms. Colton.....	653
JAMES CHRISTOPHER MATUSE	
Direct Examination by Ms. Colton	659
Cross Examination by Mr. Brown	684
CASSIDY COOPER	
Direct Examination by Ms. Colton	694
Cross Examination by Mr. Brown	707
BRANDY HAGER	
Direct Examination by Ms. Colton	710
Cross Examination by Mr. Brown	725
COLLOQUY REGARDING CHEMIST	727
CYNTHIA MITCHUM	
Direct Examination by Ms. Weaver.....	740
Cross Examination by Mr. Brown	748
NICHOLAS SCHIFFERLE	
Examination by Ms. Colton	749
Examination by Mr. Brown.....	814
JASON ALAN JOHNSON	
Examination by The Court	821
POST-TRIAL MOTIONS.....	823
CLOSING ARGUMENT	
By Ms. Colton.....	836
By Mr. Brown.....	862

CHARGE ON THE LAW	879
VERDICT	908
SENTENCING	911
INDICTMENT	917
SENTENCING SHEET	919
COURT'S EXHIBIT #21 (SEARCH WARRANT)	920
COURT'S EXHIBIT # 33 (JURY QUESTION).....	925
COURT'S EXHIBIT # 34(JURY QUESTION).....	927
DEFENDANT'S MOTION IN LIMINE AND MOTIONS TO DISMISS	928
CERTIFICATE OF COUNSEL.....	933

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT.
STATE'S EXHIBIT #1-#17 (Photographs) and STATE'S EXHIBITS #74-76
(SUMMARIES OF SUDAFED PURCHASES)

-553-

1 THE COURT: And everything I've got on the bench right
2 now wouldn't study that issue, so let me get it.

3 MS. COLTON: Yes, sir. And, Your Honor, if you need
4 any of that case law, I do have it all printed out in my
5 office.

6 (PAUSE.)

7 THE COURT: Show me whatever cases you find. I'm
8 looking at the briefs, I don't find that part of the brief.

9 MS. COLTON: Your Honor, I think the main one that's
10 discussed in it is *Harris* and *Sullivan*. *Sullivan* is 277
11 SC 35. And the *Harris* case is 342 SC 191. And I'll quote
12 the *Harris* case, it cited the Fourth Circuit reason in
13 *United States versus Kennedy*, "that evidence constituted --
14 the evidence - evidence that predated conspiracy was
15 necessary to provide the context to the drug distribution
16 scheme that took place in the charged time frame by
17 providing a jury with background information of the
18 defendant's activities during the preparatory stages of the
19 conspiracy this evidence served to complete the story of
20 the crime on trial."

21 The *Harris* case also cites numerous cases. "That the
22 actions of the conspirators prior to the co-conspirators
23 involvement are admissible to show the background and the
24 development of the conspiracy their relationship between
25 the conspirators and the significance of the later acts."

1 And in citing that the *South Carolina Harris* case goes
2 on to cite a multitude of federal case law in support of
3 that. So we would primarily rely on *State versus Harris*.

4 THE COURT: Does that go into prior crimes? Or does
5 it just talk about their relationship and how they met and
6 developed?

7 MS. COLTON: I believe it's prior crimes because
8 *Harris* does say that it is not other crimes evidence if
9 it's necessary to complete the story of the crime on trial.
10 And we don't intend to use that as far as evidence of
11 distribution to put in the weight to ascertain in the
12 indictment. We're going to limit any weight that we may
13 try to add in to August 1st through February 27th. But how
14 Ms. Pettigrew and some of the other people who are going to
15 testify may slightly predate the August 1st conspiracy.
16 But that's how they came to be involved with Mr. Johnson
17 and how they came to know Mr. Johnson and how they got
18 involved in the drug use. So I think without it, it makes
19 their testimony look less than credible because it's like
20 all of a sudden on August 1st she started using drugs with
21 them. How did you know them? Well I knew them because I
22 shot dope with them. I think that's necessary. That
23 doesn't mean -- I think we would be precluded from adding
24 that - those drugs into our weight to argue to the jury. I
25 don't intend on doing that but I think that its clear that

-555-

1 we can talk about the history of how the co-conspirators
2 knew each other and their relationship because what we're
3 proving is the agreement and that relationship between the
4 co-conspirators. And that there was a tacit understanding
5 between Mr. Catoe and Mr. Johnson, and in order to do that,
6 the people that are testifying who are the ones who are
7 going to establish that relationship and how it functioned
8 are necessary to present presentation of the crime, how
9 they knew Mr. Johnson and how Mr. Johnson and Mr. Catoe
10 came to be involved.

11 So will she talk, she may talk about shooting up dope
12 with Mr. Johnson prior to August first, she may. She's
13 probably gonna testify that, that's how she became involved
14 with doing methamphetamine but she's going to testify that
15 that's how - she will testify that that's how Mr. Johnson
16 knew how to cook, that she learned it from him to cook.
17 And I think that's relevant but because for his knowledge
18 on how to cook which he ultimately transferred to Mr.
19 Catoe, neither one of them, Mr. Catoe would never know how
20 to do it. So how he learned and it was passed down I think
21 is very relevant. And it goes to the issue at fact. He
22 conspired to manufacture. How he knew how to manufacture I
23 think is important.

24 THE COURT: All that's in your brief ---

25 MS. COLTON: Yes, sir.

1 THE COURT: --- and a copy given to the defendant?

2 MS. COLTON: Yes, sir.

3 THE COURT: All right. I'll allow it. I think
4 they've had ample notice of it necessary. The indictment
5 could be amended in so far as the date but it does say on
6 or about August the 1st so slight - slightly earlier time
7 all dealing with the same issues. If they were given a
8 copy of your brief and know that, that's where you were
9 going with that, that you were seeking to establish that,
10 establish a conspiracy in relationship in part and how they
11 came to know each other and why, they were aware of where
12 you were going with that and when.

13 The whole issue of the indictment is putting the
14 defense on notice of what the crimes are. Again the dates
15 yes, and in this case it was on or about; but I believe
16 that they are allowed not to show any other additional
17 crimes and prove any crimes that happened before that time
18 or include that the amount of any illegal substances that
19 were involved before that time in determining weight in
20 this case, the drugs in this case, I believe they are
21 allowed to show how the parties met and how particularly
22 with regard to Catoe and Johnson how they came to know each
23 other and became involved with each other and what happened
24 with them after that so I'm going to allow it. I think the
25 State is entitled to do that even if the indictment needs

-557-

1 to be conformed to the proof that comes in. I think they
2 are allowed to establish conspiracy and development of
3 conspiracy. I agree that nothing that happened before
4 August the 1st can be used as part of the evidence in this
5 case or the weight of the drugs alleged in this case or the
6 -- to help establish trafficking. All right.

7 Add to that, the defense attorney is saying well I
8 don't want to go forward. He is well aware that you
9 planned to go before August the 1st, he was well aware of
10 that information in discovery so it's not a surprise to him
11 today. That was in the brief, et cetera, et cetera.

12 MS. COLTON: Yes, sir.

13 THE COURT: All right. He's had time to prepare.

14 Anything else we need to address before I bring the
15 jury in?

16 MS. COLTON: No, Your Honor.

17 MR. BROWN: No, sir.

18 THE COURT: Please bring the jury in.

19 (JURY REENTERS COURTROOM AT 10:16 AM.)

20 THE COURT: Good morning, Madame Forelady, members of
21 the jury panel. Seems like I start every morning out by
22 apologizing to you and I do it again this morning. A
23 couple of matters had come up that have taken some of our
24 time we needed to do out of your presence so I apologize
25 for the delay in getting you in. We wouldn't keep you

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-558-

1 sitting back there unless it was absolutely necessary but
2 we've been working on this case. We're ready now to resume
3 with the trial.

4 Counsel, ready to proceed?

5 MS. COLTON: Yes, Your Honor, we are.

6 The State would call Shelley Pettigrew.

7 MADAME CLERK: Would you raise your right hand?

8 (WHEREUPON: SHELLEY PETTIGREW,
9 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 MS. COLTON: Seventy and Seventy-one.

11 (WHEREUPON: STATE'S EXHIBITS SEVENTY AND SEVENTY-ONE
12 PREMARKED FOR IDENTIFICATION.)

13 DIRECT EXAMINATION

14 SHELLEY PETTIGREW BY MS. COLTON:

15 Q. Shelley, can you please tell the jury your full name?

16 A. Shelley Carol Pettigrew.

17 Q. And I'm going to ask you to speak up a little bit.

18 Okay?

19 A. Okay.

20 Q. Where do you live, Ms. Pettigrew?

21 A. In Lake Wiley.

22 Q. A little more for me. I'm sorry.

23 A. That's okay.

24 Q. If you could lean forward a little bit, there's a
25 microphone, and that will catch your voice a little bit

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-559-

1 better. Okay?

2 A. Okay.

3 Q. You live on Lake Wiley?

4 A. Yes, ma'am.

5 Q. And how long have you lived in Lake Wiley?

6 A. Sixteen years.

7 Q. Who do you live with in Lake Wiley now?

8 A. My mom and my dad.

9 Q. And is this your momma right here?

10 A. Yes, ma'am.

11 Q. Ms. Pettigrew, back in the summer of 2010, where were
12 you living?

13 A. With a friend of mine Jordan Packard.

14 Q. And Ms. Packard, did you all have a mutual friend who
15 introduced you to the defendant?

16 A. Yes, ma'am.

17 Q. Who was that mutual friend?

18 A. Amanda Hunley.

19 Q. And how -- do you know how Ms. Hunley is acquainted
20 with Mr. Johnson?

21 A. I just -- I'm guessing that they were friends. I'm
22 not totally sure.

23 Q. A little louder for me.

24 A. Yes, ma'am.

25 Q. I know it's hard, but you've got to get a little bit

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-560-

1 louder for me.

2 Where did you first meet Jason?

3 A. At Jordan Packard's house.

4 Q. Jordan Packard's house. And what -- tell the jury the
5 circumstances of how you met Jason that first day.

6 A. The first day?

7 Q. Yes, ma'am.

8 A. We were buying drugs together.

9 Q. Who was buying drugs together?

10 A. Me and Jordan and Jason.

11 Q. Who -- what were you buying?

12 A. Heroine.

13 Q. I need -- I'm going to have you lean forward, and I'm
14 going to be riding you about that. Just try a little bit.
15 It's okay.

16 And after you first meet Mr. Johnson, when do you see
17 him again?

18 A. A couple of weeks later.

19 Q. And do you remember what month that was?

20 A. June.

21 Q. Do you remember where?

22 A. Where I saw him the next time?

23 Q. Yes, ma'am.

24 A. Tim Boozer's.

25 Q. And what was Mr. Johnson doing at Tim Boozer's house?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-561-

1 A. He appeared just to be hanging out there with Tim.

2 Q. Who's Tim Boozer?

3 A. A friend of Jason's.

4 Q. Were you friends with him?

5 A. No.

6 Q. Had you met Tim Boozer before that date?

7 A. One time before, yes.

8 Q. And you all -- he was just hanging out? Who else was
9 there?

10 A. To be honest, I really can't remember if anybody else
11 was there.

12 Q. Well it was you?

13 A. Amanda Hunley was there.

14 Q. Amanda?

15 A. Hunley.

16 Q. Hunley. Jason Johnson and Tim Boozer?

17 A. Yes, ma'am.

18 Q. And what were you all doing when you were hanging out?

19 A. Doing Meth.

20 Q. Where did you get the Meth from?

21 A. Tim had it.

22 Q. And soon thereafter, do you begin to date Mr. Johnson?

23 A. Yes, ma'am.

24 Q. Was it immediately after that day, or did you go out
25 and start seeing him again more frequently after that day?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-562-

1 A. Yes, ma'am.

2 Q. Tell the jury how that happened. Okay?

3 A. How -

4 Q. It just kind of -- did you see him again, or did you
5 go on a date? Did you guys go to movies together?

6 A. No. I just saw him again after that.

7 Q. So you started seeing each other?

8 A. Yes, ma'am.

9 Q. And how -- Where would you see him during this period
10 of time?

11 A. Mostly at Tim's.

12 Q. Would you drive to Tim's?

13 A. Yes, ma'am.

14 Q. Would you get -- would someone pick you up when you
15 were at Tim's?

16 A. No. I would drive.

17 Q. And was Mr. Johnson staying at Tim's?

18 A. He appeared to be so. Yes, ma'am.

19 Q. Well did you see -- ever see his clothes there,
20 anything like that?

21 A. Yeah.

22 Q. How often would he stay there?

23 A. I'm not sure. I just met him there, and he was
24 staying there when I met him.

25 Q. And how long did you date Jason?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-563-

1 A. Through December 2010.

2 Q. December 2010?

3 A. Yes, ma'am.

4 Q. Do you remember if it was the beginning of the month
5 or the end of the month or the middle of the month?

6 A. Probably the beginning of the month.

7 Q. And at that point, you all broke up?

8 A. Yes, ma'am.

9 Q. Now, during the time that Jason was staying with Mr.
10 Boozer, you testified that you were using Meth there.

11 A. Yes, ma'am.

12 Q. Where did that Meth come from?

13 A. Tim had it.

14 Q. And did Tim make it?

15 A. I'm guessing so, yes.

16 Q. Did you ever see Jason help him make it?

17 A. Yes.

18 Q. How -- what did you see -

19 MR. BROWN: Your Honor, I'm going to object at this
20 point in time. May we approach?

21 THE COURT: Yes.

22 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
23 THE JURY AT 10:23 AM.)

24 BY MS. COLTON:

25 Q. Ms. Pettigrew -

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-564-

1 THE COURT: Wait just a minute, Counsel.

2 MS. COLTON: Oh, I'm sorry, Your Honor.

3 THE COURT: Madame Forelady, members of the jury
4 panel, the last question and answer by this witness, you
5 will disregard. It has absolutely nothing to do at this
6 point with this case. And so I want you to disregard that
7 question and the response given by the witness. Give it no
8 consideration whatsoever. That's not anything to do with
9 this case at this point in time. Thank you.

10 Please proceed.

11 MS. COLTON: Okay.

12 Q. Shelly, did there come a time when Mr. Johnson moved
13 out of Mr. Boozer's house?

14 A. Was there a time?

15 Q. Yeah.

16 A. Yes, ma'am.

17 Q. When did that happen?

18 A. After Tim went to jail.

19 Q. Where did Jason move?

20 A. He went to his grandmother's house for a few days, and
21 then we started living at his cousin's stepbrother's house.

22 Q. Who's his cousin?

23 A. Corey Catoe.

24 Q. Corey Catoe?

25 A. Yes, ma'am.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-565-

1 Q. And who's the stepbrother?

2 A. Tommy Catoe.

3 Q. Okay. And --

4 MR. BROWN: I'm sorry. Thomas who?

5 A. Tommy Catoe.

6 Q. And were you still using Methamphetamine at Tommy
7 Catoe's house?

8 A. Yes, ma'am.

9 Q. And who was making the Methamphetamine that you used?

10 A. Jason.

11 Q. Who was he making it with?

12 A. Me and Corey.

13 Q. You and Corey? Okay.

14 (WHEREUPON: STATE'S EXHIBITS FIFTY-FIVE AND FIFTY-SIX
15 PREMARKED FOR IDENTIFICATION.)

16 Q. I'm going to show you what's been marked for
17 identification purposes, State's Fifty-five ---

18 MR. BROWN: Your Honor, may we approach one more time.

19 Q. --- and State's Fifty-six.

20 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
21 THE JURY AT 10:25 PM.)

22 MS. COLTON: May I proceed, Your Honor?

23 THE COURT: You may.

24 Q. State's Fifty-five. Do you recognize that photo or
25 anything in it?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-566-

1 A. Yes, ma'am.

2 Q. What do you recognize in that photo?

3 A. Tommy Catoe's house.

4 Q. Does that truly and accurately reflect -- I know it's
5 aerial, but truly and accurately reflect the location and
6 that home?

7 A. Yes, ma'am.

8 MS. COLTON: Your Honor, at this time, the State will
9 move to enter into evidence State's Exhibit Fifty-five.

10 MR. BROWN: Without objection.

11 THE COURT: Be without objection.

12 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-FIVE
13 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

14 Q. State's Fifty-six. Do you know what that is?

15 A. Yes, ma'am.

16 Q. What is it?

17 A. Tommy Catoe's house.

18 Q. Truthfully and accurately reflects Mr. Catoe's house?

19 A. Yes, ma'am.

20 MS. COLTON: The State would move to enter State's
21 Fifty-six into evidence, Your Honor.

22 MR. BROWN: Without objection.

23 THE COURT: Be in without objection.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-SIX
25 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-567-

1 Q. And at Tommy Catoe's house, do you recall the specific
2 address?

3 A. No.

4 Q. How did you get there?

5 A. How did I get there?

6 Q. How would one get there?

7 A. You drive.

8 Q. If you would tell me how to get to his house.

9 A. It's in Clover or near Clover, right outside of
10 Clover.

11 Q. In the city limits?

12 A. Yes.

13 Q. Is that by North Carolina side or the York side?

14 A. York side.

15 Q. How do you get there?

16 A. It's off of Highway 321, coming into Clover from
17 Gastonia.

18 Q. All right. Now when you said that you, Corey, and
19 Tommy -- do you remember when -- right about this was that
20 you all moved -- Keith Johnson and Catoe moved out there?

21 A. Catoe already lived there.

22 Q. Right. When's Johnson move in with Catoe?

23 MR. BROWN: Is this Corey Catoe we're talking about?

24 THE COURT: Let me ask a question if you've got
25 something to ask.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-568-

1 Ma'am, say who was there, please.

2 A. Tommy Catoe, Corey Catoe, Jason Johnson, and myself.

3 THE COURT: Okay.

4 Q. Ms. Pettigrew, were you living there?

5 A. Yes, ma'am.

6 Q. So you moved in --

7 A. With Jason.

8 Q. Yes. And there was four of you there?

9 A. Yes.

10 Q. But you said the three of you were cooking Meth.

11 Okay. At this time, do you become involved in the process
12 as well?

13 A. Yes, ma'am.

14 Q. How often did the three of you cook Meth?

15 A. Whenever we needed to.

16 Q. How many times a week?

17 A. Twice.

18 Q. How much do you think -- well, let me ask you this.

19 And was that continuous from when you left Tim's house the
20 entire time you all were at ---

21 MADAME COURT REPORTER: I'm sorry, Judge. I've got to
22 have a verbal response. I can't take a nod.

23 THE COURT: Counsel, let's make sure we get a verbal
24 response from the witness.

25 MS. COLTON: Yes, sir.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-569-

1 THE COURT: Ms. Pettigrew, I understand you're talking
2 in a normal tone, and you have a soft voice, but everybody,
3 including the jury and everybody else in the courtroom has
4 to be able to hear what you're saying.

5 THE WITNESS: Yes, sir.

6 THE COURT: So when you're talking just kind of in a
7 conversation voice, everybody can't hear you. So if I can
8 get you to pick up just a little bit.

9 THE WITNESS: Yes, sir. I apologize.

10 Q. Shelley, you don't really want to be here today do
11 you?

12 A. No, ma'am, I don't.

13 Q. And why don't you want to be here?

14 A. I don't want to do this.

15 Q. And why are you here today?

16 A. Because I've been subpoenaed..

17 Q. Ms. Pettigrew, you indicated that's the trailer?

18 A. Yes, ma'am.

19 Q. That's Tommy Catoe's trailer?

20 A. Yes, ma'am.

21 Q. And you -- how long did you all stay there?

22 A. A couple of months. A couple of months.

23 Q. A couple of months. Okay.

24 And you testified that you cooked two or three times a
25 week or two times a week. I don't want to put words in

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-570-

1 your mouth. Which one was it?

2 A. About two times a week. Yes, ma'am.

3 Q. About two times a week. Okay. And was that
4 continuous?

5 A. Yes, ma'am.

6 Q. Were you addicted to Methamphetamine at the time?

7 A. Yes, ma'am.

8 Q. And so if you had the ability to make it, would you
9 make it? Is that a safe characterization?

10 A. Yes, ma'am.

11 Q. What would you do to make Methamphetamine?

12 A. How do you make it?

13 Q. Yes, ma'am. I'm going to ask you to keep your voice a
14 little bit, please.

15 A. Yes, ma'am. Well you need Suda -- pseudoephedrine.

16 Q. Where would you all get the pseudoephedrine from?

17 A. Pharmacies.

18 Q. Pharmacies. And what is it?

19 A. Sudafed.

20 Q. What would you ask for?

21 A. Sudafed.

22 Q. Any brand -- particular brand you cared for?

23 A. No.

24 Q. What type -- what would you buy?

25 A. The regular Sudafed, the red box.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-571-

1 Q. And what would you do with the Sudafed?

2 A. Grind it up.

3 Q. How did you grind it up?

4 A. Coffee grinder.

5 Q. Then what?

6 A. Combine it with fuel, cold packs, and water, and a
7 glass jug.

8 Q. Anything else?

9 A. That's all I can recall.

10 Q. And once it's combined in the glass jug, what would
11 happen with that?

12 A. It would start to bubble inside the jug.

13 Q. And did you all use the same glass jug, or did you use
14 different containers.

15 A. Sometimes the same, sometimes different.

16 Q. What's the glass jug look like?

17 A. It's like a big wine jug, like a big jug of wine you
18 would get in the grocery store.

19 Q. Ones with little handles on them?

20 A. Yes, ma'am.

21 Q. The big ones?

22 A. Yes, ma'am.

23 Q. After everything started bubbling, what happens then?

24 A. You gas it.

25 Q. You have to tell the jury what gassing it means.

1 Okay?

2 A. Yes, ma'am. Muriatic acid in a bottle, and then you
3 run fishing -- like fishing tube out of it. And you pour
4 what you bubbled in the jar into a Pyrex dish, and then you
5 put tube inside of the dish, and the Meth forms in the
6 bottom.

7 Q. And when the Meth forms in the bottom ---

8 A. Yes, ma'am.

9 Q. --- does the liquid come off it?

10 A. No, the liquid stays in it, and you have to drain it,
11 and let the powder stay at the bottom, and then it dries.

12 Q. So like a -- I guess a -- what kind of Pyrex dish?

13 Like a --

14 A. A glass one.

15 Q. Like a baking water or a bowl?

16 A. Baking.

17 Q. So when it's in the baking dish, is it still wet?

18 A. Yes, ma'am.

19 Q. How does it dry out?

20 A. You can just let it sit there or put a hair dryer to
21 the bottom of the Pyrex dish, and dry it that way.

22 Q. And it evaporates?

23 A. Whatever excess liquid is on it will evaporate, yes,
24 after you drain it.

25 Q. And when it evaporates, what do you have to do to it

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-573-

1 next?

2 A. Scrape it out.

3 Q. How did you all scape it out?

4 A. Credit cards, razor blades.

5 Q. Who -- What part did you do in this? In the process,
6 what would you actively participate in?

7 A. I have actively participated in all the parts of that
8 process.

9 Q. You gassed it off. Okay.

10 So from start to finish, there hasn't been anything
11 that you do or don't do?

12 A. Right.

13 Q. You've cut the lithium out of batteries?

14 A. Yes.

15 Q. What part did you see Mr. Johnson do?

16 A. Same as me. Actively, every process.

17 Q. Every single step?

18 A. Yes, ma'am.

19 Q. How about Mr. Catoe?

20 A. Yes, ma'am.

21 Q. Did you all have any set plan of who's going to do
22 what or it was, kind of on the fly?

23 A. Yeah.

24 Q. Okay. What would be done with the finished amount?

25 A. It would be bagged up.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-574-

1 Q. Bagged up? Okay. How would you bag it up?

2 A. All in one bag.

3 Q. All in one bag?

4 A. Yeah.

5 Q. Would you weigh it before you put it in the bag?

6 A. Yes, ma'am.

7 Q. How did you weigh it?

8 A. On digital scales.

9 Q. Digital scales. Okay. And was that
10 Methamphetamine -- did you ever see them give, or did you,
11 yourself ever give that Methamphetamine to anyone else?

12 A. Yes.

13 Q. Let's start with who you saw Jason give
14 Methamphetamine to.

15 A. Robbie Catoe.

16 Q. Okay.

17 A. Matt Oakes, Shannon Atkins, Jason -- Jordan Johnson.

18 Q. Okay.

19 A. That's all I can remember right at this time.

20 Q. Is there anybody else that you can't remember, you
21 don't know their names?

22 A. Yeah, I mean, there's people I don't know their names.

23 Q. How many -- I know this is going to be tough, but how
24 many different people have you seen Mr. Johnson give
25 Methamphetamine to?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-575-

1 A. I can't really count a certain number.

2 Q. More than 10?

3 A. Maybe 10, right around 10, yes.

4 Q. How about Mr. Catoe? Did you ever see him give
5 Methamphetamine to anybody?

6 A. Not really.

7 Q. Okay. Whose dope was it?

8 A. It was Jason's dope.

9 Q. Who controlled what everybody did? Could you go in
10 there and take your own dope out of it?

11 A. No.

12 Q. Why?

13 A. Because I didn't hold it.

14 Q. Who held it?

15 A. Jason.

16 Q. What about Corey? Did Corey hold it?

17 A. Not usually, no.

18 Q. Why?

19 A. Because it was Jason's.

20 Q. How did Jason treat Corey?

21 MR. BROWN: Objection, relevance, Your Honor.

22 THE COURT: Overruled.

23 You may ask.

24 MS. COLTON: Thank you.

25 Q. How did Jason treat Corey?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-576-

1 A. Kind of like a do-boy.

2 Q. What -- tell the jury what you mean by a "do-boy."

3 A. "Do this for me. Do that for me. Did you take this
4 out? Did you do this?"

5 Q. Who ran the errands to get all these supplies?

6 A. We did.

7 Q. Who's -- All three of you?

8 A. Yes, ma'am.

9 Q. And how did Jason treat you during this period of time
10 before you all broke up?

11 A. We -- we were just -- I mean, it was just not a very
12 good relationship, no.

13 Q. Were you better treated than Corey or were you his do-
14 girl?

15 A. I mean, I was better treated than Corey, but that's
16 not saying much.

17 Q. Well how do you feel about Corey?

18 A. Corey?

19 Q. Yeah.

20 A. Explain how -- Well how do you mean?

21 Q. How do you -- what's your -- how do you feel about
22 him?

23 A. I mean --

24 Q. After all that, and seeing what -- seeing that?

25 A. He got caught up in a bad situation.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-577-

1 Q. We talked about who you saw Jason give Methamphetamine
2 to. Are those going to be the same group of people that
3 you saw him sell Methamphetamine to?

4 A. Yes, ma'am.

5 Q. How about trade for Sudafed? Did you ever witness
6 that?

7 A. Yes, ma'am.

8 Q. Tell the -- please tell the jury what that means when
9 somebody trades a box?

10 A. You have a box of Suda, and you trade it for the Meth
11 because that's what you make the Meth from is the Suda.

12 Q. And who did you specifically see give boxes -- or who
13 do you know gave boxes to Jason?

14 A. The same people that I named.

15 Q. Is there anybody else that you know or Jason told you
16 gave boxes to him or Corey said that he gave to him?

17 A. No, ma'am.

18 Q. Do you know Lisa Simmers?

19 A. Yes, ma'am.

20 Q. How do you know Lisa Simmers?

21 A. She's another one that I've seen Jason deal with.

22 Q. You have to tell the jury what "deal with" means
23 because they don't understand that --

24 A. I've seen Jason sell to her.

25 Q. For money or boxes?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-578-

1 A. Money.

2 Q. How about Brittany Simmers?

3 A. Yes, ma'am.

4 Q. Sell, trade, or give?

5 A. Both.

6 Q. All three?

7 A. Oh, yes, ma'am.

8 Q. And who are Brittany and Lisa Simmers?

9 A. They're sisters.

10 Q. Did Jason ever trade with -- or you, or Mr. Catoe ever
11 trade with Brittany for any other type of drugs that I
12 haven't mentioned? Not Suda, not money, or -- just give.
13 But was there anything else exchanged instead of those
14 things?

15 A. No, ma'am.

16 Q. You know Mandy Caudle?

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

18 Q. Tell the jury how you know Mandy.

19 A. I know Mandy through Mickey Thomas.

20 Q. Who's Mickey Thomas?

21 A. Her, I guess, ex-boyfriend, a boyfriend.

22 Q. And were they involved with you all during this period
23 of time?

24 A. No, they weren't involved with us. No, ma'am.

25 Q. Were they buying or trading or doing anything like

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-579-

1 that at this period of time?

2 A. Not that I'm aware of.

3 Q. When you all would get -- you all would have to go out
4 and buy this stuff in addition to the Suda, the supplies.

5 A. Yes, ma'am.

6 Q. Where would you guys go to get the boxes?

7 A. Pharmacies.

8 Q. And did you go to one pharmacy?

9 A. Different ones.

10 Q. Okay. Tell the jury how you went to different
11 pharmacies, and why you did that?

12 A. You have to go to different pharmacies because you can
13 only buy so many boxes per month. And from different
14 pharmacies, some of them -- their computers are connected.
15 So if you've boughten three boxes at this one pharmacy, you
16 can't go down the road at the same pharmacy because they
17 have it in their computer. So you have to bounce around
18 the different named pharmacies.

19 Q. So essentially, you could get blocked?

20 A. Yes, ma'am.

21 Q. And you would -- is this -- would you continue to go
22 until you not get blocked?

23 A. Yes, ma'am.

24 Q. What do you think the most pharmacies you ever saw in
25 a day went into for a day to buy Suda's?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-580-

- 1 A. That's a very hard question. I have no idea.
- 2 Q. More than two?
- 3 A. Yeah.
- 4 Q. More than five?
- 5 A. Some days.
- 6 Q. Do you remember everyone you bought Sudafed with?
- 7 A. Not every single person but, yes, I remember.
- 8 Q. Can you tell me some of the people you bought with?
- 9 A. Amanda Hunley, Shannon Atkins, Jason, Corey. That's
- 10 about it.
- 11 Q. How many times do you think you bought Suda?
- 12 A. Me personally?
- 13 Q. Yeah.
- 14 A. I can't give you a number, a precise number.
- 15 Q. A lot?
- 16 A. Yes, ma'am.
- 17 Q. The other things that you guys would need to make
- 18 Meth, where would you get that stuff from?
- 19 A. A home improvement store like Lowe's or Home Depot,
- 20 places like that.
- 21 Q. And when you went in, would you buy everything at one
- 22 time?
- 23 A. Some places, yeah.
- 24 Q. Did you all drive to the pharmacies together?
- 25 A. Yes, ma'am.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-581-

1. Q. And how -- Who would go in when you stopped?

2 A. Me.

3 Q. You?

4 A. And then, them.

5 Q. You all didn't go in at the same time?

6 A. No, ma'am.

7 Q. How come?

8 A. Because that's three people at one time buying the
9 same thing.

10 Q. How would that look?

11 A. Not good.

12 Q. Did you ever get questioned by any of the pharmacy
13 techs?

14 A. A couple.

15 Q. Would they -- well, I'm not going to ask you that.
16 Did they ever refuse to sell to you?

17 A. Yes, ma'am.

18 Q. Did they ever tell you, you were blocked?

19 A. Yes, ma'am.

20 Q. Did they ever refuse to sell to you even though you
21 weren't blocked?

22 A. A few times that may have happened.

23 Q. How did you know what to buy?

24 A. Jason told me.

25 Q. Other than the method that you just told us about, did

1 you ever see Jason use any other method to cook or do it
2 any differently?

3 A. No, ma'am.

4 Q. And if you can -- well, how much Meth would he get
5 from a box, one box?

6 A. Around about maybe a half a gram.

7 Q. A half a gram.

8 What's the most boxes you ever saw him with?

9 Most boxes you ever saw him with?

10 A. Five.

11 Q. Five. Okay.

12 And when you go through all this process, and you get
13 rid of all that liquid, and all that stuff, and you've got
14 the power left.

15 A. Yes, ma'am.

16 Q. All that stuff you used, what did you all do with
17 that?

18 A. Burn it.

19 Q. And at the time you were living at Tommy Catoe's
20 house, who would burn it?

21 A. Corey.

22 Q. Corey would? Okay. Who told Corey to burn it?

23 A. Jason.

24 Q. How would he burn it? Where would he burn it?

25 A. In a fire pit in the front yard.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-583-

1 Q. And why would you burn it? Do you know?

2 A. It's not good to have that kind of stuff laying
3 around.

4 Q. For -- well, for what reasons?

5 A. Because you're not supposed to be doing it.

6 Q. Were you all cautious about what you did?

7 A. Yes, ma'am.

8 Q. And by cautious, what things would you guys do in
9 being cautious about what you did?

10 A. When you peel lithium batteries, they can catch on
11 fire, so you need to automatically get them out of the
12 house.

13 Q. That's the first thing?

14 A. Yes, ma'am.

15 Q. And when you take them out of the house.

16 A. We grind them yourselves.

17 Q. And what other things were you all cautious about?

18 A. The smoke and everything.

19 Q. Okay.

20 A. And the fumes from the Muriatic.

21 Q. Well what did you all do about the smoke and the
22 fumes?

23 A. Wear something over your face.

24 Q. Did you ever wear anything over your face?

25 A. Yes, ma'am.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-584-

1 Q. Did you ever see Jason wear anything over his face?

2 A. Yes, ma'am.

3 Q. What did he wear over his face?

4 A. Bandana or a shirt, long-sleeve shirt.

5 Q. And with those fumes, what did those fumes smell like?

6 A. Horrible.

7 Q. And is there any chemical smell you can equate that
8 to?

9 A. No, not really. It just has a very strong odor. It
10 takes your breath.

11 Q. Do the fumes have a color?

12 A. No.

13 Q. It's colorless. Okay.

14 You said you, Jason, and Corey stayed at Tommy Catoe's
15 - Corey Catoe's place, maybe a couple of months. Did you
16 all leave at some point?

17 A. Yes, ma'am.

18 Q. How come you all left?

19 A. There was a issue about me and Jason staying there.
20 We just -- we didn't want to be there anymore.

21 Q. Where did you all go when you left?

22 A. Rock Hill.

23 Q. Where in Rock Hill?

24 A. Jason Johnson's brother's apartment.

25 Q. What is Jason Johnson's brother's name?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-585-

1 A. Josh Johnson.

2 MS. COLTON: Can I have State's Forty-four, please?

3 (STATE'S EXHIBIT FORTY-FOUR PUBLISHED TO JURY ON
4 COURTROOM OVER HEAD PROJECTOR.)

5 Q. What's that?

6 A. That's the apartment.

7 Q. That you stayed in?

8 A. Yes, ma'am.

9 Q. With Jason Johnson?

10 A. Yes, ma'am.

11 Q. You?

12 A. Yes, ma'am.

13 Q. Corey Catoe?

14 A. Yes, ma'am.

15 Q. Josh Johnson?

16 A. Yes, ma'am.

17 Q. And was Amy staying there as well?

18 A. Yes, ma'am.

19 Q. Okay. And do you remember approximately when you went
20 to that apartment?

21 A. Not really. October, yeah, in October.

22 Q. And the making the Meth, and your use of Meth, did
23 that continue when you moved into that apartment?

24 A. Yes.

25 Q. With the same frequency or greater frequency?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-586-

1 A. About the same, maybe less.

2 Q. And at that apartment, would it be those same people
3 that you mentioned before that would come and get and buy
4 and sell Meth, or did you just restrict that to what
5 happened at Tommy's?

6 A. No, same people.

7 Q. Those are going to be the same people. Okay.

8 And was -- Were you all staying there in December when
9 you broke up?

10 A. Yes.

11 Q. During this period of time, did you all go down to
12 Charleston?

13 A. Yes.

14 Q. Who went to Charleston?

15 A. Me and Jason went down to Charleston.

16 Q. Who did you visit in Charleston?

17 A. Barbara Porter.

18 Q. And did you and Ms. Porter purchase Sudafed in
19 Charleston?

20 A. Yes, ma'am.

21 Q. What did you all do with the Sudafed in Charleston?

22 A. We brought it back with us.

23 Q. Did you all manufacture any -- or make any Meth in
24 Charleston?

25 A. Not to my knowledge.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-587-

1 Q. You got the -- you just got the boxes and brought it
2 back up here?

3 A. Yes, ma'am.

4 Q. And then, did you use that to manufacture Meth?

5 A. Yes, ma'am.

6 Q. Would it be safe to say that every box of Sudafed you
7 bought during this time went to manufacture Meth?

8 A. Yes, ma'am.

9 Q. You weren't using it for your colds?

10 A. No, ma'am.

11 Q. And who is Barbara Porter?

12 A. A friend of Jason's.

13 Q. Do you know if Jason ever used fake ID's?

14 A. I think so, yes, ma'am.

15 Q. Well do you know or do you think so? Did he ever tell
16 you that he did, that includes that?

17 A. No.

18 Q. Did Corey ever -- Do you know if Corey ever used fake
19 ID's?

20 A. Yes, ma'am.

21 Q. And why were fake ID's used?

22 A. Because if your ID's -- If you can't get any more
23 boxes with your ID, you have a fake ID you can use that.

24 Q. Did you ever see them being made?

25 A. No, ma'am.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-588-

1 Q. Did you ever have one made for you?

2 A. No, ma'am.

3 Q. Do you know if Jason ever used a fake ID with you?

4 A. No.

5 Q. Do you know if Corey ever used a fake ID when he was
6 with you?

7 A. I believe so, yes.

8 Q. Do you know any of the names Corey may have used?

9 A. No, I don't. I'm sorry.

10 Q. Now you're -- You're currently on probation?

11 A. Yes, ma'am.

12 Q. And when law enforcement -- well, do you know this
13 gentleman over here?

14 (SOLICITOR INDICATED TO GENTLEMAN BEHIND DESK.)

15 A. Yes, ma'am.

16 Q. How do you know him?

17 A. Narcotics.

18 Q. Narcotics.

19 When he came to talk to you, were you -- still had a
20 pending probation violation, and you had a grand larceny
21 charge as well?

22 A. Yes, ma'am.

23 Q. And the grand larceny caused you to -- the grand
24 larceny was a violation of your probation?

25 A. No, ma'am.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-589-

1 Q. What was your violation of probation for?

2 A. I failed a drug test.

3 Q. And how -- When were you put on probation?

4 A. Last June, or the June that just passed of 2011.

5 Q. And when did you fail that drug test?

6 A. I got put on probation at the very beginning of June,
7 like, June 4th. I went five days later to report, and
8 that's when I failed my drug test.

9 Q. For five days you were on probation?

10 A. Yes, ma'am.

11 Q. Okay. And you ultimately had that -- well, let me ask
12 you this. Your grand larceny was dismissed?

13 A. Yes, ma'am.

14 Q. With the right to restore.

15 A. Yes, ma'am.

16 Q. Correct?

17 Who was the Solicitor in that case?

18 A. Erin Joyner.

19 Q. Were you promised anything when Ms. Joyner or myself
20 dismissed that case?

21 A. No, ma'am.

22 Q. You had your probation violation ---

23 A. Yes, ma'am.

24 Q. --- as well? Okay. And that grand larceny had
25 nothing to do with it? The violation?

1 A. No, ma'am.

2 Q. When you went before the judge, do you remember what
3 judge you went in front of for the probation violation?

4 A. I got a bond from Judge Alford. And then I went in
5 front of Judge Hayes to be recommended to wait on house
6 arrest until a bed in rehab becomes available for me.

7 Q. Did myself or anyone else from the Solicitors' Office
8 intervene on your behalf with Judge Hayes?

9 A. No, ma'am.

10 Q. With probation?

11 A. No, ma'am.

12 Q. Did we tell you that we were not going to do that?

13 A. Yes, ma'am.

14 Q. And you are out on house arrest right now waiting for
15 that bed from rehab to become available?

16 A. Yes, ma'am.

17 Q. And then you were going to back on probation; is that
18 not correct?

19 A. Yes, ma'am.

20 Q. You weren't terminated?

21 A. No.

22 Q. You're not going to be terminated after your drug
23 treatment program?

24 A. I -- my probation is over in June. I only had two
25 years, suspended and one year, probation.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-591-

1 Q. Okay.

2 A. So after I'm done in rehab, how many ever months after
3 that, June comes, I'm -- I'll be terminated.

4 Q. What was that conviction? Where was that conviction
5 at?

6 A. Lee County.

7 Q. You were convicted in Lee County?

8 A. Yes, ma'am.

9 Q. Or were you convicted in York County?

10 A. Well I was convicted in Lee County, yes, ma'am.

11 Q. And then they transferred you?

12 A. And then they transferred here.

13 Q. And what was that conviction for?

14 A. Distribution of marijuana.

15 Q. Of marijuana?

16 A. Yes, ma'am.

17 Q. And that's a felony?

18 A. Yes, ma'am.

19 Q. Have you ever gone to rehab, Shelley?

20 A. Yes, ma'am.

21 Q. How many times have you gone to rehab?

22 A. Twice before.

23 Q. Twice before. Did it work?

24 A. No.

25 Q. What kind of drugs have you used?

1 A. Opiates, heroine, cocaine.

2 Q. How long have you used these drugs?

3 A. I started using -- I started smoking weed when I was
4 15 years old.

5 Q. Okay.

6 A. So after that, after years go by, it gets worse.

7 Q. And in comparison to other -- are you addicted to any
8 other drugs?

9 A. As of now, no, ma'am.

10 Q. Were you ever addicted to any other drugs?

11 A. Yes, ma'am.

12 Q. What drugs were you addicted to?

13 A. Heroine and Meth.

14 Q. Heroine and Meth. Okay. Which is worse? Which is
15 harder to kick?

16 A. Heroine.

17 Q. Heroine. And in using this -- How old are you?

18 A. I'm 22 years old.

19 Q. You're 22 years old?

20 A. Yes, ma'am.

21 Q. How old were you when you met with Mr. Johnson?

22 A. I was 21.

23 Q. Did your family know about all this stuff going on?

24 A. No, ma'am.

25 Q. How long have you been off Meth?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-593-

1 A. January of last year.

2 Q. Let me ask you this, and I'm going to go back a little
3 bit. I know I'm skipping around a little bit with you.
4 After you and Jason break up ---

5 A. Uh-huh.

6 Q. --- in December, do you think that's the beginning of
7 December?

8 A. Yes, ma'am.

9 Q. Do you know where Jason goes? Does he stay -- he
10 stays at Springdale Road Apartments?

11 A. Yeah, I'm guessing so, yes, ma'am.

12 Q. Did you ever go back over there?

13 A. Once.

14 Q. Why?

15 A. To get Meth.

16 Q. From who?

17 A. Jason.

18 Q. And I'm going to ask you, please, because they're
19 probably not going to be able to hear you way in the back.

20 A. I'm sorry.

21 Q. I know. Are you nervous?

22 A. Yes, ma'am, I am.

23 Q. All right, Shelley, so you went back to buy even
24 though you and Jason were broken up?

25 A. Yes.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-594-

1 Q. Do you remember how much you bought from him?

2 A. A half a gram.

3 Q. A half a gram. And did you ever pay for Meth before
4 this time with Jason, when you were living with him?

5 A. No.

6 Q. During that period of time, how much Meth do you think
7 you would use -- and this is -- we're talking about before
8 you all broke up. How much Meth do you think you would use
9 each time you used it, each time you shot up?

10 A. A fourth of a gram.

11 Q. A fourth? Okay.

12 And how many times a day do you think you would use
13 it?

14 A. Three or four times.

15 Q. And would you use it every day?

16 A. Yes, ma'am.

17 Q. From the time you all moved into Tommy's house?

18 A. Yes, ma'am.

19 Q. All the way through when you and Jason broke up?

20 A. Yes.

21 Q. And when you bought, what did -- Between when you all
22 broke up and Jason being arrested on February 27th, 2011,
23 did you buy continually after that?

24 A. No.

25 Q. When did you buy from Jason?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-595-

1 A. Beginning of January, middle of January.

2 Q. And you said each -- Well when you bought from him,
3 did you always buy the same amount?

4 A. No.

5 Q. How much -- What different weights would you buy?

6 A. After me and Jason broke up, I only bought from him
7 once, really.

8 Q. And you said that was a half a gram?

9 A. Uh-huh.

10 Q. How much were you charged for that?

11 A. Forty dollars.

12 Q. How much?

13 A. Forty dollars.

14 Q. Forty dollars. Was that at Springdale?

15 A. Yes, ma'am.

16 Q. Did you ever meet him in any hotel rooms?

17 A. No.

18 Q. Do you know Christopher Matuse?

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

20 Q. How do you know Chris Matuse?

21 A. Through Jason.

22 Q. How do you know him through Jason?

23 A. Him and Jason dealt together.

24 Q. What does that mean?

25 A. He sold to Chris.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-596-

- 1 Q. Jason sold to Chris?
- 2 A. Yes, ma'am.
- 3 Q. How about Cassie?
- 4 A. That was Chris's girlfriend.
- 5 Q. Do you know her last name?
- 6 A. No, I don't.
- 7 Q. Okay. And did you ever see Chris bring boxes to
- 8 Jason?
- 9 A. No, ma'am.
- 10 Q. Did you ever see Cassie bring boxes to Jason?
- 11 A. No, ma'am.
- 12 Q. Did you ever see Cassie get drugs from Jason?
- 13 A. Yes, ma'am.
- 14 Q. Okay. Do you remember Jason giving Meth to, and
- 15 telling investigators that he gave Meth to Pee Bo Ingham as
- 16 well?
- 17 A. Yes, ma'am.
- 18 Q. And who's Pee Bo Ingham?
- 19 A. A friend of Jason's.
- 20 Q. Who does Pee Bo date?
- 21 A. Lisa Simmers.
- 22 Q. And Josh Johnson?
- 23 A. Yes, ma'am.
- 24 Q. And Amy Cook. Do you know if they ever gave Jason
- 25 boxes?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-597-

1 A. No, ma'am, they didn't.

2 Q. Were they involved with everything that was going on?

3 A. No, ma'am. I don't believe so.

4 Q. Do you remember where Jason would leave the supplies
5 that you all used?

6 A. Wherever we were staying.

7 Q. Do you remember telling Investigator Schifferle in
8 your statement that he would sometimes leave supplies at
9 other people's houses and vehicles or in other areas mostly
10 because he was paranoid?

11 A. Yes, ma'am.

12 Q. Is that a truthful statement?

13 A. Yes, ma'am.

14 Q. And by "paranoid," what did you mean? How was he
15 paranoid?

16 A. He just didn't want all that stuff in one place to get
17 caught if he did get caught.

18 Q. Do you know Brandi Quinn?

19 A. Yes, I know Brandi.

20 Q. Did you meet Brandi through Jason?

21 A. No, I met Brandi - I saw Brandi one time with Jason,
22 but then I met Brandi really when I was incarcerated in
23 June. She was in jail for the charges now.

24 Q. Do you recognize State's Forty-six?

25 A. Yes, ma'am.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-598-

1 Q. What is that?

2 A. That's my -- Lauren is her name -- that's her house.

3 Q. Do you know what Lauren's last name is?

4 A. Pettit.

5 (SIDE BAR DISCUSSION OFF THE RECORD BETWEEN SOLICITOR
6 AND ATTORNEY BROWN.)

7 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY-ONE
8 PREMARKED FOR IDENTIFICATION.)

9 Q. All right, Shelley. I'm going to show you what's been
10 marked for identification purposes as State's Sixty-one.

11 Okay? Do you recognize that?

12 A. That's me and Jason.

13 Q. Is that a truthful and accurate depiction of what you
14 all looked like?

15 A. Yes, ma'am.

16 Q. Do you know when that was taken?

17 A. Right when we first got together.

18 Q. Probably in the summer?

19 A. Yes, ma'am.

20 MS. COLTON: Your Honor, at this time, the State would
21 move to enter into evidence State's Sixty-one.

22 MR. BROWN: Without objection.

23 THE COURT: Be without objection.

24 MS. COLTON: And publish it to the jury, Your Honor.

25 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY-ONE

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-599-

1 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE, PUBLISHED TO
2 THE JURY AT 11:05 AM.)

3 Q. Shelley, who's in that picture?

4 A. Jason and I.

5 Q. And back in the summer of 2010, that's what you looked
6 like?

7 A. Yes, ma'am.

8 Q. I hate to ask you this question. And I have to ask it
9 of you. How has your appearance changed since then?

10 A. Obviously my hair is darker. I've put on some weight.

11 Q. And is that why -- why did you put on weight?

12 A. Because I'm not using drugs.

13 Q. And what happens when you use Meth?

14 A. You don't eat.

15 Q. And by coming off drugs, that's altered how you look?

16 A. Yes, ma'am.

17 Q. Did it alter how you looked when you were on drugs?

18 A. Yes, ma'am.

19 Q. What -- How did you look when you were on Meth?

20 A. Skinny, tired.

21 Q. And when you used to use Meth, how would that affect
22 you?

23 A. Keep me up for days. It changes your thinking, makes
24 you paranoid.

25 Q. Would you do -- What would you do when you were on

1 Meth?

2 A. It would depend on where we were.

3 Q. Do you know what "tweaking" is?

4 A. Yes, I know what tweaking is.

5 Q. What is -- Can you tell the jury what tweaking is?

6 A. Tweaking is when you're like -- you're so paranoid
7 that you -- you start hearing things or you kind of freak
8 out a little bit, and you tweak.

9 Q. Do you engage in any behaviors or you just get real
10 paranoid?

11 A. You can get real -- you get real paranoid. You can
12 get engaged in some kind of behavior like --

13 Q. At Tommy's house, were there a lot of computers there?

14 A. One -- one home computer there, but then Jason and I
15 had a laptop.

16 Q. And does Jason -- Did Jason ever work for a computer
17 repair company?

18 A. No, ma'am.

19 Q. Did Corey ever work for a computer repair company?

20 A. No, ma'am.

21 Q. Did you -- When they moved over to Springdale, did you
22 see a lot -- and you all were living there together, were
23 there a lot of computers there?

24 A. Yes.

25 Q. Were they engaged in the computer repair business at

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-601-

1 that time?

2 A. No, ma'am.

3 Q. Well tell me about those computers. Do you know where
4 they came from?

5 A. No.

6 Q. Did you ever go with Jason or Corey to buy them at the
7 store?

8 A. No, ma'am.

9 Q. Did you ever see them brought into the house?

10 A. No, ma'am.

11 Q. Did you ever participate in bringing them into the
12 house?

13 A. Carrying them in and out of the house?

14 Q. I guess, yeah.

15 A. Yes, ma'am.

16 Q. Where were you all carrying them in and out from?

17 A. Places we were going.

18 Q. What's that mean?

19 A. I mean, places we were going, like, people we were
20 going to see. Jason would take his laptop or take his
21 computer.

22 Q. What about all the other computers?

23 A. We wouldn't take them all at the same time. Jason
24 worked on computers.

25 Q. And by "worked on," what do you mean by worked on?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-602-

1 A. To be honest with you, just taking them apart and
2 putting them back together.

3 Q. Did he ever -- Was he in the business of selling them?

4 A. No, ma'am.

5 Q. Was he in the business of trading them?

6 A. No, ma'am.

7 Q. Did he ever work for anybody that employed him or paid
8 him a salary to do this?

9 A. No, ma'am.

10 Q. Did Corey?

11 A. No.

12 Q. What did Corey do for a living?

13 A. When we moved to Springdale, he started working at a
14 garage.

15 Q. What kind of garage?

16 A. A car garage, automotive.

17 Q. Automotive. What did Jason do for a living?

18 A. Nothing.

19 Q. He didn't have a job during this period of time?

20 A. No, ma'am.

21 Q. Did you know if -- let me ask the question. And why
22 would he take them apart and put them back together?

23 A. I don't know. Something to do.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY-TWO
25 PREMARKED FOR IDENTIFICATION.)

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-603-

1 Q. I'm going to show you what's marked for State's Sixty-
2 two for identification purposes.

3 A. It's Jason.

4 Q. Have you ever seen what Jason's wearing before?

5 A. Yes, ma'am.

6 Q. Is that a truthful and accurate depiction of Jason in
7 what's in that picture?

8 A. Yes, ma'am.

9 MS. COLTON: Your Honor, the State would move to enter
10 into evidence State Sixty-two and publish it.

11 MR. BROWN: Without objection.

12 THE COURT: Be without objection.

13 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY-TWO
14 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

15 MS. COLTON: Your Honor, we'd ask them to publish it
16 to the jury as well.

17 THE COURT: You may publish.

18 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY-TWO
19 PUBLISHED TO THE JURY.)

20 Q. And this is Mr. Johnson?

21 A. Yes, ma'am.

22 Q. And that item, where have you seen that item before?

23 A. It's the mask he wore.

24 Q. Where -- When did he wear it?

25 A. While cooking Meth.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-604-

1 Q. While cooking Meth? Okay. And why did he wear it?

2 A. The fumes.

3 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-SEVEN
4 PREMARKED FOR IDENTIFICATION.)

5 Q. Let me show you State's Fifty-seven. Okay?

6 A. Okay.

7 Q. Do you recognize that -- anybody in that photo?

8 A. Yes, ma'am.

9 Q. Who's in that photo?

10 A. Pe Bo Ingham and Matt Oakes.

11 Q. Do you know where they are?

12 A. Lauren's backyard.

13 Q. Okay. Is that a truthful and accurate depiction of
14 what that backyard looks like?

15 A. Yes, ma'am.

16 Q. And what those two individuals look like. Okay, thank
17 you.

18 MS. COLTON: And at this time, Your Honor, the State
19 would move to enter into evidence and publish to the jury,
20 State's Exhibit Fifty-seven.

21 MR. BROWN: Without objection.

22 THE COURT: Be without objection.

23 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-SEVEN
24 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE, PUBLISHED TO
25 THE JURY.)

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-605-

1 Q.. Who is that person?

2 A. Pe Bo Ingham and Matt Oates.

3 Q. That's Matt Oates on the right?

4 A. Yes, ma'am.

5 Q. And that's the backyard?

6 A. Yes, ma'am.

7 Q. Did you ever see -- Did you all ever cook over at that
8 house Methamphetamine?

9 A. Yes, ma'am.

10 Q. Well tell the jury about that. Okay? Did you -- were
11 you involved in the cooking at Matt Oakes' house?

12 A. Yes, ma'am.

13 Q. Where did you all cook at Matt Oakes' house?

14 MR. BROWN: Your Honor, I'm going to put the same
15 objection on the record, a different conspiracy. I haven't
16 heard Corey Catoe's name in who knows when.

17 THE COURT: Overruled.

18 Q. Who -

19 THE COURT: You might want to clarify.

20 MS. COLTON: I'm going to clarify it right now, Your
21 Honor.

22 Q. Who were you with at that house?

23 A. Jason, Matt, Lauren, myself. I don't think I ever
24 went there with Corey.

25 Q. I'm sorry.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-606-

1 A. I don't think I've ever been there with Corey.

2 Q. Okay, good enough. That's fair enough.

3 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-EIGHT
4 PREMARKED FOR IDENTIFICATION.)

5 Q. I'm going to show you what's been marked for
6 identification purposes as State's Fifty-eight. Do you
7 recognize that?

8 A. Yes, ma'am.

9 Q. What's that a picture of?

10 A. That's Jessica Workman's house.

11 Q. Is that a truthful and accurate depiction of Ms.
12 Workman's house?

13 A. Yes.

14 MS. COLTON: The State would move to enter into
15 evidence State's Fifty-eight, Your Honor.

16 MR. BROWN: Without objection, Your Honor.

17 THE COURT: Be without objection.

18 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-EIGHT
19 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

20 Q. Did you, Jason, and Corey ever go over there?

21 A. Me and Jason went over there a few times, yes.

22 Q. Where did -- why did you go over there?

23 A. To -

24 MR. BROWN: Objection, Your Honor, same objection as
25 before.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-607-

1 THE COURT: Counsel, approach just a minute.

2 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
3 THE JURY AT 11:15 AM.)

4 BY MS. COLTON:

5 Q. During the period of time when you were with Jason,
6 the Methamphetamine that you all were using, giving and
7 selling, was that all made by the three of you?

8 A. Yes.

9 Q. Were you all getting Meth from anyplace else?

10 A. No.

11 Q. All the Meth that was produced was from you, Jason,
12 and Corey?

13 A. Yes.

14 Q. If you ever brought or was with him to deliver any of
15 the Methamphetamine, would it come from you, Jason, and
16 Corey's production?

17 A. Yeah.

18 MS. COLTON: Does that satisfy the Court, Your Honor?

19 THE COURT: I asked about these specific location.

20 MS. COLTON: Yes.

21 Q. When you all went to Ms. Workman's house, were the
22 items that you had with you produced by you, Jason, and
23 Corey?

24 A. Yes.

25 Q. The Methamphetamine was made by you, Jason, and Corey?

1 A. Yes, ma'am.

2 Q. And you delivered it to Matt Oakes' house?

3 A. Yes, ma'am.

4 Q. Who was at Matt Oakes' house that day?

5 A. Matt, Lauren, me, and Jason.

6 Q. And did you or Jason give the Methamphetamine to
7 anyone, or did they have their own, or how did that -- who
8 was using it? Explain.

9 A. Matt, and his girlfriend, and myself.

10 Q. The three of you were using? Was Jason using?

11 A. Yes, ma'am.

12 Q. And who supplied the Methamphetamine?

13 A. Jason.

14 Q. And when -- Do you remember how much you all brought
15 over with you?

16 A. No, ma'am.

17 Q. Who drove over there?

18 A. Myself or Jason.

19 Q. Who was driving the car? Do you remember?

20 A. I think me.

21 Q. How long did you stay there?

22 A. A few hours.

23 Q. And do you remember when exactly this was?

24 A. No.

25 Q. Was it during the day?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-609-

1 A. Yes.

2 Q. Did you all stay through the night?

3 A. A little bit into the night, yes, ma'am.

4 Q. Where did you all stay? Were you all in the house?
5 Were you outside?

6 A. In the house.

7 Q. What did you all do when you were in the house?

8 A. Bubbled the Meth in the kitchen.

9 Q. I'm sorry.

10 A. We gassed it in the kitchen.

11 MR. BROWN: I'm going to object because Mr.

12 Catoe's -- Corey Catoe's not here.

13 THE COURT: Counsel, approach.

14 MS. COLTON: Yes, sir.

15 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
16 THE JURY.)

17 THE COURT: Would you give us some light, please,
18 ma'am?

19 (COURTROOM LIGHTS TURNED UP.)

20 THE COURT: Madame Forelady, members of the jury
21 panel, the exhibit picture I don't have the number, that's
22 currently being displayed.

23 Is that at Matt Oakes' house; am I right about that?

24 MS. COLTON: Yes, Your Honor. It's State's Fifty-
25 seven.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON - IN CAMERA

-610-

1 THE COURT: And the testimony of this witness
2 concerning what went on at Matt Oakes' house, I'm going to
3 instruct to you at this time to disregard anything about
4 Matt Oakes' house or what went on at Matt Oakes' house.
5 Again, it's not relevant to this case. The Court's
6 determined it's not relevant to this case so I ask you to
7 disregard it, and give it no consideration whatsoever,
8 anything that happened at Matt Oakes' house that she's
9 testified to.

10 With that, I'm going to take -- we'll take a short
11 break at this time, and so you may refresh yourselves
12 during the break. We'll take about 10 minutes or so.

13 Thank you.

14 (JURY EXITS COURTROOM AT 11:20 AM.)

15 THE COURT: All right, Counsel. You want to make sure
16 we don't have the same kind of testimony.

17 MS. COLTON: Yes. Yes, sir, Your Honor.

18 DIRECT EXAMINATION - CONTINUED - IN CAMERA

19 SHELLEY PETTIGREW BY MS. COLTON:

20 Q. Shelly, I'm going to ask you a few questions about
21 this. You said that you gassed it off at Matt Oakes'
22 house. You all gassed it off. Did you bring it with you
23 to Matt Oakes' house?

24 A. Yes, ma'am.

25 Q. Okay, you have to answer affirmatively. Okay? I'm

SHELLEY PETTIGREW: DIRECT BY MS. COLTON - IN CAMERA

-611-

1 sorry ---

2 A. Yes, ma'am.

3 Q. --- that I keep harping on that.

4 Did you -- What did you bring over to Matt Oakes'
5 house?

6 A. The liquid.

7 Q. The liquid?

8 A. Uh-huh.

9 Q. And where -- Did you make the liquid?

10 A. Jason and all of us did.

11 Q. All of you? Who is all of you?

12 A. Jason, Corey, and myself.

13 Q. And you all made it together, and then you brought it
14 over to Matt Oakes' house?

15 A. Yes, ma'am.

16 Q. And with regard to Jessica Workman's house, did
17 you -- the Methamphetamine that was brought over there, was
18 that -- who was that made by?

19 A. Jason, but we never gassed anything or made anything
20 there at Workman's.

21 Q. Okay. Was it -- you just brought drugs to Jessica
22 Workman's. Jason made that Meth that was brought over
23 there?

24 A. Usually Jason, and Corey, I would help most of the --
25 some of the times.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON - IN CAMERA

-612-

1 Q. Okay. Well did you -- Do you recall if the drugs that
2 were brought to Jessica Workman's house were made by Corey
3 and Jason and you or any mixture of the three of you? Who
4 specifically made those drugs?

5 A. Me and Jason and Corey.

6 Q. Okay.

7 THE COURT: I'll allow that in so far as Workman's
8 concerned. Now, I think I'm going to stay away from the
9 other. I'm not going back to the jury on that.

10 MS. COLTON: Yes, sir.

11 THE COURT: Even though those questions have been
12 answered, asked and answered appropriately, I might let it
13 go before the jury, but I've already instructed them to
14 disregard it.

15 MS. COLTON: Yes, sir.

16 THE COURT: I'm not going back there so it wasn't
17 clarified.

18 Thank you.

19 Let's go ahead and take about 10 minutes or so.

20 Let me explain to the witness.

21 Ms. Pettigrew, you may stand down, refresh yourself
22 during the break. You may not, however, discuss the case
23 with anyone.

24 MS. PETTIGREW: Yes, sir.

25 THE COURT: You can't discuss the case at all. The

-613-

1 same as if you were still on the stand. You can talk about
2 anything else but that.

3 MS. PETTIGREW: Yes, sir.

4 THE COURT: Thank you.

5 Let's take about a ten minute break.

6 MR. BROWN: Your Honor, if I may. Can I ask opposing
7 counsel in the future, just lay the groundwork, so I don't
8 have to object to it. Her, Corey and Jason made it, and
9 I'm not going to --

10 THE COURT: Counsel, you know to show today some place
11 where the drugs or something is not sufficient to establish
12 ---

13 MS. COLTON: Yes, sir.

14 THE COURT: --- as part of the conspiracy. It's going
15 to be -- you've got two people that you're alleging is
16 continuously involved in the conspiracy all the way from
17 late July, first of August, all the way really until they
18 were caught on February 22nd. So that's -- you need to tie
19 them into it as I told you before. That's what makes it a
20 continuous conspiracy. So please make sure you do that and
21 are able to do that.

22 Thank you.

23 (COURT IN RECESS AT 11:26 AM.)

24 (COURT BACK IN SESSION AT 11:36 AM.)

25 (JURY REENTERS COURTROOM AT 11:40 AM.)

1 THE BAILIFF: Come to order.

2 THE COURT: Keep your seats please.

3 MS. COLTON: Judge, we all just had a quick question
4 for clarification purposes. Oh, I'm sorry, Your Honor. I
5 didn't realize that. Your Honor, with regard to State's
6 Fifty-seven.

7 Mike, that you want to talk about. There's some
8 question. I was under the impression that the picture, as
9 far as the backyard and who the people were, that this
10 photograph was in evidence, just the testimony that came as
11 a result of it was.

12 THE COURT: He didn't object to it's in evidence.

13 MS. COLTON: Okay.

14 THE COURT But what I instructed them and we heard
15 the testimony concerning that.

16 MS. COLTON: Yes, sir.

17 THE COURT: Was to disregard --

18 MS. COLTON: Okay. And Fifty-eight is not in
19 evidence. Is that correct?

20 MADAME COURT REPORTER: Yes, it is.

21 MS. COLTON: Okay.

22 MADAME COURT REPORTER: Is that not Workman?

23 MS. COLTON: Yes, it is.

24 MADAME COURT REPORTER: It's in.

25 MS. COLTON: Yes.

-615-

1 MADAME COURT REPORTER: Without objection.

2 MS. COLTON: I think just to clarify it, I'm going to
3 ask Ms. Pettigrew to start off with is if all of the
4 Methamphetamine that they dealt with are used or gaged
5 during that period of time, was that the Methamphetamine
6 that the three of you all made.

7 THE COURT: You've already ask her that.

8 MS. COLTON: I did do it on the record?

9 THE COURT: I think so. Didn't she do that?

10 MR. BROWN: I'm sorry --

11 MS. COLTON: I don't know if I did in front of the
12 jury.

13 THE COURT: Didn't she -- Oh, maybe you didn't do
14 it.

15 MS. COLTON: I think I did. I proffered it.

16 THE COURT: Oh, okay. It's a proffer. Okay, all
17 right.

18 MS. COLTON: That's the first --

19 THE COURT: I'm trying to figure out whether she
20 actually asked the question if all the drugs that they
21 couldn't do them somewhere else, then were made by the
22 three of them.

23 MR. BROWN: I believe in the proffer she covered that.

24 THE COURT: Proffered it, but she didn't do it before
25 the jury.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-616-

1 MR. BROWN: Correct, Your Honor.

2 MS. COLTON: That's what I'm going to do. I'm going
3 to ask that in front of the jury, but I'm not going to
4 touch Matt Oakes' house at all.

5 THE COURT: All right.

6 MS. COLTON: I will be giving Ms. Workman's house with
7 the off-camera, okay.

8 Thank you, Your Honor.

9 THE COURT: All right. Please bring the jury in.

10 THE BAILIFF: Yes, sir.

11 (JURY REENTERS COURTROOM AT 11:40 AM.)

12 THE COURT: Please proceed.

13 MS. COLTON: Thank you, Your Honor.

14 DIRECT EXAMINATION - CONTINUED

15 SHELLEY PETTIGREW BY MS. COLTON:

16 Q. Shelley, I just want to make sure we're all real clear
17 about this. Okay? All the Methamphetamine that you,
18 Jason, and Corey were dealing with at this time, was that
19 all made by the three of you?

20 A. Either the three of us or the two of them. Yes,
21 ma'am.

22 Q. The two of them. And who were the two of them?

23 A. Jason and Corey.

24 Q. So it was either made by Jason and Corey Catoe ---

25 A. Right.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-617-

1 Q. --- Jason Johnson, or you, Jason Johnson, and Corey
2 Catoe?

3 A. Yes, ma'am.

4 Q. You weren't buying Methamphetamine from anybody else
5 and reselling it?

6 A. No, ma'am.

7 Q. And that day that the picture was showed of Ms.
8 Workman's house that you identified as Ms. Workman's
9 house ---

10 A. Yes, ma'am.

11 Q. --- the Methamphetamine that you're speaking of was
12 made by Jason, Corey, and you?

13 A. Yes, ma'am.

14 Q. Okay. And with it -- with that, what did you do with
15 it?

16 A. Sold it to Jessica Workman.

17 Q. You sold it to Jessica Workman?

18 THE COURT: Ma'am, I'm going to get you to speak up a
19 little bit because I can barely hear you, and I don't think
20 the jurors are able to hear you.

21 THE WITNESS: All right. I'm sorry.

22 Q. Shelley, you're going to have to lean over and speak
23 into the mic.

24 A. All right.

25 Q. I mean are you having problems?

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-618-

1 A. Yes, ma'am.

2 Q. Why are you having problems today?

3 A. Just nervous.

4 Q. Why are you nervous?

5 A. Just a bad feeling doing this.

6 Q. You don't want to do it?

7 A. I don't, but...

8 Q. Is this going to cause you problems being here today?

9 A. It won't cause me problems, no.

10 Q. What are you -- Are you concerned about how you're
11 going to be viewed because of this?

12 A. That, yeah.

13 Q. Are you afraid to be doing this?

14 A. Yes, ma'am.

15 Q. Why? Well ---

16 MR. BROWN: Objection, Your Honor.

17 THE COURT: Sustain.

18 Q. Well, I'm not going to ask you that question.

19 MS. COLTON: I take that off -- strike it, Your Honor.

20 Q. But are you scared to be here?

21 A. Yes, ma'am.

22 MR. BROWN: Objection, Your Honor. Same question,
23 different form.

24 THE COURT: Well no, there was a different question
25 before. She had already asked that question.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-619-

1 Please proceed.

2 MS. COLTON: Yes, Your Honor.

3 Q. Do you remember how much was brought over to Ms.
4 Workman's house?

5 A. No, ma'am, I don't.

6 Q. Did you carry the drugs over to Ms. Workman's house?

7 A. No, ma'am.

8 Q. Why not?

9 A. I didn't, no.

10 Q. Who did?

11 A. Jason.

12 Q. Did you get the money from Ms. Workman?

13 A. No, ma'am.

14 Q. Who got the money from her?

15 A. Jason.

16 Q. Do you remember how much money it was?

17 A. No.

18 Q. Was that the first time that you all had ever brought
19 the drugs that you all made to Ms. Workman?

20 A. No.

21 Q. How many times have you brought drugs or seen drugs be
22 brought to Ms. Workman's house?

23 A. Several times.

24 Q. And those drugs all came from you, Jason, and Corey.

25 A. Either us three or Jason and Corey. Yes, ma'am.

1 Q. By several, do you mean more than five or less than
2 five?

3 A. Probably more than five times, yeah.

4 Q. Less than 10?

5 A. Yes, ma'am.

6 Q. And who's Ms. Workman in relationship to Jason and
7 Corey and you?

8 A. She used to date Robbie Catoe, one of Jason's friends.

9 Q. Would the drugs that you all or just Jason and Corey
10 made, was that ever brought to anybody else?

11 A. Yes, ma'am.

12 Q. Who else did you all deliver the drugs to?

13 A. Matt Oakes, Robbie Catoe, Pe Bo, and that's all I can
14 recall.

15 Q. And would you go to their homes or meet them at other
16 locations?

17 A. Either their homes or different locations.

18 Q. So you've been to Pe Bo's house before?

19 A. Yes, ma'am.

20 Q. Did you all bring drugs then?

21 A. Yes, ma'am.

22 Q. How much drugs did you bring then?

23 A. It just depended on how much he had when we went.

24 Q. Did you weigh out the drugs to bring them over there?

25 A. No.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-621-

1 Q. Who did?

2 A. Jason.

3 Q. Did you carry any of the drugs to any of these
4 meetings to deliver to any of these people?

5 A. No, ma'am.

6 Q. Why wouldn't you carry the drugs to bring to those
7 people?

8 A. I just wouldn't.

9 Q. Would you ever use any of the money from the proceeds
10 of selling these drugs?

11 A. Yes, ma'am.

12 Q. What did you all use the money for?

13 A. Whatever we needed: food, hygiene things, stuff for
14 the house.

15 Q. You know that your part in this, that you could be
16 indicted for your part in this?

17 A. Yes, ma'am.

18 Q. Have you been charged at this point?

19 A. No, ma'am.

20 Q. Have you been promised anything about that?

21 A. No.

22 Q. Have you been arrested for it?

23 A. No, ma'am.

24 Q. Have I promised you anything in regard to that?

25 A. No.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-622-

1 Q. Has law enforcement promised you anything in regard to
2 that?

3 A. No, ma'am.

4 Q. I'm going to ask you a couple of more questions.

5 MS. COLTON: Ms. Weaver, if you could?

6 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY AND SEVENTY
7 PREMARKED FOR IDENTIFICATION.)

8 Q. I'm going to show you State's Sixty for identification
9 purposes. Can you tell me about State's Sixty who is in
10 that picture?

11 A. Jason and Matt.

12 Q. Jason is to the left?

13 A. Yes, ma'am.

14 Q. Is it a truthful and accurate depiction of what they
15 look like?

16 A. Yes, ma'am.

17 Q. How about number Seventy, State's Exhibit Seventy for
18 identification purposes only, who is in that picture?

19 A. Robbie Catoe and PeBo Ingram.

20 Q. Is that a truth and accurate depiction of what they
21 look like?

22 A. Yes, ma'am.

23 Q. State's Seventy-one for identification purposes, do
24 you recognize anybody in there?

25 A. Pe Bo.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON

-623-

1 Q. And is that a truthful and accurate depiction of what
2 Mr. Ingram looks like?

3 A. Yes, ma'am.

4 Q. And do you recognize the background in that
5 photograph?

6 A. That's Lauren Petite's backyard.

7 Q. Is it truthful and accurate?

8 A. Yes, ma'am.

9 MS. COLTON: At this time, Your Honor, the State would
10 move to enter into evidence, State's Exhibit Sixty, State's
11 Exhibit Seventy, and State's Exhibit Seventy-one.

12 THE COURT: Any objection?

13 MR. BROWN: No objection, Your Honor.

14 THE COURT: Be without objection.

15 (WHEREUPON: STATE'S EXHIBIT NUMBERS SIXTY, SEVENTY,
16 AND SEVENTY-ONE IDENTIFIED AND MARKED, RECEIVED INTO
17 EVIDENCE.)

18 MS. COLTON: Start with Sixty.[sic].

19 Madame Clerk, could you dim the lights, please?

20 Q. And this is a picture of Pe Bo Ingram in the backyard
21 and Lauren Simpson Petite's backyard. That's what Pe Bo
22 looks like?

23 A. Yes, ma'am.

24 Q. And -- Can you see from there?

25 A. Yes, ma'am.

SHELLEY PETTIGREW: DIRECT BY MS. COLTON
CROSS BY MR. BROWN

-624-

1 Q. Pee Bo on the right?

2 A. Yes.

3 Q. I'm going to try to get it right. Robbie Catoe on the
4 left?

5 A. Yes, ma'am.

6 THE COURT: Refer to them by exhibit number, please.

7 MS. COLTON: I'm sorry, Your Honor.

8 Q. State's Exhibit Seventy, it's a picture of Robbie
9 Catoe to the left and PeBo Ingram to the right.

10 And that's what those gentlemen look like?

11 A. Yes, ma'am.

12 Q. And then State's Exhibit Sixty [sic]?

13 A. Jason and Matt.

14 Q. That's Jason with Matt Oakes?

15 A. Yes, ma'am.

16 Q. Ms. Pettigrew, I'm going to ask you to answer any
17 questions Mr. Brown may have of you. Okay?

18 A. Yes, ma'am.

19 CROSS EXAMINATION

20 SHELLEY PETTIGREW BY MR. BROWN:

21 Q. You started dating Jason late in July, early August of
22 2010; is that correct?

23 A. Yes, sir.

24 Q. And was it just you and he until the 1st of December
25 of 2010; is that correct?

SHELLEY PETTIGREW: CROSS BY MR. BROWN

-625-

1 A. Yes, sir.

2 Q. Would it be safe to say, this was just a -- August,
3 September, October -- a four month party?

4 A. Yes, sir.

5 Q. And most of what you all cooked up, you all smoked, or
6 shot, or snorted. Correct?

7 A. Yes, sir.

8 Q. So a vast majority of the drugs you helped
9 manufacture, you all used?

10 A. Yes, sir.

11 Q. And just so the jury can understand, tell the jury
12 what your lifestyle was back in those days.

13 A. I was addicted to Methamphetamine.

14 Q. But what did you do? You all stayed up days at a
15 time?

16 A. Yes, sir.

17 Q. Smoking this stuff?

18 A. Yes.

19 Q. You helped make it?

20 A. Yes.

21 Q. You helped manufacture it?

22 A. Yes.

23 Q. You helped traffic it?

24 A. Yes.

25 Q. You're just as guilty as he is?

SHELLEY PETTIGREW: CROSS BY MR. BROWN

-626-

1 A. Yes, sir.

2 Q. And you haven't been charged?

3 A. No, sir.

4 Q. You think that's fair?

5 A. No, sir.

6 Q. And lo and behold, you start talking to Mr. Schifferle
7 over here, and your grand larceny charge goes away.

8 Correct?

9 A. Yes.

10 Q. And you don't get violated on probation, and you're on
11 probation for drugs?

12 A. It was dismissed. I am on probation for drugs. I got
13 put on probation in June.

14 Q. You got put on probation for selling marijuana at the
15 Lee Prison; didn't you?

16 A. Yes, sir.

17 Q. And you took marijuana into prison and sold it to
18 another inmate?

19 A. Yes, sir.

20 Q. And how much money did you make for doing that?

21 A. A good bit of money.

22 Q. How much?

23 A. Six hundred dollars.

24 Q. Fifteen hundred?

25 A. Six hundred dollars.

SHELLEY PETTIGREW: CROSS BY MR. BROWN

-627-

1 MS. COLTON: Your Honor, I'm going to object. I don't
2 think -- I believe he can impeach her with the conviction,
3 but she can't explain or go into the facts.

4 THE COURT: Counsel, you know the rules.

5 MR. BROWN: Yes, sir, Your Honor. If I could -- do
6 you want me to approach, however you want?

7 THE COURT: Yes, sir.

8 Counsel.

9 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
10 THE JURY AT 11:50 AM.)

11 Q. And you were convicted of that. Correct?

12 A. Yes, sir.

13 Q. Now since you started talking to Officer Schifferle
14 over there, you -- like I said, your grand larceny has gone
15 away?

16 A. It got dismissed, yes, sir.

17 Q. Okay. You were on probation for violation of the
18 South Carolina drug law?

19 A. Yes, sir.

20 Q. And five days after you go on probation, you test
21 positive?

22 A. Yes, sir.

23 Q. And that's gone away?

24 A. No, that's -- I'm on house arrest waiting for a bed in
25 rehab for now.

SHELLEY PETTIGREW: CROSS BY MR. BROWN

-628-

1 Q. That happened back in June?

2 A. Yes, sir. I just got out in November. I went to
3 court December 2nd, and I got sentenced to stay on house
4 arrest until a bed in rehab comes available. Then I have
5 to go there for four months.

6 Q. You've been there twice already?

7 A. Not in the same rehab. No, sir.

8 Q. Oh so, its better proof for rehab?

9 A. Yes, sir.

10 Q. The first two didn't work?

11 A. Right.

12 Q. And you've been using drugs since you were 16 years
13 old; is that correct?

14 A. Yes, sir.

15 Q. When was the last time you used drugs?

16 A. When I violated my probation back in June.

17 Q. You've been on house arrest since then?

18 A. I've been on house arrest since November 14th. Yes,
19 sir.

20 Q. Realizing no promises have been made, have you been
21 led to believe in your mind that you will be treated very
22 generously for your participation and the same acts he's
23 done and is on trial for, for your acts in this matter?

24 A. I'm sorry, can you restate the question?

25 Q. Have you been led to believe through conversations

SHELLEY PETTIGREW: CROSS BY MR. BROWN

-629-

1 that you'll be treated very generously for your
2 participation in these events?

3 A. No, sir.

4 Q. You hadn't been charged?

5 A. No.

6 Q. You're not threatened with any jail time?

7 A. No, sir.

8 Q. Your probation hadn't been violated?

9 A. No, sir.

10 Q. And your grand larceny has been dismissed?

11 A. Yes, sir.

12 Q. Who's your lawyer? He did a good job.

13 MS. COLTON: I'm going to object to that.

14 THE COURT: Sustain, Counsel.

15 MR. BROWN: I withdraw the question, withdraw the
16 question.

17 THE COURT: You know better.

18 MR. BROWN: No further questions.

19 MS. COLTON: Your Honor, I'm going to ask that this
20 witness be excused.

21 THE COURT: All right. Thank you, ma'am. Thank you.

22 MS. COLTON: I'm sorry. I have no further questions,
23 Your Honor.

24 MR. BROWN: Without objection.

25 THE COURT: Thank you for coming. You may be excused

SERGEANT SCOTT CRIBB: DIRECT BY MS. COLTON

-630-

1 at this time.

2 THE WITNESS: Thank you.

3 (WITNESS LEAVING WITNESS STAND.)

4 MS. COLTON: Your Honor, I think at this time, the
5 State would call Sergeant Cribb from the Rock Hill Police
6 Department.

7 MR. BROWN: Sergeant who?

8 MS. COLTON: Cribb.

9 MR. BROWN: Cribb, okay.

10 THE COURT: Come forward and be sworn please, sir.

11 (WHEREUPON: SCOTT CRIBB,
12 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

13 DIRECT EXAMINATION

14 OFFICER SCOTT CRIBB BY MS. COLTON:

15 Q. Sergeant Cribb, can you state your full name for the
16 record for the jury please?

17 A. Donald Scott Cribb.

18 Q. And, Sergeant Cribb, where do you work?

19 A. City of Rock Hill Police Department.

20 Q. How long have you been with the police department in
21 the City of Rock Hill?

22 A. Almost two years now.

23 MR. BROWN: I'm going to object. May we approach one
24 second? Maybe we can get rid of this...

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

-631-

1 THE JURY AT 11:57 AM.)

2 THE COURT: Madame Forelady, members of the jury
3 panel, there is a matter I need to take up with counsel at
4 this time out of your presence, so I'm going to ask you to
5 retire to the jury room. It will be very brief, probably
6 just a couple of minutes. Please retire to the jury room.

7 (JURY EXITS COURTROOM AT 12:01 PM.)

8 MS. COLTON: Your Honor, there is also another officer
9 that's going to be testifying to the same things that's as
10 far as an ID in a call that went out to this on a different
11 date, so if we can bring her in to tell her the same thing.
12 There's two sets of fake ID's and their both, these
13 officers they're all two separate incidents. He wasn't
14 arrested, I think he was - I don't know what he was
15 arrested for, I have no idea but there is a custody issue
16 to that as well so if we can bring in Investigator Oliver,
17 I'm sorry, I'm getting them all confused, yeah Investigator
18 Oliver so that she can be instructed in the same fashion.

19 MR. BROWN: And I would ask them not to go into the
20 facts of this event that he tried to jump off or flee the
21 officers and was tazed and all. You know if her -

22 THE COURT: Well we're nto going there. I think the
23 whole purpose is to identify what they found there in their
24 investigation.

25 MS. COLTON: Yes.

1 THE COURT: And particularly with regard to the fake
2 ID's but other things there would be --

3 MR. BROWN: Laminating machine; is that correct?

4 MS. COLTON: Laminating machine and baggies

5 THE COURT: Also some baggies that was at issue.

6 MS. COLTON: Yes, sir.

7 THE COURT: That you know could be normally used in
8 drug activity. So if they can do that, go ahead and bring
9 her in so we'll try to do this both at the same time to
10 avoid sending the jury back out. I would just say
11 investigating an incident at that location.

12 MS. COLTON: Yes, sir.

13 THE COURT: I think that's all you got to say.

14 MR. BROWN: I have no objection to that whatsoever,
15 Your Honor.

16 (OFFICER ENTERS COURTROOM.)

17 MS. COLTON: Investigator Oliver.

18 Judge, do you want me to tell her what I'm going to
19 ask of her?

20 THE COURT: Yeah. And explain what we are trying to
21 do; that we are trying to stay away from any defendant
22 being taken into custody or what they might have been
23 charged with which is not really relevant to this case but
24 could be prejudicial. The information is would be limited
25 to an investigation at that location and during and as part

-633-

1 of that investigation that these items were seen there or
2 were discovered and that's as far as we go. Stay away from
3 being arrested for anything charged with or taken into
4 custody, those kind of things. So to stay within an
5 investigation at this location and in that investigation
6 these items were discovered during that investigation -
7 period. I think that's as far as we need to go.

8 Mr. Brown, do you disagree with that?

9 MR. BROWN: No, sir.

10 MS. COLTON: Judge, just so we're very clear before we
11 start up, Your Honor, I'm going to ask this officer if he
12 was involved in the 1127 Springdale Road investigation;
13 pursuant to that investigation did you recover fake Id's?
14 Was one of the individuals there did he give a name of Andy
15 Cook? Did you later determine - can I ask him if he later
16 determined who that individual was and who was that person?

17 Jason Johnson?

18 OFFICER CRIBB: Jason Johnson.

19 MS. COLTON: That's all I'm gonna ask him.

20 Investigator Oliver, was there on the same day that
21 Cribb was, she observed other fake ID's there. There was a
22 debate between the officers of whether they take those.
23 They took two or three fake ID's into their possession.
24 They left other fake ID's in the room at that time because
25 they didn't know. They didn't know if they could take them

1 or not. That's the honest answer. But she observed them
2 with her own eyes, did not take those into custody but she
3 did take three ID's.

4 Or two ID's a social security card?

5 OFFICER OLIVER: I believe it was two driver's license
6 and one ID card from my incident on the traffic stop.

7 MS. COLTON: On a traffic stop. Okay.

8 And I'm going to ask her if she recalls who Mr.
9 Johnson was with during that traffic stop.

10 MR. BROWN: I'm going to object to that unless they're
11 fake ID's of this defendant, these defendants.

12 MS. COLTON: They are.

13 There are pictures of it, Judge.

14 THE COURT: Okay.

15 MR. BROWN: Okay. This defendant, you got ID's?

16 MS. COLTON: Yeah. I gave them all to you.

17 MR. BROWN: The pictures you gave me?

18 MS. COLTON: Yes, sir.

19 MR. BROWN: Okay. The same ID's we're talking about?

20 MR. COLTON: We was talking about four ID's.

21 MR. BROWN: Right, right, right. The same one's you
22 gave me pictures of?

23 MS. COLTON: Yes, sir.

24 MR. BROWN: All right. That's fine.

25 MS. COLTON: I'm only going to ask her the question,

-635-

1 "Was Lisa Simmers there?"

2 THE COURT: And we're asking you that now while the
3 jury's out so that when you testify before the jury you
4 know not to get into any arrest, custody, and charges.
5 Just talk about you were there to investigate. You were
6 called there to investigate the incident or in your case I
7 guess it was a traffic stop.

8 OFFICER OLIVER: Yes, sir. I initially was involved in
9 the case he's referring to at Springdale and then I had my
10 own case with him on a traffic issue.

11 THE COURT: How are you going to handle the traffic
12 stop?

13 MS. COLTON: I think that --

14 Was it Ms. Simmers driving?

15 OFFICER OLIVER: No. It was Johnson.

16 MS. COLTON: Mr. Johnson.

17 OFFICER OLIVER: She was a passenger.

18 MS. COLTON: Okay. I will say did you investigate and
19 did you recover his jacket? Now if Mr. Brown ask questions
20 about where the jacket was and all that stuff and now do we
21 know it's his jacket, I think that changes things up
22 because it was left in the car during the traffic stop and
23 it's his vehicle.

24 THE COURT: I'm just asking you how you gonna handle
25 that, a traffic stop. You know just a routine traffic

1 stop.

2 MS. COLTON: Routine traffic stop. I think that's
3 what it was.

4 Wasn't it? What was he being stopped for? Do you
5 remember?

6 OFFICER OLIVER: Traffic violation.

7 MR. BROWN: What kind?

8 OFFICER OLIVER: Well he pulled out in front of me and
9 he weaved some so I stopped him for a DUI investigation.

10 MS. COLTON: Okay.

11 OFFICER OLIVER: And then he failed to stop.

12 MS. COLTON: Can you say a traffic -

13 THE COURT: Now I see - we don't want to get into all
14 that. He failed to stop, was going to charge him with a
15 DUI. What we're trying to do is get the evidence in.

16 OFFICER OLIVER: Yes, sir.

17 THE COURT: Without showing any other offenses.

18 OFFICER OLIVER: Yes, sir.

19 THE COURT: And that's what we're trying to do.

20 MS. COLTON: As long as I can ask her, I'm comfortable
21 with just saying, "Did you investigate and at some point
22 have an interaction with Mr. Johnson and did you recover
23 from Mr. Johnson -- It's hard because Johnson, he ran, and
24 they found a wallet and it had his regular ID. That's how
25 they identified him and it had all the fake ID's in it. So

-637-

1 if they're going to argue about who do we know it's him,
2 how do we know it's him, then I think it becomes relevant.
3 If they are just going to be fine with it coming in then I
4 can just say did you recover from Mr. Johnson's wallet fake
5 ID's?

6 MR. BROWN: Why don't we just stipulate that the
7 police found fake ID's, period?

8 THE COURT: In his wallet.

9 MR. BROWN: In his wallet.

10 MS. COLTON: In his wallet.

11 MR. BROWN: Why do we stipulate to that and do away
12 with these two officers?

13 THE COURT: That will avoid the issue. We just don't
14 want to do anything that's going to be -- and violations of
15 the rules is prejudice as opposed to probative value. If
16 you want to stipulate?

17 All right, now, you talking about but there's more to
18 stipulate in so far as what Officer Cribb's going to testify
19 to. Right?

20 MS. COLTON: He's going to testify to the - yes, that
21 Mr. Johnson gave a fake ID to Randy Cook.

22 MR. BROWN: I cannot stipulate to that. But he
23 certainly as a result of a police investigation this is
24 what I found at his house.

25 THE COURT: We will go with that. And in as far as

1 Officer Oliver is concerned then, we'll just stipulate that
2 what she found in his wallet.

3 How are we going to get that? Through a stop?

4 MS. COLTON: Your Honor, Officer Cribb will -

5 OFFICER CRIBB: The incident that happened at 1127
6 Springdale we were both on that same shift at the time and
7 we both responded to that call.

8 MS. COLTON: Okay.

9 OFFICER CRIBB: Now on the other incident that she's
10 referring to where he ran, I was there when he was taken
11 into custody at the house but I wasn't there for the
12 traffic stop or for the flight.

13 MS. COLTON: I think - okay. Then I think I can ask
14 him about his own evidence.

15 And then with Oliver were you also working on - which
16 one was yours? December?

17 THE COURT: I don't think you have to do that. All
18 you got to do is just say, offer those, whatever you're
19 going to offer into evidence as far as Officer Oliver's
20 stop, and say Your Honor, the parties have stipulated that
21 Officer Oliver found these ID's in his billfold or
22 somewhere in Mr. Johnson's billfold.

23 MS. COLTON: Okay.

24 THE COURT: And you don't object to the admissibility.

25 Do you agree with that?

OFFICER SCOTT CRIBB: DIRECT BY MS. COLTON

-639-

1 MR. BROWN: Yes, sir.

2 THE COURT: Does that satisfy you?

3 MR. BROWN: Yes, sir.

4 MS. COLTON: Okay.

5 THE COURT: That would be the easiest thing to do.

6 You don't have to get into the stop on that.

7 MS. COLTON: Yes, sir.

8 Just wait outside.

9 (OFFICER OLIVER LEFT COURTROOM.)

10 THE COURT: You ready to go?

11 MS. COLTON: Yes, sir.

12 THE COURT: You got it straight?

13 MS. COLTON: Yes, sir.

14 THE COURT: Okay.

15 Please bring the jury.

16 He can get into to giving them false information about
17 his ID.

18 MS. COLTON: He can. Yes, yes, sir.

19 (JURY REENTERS COURTROOM AT 12:12 PM.)

20 THE COURT: Please proceed, Counsel.

21 MS. COLTON: Yes, sir.

22 DIRECT EXAMINATION - CONTINUED

23 OFFICER SCOTT CRIBB BY MS. COLTON:

24 Q. Officer Cribb, on December 23rd of 2010, were you
25 involved in an investigation that occurred at 1127

OFFICER SCOTT CRIBB: DIRECT BY MS. COLTON

-640-

1 Springdale Road, Apartment 108, in Rock Hill, York County,
2 South Carolina?

3 A. Yes, I was.

4 Q. And did you encounter the defendant Jason Johnson at
5 that location?

6 A. Yes, ma'am. I did.

7 Q. And did he give you a different name at that location?

8 A. Yes.

9 Q. What name did he give you?

10 A. The name he gave was Andy Cook.

11 Q. And did you recover from that scene any evidence?

12 A. Yes, we did.

13 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-NINE
14 PREMARKED FOR IDENTIFICATION.)

15 Q. I'm going to show you what's been marked for
16 identification purposes as State's Exhibit Forty-nine.

17 A. Okay.

18 Q. Can you please take out the contents of that envelope?

19 A. Yes, ma'am.

20 (WITNESS OPENED ENVELOPE.)

21 A. Okay.

22 Q. And do you recognize the contents of that envelope?

23 A. Yes, it's a -- there's two -- what appears to be South
24 Carolina drivers' licenses and a social security card that
25 I recovered that night and placed into evidence.

OFFICER SCOTT CRIBB: DIRECT BY MS. COLTON

-641-

1 Q. And you know you placed it into evidence because you
2 wrote it on your inventory?

3 A. Yes, ma'am. The -- the labels, my handwriting, I
4 recognize it, and I recall doing this that night.

5 Q. And you recovered it from that Springdale Road
6 apartment?

7 A. Yes, ma'am.

8 MS. COLTON: At this time, Your Honor, the State would
9 move to enter into evidence and publish to the jury,
10 State's Forty-nine.

11 THE COURT: No objection?

12 MR. BROWN: No objection, Your Honor.

13 THE COURT: Be without objection.

14 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-NINE
15 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE, PUBLISHED TO
16 THE JURY.)

17 Q. That is one of the ID's?

18 A. Yes, ma'am. It is.

19 Q. And do you know who that person is on the right-hand
20 side? Do you recognize the photograph?

21 A. Can I see the two -- the two out of the same can I see
22 them up a little closer?

23 The picture's a little fuzzy. I just want to... Can
24 I see that one as well?

25 Q. Yeah.

OFFICER SCOTT CRIBB: DIRECT BY MS. COLTON

-642-

1 A. When you're looking at them closely, they appear to be
2 two separate people. I -- I -- I don't recognize the one
3 that's in the one on the screen. I do recognize the one on
4 the other one, though.

5 Q. And can you please press the second one?

6 (PHOTOS CHANGED ON COURTROOM OVER HEAD PROJECTOR.)

7 Q. And you recognize that individual?

8 A. Yes, ma'am.

9 Q. And who did that individual -- do you recognize them
10 from Springdale Road?

11 A. Yes, ma'am. He was there that night.

12 Q. And what did he tell you his name was at Springdale
13 Road?

14 A. Andy Cook.

15 Q. And did you later find out that he had a different
16 name?

17 A. Yes.

18 Q. Who is he?

19 A. Jason Johnson.

20 Q. And is he the defendant on trial in this courtroom?

21 A. Yes, ma'am. He's sitting in-between the two men in
22 suits there at the defense table.

23 Q. Was this Christopher Davis in that apartment?

24 A. There were a number of people in the apartment. I do
25 not recall a Christopher Davis being there.

OFFICER SCOTT CRIBB: DIRECT BY MS. COLTON

-643-

1 Q. Social security card, James Arland Bigger -- Bingham.
2 Did Mr. Bingham, was he in that apartment?

3 A. I do not recall Mr. Bingham being in that apartment.
4 No, ma'am.

5 Q. Do you know anyone named James Bingham?

6 A. No, ma'am. I do not.

7 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY PREMARKED
8 FOR IDENTIFICATION.)

9 Q. And I'm going to show you what's been marked for
10 identification purposes State's Fifty. Do you recognize
11 that photograph?

12 A. Yes, it's a -- one of several photographs I took at
13 that apartment that night.

14 Q. On the 23rd?

15 A. Of December. Yes, ma'am.

16 Q. Of 2010?

17 A. Yes, ma'am.

18 Q. Does it truthfully and accurately reflect what you saw
19 in that room?

20 A. Yes, ma'am.

21 Q. Thank you.

22 MS. COLTON: Your Honor, the State would move to enter
23 into evidence State's Exhibit Fifty.

24 THE COURT: No objection, Counsel to State's Exhibit
25 Fifty?

OFFICER SCOTT CRIBB: DIRECT BY MS. COLTON

-644-

1 MR. BROWN: No objection, Your Honor.

2 THE COURT: Be without objection.

3 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY IDENTIFIED
4 AND MARKED, RECEIVED INTO EVIDENCE.)

5 MS. COLTON: And, Your Honor, I believe the State and
6 Defense has entered into a stipulation regarding the
7 recovery of -- by Deputy Oliver of State's Exhibit Fifty-
8 one.

9 That's correct?

10 MR. BROWN: Correct, Your Honor.

11 MS. COLTON: Your Honor, this occurred on February
12 8th, 2011, and these items were recovered from Mr. Jason
13 Johnson's wallet that contained Mr. Johnson's real ID as
14 well as the items contained in State's Fifty-one.

15 THE COURT: That's the stipulation, Counsel?

16 MR. BROWN: That's correct, Your Honor.

17 THE COURT: Be without objection pursuant to
18 stipulation.

19 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-ONE
20 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

21 MS. COLTON: And Ms. Weaver, can you please put up
22 State's Fifty-one, please?

23 (STATE'S EXHIBIT NUMBER FIFTY-ONE PUBLISHED ON
24 COURTROOM OVER HEAD PROJECTOR.)

25 Q. Sergeant Cribb, do you recognize the individual in

OFFICER SCOTT CRIBB: DIRECT BY MS. COLTON

-645-

1 that photograph?

2 A. I do. That's Jason Johnson.

3 Q. And can I see the other one, please?

4 (STATE'S EXHIBIT NUMBER FIFTY PUBLISHED ON COURTROOM
5 OVER HEAD PROJECTOR.)

6 Q. And that individual in that photograph?

7 A. It's the same photo, Jason Johnson.

8 Q. And do you work with -- At the time were you working
9 with Investigator Oliver?

10 A. During the incident at 1127 Springdale Road, I was
11 assigned to the same shift as her.

12 Q. So you all work together?

13 A. Yes, ma'am.

14 Q. Okay. And you work for Rock Hill P.D.?

15 A. That's correct.

16 Q. How long have you worked for Rock Hill P.D.?

17 A. Almost two years now.

18 Q. And where are you assigned now?

19 A. I'm currently a sergeant on -- in the patrol division.

20 Q. Is that -- how -- do you have any other law
21 enforcement experience?

22 A. Yes, ma'am. I've been a police officer since 1999.

23 Q. And have you been with patrol your entire career at
24 Rock Hill P.D.?

25 A. Pretty much. Yes, ma'am.

1 Q. Thank you. Please answer any questions defense
2 counsel may have.

3 MR. BROWN: No questions.

4 THE COURT: Thank you for coming, sir.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Any objection to him being excused?

7 MS. COLTON: No, Your Honor.

8 THE COURT: Thank you. You may be excused.

9 MS. COLTON: I'm sorry. Sorry.

10 MR. BROWN: No objection.

11 THE COURT: Thank you, sir.

12 THE WITNESS: Thank you, Your Honor.

13 (WITNESS LEAVING WITNESS STAND.)

14 MS. COLTON: Your Honor, we'd ask that Officer Oliver
15 be excused as well.

16 MR. BROWN: Without objection.

17 THE COURT: Excused without objection.

18 You've got -- It's about 20 after 12:00. Have you got
19 a short witness we can take or one that's not too long?

20 MS. COLTON: I don't because they could only come this
21 afternoon, Your Honor. I think the next one will be long,
22 so...

23 THE COURT: All right. Well, we probably ought to go
24 ahead and get some lunch then. It's about 20 after 12:00.
25 We'll start back at about 1:30. Does that suit everybody

-647-

1 or -- is that going to work?

2 MS. COLTON: Yes, sir.

3 THE COURT: For you, Mr. Brown?

4 MR. BROWN: Yes, sir.

5 THE COURT: Madame Forelady, members of the jury
6 panel, we're going to go ahead and recess for lunch at this
7 time. It's about 20 after 12:00. I'm going to ask you to
8 be back in the jury room ready to go at 1:30, at 1:30.

9 (JURY EXITS COURTROOM AT 12:07 PM.)

10 THE COURT: Anything we need to take up before we
11 break for lunch?

12 MS. COLTON: No, Your Honor.

13 THE COURT: Mr. Brown?

14 MR. BROWN: No, sir.

15 THE COURT: We'll resume at 1:30.

16 MR. BROWN: Yes, sir, there is one thing I would ask.
17 If my client's father is here, maybe at 1:20 if they could
18 bring him out and let him talk at the bench like we did the
19 other day.

20 THE COURT: That would be fine. If we could bring him
21 out at about 1:20.

22 THE BAILIFF: Not a problem, Your Honor.

23 THE COURT: Mr. Johnson. Thank you.

24 MS. COLTON: Your Honor, I would -- I understand that
25 Mr. Johnson's family wants to meet but because of what

1 happened yesterday -- the day before yesterday morning with
2 the plea and the blowing up of the plea and everything, if
3 they talk five or 10 minutes and he does decide to have any
4 other alternate resolution, we still have to go do the
5 paperwork and go through that whole process and we're going
6 to start eating up some time. And I think that's -

7 MR. BROWN: We were -

8 THE COURT: Well, let me just say that, I don't care
9 if you do it now if you prefer to do it now.

10 MR. BROWN: We'll make him available now, sir.

11 THE COURT: We can go ahead and do it now. We're not
12 going -- We can't afford to lose any more trial time.

13 MR. BROWN: Well I understand.

14 (COURT IN LUNCH RECESS AT 12:35 PM.)

15 (COURT BACK IN SESSION AT 01:59 PM.)

16 THE COURT: Keep your seats, please. Thank you.

17 (DEFENDANT REENTERS COURTROOM AT 02:00 PM.)

18 THE COURT: All right, Counsel, ready to proceed?

19 MS. COLTON: Yes, Your Honor.

20 THE COURT: Please bring the jury in, sir.

21 (JURY REENTERS COURTROOM AT 02:03 PM.)

22 THE COURT: Counsel, ready to proceed?

23 MS. COLTON: Yes, Your Honor, we are.

24 THE COURT: Call your next witness.

25 MS. COLTON: The State would call Amanda Caudle, Your

AMANDA CAUDLE: DIRECT BY MS. COLTON

-649-

1 Honor.

2 (WHEREUPON: AMANDA CAUDLE, BEING
3 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

4 DIRECT EXAMINATION

5 AMANDA CANDLE BY MS. COLTON:

6 Q. Can you please state your full name for the record?

7 A. Amanda Diane Caudle.

8 Q. And do you go by Mandy?

9 A. Yes, ma'am.

10 Q. Mandy, where do you live?

11 A. Rock Hill, Mount Gallant Road.

12 Q. And where are currently staying?

13 A. York County Detention Center.

14 Q. And why are you in the York County Detention Center?

15 A. I have meth charges.

16 Q. And manufacturing meth charges?

17 A. Manufacturing and trafficking.

18 Q. And trafficking?

19 A. Yes, ma'am.

20 Q. And do you know the defendant Jason Johnson?

21 A. Yes, ma'am.

22 Q. How do you know the defendant Jason Johnson?

23 A. We met through mutual friends.

24 Q. Okay.

25 THE COURT: Ma'am, I'm sorry. You have a soft voice.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-650-

1 I'm going to get you to speak up just a little bit if you
2 would.

3 A. I'm sorry. We met through mutual friends.

4 Q. And who is that mutual friend?

5 A. Robbie Catoe.

6 Q. And -

7 THE COURT: Wait.

8 (COURT REPORTER CHECKED MICROPHONE ON WITNESS STAND.)

9 MADAME COURT REPORTER: Yeah. I just wanted to make
10 sure it was on, Judge. I didn't think it was on.

11 THE COURT: Okay.

12 Go ahead.

13 Q. And that mutual friend is Robbie Catoe?

14 A. Yes, ma'am.

15 Q. And explain to me the first time you -- well, do you
16 remember the day that you first met Jason Johnson?

17 A. I don't recall the date, but I do remember the day I
18 met him.

19 Q. Do you remember the events of that day?

20 A. I was staying at a motel on Riverview Road with -- and
21 Robbie Catoe was there with me.

22 Q. What motel was it?

23 A. I'm really not sure. It was the last one on the
24 right-hand side.

25 Q. That's okay. And Robbie Catoe, was he staying at the

AMANDA CAUDLE: DIRECT BY MS. COLTON

-651-

1 motel with you?

2 A. Him and Mercedes Flores.

3 Q. How did you come to be in the company of Ms. Flores?

4 A. She was with Robbie when I went to pick him up. He
5 called. He was having trouble with his girlfriend. He
6 wanted me to come pick him up.

7 Q. Let me stop you right there. Robbie Catoe called you?

8 A. Uh-huh.

9 Q. Where was he?

10 A. He was at his girlfriend's house in York.

11 Q. What's her name?

12 A. Jessica Workman.

13 Q. What's her nickname -- does she have a nickname?

14 A. Jay-O.

15 Q. And do you know her by that nickname?

16 A. I do.

17 Q. And did you always at this time call her by that
18 nickname?

19 A. I did not know her name at the time. I knew her only
20 by her nickname.

21 Q. And you picked up Mr. Catoe at Ms. Workman's house?

22 A. Yes. And -- and Ms. Flores.

23 Q. And what did you do with the two of them?

24 A. I took them back to my room with me.

25 Q. And what -- Did someone show up?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-652-

1 A. Jason and David came.

2 Q. David who?

3 A. David Brazzel.

4 Q. And Ms. Sherry Pettigrew was --

5 A. Stayed in the car.

6 Q. She was in the car. Okay.

7 And that first day, what were you, Ms. Flores, Mr.
8 Catoe, Mr. Johnson, and David doing?

9 MR. BROWN: Your Honor, I'm going to object until we
10 put a time frame on this and tie it into a conspiracy.

11 Q. Do you remember when this was about?

12 A. Late July, early August, maybe.

13 Q. Okay.

14 A. It was still hot, very hot.

15 MS. COLTON: May I proceed, Your Honor?

16 THE COURT: Yes, ma'am, proceed.

17 Q. Okay, Mandy. I'm sorry. What did you say?

18 A. What were we doing?

19 Q. Yes, ma'am.

20 A. Meth.

21 Q. Where did that meth come from?

22 A. Robbie got it from Mr. Johnson.

23 Q. Now you all were -- how long did you all think you
24 hung out?

25 A. That day?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-653-

1 Q. Yes, ma'am.

2 A. Not long. Jason left. He and I got into it, and he
3 left.

4 Q. What did you all get into it about?

5 A. He squirted blood out of his syringe, and it landed on
6 the bed, and me and him got arguing about it, and I asked
7 him to leave.

8 Q. And did Mr. Catoe intervene on your behalf?

9 A. Yeah. It was just a little argument and Catoe told
10 him not to mess with me, and --

11 Q. And I'm going to have to ask you -- I know -- is
12 "Catoe" Robbie Catoe's nickname?

13 A. That's what I've always called him. I've known him a
14 very long time, and I always called him Catoe.

15 Q. I'm going to ask you to call him Robbie Catoe.

16 A. Okay.

17 Q. Okay? To distinguish that.

18 A. Okay.

19 Q. And Mr. Johnson leaves at that point?

20 A. Yes, ma'am.

21 Q. And did you know where Mr. Johnson was staying?

22 A. No, ma'am.

23 Q. And when you met him on that first date?

24 A. No, ma'am.

25 Q. Do you know where he stayed over the summer into the

AMANDA CAUDLE: DIRECT BY MS. COLTON

-654-

1 fall?

2 A. Robbie Catoe and I went to his brother's one time,
3 over there, Airport Road, but I don't -- it was later --
4 later on that I found it -- found out that he was living in
5 Clover.

6 Q. So you had gone to Mr. Johnson's house at another
7 location?

8 A. He -- I think he was staying with his brother. I took
9 Robbie over there to meet him one day.

10 Q. Let me show you -- I'm going to show you State's
11 Fifty-six and State's Fifty-five. Do you recognize State's
12 Fifty-six and State's Fifty-five? I have them upside-down.
13 Sorry about that.

14 A. This.

15 Q. What's that?

16 A. That's the trailer in Clover.

17 Q. Whose trailer in Clover?

18 A. I think it was Corey Catoe's, and they were both
19 staying where his dad's --

20 Q. Corey Catoe and...

21 A. And Jason Johnson.

22 Q. At this trailer right here. Now, did you go to his
23 brother's, Jason Johnson's brother's house before ---

24 A. Before.

25 Q. --- or after going to that trailer?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-655-

1 A. Before.

2 Q. Well let me ask you about this trailer right here.

3 Did you -- You went out there with Robbie Catoe. Is that
4 your testimony?

5 A. The first time I ever went there, I was alone.

6 Q. You were alone. And why were you alone that time?

7 A. I was in North Carolina, and I wanted to get high, and
8 I called Jason.

9 Q. Had you ever bought from Jason before that?

10 A. No, not alone.

11 Q. Why not alone?

12 A. We didn't know each other well enough.

13 Q. And who would you --

14 A. And he wouldn't sell to me.

15 Q. And who -- Did you have to be with somebody else?

16 A. Robbie Catoe.

17 Q. Robbie Catoe. Okay. And did you ever go with Robbie
18 to that location?

19 A. After -- one time.

20 Q. One time.

21 A. After I went by myself the first time.

22 Q. Well tell me about how you got to go there by your
23 first time. Did you call Jason?

24 A. I called Jason on his cell phone and asked him if I
25 could come -- told him I was by myself and asked him if I

AMANDA CAUDLE: DIRECT BY MS. COLTON

-656-

1 could come.

2 Q. Why were you asking him permission?

3 A. Because I knew he didn't want me to come by myself.

4 Q. He -- you wouldn't have just popped in?

5 A. No.

6 Q. And when you called him, and you asked him if you can
7 come over, what did he say?

8 A. He said it was okay. I explained to him that I was by
9 myself, but that I think I was dope sick, and I wanted to
10 get high. I wanted to feel better.

11 Q. You were dope sick?

12 A. Yes, ma'am.

13 Q. Can you tell the jury what "dope sick" means.

14 A. I had been without for long enough to where it made me
15 sick. At that time it wasn't the meth that I was sick
16 from, it was heroin. But I was sick, and the meth made me
17 feel better.

18 Q. What happens when you get sick?

19 A. Your bones ache, your muscles ache, you throw up, and
20 your head throbs. It's really hard, really hard to go
21 through, very painful.

22 Q. Does meth help --

23 A. It eases it. It eases it.

24 Q. Does it -- it delays the onset of it?

25 A. Yes, ma'am.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-657-

1 Q. And was that why you were using methamphetamine?

2 A. Most times it was because I didn't have what I would
3 rather be doing, yeah.

4 Q. Which was what?

5 A. Heroin or opiates.

6 Q. And opiates -- what you mean by -- pills?

7 A. Pills, yes.

8 Q. So when you first go out there -- and I'm sorry to
9 distract, just take you off on a tangent. I know that
10 doesn't help you, doesn't help anybody. But let's talk
11 about the first time you go out to Tommy Catoe, Corey
12 Catoe, and Jason Johnson's trailer out there in Clover.
13 Okay? What did you get from Jason?

14 A. I got a half a gram, I think. Either a half a gram or
15 a gram. I'm pretty sure it was half a gram.

16 Q. And how much would you pay for a half gram?

17 A. I bought him a carton of cigarettes and a few other
18 things.

19 Q. What are the other things that you brought?

20 A. Just stuff at the convenience store. I think it might
21 have been two cartons of cigarettes or something.

22 Q. And you traded that for the meth?

23 A. Right.

24 Q. And did you ever go out to that trailer on any other
25 occasion?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-658-

1 A. I went out with Robbie Catoe one time. Catoe - Robbie
2 stayed in the car, and I went in.

3 Q. And you went in? What did you get that time?

4 A. A half a gram.

5 Q. And do you recall how long Mr. Johnson stayed at that
6 trailer?

7 A. I can't say. I mean a couple of months, maybe.

8 Q. Where did he go after that?

9 A. To the apartment with his brother and Amy.

10 Q. I'm going to show you State's Forty-four and State's
11 Forty-three. Do you recognize that?

12 A. Yes, ma'am.

13 Q. Where do you recognize that from?

14 A. I went over -- I used to go over there.

15 Q. And who -- you used to go over there. Who --

16 A. I'd hang out with Jason.

17 Q. Jason. And that was Jason's brother, what's his name?

18 A. Josh.

19 Q. And who else lived with Josh?

20 A. Amy.

21 Q. Was Shelley living there at the time?

22 A. I'm not sure.

23 Q. Okay.

24 A. I never saw Shelley there.

25 Q. Was Corey Catoe staying there at the time?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-659-

1 A. Yes, ma'am.

2 Q. And during the time that you would go over there, how
3 often do you think you'd go over there?

4 A. I probably only went over there four or five times.

5 Q. To get dope?

6 A. Or pick Jason up.

7 Q. What do you mean by "pick him up"?

8 A. He would come to my apartment. I'd go pick him up,
9 and he'd come over.

10 Q. Well let's start with you going to get dope from that
11 apartment. Okay? Dope from there. Who would you buy it
12 from? Would you give the money -- would you -- well first
13 off, let me ask this. When you went over to get
14 Methamphetamine, how would you get it? Would you buy it?

15 A. Sometimes.

16 Q. How --

17 A. Usually trade.

18 Q. Huh?

19 A. Usually we'd trade.

20 Q. If you bought it, how much would a half gram cost?

21 A. Forty or fifty.

22 Q. And if you traded, what would you trade?

23 A. Pills, Sudafed pills.

24 Q. One or two?

25 A. Yeah, usually two boxes.

AMANDA CAUDLE: DIRECT BY MS. COLTON .

-660-

1 Q. Boxes. Not one or two pills, but boxes?

2 A. Yes, ma'am.

3 Q. Okay. And would you give that to Jason? Would you
4 give it to his brother?

5 A. Jason.

6 Q. Or would you give it to anybody else?

7 A. Jason.

8 Q. And then you get your methamphetamine?

9 A. Yes, ma'am.

10 Q. Did you ever use it there?

11 A. Yes, ma'am.

12 Q. And would you stay and party at the house, I guess is
13 my question.

14 A. Not long. I didn't hang out there very much.

15 Q. And during the time there, did you -- during Mr.
16 Johnson's time there, did you ever see him cook there
17 methamphetamine?

18 A. I saw a bottle. I never saw him actually cook there.

19 Q. Did you -- when you picked up Mr. Johnson -- I guess
20 you've seen Mr. -- you picked -- Was there an occasion
21 where Mr. Catoe, Corey Catoe; Mr. Johnson; and Kelly
22 Cameron; and Randy were at that apartment on Springdale
23 Road?

24 A. Yes, ma'am.

25 Q. And you had to come pick up Mr. Johnson from that

AMANDA CAUDLE: DIRECT BY MS. COLTON

-661-

1 residence?

2 A. Yes, ma'am.

3 Q. Tell me about how -- what happened with that?

4 A. I was by myself at home and called Jason, and I went
5 over.

6 Q. What did Jason say to you?

7 A. He wanted to come over. I had -- I had some Dilaudid,
8 and I wanted to bring him over with me, and he wanted to
9 get away from the people that were there. They were
10 drinking, and he was ready to go, and I went and picked him
11 up. I went in for a little bit, and he got his stuff, and
12 we left.

13 Q. When you say "He got his stuff," what stuff did he
14 get?

15 A. He got his book bag, and he borrowed Ten dollars from
16 Brandi to put gas in the car, and we went back to my
17 apartment for him to finish what he was doing with the
18 dope.

19 Q. When you say "finish what he was doing with the dope,"
20 what are you talking about?

21 A. He was doing the final step on the dope, gassing it to
22 make it -- to finish cooking it.

23 Q. Did he take the bottle from that apartment on
24 Springdale Road?

25 A. Yes, ma'am.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-662-

1 Q. And when -

2 MR. BROWN: Your Honor, I'm going to object at this
3 point in time because I want to make sure I understand it.
4 She's testifying they -- her and Jason went back to her
5 apartment. Right?

6 MS. COLTON: Yes, sir.

7 MR. BROWN: I'm going to object to that.

8 THE COURT: Overruled. The testimony is that she went
9 to the apartment where they lived, including Mr. Catoe.
10 And she picked him up there, and he brought this with him
11 is her testimony, in preparation from there. So I'm -- I
12 will allow it.

13 Go forward.

14 MS. COLTON: Thank you, Your Honor.

15 Q. Mandy, and when you say that, how many boxes do you
16 think you supplied to Mr. Johnson or Mr. Catoe?

17 A. I wouldn't even know how to guess that.

18 Q. Do you think more than 10?

19 A. Probably, yes.

20 Q. More than 20?

21 A. I don't know. I really don't know.

22 Q. That's okay. That's okay. I don't want you to -- I
23 just wanted a range.

24 And when you -- Would you always get meth for those
25 boxes?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-663-

1 A. Yes.

2 Q. Did you ever get anything else, drugs or anything like
3 that?

4 A. No.

5 Q. And you knew what those boxes were going to be used
6 for; didn't you?

7 A. Yes, ma'am.

8 Q. And when you picked up Mr. Johnson, you knew what he
9 was going to come to do at your house?

10 A. Yes, ma'am.

11 Q. And that's from the Springdale Road apartment.
12 Correct?

13 A. Yes, ma'am.

14 Q. And was this the first time that you had helped him?

15 A. No.

16 Q. Tell -- well --

17 A. That's not the first time I let him do that there.

18 Q. Had you picked him up other times and had him...

19 A. In December he came and stayed with me one night,
20 and --

21 Q. Where did you pick him up from?

22 A. The apartment on Springdale.

23 Q. So on two occasions, you picked him up at the
24 apartment on Springdale?

25 A. Uh-huh.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-664-

1 Q. And what did you let him do at your apartment.

2 A. The -- gas it, to gas the liquid dish.

3 Q. Did he bring the bottle both times?

4 A. Yes.

5 Q. And I'm going to stop you there because I want you to
6 tell the jury about the bottle. What's the bottle?

7 A. That's what you put all the ingredients in to let it
8 sit, and that's what you mix it in. That's what you mix it
9 in. And then you filter it and throw the rest of the stuff
10 and the bottle away.

11 Q. So when the bottle came over, did it still have the
12 black stuff in it and Suda on the bottom?

13 A. It has -- it has Sudafed and lye and stuff in the
14 bottom, all the ingredients.

15 Q. So it hadn't been filtered out?

16 A. Filtered, no.

17 Q. And at that -- well, let me -- I'll get back to you
18 with that in a minute. Let me ask you this. So he would
19 come to your house and gas it off?

20 A. Uh-huh.

21 Q. Tell the jury exactly how that would happen to take it
22 from that stage to being gassed off.

23 A. You get, like, Pyrex dishes, put paper towels over it
24 or coffee filters. You pour the liquid through it. It
25 keeps all the trash in the filters. And you do that three

AMANDA CAUDLE: DIRECT BY MS. COLTON .

-665-

1 or four times, it makes the liquid clear. Then you do the
2 Muriatic acid with tin foil. It makes a gas. You put that
3 in the liquid.

4 Q. And, Mandy, I'm going to ask you if you can lean up
5 close to that microphone so Mr. Brown can take a seat -- if
6 you're loud enough, he can sit there.

7 A. Sorry.

8 (ATTORNEY BROWN SEATED BEHIND COURT REPORTER'S BENCH
9 NEXT TO WITNESS.)

10 THE COURT: Can you repeat what she said last? I'm
11 not sure I heard it, and I'm not sure the jury did.

12 MS. COLTON: Yes, sir. And I'm going to ask her to
13 speak up real loud.

14 Q. Could you repeat what you said on that last, final
15 stage.

16 A. You take a Pyrex dish or a bowl, put paper towels or
17 filters over it, pour the liquid through it, and it filters
18 all the trash out of it.

19 Q. What's "trash"?

20 A. Where you have the pills ground up or the lithium out
21 of the batteries, just whatever is in the bottle that is
22 in -- the liquid.

23 Q. And then once it's all filtered out into that Pyrex
24 dish, what happens?

25 A. You put Muriatic acid in a bottle ---

AMANDA CAUDLE: DIRECT BY MS. COLTON

-666-

1 Q. A separate bottle?

2 A. Uh-huh. A smaller bottle with a tube running out of
3 it. You drop tin foil in it, close the top off and it
4 makes a gas. And you put that in the liquid, which
5 produces a powder.

6 Q. Tell me about the -- How you get the gas out of the
7 bottle?

8 A. When you put the tin foil in there, it pushes it up
9 through the tube.

10 Q. And do you put the tube inside the mixture?

11 A. No, you stick it down into the bottle about that far.

12 Q. Into -- all the way into the mixture?

13 A. No. Just into the bottle. You have Muriatic acid in
14 the bottle -- in the bottom of the bottle.

15 Q. Okay.

16 A. You just put the -- like, the Muriatic's here, you put
17 the tube about here.

18 (WITNESS INDICATING.)

19 Q. So when the gas comes out at the other end, do you
20 stick that into the Pyrex?

21 A. Just the gas. You don't want to get liquid in it.

22 Q. How come?

23 A. It ruins it. It will ruin it.

24 Q. And that's -- on those two occasions at your house.

25 And where's your house at?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-667-

1 A. I lived at Pepperidge Apartments.

2 Q. And Mr. Johnson finished the process of making
3 Methamphetamine on two occasions at your house?

4 A. Yes, ma'am.

5 Q. When you brought those boxes to Jason Johnson, okay,
6 who else did you see at the -- well, let's talk about the
7 trailer. Who else did you see at that trailer in Clover?

8 A. In Clover I saw Corey Catoe.

9 Q. Was there anybody else that you saw there?

10 A. I didn't see anyone. Jason said that Shelley
11 Pettigrew was asleep in the bedroom, but I didn't see her.

12 Q. Did he say she was asleep there, or did she stay
13 there?

14 A. She stayed -- she stayed there also, but that day she
15 was asleep in the bedroom.

16 Q. Because I won't put words in your mouth -- I'm not
17 trying to put words in your mouth. I'm just trying to
18 clarify. Okay? And did you ever see -- now when we're
19 talking about just there, did you ever see anybody else
20 bring boxes or get Methamphetamine or anything like that
21 from that apartment besides Robbie Catoe?

22 A. From that apartment?

23 Q. I mean, I'm sorry, from the trailer?

24 A. Not the trailer.

25 Q. And when they moved to Springdale Road apartments, did

AMANDA CAUDLE: DIRECT BY MS. COLTON

-668-

1 you ever see anyone else bring boxes to that apartment or
2 money or -- and buy -- well let me start with this -- bring
3 boxes to that apartment, of Sudafed?

4 A. I -- not -- not necessarily at that apartment. I know
5 -- I know he's traded for -- for boxes from other people,
6 but I've not necessarily been sitting at that apartment
7 when he --

8 Q. Okay. Did you ever see Jason or Corey sell
9 Methamphetamine to anyone out of that Springdale Road
10 apartments?

11 A. Yes.

12 Q. Who -- who are those people?

13 A. Shannon Atkins, Lisa Simmers, Mickey Thomas.

14 Q. Mickey who?

15 A. Mickey Thomas.

16 Q. Mandy, who's Mickey Thomas?

17 A. My boyfriend.

18 Q. And Mickey Thomas has also been charged in all of this
19 with you --

20 A. With me.

21 Q. With you. He's been charged with you.

22 When you saw Jason cook with that methamphetamine in
23 the bottle, what kind of bottle was it?

24 A. A wine bottle, a big wine bottle, I think.

25 Q. Can you describe what --

AMANDA CAUDLE: DIRECT BY MS. COLTON

-669-

1 A. A gallon jug.

2 Q. What color was it?

3 A. Clear.

4 Q. And was it -- how -- what was the meth on it? Was it
5 big? Was it small?

6 A. Small.

7 Q. Did you ever see him cook with a liquor bottle?

8 A. Yes.

9 Q. And were you ever concerned about the fact that he was
10 cooking in the liquor bottle? Do you understand my
11 question?

12 A. No.

13 Q. Okay. Mr. Johnson -- who -- well, when he was cooking
14 when you saw him cook, okay, did he carry the bottle?

15 A. Yes.

16 Q. Did he give it to anybody else to carry?

17 A. I saw him hand it to Corey at his -- at Corey's
18 parents' house one night.

19 Q. At Corey's parents' house?

20 A. He got him to take it and sit it down somewhere for
21 him.

22 Q. Well tell me about that. What was the deal? Do you
23 remember when that was?

24 A. I think it was around Christmas.

25 Q. Okay.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-670-

1 A. I went there.

2 Q. Well tell us where "there" is.

3 A. Springdale Road. It was Corey's parents' house, I
4 think.

5 Q. Okay this is different from the Springdale Road
6 apartment?

7 A. Yes.

8 Q. And at the Springdale -- and so at Corey's place;
9 Corey's mom's house or dad's house; do you know?

10 A. I'm not real sure.

11 Q. Okay. And there, what did you -- What happened there?
12 Start from the beginning. Start from --

13 A. I -- Mickey and I pulled into the driveway, and I was
14 taking him a plate of food, I think, Christmas dinner.

15 Q. It was -- was it Christmas day?

16 A. Christmas Eve, I think.

17 Q. Christmas Eve. Who were you taking a plate of --

18 A. Jason.

19 Q. That --

20 A. He had the bottle. I think he road with us for a
21 little bit, maybe?

22 Q. With the bottle in the car?

23 A. He took -- he put the bottle up. He handed it to
24 Corey to get -- put away so he could leave, I think. My
25 memory is not the best, but that was one time that I saw

AMANDA CAUDLE: DIRECT BY MS. COLTON

-671-

1 him, you know, with the bottle.

2 Q. Okay. And did you get any Methamphetamine out of
3 that; do you remember?

4 A. I did get -- I did get some that day, yes.

5 Q. Do you remember how much you got?

6 A. Twenty dollar bag, I think. Not much.

7 Q. How much is a \$20 dollar bag?

8 A. Point 2.

9 Q. Point 2, okay. And that's on Springdale Road. Is it
10 a house or an apartment?

11 A. It's a house, a brick house.

12 Q. And did you ever pick up Mr. Johnson and at any of
13 those locations and ever bring him to Ms. Workman's house?

14 A. I -- I've been at Ms. Workman's house at the same time
15 as him, but I never took him there.

16 Q. Have you been at Ms. Workman's house with Corey Catoe?

17 A. No.

18 Q. Oh, let me ask you this. Do you -- and that day that
19 we're talking about that you picked up Mr. Johnson, that
20 was the first time you met Ms. Quinn. Correct?

21 A. January 15th.

22 Q. How do you know it was January 15th?

23 A. My boyfriend and I went to jail that day.

24 Q. And what -- and -- I don't want to be repetitive about
25 stuff, but was that the day that you testified to that you

AMANDA CAUDLE: DIRECT BY MS. COLTON

-672-

1 picked up Mr. Johnson and gone to your house to finish to
2 cook.

3 A. Yes, ma'am.

4 Q. And that's January 15th, 2011?

5 A. Yes.

6 Q. Okay. Did you ever go with Jason Johnson -- or did
7 you ever meet Jason and Corey at Matt Oakes' house or over
8 there with both of them at Matt Oakes' house?

9 A. Jason.

10 Q. Just Jason. Okay, fair enough.

11 On February 26th, 2011, the day before Jason Johnson
12 and Corey Catoe and Ms. Quinn get arrested, did you have
13 any interaction with Mr. Johnson that day?

14 A. Yes, ma'am.

15 Q. And do you know where Mr. Johnson was staying?

16 A. I don't know the name of the place. I don't remember
17 which one it was.

18 Q. That's okay.

19 A. I know it was a motel on Riverview Road.

20 Q. And what happened with Mr. Johnson the days preceding
21 that? Had you been over there at all?

22 A. My boyfriend and I went and picked him up.

23 Q. When did you go pick him up?

24 A. It was that night, maybe around 8:00.

25 Q. Okay.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-673-

1 A. I went to pick him and he -- we took him to an
2 apartment complex off of Celanese. He got us some pills,
3 and we took him back.

4 Q. Okay. And when you got back -- well, did you pull
5 into the motel?

6 A. I did.

7 Q. Did you go inside the hotel room?

8 A. No, I didn't even know which room it was. I pulled to
9 the side of the building, and he got out there.

10 Q. And the pills, what type of pills were they?

11 A. Dilaudid.

12 Q. Is there a name for them, a street name?

13 A. K8's.

14 Q. K8's.

15 A. K8 Dilaudid.

16 Q. And did you see Brandi Quinn that day?

17 A. No. No, ma'am.

18 Q. Did you see Corey Catoe that day?

19 A. No, ma'am.

20 Q. Were you ever with them at Zack - with Mr. Johnson at
21 Zack Brannon's house?

22 A. No.

23 Q. Do you know Chris Matuse?

24 A. I don't know him.

25 Q. Do you know Cassidy Cooper?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-674-

1 A. No.

2 Q. And do you know Brandy Hagen?

3 A. No.

4 Q. And Mandy, Mandy, while you were locked up after all
5 this happened, and still, I mean, obviously still locked
6 up. They brought you clothes today change. Is that true?

7 A. Do what?

8 Q. They brought you clothes to change into today?

9 A. Yes, ma'am. Yes, ma'am.

10 Q. And do you have any idea of the time you face on your
11 charges?

12 A. A minimum 15 years.

13 Q. Have you been promised anything?

14 A. No, ma'am.

15 Q. And your Solicitor's Christopher -- Chris Epting?

16 A. Epting.

17 Q. Have you been promised anything for your testimony?

18 A. No, ma'am.

19 Q. Are you concerned about testifying today?

20 A. Yes, ma'am.

21 Q. Are you concerned that you're going to implicate
22 yourself in bigger stuff?

23 A. Yes, ma'am.

24 Q. Do you want to be here today?

25 A. Not at all. Not at all.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-675-

1 Q. And then why are you testifying today?

2 A. For a long time, I put everything before my kids, and
3 I want to get back home to my kids. And if this can help
4 me, I had to tell the truth and get back home to my babies.

5 Q. And how old are your children.

6 A. My daughter's eight and my son will be seven in two
7 weeks.

8 Q. Mandy, is this the longest you've been away from them?

9 A. Yes, yes.

10 Q. And how long have you been clean, Mandy?

11 A. How long have I been what?

12 Q. How long have you been clean?

13 A. Eight months, eight months.

14 Q. Mandy, when you told when you were -- when you met
15 with Investigator Schifferle or myself, did we tell you
16 what to come in here and say?

17 A. No, ma'am.

18 Q. Did we show you any case files or give you any
19 information?

20 A. No, ma'am.

21 Q. What were you told about coming in today?

22 A. Just tell the truth.

23 Q. And what were you told would happen if you did not
24 tell the truth?

25 A. That charges would be -- probably be brought up on me.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-676-

1 Q. Were you also told that --

2 A. Did -- go ahead.

3 Q. Were you also told that you could get in trouble?

4 A. I could get in trouble for it, yeah.

5 Q. And obviously, you don't want that to happen?

6 A. No, I don't need anymore trouble.

7 Q. Mandy, when you were in jail, did you receive any
8 communications from Mr. Johnson?

9 A. We wrote.

10 MS. COLTON: Sixty-seven, Sixty-eight and Sixty-nine.

11 (WHEREUPON: STATE'S EXHIBITS SIXTY-SEVEN, SIXTY-EIGHT
12 AND SIXTY-NINE PREMARKED FOR IDENTIFICATION.)

13 MR. BROWN: I'm going to object on relevance. May we
14 approach?

15 THE COURT: Yes, sir.

16 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
17 THE JURY AT 02:36 PM.)

18 THE COURT: Are you objecting, Counsel?

19 MR. BROWN: I'm sorry, Your Honor.

20 THE COURT: Are you objecting to these?

21 MR. BROWN: Yes, Your Honor.

22 THE COURT: Admitted over objection.

23 MS. COLTON: Your Honor, I have not ---

24 THE COURT: The Court finds them relevant.

25 MS. COLTON: Your Honor, I haven't laid the

AMANDA CAUDLE: DIRECT BY MS. COLTON

-677-

1 foundation, proper foundation for them, Your Honor.

2 If I may.

3 Q. All right, Mandy, I'm going to show you --

4 Do you have a stapler, Madame Clerk?

5 I'm going to start -- well, I'm going to show you all
6 three of them: State's Sixty-seven, State's Sixty-eight,
7 and State's Sixty-nine. Do you recognize these letters?

8 A. Yes, ma'am.

9 Q. How do you recognize those letters?

10 A. They were sent to me by Jason.

11 Q. How do you know they were sent?

12 A. His handwriting.

13 Q. His handwriting? And you recognized it?

14 A. Yes.

15 Q. Okay.

16 MS. COLTON: And, Your Honor, the State would move to
17 enter these into evidence.

18 THE COURT: Admitted over objection.

19 MS. COLTON: And, Your Honor, Sixty-seven and Sixty-
20 eight and Sixty-nine.

21 (WHEREUPON: STATE'S EXHIBIT NUMBERS SIXTY-SEVEN,
22 SIXTY-EIGHT, AND SIXTY-NINE IDENTIFIED AND MARKED, RECEIVED
23 INTO EVIDENCE.)

24 Q. And Mandy, I'm going to ask you to read -- to start
25 with Sixty-seven, move on to Sixty-eight, and move on to

AMANDA CAUDLE: DIRECT BY MS. COLTON

-678-

1 Sixty-nine. I'm going to ask you to read them. Okay?

2 A. Yes, ma'am.

3 Q. And I may stop you from time to time, but read them
4 all. Okay.

5 THE COURT: Read them as loud as you can please,
6 ma'am..

7 Q. And, Mandy, let's start with -- you see the number?

8 A. Sixty-seven?

9 Q. Yes.

10 A. This is going to be embarrassing.

11 Q. Huh?

12 A. This is going to be embarrassing. Okay.

13 Q. I'm sorry to make you do that. I have to get it into
14 evidence. Okay?

15 A. "Amanda, hey beautiful. Got your mail and the pic
16 from Nanna. Callie's a beautiful little girl. No doubt,
17 that's me all the way. It just makes me so fucking sad
18 that Brandi's acting the way she is. Please try to reason
19 with her for the sake of Callie. I'm not trying to be with
20 her, but she should at least be civil about the ordeal.
21 She's told people I'm such a big mistake, and that's -- and
22 this and that. This is so bullshit. I've never chased
23 that girl. She's always chasing me down since the first
24 time we met or when she would be trying to get Scott pissed
25 or jealous. Then she would use me. That shit sucks.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-679-

1 These broads get into -- into it with their man and want to
2 come give me or Shaver some pussy. Yeah, it seems crazy,
3 but that's how some of these girls do, get their revenge by
4 using me or Robbie. And now you see why I'm always
5 suspicious of a lot of people being the feds or polos
6 because of peeps like little rich bitch -- or little rich
7 girl -- excuse me -- or Brandi."

8 Q. Okay, stop. I'm going to stop you right there, okay?
9 It says, "Shaver or Robbie." Do you know who those people
10 are?

11 A. Robbie Shaver.

12 Q. And is that the same person?

13 A. Yes.

14 Q. And the "feds" are?

15 A. Why did he say that?

16 Q. No, who are the feds?

17 A. Oh. Like narcs. People who are rats.

18 Q. Polos?

19 A. Police.

20 Q. And who do you understand the "little rich girl" to
21 be?

22 A. Shelley Pettigrew.

23 Q. And Brandi?

24 A. Quinn.

25 Q. Okay, I'm sorry. Just continue.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-680-

1 A. "That's why I'd always be annoyed as hell. It's so
2 hard to fully trust anybody out here. And a lot of times,
3 it's the one you let into your circle and care about that
4 ends up the snake. It seems like it's always Cancers that
5 get taken advantage of. I always remember a true friend is
6 rare, and when you find one, don't ever let them slip away.
7 I think about your situation, and I hate it because I know
8 that it wasn't your shit that you're in jail for. But you
9 had love for a mother fucker that stepped -- and stepped up
10 for him, and he gets out."

11 Q. Okay, I'm going to stop you right there. It's going
12 to be in evidence, the rest of it. I'm not going to make
13 you read the rest of it. But when he says, "You've got
14 love for someone," who is that?

15 A. Mickey Thomas.

16 Q. And is that because -- what's "step it up" mean?

17 A. I -- I took the -- took the blame. I took the charges
18 for Mickey.

19 Q. Mandy, let's move on to State's Sixty-eight. Okay?

20 A. "Hey sweetheart, what it do? I hope all is all right
21 with you. Of course you are beautiful as I thought that
22 from day one. And of course I wanted to get with you, but
23 I was being respectful of Mickey, and at the same time
24 being a gentleman to you."

25 Q. I'm going to stop you right there. That's "Mickey" is

AMANDA CAUDLE: DIRECT BY MS. COLTON

-681-

1 Mickey?

2 A. Thomas.

3 Q. Mickey Thomas. And I'm going to -- I'm sorry I'm
4 going to ask you to read through it. I'm sorry.

5 A. "Little chicks like you know how to throw that thing
6 the best. I'm going to catch you one day. Nor have I ever
7 had a bad thing to" -- wait a minute, "I'm going to catch
8 you one day. Nor have I ever had a bad thing to say about
9 you. And I would always take up for you when fools was --
10 would talk about you robbing or stealing from somebody.
11 Anyway" -- I can't read this part -- "though how have you
12 been holding up? Kind of sucks that you ain't heard much
13 from your boy especially since you stepped up for his shit.
14 I know exactly how you feel. I've only heard from old girl
15 twice in seven months. And for real, you don't even go let
16 her know who this is from. What's her deal? Please fill
17 me in on the low" ---

18 Q. Okay, I'm going to stop you right there. "Old girl"
19 is?

20 A. Brandi Quinn.

21 Q. And did you talk to Ms. Quinn?

22 A. Yes, when in jail.

23 Q. And did you talk to her on behalf of Mr. Johnson?

24 A. I did.

25 Q. And what did you talk to her about?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-682-

1 A. About the baby. She was pregnant.

2 Q. Okay.

3 A. About her not trying to keep the baby away from him.

4 Q. And as a result of this letter, did you write a letter
5 back to Jason?

6 A. I did.

7 Q. And did you -- in that letter did you tell Jason that
8 Brandi was going to testify against him?

9 A. I did. I did.

10 Q. And Brandi told you that?

11 A. No.

12 Q. Okay.

13 A. Brandi told another girl that we were locked up with,
14 and she told me.

15 Q. And let me move forward to -- I'm going to start you
16 with "What's my girl" -- five lines down -- "What's my girl
17 doing that blew up the crib." Do you see that on the
18 second page? I'm sorry.

19 A. "What's my girl doing that blew up the crib? What the
20 fuck. That shit was crazy. That's some breaking bad shit
21 for real."

22 Q. Stop right there. Who's the girl that broke the crib?

23 A. Sonya Burton.

24 Q. And what's -- what do you all mean by "breaking bad
25 shit"?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-683-

1 A. It's a TV show about cooking meth.

2 Q. Okay. Let's start again.

3 A. "Her and Little Corey have been true loving. I give
4 my little cuz, though, hell about that. Anyway, tell her
5 to send me some love."

6 Q. Stop right there. Little Corey. Who's "Little
7 Corey"?

8 A. Corey Catoe.

9 Q. And that's Jason Johnson's cousin?

10 A. Little cousin, yeah.

11 Q. Continue with Shelley.

12 A. "Shelley over there, I never got any mail from her
13 either, but I" -- something -- "something fall back off her
14 right now because I damn sure don't" -- something -- "make
15 waves with her -- need to make any waves with her. She got
16 that dude Joey Sal all the way fucked up. A brown envelope
17 is how you can mail -- send the mail out" -- or -- "send
18 out your mail. Pull them stickers off that say 'York
19 County' and just have somebody drop them back in the box.
20 Got to stay" -- something -- "on them. And they probably
21 read all incoming mail, so keep that in mind. I'm still
22 waiting on your last letter you sent. It got sent back
23 because grandma made a mistake and mailed your whole
24 envelope back to me. You don't have Lauren's" -- and in
25 parentheses it says, "Matt's address; do you? Been me" ---

AMANDA CAUDLE: DIRECT BY MS. COLTON

-684-

1 Q. Stop right there. Who's Lauren?

2 A. I don't know her last name.

3 Q. Okay.

4 A. It's Matt Oakes' girlfriend.

5 A. "Been meaning to get Barbara to get it, but she's been
6 slacking"

7 Q. Who's "Barbara"?

8 A. Barbara Corder.

9 Q. Okay.

10 A. "An old buddy that was in the hotel the first time I
11 met you, him, and Shan out there still running around like
12 chickens -- headless chickens."

13 Q. I'm going to stop you there. Who's "Old Buddy"?

14 A. Robbie Catoe.

15 Q. And who's Shan?

16 A. Shannon Atkinson.

17 Q. And what he's referring to -- what is he referring to
18 when he says, "was at the hotel the first time I met you."

19 A. He was just -- I guess -- the night that I met him, he
20 was talking about Robbie Catoe.

21 Q. Okay.

22 A. I guess that's how he was letting me know who he was
23 talking about without saying who he was talking about.

24 Q. And he's talking about the night you talked to the
25 jury about it?

AMANDA CAUDLE: DIRECT BY MS. COLTON

-685-

1 A. Right.

2 Q. Okay.

3 A. "I know this letter is short, but I've got to get some
4 mail out. I promise I'll write more in a few days. Just
5 wanted you to know I was thinking about you. Keep you head
6 up. Stay positive, and don't -- and please don't forget
7 about" -- something.

8 Q. His --

9 A. "Love you girl, Michelle."

10 Q. And then it says, "Wink, wink" after that?

11 A. Yeah.

12 Q. How do you know it's from Jason?

13 A. I told him that he could write me at that address,
14 Michelle's address, and so it would get through.

15 Q. Tell the jury how that -- what that means.

16 A. When you're in York County Detention Center, you're
17 not allowed to write other inmates in York County Detention
18 Center. So you have to find other ways around it,
19 different addresses, different names, stuff like that. So
20 that's how we were writing each other.

21 Q. So you would have one person would write another --
22 write to a third person, have --

23 A. Or you get a big envelope and put your mail in it,
24 send it out to somebody, get them to drop it in the mail
25 for you.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-686-

1 Q. So it looks like it comes in for somebody else. And
2 that's -- the Michelle is your friend?

3 A. Yes.

4 Q. And she did that for you?

5 A. No, he just used her address.

6 Q. What's Michelle's last name?

7 A. Picarello.

8 Q. I'm just going to have you start on State's Sixty-nine
9 as well.

10 A. "Hey sweetheart, you know it's small, simple things in
11 a person -- in a person's life that cements friendship,
12 like when I really didn't have any place to go at
13 Christmas, and you went out of your way to bring me a plate
14 of home-cooked food. It's those things that mean more than
15 words can ever -- you can ever imagine. You're always --
16 you was always straight-up with me, and I'm glad we got to
17 become friends. I know that the first night I wanted to
18 smother your ass with a damp pillow, I just wanted you to
19 know that I was always cool chilling with you, and even
20 though you're a very beautiful girl, I never tried to
21 holler, not because I wasn't physically attracted, but
22 because I have respect for Mickey as a homey" -- something.
23 I don't know what that word is.

24 Q. That's all right.

25 A. "I later found out -- even though I later found out

AMANDA CAUDLE: DIRECT BY MS. COLTON

-687-

1 that he and Pe Bo and Kevin had been accusing me of fucking
2 you, Lisa, and Kevin's baby's momma."

3 Q. Let me stop you right there. Okay? Who's "Pee Bo"?

4 A. Bryan Ingham.

5 Q. And Kevin?

6 A. Kevin Threet.

7 Q. And Lisa?

8 A. Lisa Simmers.

9 Q. Who's Kevin Threet's baby's mom?

10 A. Her name's Johnnie.

11 Q. Do you know her last name?

12 A. No.

13 Q. Continue.

14 A. "I never even attempted Lisa because on the real she
15 wasn't my type at all, nor did she look good. Brat was a
16 different story."

17 Q. Who's "Brat"?

18 A. Lisa's sister, Brittany.

19 Q. Is that -- Brat's Brittany Simmer's nickname?

20 A. Yes, Brat.

21 "And as for Kev's, I knew Johnnie way before he came
22 in the picture. A few bitches who I'll refrain from naming
23 would come up with me just to piss off their dudes, but
24 none of my friend -- friends' girls. Call me old
25 fashioned, maybe grimy -- maybe, but grimy ain't my style,

AMANDA CAUDLE: DIRECT BY MS. COLTON

-688-

1 which I can't say for many of the dudes in our click."

2 Q. What's -- Who are the "dudes" in your "click"? What
3 does that mean?

4 A. Um...

5 Q. What's a "click"?

6 A. Just all of us that hung out together.

7 Q. And who -- the dudes in you all's click, who's the
8 dudes in your click?

9 A. Robbie Catoe, Mickey, Pe Bo, Kevin. Just guys that we
10 hung out with. I hung out mostly with guys. There wasn't
11 many girls that hung out with us.

12 Q. And you all knew each other because you all were
13 friends for a long time.

14 A. Right. I knew most of them -- most of them for a very
15 long time. But I just recently met Jason.

16 Q. Continue.

17 A. "Maybe if we all make it out, me, you and Brandi can,
18 you know -- well, I guess you know your three others are
19 gone or went and cooperated about all, and who I'm not
20 sure. After he lied about a few things like talking to the
21 narc agents, I kind of fell back from fucking with him.
22 And once he condoned certain things, I cut ties. Don't
23 trust his ass is all I'm going to say. You know I keep my
24 ear to the streets. Not much going on. Robin's dad's
25 running around like a rooster without a head."

AMANDA CAUDLE: DIRECT BY MS. COLTON

-689-

- 1 Q. I'm going to stop you there. Who's Robin's dad?
- 2 A. Robbie Catoe.
- 3 Q. And who's Robin?
- 4 A. Robin Brock is his daughter.
- 5 Q. And why didn't he just say Robbie Catoe in here? Why
- 6 -- did you all just use -- would you all use first and last
- 7 names?
- 8 A. Everybody calls Robbie Catoe -- when you talk about
- 9 Robbie, everybody says Robbie Catoe or Catoe.
- 10 Q. Okay. But why did you call -- why Robin's dad?
- 11 A. Oh, he didn't want -- I guess he didn't want anybody
- 12 to read it, 'cause they read all your incoming mail.
- 13 Q. Okay.
- 14 A. "He got his overweight sidekick Mercedes back,
- 15 shotgun, and the crazy bitch with her old man's Mercedes is
- 16 still in the back seat."
- 17 Q. Okay, stop you there. The "overweight sidekick
- 18 Mercedes." Who's that?
- 19 A. Mercedes Flores.
- 20 Q. "And the crazy bitch with her old man's Mercedes still
- 21 in the back seat"?
- 22 A. Shannon Atkins.
- 23 Q. Why do people call her that? Why is she called that?
- 24 A. What? The crazy bitch? She's -- she's a little
- 25 crazy.

AMANDA CAUDLE: DIRECT BY MS. COLTON

-690-

1 Q. And who's her old man's Mercedes?

2 A. Eddie. I'm not sure what his last name is.

3 Q. Shannon always drives that car?

4 A. Yes.

5 Q. Okay.

6 A. "When he heard 'R' might have his charges" -- wait a
7 minute. Oh, "He screamed when he heard R might have his
8 charges dropped. Oh, and if you all's shit got throwed out
9 in the prelim based on no actual drugs, just mixed
10 chemicals, then 'old Vic's' shit should get thrown out
11 based on that as well."

12 Q. I'm going to stop you right there. When it says, "Old
13 Vic's," who's Vic?

14 A. Jason Johnson.

15 Q. And Vic is a nickname that you know Jason Johnson by?
16 And was that primarily the name you knew Jason Johnson by?

17 A. Yes, that's what I've always called him, "Convict" or
18 "Vic."

19 Q. Well let's -- I want you to read through to "Although
20 I've got a few good things."

21 A. "Although I've got a few good things, he's able to
22 argue them on, Corey's lawyer is out of town, military
23 reserves until September. So that's why we're hanging --
24 we're having to wait until to have the prelim on a probably
25 cause hearing. Thanks for talking some sense into Brandi

AMANDA CAUDLE: DIRECT BY MS. COLTON

-691-

1 because she seems very easily influenced by no good people.
2 I really love that crazy girl, and it fucking destroys me
3 that she's having to be in jail. Things take time. I wish
4 I could just snap my fingers, and then she'd be home. But
5 it's not that easy. She's just got to have faith in Old
6 Vic. She hasn't been with a lot of trustworthy dudes. So
7 I understand her doubt. Keep your head up, girl, and stay
8 in touch with me."

9 Q. And that was written by Jason Johnson.

10 A. Yes, it was.

11 Q. It said, "From me." Now I didn't draw up -- I didn't
12 tell you -- you told us that you recognize the handwriting
13 in all these letters. Okay? I want you to look at State's
14 Sixty-seven. Okay? You got it?

15 A. Yes.

16 Q. And at the end of that, it says, "Love always," and I
17 -- it looks like it says, "Jalan XXXOX"?

18 A. It says, "J. Alan."

19 Q. J. Alan? Okay. And that's --

20 A. That's his first initial to his first name and his
21 middle name.

22 Q. Thank you. Please answer any questions Mr. Brown may
23 have for you.

CROSS EXAMINATION

24
25 AMANDA CANDLE BY MR. BROWN:

AMANDA CAUDLE: CROSS BY MR. BROWN

-692-

1 Q. Ms. Candle, when did you first become involved with
2 methamphetamine?

3 A. First time I did meth, I was 15 years old.

4 Q. How old are you now?

5 A. Thirty-two.

6 Q. So you've been smoking meth for 17 years?

7 A. Not straight. I tried it the first time when I was 15
8 years old. I've went six years without doing anything one
9 time. Meth wasn't always the drug I always did.

10 Q. What was your drug of choice?

11 A. For a long time it was just Zanax and weed. Then I
12 started doing --

13 Q. When you say "weed," you mean marijuana?

14 A. Marijuana. I started doing pain pills, and I did pain
15 pills for about four or five years. And then I started --

16 Q. I'm going to ask you so speak up so these ladies and
17 gentlemen in the back road can hear you.

18 A. I did pain pills for about three or four years, and
19 then I started doing heroin.

20 Q. How long ago did you start doing heroin?

21 A. August of 2010.

22 Q. And would you say until you were in prison that you
23 were addicted to Heroin?

24 A. Yes.

25 Q. Were you addicted to Methamphetamine?

AMANDA CAUDLE: CROSS BY MR. BROWN

-693-

1 A. No.

2 Q. And as I understand your testimony, I want to make
3 sure I understand this. You were doing meth basically to
4 get over the heroin sickness?

5 A. Yes, if I couldn't get the heroin.

6 Q. As I understand your interaction with Mr. Johnson,
7 basically, you would bring him a box of pills, and he'd
8 cook it up, and you all would split it up?

9 A. Not necessarily, no. I would bring him pills and
10 trade him for -- he wouldn't have to cook it. That would
11 be -- he wouldn't have to do it right then.

12 Q. You say "trade," like a carton of cigarettes for a
13 little meth?

14 A. I did.

15 Q. But it's not like you're paying thousands of dollars
16 to any big massive financial transaction in any of this;
17 are you?

18 A. No.

19 Q. Most of the time were you trading pills?

20 A. Most of the time.

21 Q. Trading Sudafed or Dilaudid or whatever?

22 A. Sudafed. I didn't trade Dilaudid.

23 Q. And isn't that kind of generally true in the meth
24 industry, if somebody can cook it up, you bring them a box
25 of pills, they'll cook it up and split it?

AMANDA CAUDLE: CROSS BY MR. BROWN

-694-

1 A. If that's how you work it out with them that -- that
2 you split it. Some people just give you a half a gram for
3 a box. Some people give you a quarter gram for a box.

4 Q. And you used methamphetamine with Jason several times,
5 I believe, is your testimony; is that correct?

6 A. Yes.

7 Q. And he cooked it up, and you all smoked it or snorted
8 it or injected it?

9 A. Injected it.

10 Q. Is Jason a meth addict in your opinion.

11 MS. COLTON: Your Honor, I'm going to object to that
12 because I believe it's going to be an open door to what we
13 talked about before you, Judge.

14 MR. BROWN: Yes, sir. Sustained?

15 THE COURT: Sustained unless you want to open the
16 door.

17 MR. BROWN: Okay.

18 Q. Have you seen him use drugs on several occasions; have
19 you not?

20 A. Yes.

21 Q. When she first asked -- are you currently -- I didn't
22 catch her. Are you currently incarcerated?

23 A. Yes, sir, I am.

24 Q. At York County Detention Center?

25 A. Yes, sir.

AMANDA CAUDLE: CROSS BY MR. BROWN

-695-

1 Q. And you're waiting trial on?

2 A. Trafficking meth, manufacturing meth, and conspiracy.

3 Q. And who were you trafficking meth with or alone?

4 A. I had four co-defendants: Mitchell Thomas, Lisa
5 Simmers, Kevin Threet, and Randall Bingham.

6 Q. Who -- You haven't been promised anything?

7 A. No, sir.

8 Q. But you are cooperating and hoping in getting some
9 kind of general offer from the Solicitor's Office; is that
10 correct?

11 A. Yes, sir.

12 Q. I believe you testified the minimum you're looking at
13 is 15 years?

14 A. Yes, sir.

15 Q. Of course you don't want to do 15 years because you
16 won't be able to see your kids grow up.

17 A. That's right.

18 Q. So you'd do anything to be allowed to watch your kids
19 grow up?

20 A. I would -- I don't know what you mean by "anything,"
21 but -- I mean, what do you mean by anything?

22 Q. Well you won't -- that's your primary goal, I believe
23 you testified to on direct is that you want to watch your
24 kids grow up?

25 A. Yes, sir.

1 Q. And that's the most important thing in your life?

2 A. My kids, yes.

3 Q. And this is one of the ways you can get back to your
4 kids. Correct?

5 A. I --

6 Q. Testifying?

7 A. I hope it helps.

8 Q. Otherwise you wouldn't be doing it?

9 A. Right.

10 Q. You're doing it to benefit yourself?

11 A. Yes.

12 Q. When you were first arrested, did you cooperate fully
13 with the police then?

14 A. No.

15 Q. Matter of fact, you lied to them, and told them you
16 didn't know anything about it; didn't you?

17 A. About -- no, I told them that it was mine, everything
18 was mine.

19 Q. Everything was yours?

20 A. Everything was mine.

21 Q. That wasn't true either; was it?

22 A. No.

23 Q. So you lied to the police when you first got arrested?

24 A. Yes.

25 Q. But you're here telling the truth today?

AMANDA CAUDLE: CROSS BY MR. BROWN

-697-

1 A. Yes.

2 Q. Because of your kids?

3 A. Yes.

4 Q. Who was watching your kids all these nights you were
5 staying up doing meth?

6 A. They were with their daddy.

7 Q. Excuse me?

8 A. They were with their daddy.

9 Q. Where is that?

10 A. They live with their daddy off of Highway 5 in Rock
11 Hill.

12 Q. So you don't have custody of them?

13 A. Not since I've been here.

14 Q. Did you have custody of them before when you were out
15 doing meth?

16 A. Yes, I did.

17 Q. And when you do meth, you stay up two or three night
18 at a clip; don't you?

19 A. Sometimes.

20 Q. Were your kids there when you were doing meth?

21 A. No, sir.

22 Q. Where were they?

23 A. With their dad.

24 Q. Well, did you have -- did he have -- correct me if
25 I've wrong ---

AMANDA CAUDLE: CROSS BY MR. BROWN

-698-

1 A. We had -- we had recently separated, and we both kept
2 them.

3 Q. So you'd send them off to him when you want to party
4 and do meth?

5 A. When they were with him, I would party.

6 Q. And how long would these parties go on for?

7 A. Sometimes two days. I did drugs for two or three
8 days, probably, at a time.

9 Q. But your big drug of choice was heroin or synthetic
10 heroin and Dilaudid. Correct?

11 A. Yes.

12 Q. Where did you get the Dilaudid from?

13 A. Different -- different people. Jason got them for me
14 a few times. Different friends would get them -- get them
15 for me.

16 Q. Were you employed at the time?

17 A. No, I was not.

18 Q. Where did you get the money to buy Dilaudid's? It's a
19 rather expensive habit; is it not?

20 A. My boyfriend.

21 Q. Was your boyfriend employed at the time?

22 A. He had been working, but ---

23 Q. I'm sorry..

24 A. --- he had just got out of jail in Georgia. He was
25 not working.

AMANDA CAUDLE: CROSS BY MR. BROWN

-699-

1 Q. So where did the money for these drugs come from for
2 you and your boyfriend?

3 A. My boyfriend shoplifts.

4 Q. Shoplifted?

5 A. Uh-huh.

6 Q. Did you shoplift?

7 A. No.

8 Q. Never stole anything?

9 A. I have, yes, I have.

10 Q. Was that to support your habit?

11 MS. COLTON: Your Honor, I'm going to object to the
12 questions because I understand why he's asking them, but I
13 don't think it's pursuant to the rules of evidence. I
14 could -- may I approach about that?

15 THE COURT: Yes, ma'am.

16 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
17 THE JURY AT 03:05 PM.)

18 BY MR. BROWN:

19 Q. Was this the boyfriend you currently have, ma'am?

20 A. It would be a ex-boyfriend.

21 Q. Not the same guy you're dating now. correct?

22 A. I'm not dating anyone now. I've been in York
23 Detention.

24 Q. Well excuse me, let me rephrase the question. The
25 guy, is it Mickey?

AMANDA CAUDLE: CROSS BY MR. BROWN

-700-

1 A. Mickey.

2 Q. All right. That was your boyfriend during the
3 sequence of events you testified to earlier?

4 A. Yes.

5 Q. And he was the one who just got out of prison. And he
6 was the one who stole to support you all --

7 A. He wasn't -- he was in county jail in Georgia, and he
8 just got out of county jail here.

9 Q. And were you and he selling or dealing drugs to earn
10 income?

11 A. No.

12 Q. You were just trafficking in them or selling ?

13 A. At the time? When are you -- when are you talking
14 about?

15 Q. When you got arrested?

16 A. I didn't sell drugs, no.

17 Q. You're charged with trafficking?

18 A. Right.

19 Q. You're charged with manufacturing?

20 A. Right.

21 Q. And I assume that's manufacturing methamphetamine; is
22 that correct?

23 A. Yes.

24 Q. Well let me ask you this, did you make
25 methamphetamine?

AMANDA CAUDLE: CROSS BY MR. BROWN

-701-

1 A. I -- I did.

2 Q. And how much methamphetamine did you make?

3 A. I -- I don't know.

4 Q. Did you go buy the boxes?

5 A. I have.

6 Q. How many -- that you made yourself, how many boxes of
7 Sudafed did you buy to go produce Methamphetamine?

8 A. I can't answer that.

9 Q. Well I'm going to do like Ms. Colton did. More than
10 10?

11 A. I think I have paperwork that shows I bought nine
12 boxes in eight months.

13 Q. I'm sorry.

14 A. I think I have -- my paperwork from my motion shows, I
15 think, nine boxes in eight months.

16 Q. And that's in your discovery material?

17 A. Uh-huh.

18 Q. Did other people buy boxes and bring them over to you
19 for you to cook up?

20 A. Yes.

21 Q. And where were you doing this?

22 A. When we got -- when it got -- when we got in trouble,
23 we were at a motel.

24 Q. So you had no residence?

25 A. Not at the time, no.

AMANDA CAUDLE: CROSS BY MR. BROWN

-702-

1 Q. Had you been -- how did you come to lose your
2 residence? Let me ask you that way.

3 A. We were living with his cousin.

4 Q. With Mickey's cousin?

5 A. Yes.

6 Q. Okay.

7 A. And he moved out. He moved out so we moved out too,
8 and didn't have anywhere to go so we were staying in
9 motels.

10 Q. Where were your kids then?

11 A. With their daddy.

12 Q. How long did they stay with their daddy prior to your
13 arrest, continuously?

14 A. Six or eight months? Maybe six months.

15 Q. And when they arrested you, you all would cook --
16 cooking or making the meth in the motel room?

17 A. I was not there. I turned myself in five days later
18 after they got locked up.

19 Q. After --

20 A. After Randall, Mitchell, and --

21 Q. Your co-defendants?

22 A. Yes.

23 Q. You don't have to go through all of them again.

24 You said you have a bad memory. Is that from --
25 knowing that's one of the side effects of the abuse of

AMANDA CAUDLE: CROSS BY MR. BROWN

-703-

1 heroin, is that what caused it?

2 A. Maybe. I...

3 Q. Drug abuse?

4 A. Yes. I would think so.

5 Q. I believe you told us in testimony four or five times
6 you went to pick up Mr. Johnson to get dope or manufacture
7 dope; is that correct?

8 A. Yes, sir.

9 Q. And during that time, you usually got a half gram; is
10 that correct?

11 A. Yes, sir.

12 Q. And some of that time, you smoked, and some of the
13 time you all traded out or?

14 A. I --

15 Q. Not smoked it. excuse me. Let me rephrase that.
16 Used it?

17 A. Yes, sir.

18 Q. And some of the times you just took it with you.
19 Correct?

20 A. Yes, sir.

21 Q. And you were doing this to get over your heroin
22 sickness. Correct?

23 A. And -- yeah. And when I didn't have heroin, I liked
24 to do meth. I mean, I didn't have to be sick to do it. I
25 did like to do it. But it was usually when I was sick from

AMANDA CAUDLE: CROSS BY MR. BROWN

-704-

1 heroin.

2 MR. BROWN: I beg the Court's indulgence one second,
3 Your Honor.

4 (PAUSE AT 03:10 PM.)

5 Q. In mid-February 2011, prior to Jason's arrest, did you
6 sell him some meth and shoot it in his neck?

7 A. In his neck?

8 Q. Shoot him up?

9 A. Not that I remember.

10 Q. Could -- have you sold him meth in the past?

11 A. I -- he's got some from me before, yes.

12 Q. So this is kind of like a trading? You cook some up
13 and give him some or buy some. He cooks some up and gives
14 you some and buys some?

15 A. I -- yeah, I guess. I -- he's got it from me before,
16 yeah.

17 Q. Was there ever a time you were cooking dope at your
18 apartment with Mickey and DSS came out?

19 A. No.

20 Q. That didn't happen?

21 A. No.

22 MR. BROWN: All right.

23 No further questions, Your Honor.

24 MS. COLTON: Your Honor, may we approach before ---

25 THE COURT: Yes, ma'am.

AMANDA CAUDLE: REDIRECT BY MS. COLTON

-705-

1 MS. COLTON: --- I redirect this witness?

2 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
3 THE JURY AT 03:12 PM.)

4 REDIRECT EXAMINATION

5 AMANDA CAUDLE BY MS. COLTON:

6 Q. Mandy, I've got a few questions for you. When we
7 talked before, I was limiting you -- I was asking you
8 specifically about getting drugs from Jason at -- from the
9 Springdale Road and then from Corey's mom's house or seeing
10 him manufacture there or from the trailer in Clover. Okay?
11 Did you ever get drugs from him at any other time? Did he
12 ever deliver Methamphetamine to you?

13 A. I would meet him. I met him a few places like
14 Walmart. We'd meet at Walmart or other places like that.

15 Q. How many times do you think you met him at Walmart?

16 A. A lot.

17 Q. How many times -- What other places did you meet him
18 at?

19 A. Kohls. I met him at Kohls. Somewhere out off of
20 Mount Gallant Road.

21 Q. Do you remember if it was a store, a building, or --

22 A. It was a trailer.

23 Q. A trailer? Okay. And how many times do you think you
24 met him out places to get Methamphetamine from him?

25 A. Probably five or ten.

AMANDA CAUDLE: REDIRECT BY MS. COLTON

-706-

1 Q. And did you ever see him at Ms. Workman's house with
2 Methamphetamine?

3 A. Once.

4 Q. Did you get -- and what did you see him do with
5 Methamphetamine there? Did you get Methamphetamine or use
6 Methamphetamine with Mr. Johnson at that house?

7 A. We -- we were using.

8 Q. And where did the Methamphetamine come from?

9 A. From what -- from what I was told, they all cooked it
10 there, Robbie and Jason.

11 Q. And was Jason there using it with you?

12 A. Yes.

13 Q. And did you get it from Jason?

14 A. I didn't. I didn't myself. I think Mickey did.

15 Q. How many times do you think you've seen Jason Johnson
16 cook, altogether, any place, anytime that you talked about?

17 A. Actually cooked probably five or six. I'm not -- I'm
18 not real positive about that.

19 Q. That's in -- is that in addition to the two times that
20 he did it at your house?

21 A. Oh no, that's with those two times.

22 Q. Five or six times. And how much Methamphetamine do
23 you think you use at a time?

24 A. We would put -- I would put about .4 in each shot.

25 Q. .4?

AMANDA CAUDLE: REDIRECT BY MS. COLTON

-707-

1 A. Almost a half a gram in each shot.

2 Q. And how many times would you shoot a day?

3 A. Sometimes I only did one shot every eight or 12 hours,
4 but sometimes just depending on -- if I was by myself, I
5 didn't do as much, but if we were hanging out partying, I
6 did probably five or six shots.

7 Q. And would that be -- and, okay, and this -- I know
8 these run together. How many -- and how -- okay, if you
9 had a gram of Methamphetamine, how long would that last
10 you?

11 A. If -- if I did smaller shots than what -- I could
12 probably get five or six shots out of that, but usually I
13 would do .4 which would be, like, right at four shots, a
14 little over four shots.

15 Q. How long -- how many days would that last you?

16 A. Two.

17 Q. Two days. And did you always have Methamphetamine or
18 would you stay off it for a couple of days?

19 A. I would stay off it.

20 Q. How many times a week do you think you bought
21 Methamphetamine?

22 A. Sometimes once or twice a week, and sometimes I
23 wouldn't get any at all.

24 Q. Okay.

25 A. It might be two or three weeks before I did it.

1 Q. And were you getting Methamphetamine besides any of
2 the Methamphetamine that came from Jason Johnson?

3 A. Yes, I was.

4 Q. And who else were you getting it from?

5 A. A guy -- I don't know him. Robbie Catoe was getting
6 it from somebody else.

7 Q. Okay.

8 MS. COLTON: Thank you, ma'am. No further questions.

9 MR. BROWN: Nothing further, Your Honor.

10 THE COURT: Thank you, ma'am. You may stand down.

11 MS. COLTON: Your Honor, we ask that -- she's not
12 under subpoena. I'm sorry.

13 THE COURT: Thank you, ma'am. You may be excused.

14 (WITNESS LEAVING WITNESS STAND.)

15 THE BAILIFF: Your Honor, could I step up for a
16 moment?

17 (COURTROOM BAILIFF APPROACHED BENCH.)

18 THE COURT: I can't remember when we actually got
19 started. Has it been about an hour and a half? I think it
20 has.

21 MR. BROWN: Yes, sir.

22 MS. COLTON: I'm not sure, Your Honor.

23 THE COURT: All right.

24 Madame Forelady, members of the jury panel, let's quit
25 and take a short recess at this time. We'll take about 10

-709-

1 minutes or so.

2 (JURY EXITS COURTROOM AT 03:17 PM.)

3 THE COURT: Is there anything we need to take up at
4 this time out of the presence of the jury at this time?

5 MS. COLTON: Not from the State, Your Honor.

6 MR. BROWN: No, sir.

7 THE COURT: Let's take about 10 minutes or so.

8 (COURT IN RECESS AT 03:17 PM.)

9 (COURT BACK IN SESSION AT 03:33 PM.)

10 (DEFENDANT REENTERS COURTROOM.)

11 THE COURT: Keep your seats please. Thank you.

12 MS. COLTON: Judge, if I can go talk to this next
13 witness. I want to make sure that he's -- I don't want him
14 to get into other things about the time frame. And when I
15 talked to him before, he will, he's going to say it right
16 out the gate.

17 THE COURT: All right.

18 MR. BROWN: Judge, you think there's any possibility
19 we'll be out of here by tomorrow?

20 THE COURT: By the end of today?

21 MR. BROWN: Yes, sir.

22 THE COURT: I sure hope so.

23 (PAUSE.)

24 MS. COLTON: Judge, we're ready to proceed.

25 THE COURT: Please bring the jury in, sir.

1 Are you all ready? I'm having the jury come in.

2 Are you all ready? I'm having the jury in.

3 MS. COLTON: Yes, Your Honor. You gave him the list?

4 MR. BROWN: Yeah. I was going through his
5 convictions.

6 Can we have two seconds, Judge? I just want to make
7 sure we're the same as she is.

8 THE COURT: Hold them up just a minute.

9 MS. COLTON: I'm sorry, Your Honor.

10 Let me just tell you what he's got. I got it written
11 down.

12 (SIDE BAR DISCUSSION BETWEEN ATTORNEY BROWN AND
13 SOLICITOR COLTON.)

14 THE COURT: You ready to go now?

15 MS. COLTON: I'm sorry, Your Honor, we are.

16 THE COURT: Please bring the jury in.

17 (JURY REENTERS COURTROOM AT 03:39 PM.)

18 THE COURT: Counsel, you ready to proceed?

19 MS. COLTON: Yes, your Honor.

20 At this time the State would call James Christopher
21 Matuse.

22 MADAME CLERK: Please raise your right hand, place
23 your left on the Bible.

24 (WHEREUPON: JAMES CHRISTOPHER

25 MATUSE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-711-

FOLLOWS:)

MADAME CLERK: Have a seat.

DIRECT EXAMINATION

JAMES CHRISTOPHER MATUSE BY MS. COLTON:

Q. Chris, can you tell the jury your full name?

A. Yes, it's James Christopher Matus.

Q. Chris, I need you to talk up a little bit and speak into that microphone for me. Okay? Because everyone needs to hear you. Okay?

A. James Christopher Matus.

Q. And do you go by Chris?

A. Yes, ma'am.

Q. Everyone knows you by Chris?

A. Yes, ma'am.

Q. Chris, where are you currently living?

A. York County Detention Center.

Q. And before you came to the York County Detention Center, where did you live?

A. 65 Sunset Drive in York.

Q. And who did you live there with?

A. My mom and my brother.

Q. And back in 2010, in summer of 2010, were you locked up at the Moss Justice Center?

A. Yes, ma'am.

Q. And did -- After you were released, did you meet Jason

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-712-

1 Johnson?

2 A. Yes, ma'am.

3 Q. Whose house did you meet Jason Johnson at for the
4 first time?

5 A. Timothy Boozer.

6 Q. And how did you -- Did you know Timothy Boozer before
7 this?

8 A. No, ma'am.

9 Q. Where did you meet Timothy Boozer?

10 A. Right here in the York County Detention Center.

11 Q. You and Mr. Boozer were locked up together?

12 A. Yes, ma'am.

13 Q. Do you remember when Mr. Boozer made bond?

14 A. Sometime around in the month of June.

15 Q. And when did you make bond?

16 A. The end of that month.

17 Q. And when you made bond at the end of June, was it
18 thereafter that you -- how long till after that did you go
19 to Mr. Boozer's house?

20 A. Whenever I bonded out in June, I went to the chain
21 gang and had some child support. I had to do 14 -- 14 days
22 for child support, and then whenever I got out, probably
23 within a week after July 12th I got up with Boozer.

24 Q. And the chain gang is like the prison farm?

25 A. Yes, ma'am.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-713-

1 Q. It's not the Detention Center, it's the county jail?

2 A. Yes, ma'am.

3 Q. And then you got up with Boozer, and that is where you
4 were introduced to Mr. Johnson for the first time?

5 A. Yes, ma'am.

6 Q. And you developed a rapport with Mr. Johnson? You all
7 became friendly?

8 A. Yes, ma'am.

9 Q. And then do you know when Tim Boozer went to prison?

10 A. I know it was probably like a month to a month and a
11 half after I -- I got up with him.

12 Q. Got up with him? That's after you called him when you
13 got out of jail?

14 A. Yes, ma'am.

15 Q. And so, do you think it was around mid-August? Does
16 that sound about right?

17 A. Yes, ma'am.

18 Q. And after you got -- After Mr. Boozer went to prison,
19 did you stay in contact with Jason Johnson?

20 A. Yes, ma'am.

21 Q. And where -- What residence did you see Mr. Johnson
22 after that?

23 A. He was at a trailer in Clover staying with one of his
24 cousins, I think. It was Tommy Catoe and Corey Catoe.

25 Q. Do you know who -- which one was his cousin?

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-714-

1 A. I think Corey.

2 Q. Do you recognize State's Fifty-five and State's Fifty-
3 six?

4 A. Yes, ma'am.

5 Q. What is that?

6 A. That's Corey - that's Tommy's other trailer.

7 Q. In both Fifty-five and Fifty-six?

8 A. Yes, ma'am.

9 Q. And who all stayed with Corey and Tommy and Jason
10 Johnson up there?

11 A. It was -- it was Tommy, Corey, Jason, and Shelley.

12 Q. Shelly who? Do you know her last name?

13 A. I'm not for sure about her last name.

14 Q. What does she look like?

15 A. She's tall, like, light brown hair.

16 Q. I'm showing you State's Sixty-one.

17 A. Yes, ma'am, that's Shelley.

18 Q. That's Shelley in State's Sixty-one?

19 A. Yes, ma'am.

20 Q. Okay. And what was the purpose of you going out to
21 that trailer in Clover?

22 A. To get Methamphetamine. I would carry pills to get
23 meth or go out there and buy meth.

24 Q. How -- Do you know how long they stayed out at that
25 trailer?

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-715-

1 A. Probably around two to three months.

2 Q. And did -- and Jason and Corey moved out after that?

3 A. Yes, ma'am.

4 Q. How many times do you think you went out to that
5 trailer to get meth?

6 A. At least twice a week.

7 Q. And when you went out twice a week, how much would you
8 buy?

9 A. Anywhere between one and two grams.

10 Q. Each time you went?

11 A. Yes, ma'am.

12 Q. And that lasted for two months or three months?

13 A. Two months, closer to two months. Let's see, August,
14 September, October. I say he moved out of there probably
15 around the month of November.

16 Q. So two to three months?

17 A. Yes, ma'am.

18 Q. Twice a week?

19 A. Yes, ma'am.

20 Q. One to two grams. How much Methamphetamine were you
21 using a day back then?

22 A. Between -- I would -- I would stay -- I would use
23 probably about one to two grams. I would stay up for three
24 days and sleep a day, so it was anywhere between one or two
25 grams.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-716-

1 Q. Okay.

2 A. That was like between a three-day period.

3 Q. And then you'd take a day off?

4 A. I would rest for a day. Yes, ma'am.

5 Q. And it would be a day or two and then you just -- you
6 get back up, or...

7 A. Like, as soon as -- like, I would rest for like
8 probably between -- I would -- I would sleep for one day.
9 One day I wouldn't mess with nothing. As soon as I got
10 back up moving again, I'd be right back to the same thing.

11 Q. And during this time frame, were you getting
12 Methamphetamine from anybody else?

13 A. No, ma'am.

14 Q. When you went over there initially, who was with you?

15 A. I always used to have my -- my girlfriend.

16 Q. Who was your girlfriend beginning --

17 A. Brandy, Brandy Hagen.

18 Q. In the beginning of the summer?

19 A. Yes, ma'am.

20 Q. And how many times do you think you brought Brandy to
21 that apartment -- I mean that -- I'm sorry, that trailer?

22 A. Probably around seven to 10 times.

23 Q. And would you buy Methamphetamine?

24 A. Rarely. I mostly carry Sudafed pills to get meth --
25 to trade out for meth.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-717-

1 Q. When you bought Methamphetamine, how much would you be
2 charged for a gram?

3 A. A hundred dollars.

4 Q. Would a half a gram be \$50 dollars then?

5 A. Forty to \$50 yeah.

6 Q. Forty to \$50. How many times at that trailer do you
7 think that you bought?

8 A. I'm not really for sure, but I'm going to say,
9 probably, at least two to three times out of that whole two
10 to three month period a week. So two to three times a week
11 out of two to three months.

12 Q. Most of the time you would trade?

13 A. Yes, ma'am.

14 Q. What would you trade?

15 A. Sudafed pills.

16 Q. Were you giving anybody else Sudafed pills at this
17 time?

18 A. No, ma'am.

19 Q. And after Mr. Johnson leaves that trailer with Mr.
20 Catoe, where do they go after their -- just after the week?

21 A. Whenever -- whenever they -- whenever they left the
22 trailer the first time, I got with them again after that.
23 It was at Corey's mom's house.

24 Q. How long did they stay at Corey's mom's house?

25 A. Probably like a week or two.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-718-

1 Q. And did you buy Sudafed from him or Corey at Corey's
2 mom's house?

3 A. Yes, ma'am.

4 Q. How many times did you buy it at Corey's mom's house?

5 A. Probably no more than once, twice.

6 Q. And then after they left Corey's mom's house, where
7 did they go?

8 A. He went to his brother's apartment and Josh in Catawba
9 Point in Rock Hill.

10 Q. Catawba Point Apartments?

11 A. Yes, ma'am.

12 Q. Do you know if it ever had another name?

13 A. I'm not for sure, ma'am.

14 Q. Chris, I'm going to show you State's Forty-three and
15 State's Forty-five.

16 Mr. Brown.

17 State's Forty-three and Forty-five, do you recognize
18 that?

19 A. Yes, ma'am.

20 Q. What's that?

21 A. That's Josh's apartment.

22 Q. Is that what you're talking about, Catawba Point?

23 A. Yes, ma'am.

24 Q. Okay. Chris, and those are on Springdale Road?

25 A. Yes, ma'am.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-719-

1 Q. And when you went out there, how many times do you
2 think you went out there?

3 A. Probably no more than four. About four to five times.

4 Q. Four to five times?

5 A. Yes, ma'am.

6 Q. Do you remember when they moved into the Springdale
7 Road Apartments that you know as Catawba Point?

8 A. I don't remember the exact date, ma'am. I know it's
9 around the end of the month of November to December.

10 Q. Was it before Thanksgiving?

11 A. It's around that time. I don't know if before.

12 Q. You can't say for certain?

13 A. No, ma'am.

14 Q. That's okay. And you think you went out there about
15 four times?

16 A. Yes, ma'am.

17 Q. Now Brandy -- I got you off track with this, but
18 Brandy originally was your girlfriend in the beginning of
19 the summer. Correct?

20 A. Yes, ma'am.

21 Q. Did you all split up?

22 A. Yes, ma'am.

23 Q. And why did you all split up?

24 A. Just going through a bunch of stuff and drug use. It
25 just tore us apart.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-720-

1 Q. She didn't like what you were doing?

2 A. No, ma'am.

3 Q. And after you all split up, you start dating someone
4 else?

5 A. Cassidy Cooper.

6 Q. Cassidy Cooper. How old was Cassidy?

7 A. Seventeen, 18.

8 Q. And did you bring Cassidy out there to Jason's place?

9 A. I brought her --

10 Q. I'm sorry, Tommy's trailer?

11 A. Yes, ma'am.

12 Q. How many times do you think Cassidy went out there
13 with you?

14 A. Probably no more than five times.

15 Q. Did you bring Cassidy with you to Corey's mom's house?

16 A. No, ma'am. I don't think she -- she ain't never been
17 out there. But she's been to Josh's -- Josh's apartment.

18 Q. On -- Catawba Point, Springdale Road?

19 A. Yes, ma'am.

20 Q. How many times do you think she's been out there with
21 you?

22 A. Once or twice.

23 Q. Did you ever -- do you recall ever bringing Brandy
24 over to Springdale Road?

25 A. Yes, ma'am.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-721-

1 Q. And, Chris, during this period of time, would they use
2 some of the Methamphetamine that you got, or they would get
3 their own?

4 A. They would -- they would use what I got.

5 Q. So basically, you were their source?

6 A. Yes, ma'am.

7 Q. You'd buy or trade from Jason and Corey, and they
8 you'd funnel it down to them?

9 A. Yes, ma'am.

10 Q. Okay. Chris, how many people -- well, where would you
11 get the boxes that you would trade?

12 A. I had -- I had like a little group of people that
13 would go around and buy boxes of Sudafed for me, which they
14 also used meth too. So I'd get them to go -- they'd get in
15 the car with me. We'd all go ride around, buy boxes of
16 Sudafed for a day. And I'd drop them off. Then I would go
17 out there and give Jason the boxes of pills so he could go
18 ahead and make the product, and I'd get meth.

19 Q. Okay.

20 A. And that's how I pay everybody else off in meth.

21 Q. And when you say you would go around, tell the jury
22 how you went around. Tell them --

23 A. I would go to like CVS -- pharmacies because you have
24 to get Sudafed pills from behind the counter. You've got
25 to show a ID and sign for it. We'd go around and do that.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-722-

1 We'd start like in -- we might start in North Carolina, and
2 we'd go from like Walmart's to Walgreen's, CVS's, Rite-
3 Aid's, and in every pharmacy, and just get as many boxes as
4 we can, and we'd carry them -- we'd carry them on to Jason.

5 Q. And did you ever get blocked?

6 A. Yeah, I got blocked several times.

7 Q. What's -- tell the jury what "blocked" is.

8 A. Like I go try to buy a box of Sudafed, and it -- it
9 will print out a receipt saying I've done reached my limit
10 for that month. So I won't be able to buy no more Sudafed.

11 Q. And then what would you do if you got blocked?

12 A. I would -- I would try to go find somebody else to buy
13 Sudafed that ain't blocked.

14 Q. And during this period of time, who did you have
15 buying the Sudafed for you?

16 A. Say again.

17 Q. Who did you have getting you boxes?

18 A. Oh, I had -- I had my friend Troy, my cousin
19 Brittany -

20 Q. Let me ask you, what's Troy's last name?

21 A. Troy Carter.

22 Q. Okay.

23 A. And Brittany Mueller.

24 Q. Okay.

25 A. And my brother.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-723-

1 Q. Josh?

2 A. Yes, ma'am.

3 Q. Josh Matusé?

4 A. Josh Matusé. I had Cassidy Cooper, Brandy Hagen, John
5 Thompson.

6 Q. Okay.

7 A. That's about it.

8 Q. Okay. And would you all go in the store one at a
9 time?

10 A. Yeah, we'd go in one at a time, and we'd wait probably
11 about 10, 15 minutes, and then somebody else would go in.

12 Q. And have you seen Jason and Corey cook -- well, let me
13 ask you this. Was there ever a time that you did not --
14 did you always get methamphetamine and/or trade boxes to
15 Jason when he was with Corey?

16 A. There's been times that Corey -- it's been like one --
17 one, maybe two times when Corey wasn't there.

18 Q. And where were you when that happened?

19 A. One time I remember is at -- I met Jason at Fast Lane
20 in Rock Hill. It been him and Shelley and a girl named
21 Brittany Simmers. And it had been me and Brandy.

22 Q. So Mr. Johnson was with Shelley Pettigrew when he came
23 to the Fast Lane?

24 A. Yes, ma'am.

25 Q. And Brittany Simmers?

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-724-

1 A. Yes, ma'am.

2 Q. So other than those times, Mr. Johnson has been with
3 Mr. Catoe?

4 A. Yes, ma'am.

5 Q. And how many times have you seen Jason Johnson cook
6 Methamphetamine?

7 A. Just -- just about every time -- every time that I
8 carried him boxes, just about, I seen him cook.

9 Q. And by seeing him cook, what do you mean by "seeing
10 him cook"?

11 A. Like I would be there. I would be involved myself,
12 like, whenever -- like whenever I did carry them boxes, I
13 also would carry them, like, other supplies to, like, if he
14 needed anything, he would let me know, like Coleman fuel or
15 whatever other ingredients he'll need that he don't have.
16 And whenever I carried that, I might stay -- I've stayed
17 there all night. What he'd do, he'll go ahead -- when I
18 carried the boxes up there, he'll start breaking everything
19 down, and I might help just like the --

20 Q. Let me stop you there.

21 A. All right.

22 Q. You go out shopping with him -- shopping for him,
23 basically.

24 A. Yes, ma'am.

25 Q. And that would be to get supplies that were going to

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-725-

1 be used in that cook. Correct?

2 A. Yes, ma'am.

3 Q. And do you remember where you would go to get those
4 supplies?

5 A. Just -- you can get basically everything you need at
6 Walmart.

7 Q. And then, you would bring that back to either the
8 apartment or the trailer?

9 A. Trailer, yes, ma'am.

10 Q. Was it mostly the trailer?

11 A. Yes, ma'am.

12 Q. And you were heavily using at the trailer?

13 A. Yes, ma'am.

14 Q. And your use started to diminish a little bit when you
15 moved to Catawba Point?

16 A. Yes, ma'am.

17 Q. So we're primarily talking about the trailer?

18 A. Yes, ma'am.

19 Q. Did you ever see him cook at the Springdale Road,
20 Catawba Point?

21 A. No, ma'am.

22 Q. Did you ever see any bottles over there?

23 A. No, ma'am.

24 Q. So we're pretty much -- are we just talking about what
25 you saw at the trailer?

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-726-

1 A. Yes, ma'am.

2 Q. And so you would help them break it down. I need you
3 to tell the jury in real detail what "breaking it down"
4 means. Okay?

5 A. It's like -- like, there's certain steps you got to
6 take. Like -- like, he might need me to like -- get --
7 you've got to crush the pills. I might crush the pills up
8 with something for him. You know what I'm saying? So like
9 carry away, like, the -- the waste.

10 Q. Okay.

11 A. There was a bonfire outside where you go dump all the
12 ingredients that you don't need no more whenever he does
13 get finished.

14 Q. The waste product?

15 A. Yes, ma'am.

16 Q. Do you -- did you recall -- do you know where that was
17 located?

18 A. It was --

19 Q. On this photo? And if you can tell them. That's
20 fine.

21 A. It's right -- and everything. There's a little circle
22 pit right there. You can barely see it right there.

23 Q. Okay.

24 A. It's right there. That's where they would burn trash
25 and everything at.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-727-

1 Q. And it's right next to the car?

2 MS. COLTON: Ms. Weaver, could you pull that up for
3 the jury, please?

4 And State's Fifty-five.

5 And your Honor, I publish that to the jury. And I ask
6 them if they want to, they're free to ask...

7 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-FIVE
8 PUBLISHED TO THE JURY.)

9 Q. Chris, can you step down for one minute? Actually --
10 you can get it from over here, I think. Here, just press
11 that red button in the middle. Can you show the jury --
12 can you see it?

13 A. I can't see it.

14 Q. Okay, come on down.

15 (WITNESS LEFT WITNESS STAND.)

16 Q. Can you see it on there where it is?

17 A. Yes, ma'am, right there.

18 Q. The little hole in there?

19 A. Yes, ma'am.

20 Q. That's the burn pit?

21 A. Yes, ma'am.

22 Q. Thank you, Chris. You can have a seat.

23 (WITNESS RETURNED TO WITNESS STAND.)

24 Q. And so you would carry things out as well to burn in
25 the burn pit?

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-728-

1 A. Yes, ma'am.

2 Q. And what else -- what other parts of the process would
3 you take part in?

4 A. Ma'am?

5 Q. What else would you do?

6 A. Just basically like go look outside, like -- there's a
7 filtering you've got to make with the hoses. I would make
8 the filtering and everything for them. As far as like
9 making the filter, you just got to get a like a little jug,
10 and just stab two holes on each side, put rock salt in it.
11 And you got to get a glue gun, and just glue the hoses and
12 seal it off to make the filter.

13 Q. Okay.

14 A. I would do stuff like -- little simple stuff like
15 that.

16 Q. Do you know how make Methamphetamine from start to
17 finish?

18 A. I know, basically, yeah.

19 Q. Okay.

20 A. It's like -- it might be like one or two steps that I
21 do not know, and I can't do myself.

22 Q. And what -- who else -- let me ask you this. How do
23 you -- what do you know about it? Tell the jury how you
24 think you know how to do it.

25 A. Basically, you get some Sudafed pills, Coleman fuel,

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-729-

1 some lithium strip batteries, some cold packs, and as far
2 as I know, whenever you mix them all together, there's a
3 certain way you got to mix them together and it causes a
4 chemical reaction, and it will start boiling.

5 Q. Boiling?

6 A. Yes, ma'am.

7 Q. Okay.

8 A. It starts boiling. And once it stops boiling, you
9 take that -- you take that liquid, and you run it through a
10 filter, like a coffee filter. Or you can run it through
11 some napkins to get all the harmful chemicals out of it.
12 And then you will gas it off with some Muriatic acid that
13 turns the liquid into a powder.

14 Q. So how does that work with the Muriatic acid?

15 A. You like -- you run one of the hoses to like a liquor
16 bottle.

17 Q. Okay.

18 A. And you've got Muriatic acid in the liquor bottle, and
19 you drop some aluminum foil in there, and it will smoke.
20 And whenever it starts smoking, you put the -- the hose to
21 the liquor bottle, and it will shoot through the hose and
22 go to the filter, and the smoke will hit the liquid, and
23 then it will -- you'll see like white powder falling off in
24 the liquid. And that's your Methamphetamines.

25 Q. And then you dry it out after that?

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-730-

1 A. Yes, ma'am.

2 Q. And what -- what process did you see Mr. Johnson and
3 Mr. Catoe use to do that? I mean, did they do it the same
4 way you just described to the jury?

5 A. Yes, ma'am.

6 Q. And you saw that?

7 A. Yes, ma'am.

8 Q. Did John Thompson, the fellow that bought the Suda
9 with you, did he ever hang out at that trailer?

10 A. Yes, ma'am.

11 Q. Who else was with John Thompson?

12 A. Brandy. I done brought John Thompson done been there.
13 Brandy Hagen's done been there. Troy Carter's done been
14 there. My brother Josh Matuse, he's done been there.

15 Q. Okay. And then later on Cassidy?

16 A. Then later on, Cassidy.

17 MS. COLTON: The Court's indulgence, Your Honor.

18 (PAUSE.)

19 Q. Chris, do you know Mandy Caudle?

20 A. Who?

21 Q. Mandy Caudle?

22 A. Mandy Caudle.

23 Q. Yes, sir.

24 A. No, ma'am..

25 Q. Do you know Robbie Catoe?

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-731-

- 1 A. Yes, ma'am.
- 2 Q. Do you know Shannon James?
- 3 A. Shannon James? Not by name. No, ma'am.
- 4 Q. Do you know Pe Bo Ingham?
- 5 A. Yes, ma'am.
- 6 Q. Do you know Lisa Simmers?
- 7 A. Yes, ma'am.
- 8 Q. Do you know Brandi Quinn?
- 9 A. I don't know her. I've heard of her.
- 10 Q. Do you know -- and of course, you know Shelley?
- 11 A. Yes, ma'am.
- 12 Q. When did you wind up in the York County Detention
- 13 Center on this last set that you've been here for now?
- 14 A. December -- December 10th, 2010.
- 15 Q. And where was Mr. Johnson and Mr. Catoe living when
- 16 you came back to the Moss Justice Center?
- 17 A. At that apartment with his brother.
- 18 Q. Have you ever bought or seen him at any other hotels
- 19 other than that?
- 20 A. No, ma'am.
- 21 Q. And have you been incarcerated since April -- wait,
- 22 I'm sorry. Is it December 10th?
- 23 A. Yes, ma'am.
- 24 Q. And why were you incarcerated on December 10th?
- 25 A. Driving under suspension.

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-732-

1 Q. And did you have your bond revoked to keep you in
2 jail?

3 A. Yes, ma'am.

4 Q. Who did that?

5 A. Jenny Desch.

6 Q. And do you know why that was done?

7 A. Because -- yeah. I kept on catching charges.

8 Q. You kept getting arrested for other charges?

9 A. Yes, ma'am.

10 Q. And they were trying catch up with you to keep you in
11 jail, not give you a bond. Right?

12 A. Yes, ma'am.

13 Q. And you were told that by the Solicitors' Office?

14 A. Yes, ma'am.

15 Q. We didn't want you out on the street?

16 A. Yes, ma'am.

17 Q. Chris, you have a lot of charges right now pending.

18 And back in 2008, you were convicted of misdemeanor
19 possession of cocaine?

20 A. Yes, ma'am.

21 Q. And in '04, two burglaries, two conspiracies, and then
22 a grand larceny, and a petit larceny? That's in '04?

23 A. I know it was something. I know it was some
24 burglaries and some grand larcenies, ma'am. I ain't for
25 sure, like, exactly what it was or the time range. But I

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-733-

1 know there were some grand larcenies and some burglaries.

2 Q. Does that sound about right?

3 A. Yes, ma'am.

4 Q. And then '03, a burglary third degree; stolen vehicle,
5 and a grand larceny?

6 A. Yes, ma'am.

7 Q. And then the charges that you're talking about that --
8 your bond was revoked for -- you've pled guilty to all
9 those charges. Correct?

10 A. Yes, ma'am.

11 Q. And when you pled guilty to those charges, you pled as
12 charged. Correct?

13 A. Yes, ma'am.

14 Q. And you pled -- and this goes back to 4-9-2010, you
15 were charged with possession with intent to distribute
16 cocaine -- I'm sorry. You pled guilty to possession with
17 intent to distribute Methamphetamine, second offense and
18 proximity. Right?

19 A. Yes, ma'am.

20 Q. And then you were charged on the 13th of that year
21 with possession with intent to distribute Methamphetamine
22 as a third offense, approximately charged with failure to
23 stop for a blue light. Correct?

24 A. Yes, ma'am.

25 Q. And then you pled -- and you pled to all those charges

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-734-

1 as well?

2 A. Yes, ma'am.

3 Q. And then burglary, second and conspiracy on 5-21-2010?

4 A. Yes, ma'am.

5 Q. Do you remember that? Okay. And you pled to those?
6 And you pled on -- to criminal domestic violence, high and
7 aggravated, December 4th, 2010 as well?

8 A. Yes, ma'am.

9 Q. And when you pled, did you pled in February of that
10 year on all those charges?

11 A. Somewhere around there, yeah.

12 Q. And you're awaiting sentencing right now. Correct?

13 A. Yes, ma'am.

14 Q. And you face five to 30 years without parole on those
15 charges?

16 A. Yes, ma'am.

17 Q. And when we spoke before, and you spoke with law
18 enforcement, where you told that we would tell the judge
19 that you cooperated?

20 A. Yes, ma'am.

21 Q. Did we make you any specific promises about a number?

22 A. No, ma'am.

23 Q. Were you told that you were going to go to prison?

24 A. Yes, ma'am.

25 Q. And you were told that, that's up to the judge, that

JAMES CHRISTOPHER MATUSE: DIRECT BY MS. COLTON

-735-

1 here's your sentencing on how much time you get?

2 A. Yes, ma'am.

3 Q. And were you told what would happen if you were
4 untruthful at all?

5 A. No -- I told -- what?

6 Q. If you didn't tell the truth, what was going to happen
7 to you? Would it get better or worse for you?

8 A. Worse.

9 Q. And when we met with you, what did we tell you to say?

10 A. Nothing.

11 Q. Were you --

12 A. You told me to tell the truth.

13 Q. Were you shown any incident reports?

14 A. That what?

15 Q. Were you shown the police reports about Mr. Johnson?

16 A. No, ma'am.

17 Q. Were you shown the statements about Mr. Johnson?

18 A. No, ma'am. No, ma'am.

19 Q. Were you given any information by either Lieutenant
20 Ligon, Mike Ligon or Schifferle or myself or anybody from
21 law enforcement about Mr. Johnson?

22 A. No, ma'am.

23 Q. And what were you told?

24 A. Ma'am?

25 Q. What were you told to tell us about this situation?

CHRISTOPHER MATUSE: DIRECT BY MS. COLTON
CROSS BY MR. BROWN

-736-

1 A. Just -- I was just told that anything I know involving
2 meth, if I -- if I would -- if I would let you all know,
3 that you all would let the judge know that I cooperated.
4 And then, that would like go towards my sentencing maybe.

5 Q. And you're not promised, though, anything. It's going
6 to give it to the judge. Correct?

7 A. Yes, ma'am.

8 Q. But you certainly are hoping to gain something out of
9 this?

10 A. Yes, ma'am.

11 Q. And Chris, are you telling the truth today?

12 A. Yes, ma'am.

13 Q. Please answer any questions Mr. Brown may have for
14 you.

15 CROSS EXAMINATION

16 CHRISTOPHER JAMES MATUSE BY MR. BROWN:

17 Q. Mr. Matus, I want to make sure I understand your
18 dealings with Mr. Johnson. Most of the time, you took
19 pills out there. Correct?

20 A. Yes -- yes, sir.

21 Q. I believe you testified that maybe two or three times,
22 money changed hands according to your testimony?

23 A. Yes -- yes, sir.

24 Q. But all the other times you took pills out there, you
25 and he together cooked this up. Right?

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-737-

1 A. Yes, sir.

2 Q. And you all split it. Right?

3 A. No, I wouldn't say it wasn't a split. We -- we would,
4 like, use some. We would use some while I'm there during
5 the night, and then, like, he would give me some for like
6 whatever -- whatever like -- whatever the pills I brought
7 to him, he would give me, like, whatever I was supposed to
8 get.

9 Q. So you and he would use some, and he'd give you some?

10 A. Yes, yes, sir.

11 Q. And that was a vast majority of transactions between
12 you all to accomplish what you just said. Correct?

13 A. Yes, sir.

14 Q. And a matter of fact, you helped make the meth. You
15 said you would help him burn up materials. You would go
16 get the filter, run the tube, get the pills, whatever.
17 Correct?

18 A. Yes, sir.

19 Q. So you're just as guilty as he is. Right?

20 A. Yes, sir.

21 Q. When did you start using meth?

22 A. My first time using meth was in '09.

23 Q. And how long have you been addicted to meth?

24 A. Since '09.

25 Q. Since the first time you used it?

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-738-

1 A. Yes, sir.

2 Q. And you bought from other sources; have you not?

3 A. Yes, sir.

4 Q. Matter of fact, any place you get meth or get pills,
5 you'd go get it. Right?

6 A. I didn't -- yes, sir. But I didn't have none. No
7 other places.

8 Q. You ever have any fake ID's to go buy pills?

9 A. Yes, sir.

10 Q. Did you pay other people to go get pills?

11 A. Yes, sir.

12 Q. Did you shoplift anything to get pills?

13 A. Shoplift to get pills? No, sir.

14 Q. Did you have a job during this time?

15 A. No, sir.

16 Q. How could you afford these drugs?

17 A. Just from the people that I had in my group.

18 Q. Excuse me?

19 A. The people that was in my group.

20 Q. Would give you money?

21 A. Yes, sir.

22 Q. Or you were selling to them?

23 A. I wasn't selling it, basically. Basically, we was all
24 using together.

25 Q. Well how would that work? Tell me how that worked,

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-739-

1 you and your group.

2 A. Basically like -- like I explained earlier. I would
3 go get about four or five people, my friends, and we'll go
4 around and buy Sudafed pills with their money since I ain't
5 have a job. And then I would carry the pills to Johnson.
6 and get dope. And that's how I would supply my habit.

7 Q. And you all would use it?

8 A. Yes, sir.

9 Q. So -- and he would keep some of the dope and you all --
10 -- you and Jason would use some of the dope. Correct?

11 A. Yes, sir.

12 Q. And the rest of it, you and your crew or gang or
13 whatever would smoke. Correct? Or smoke or snort or use?

14 A. Yes, sir.

15 Q. How much money did you make using or selling this
16 drug?

17 A. Enough to cover my habit. I couldn't give you a price
18 range. It was just basically to support my habit.

19 Q. You use --. Do you have any other drug use?

20 A. Not when I started using meth. I quit everything
21 else.

22 Q. Well let's go back then. What were you using before
23 meth?

24 A. Cocaine.

25 Q. Just cocaine?

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-740-

1 A. Cocaine, marijuana.

2 Q. Any heroin?

3 A. No, sir.

4 Q. Once you found meth, you quit the cocaine and
5 marijuana?

6 A. Yes, sir.

7 Q. You pled guilty to CDV HAN. That's criminal domestic
8 violence high and aggravated nature in December of 2010;
9 is that correct?

10 A. Yes, sir.

11 Q. Isn't that the reason Brandy left you, not because of
12 the drugs, but because you beat the hell out of her?

13 A. No, sir.

14 Q. Was that her? Was she the victim in that case?

15 A. No, sir.

16 Q. Who was the victim?

17 A. It's my baby mama.

18 Q. When's the last time you saw your kid?

19 A. That very night right there.

20 Q. And then, was Cassidy in your group?

21 A. Later on. Yes, sir.

22 Q. And did she use Methamphetamine with you?

23 A. Yes, sir.

24 Q. And she's 17 years old?

25 A. Yes, sir. She's -- she's 19 now.

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-741-

1 Q. Seventeen when she started, and you got her started on
2 meth. Right?

3 A. Yes, sir.

4 Q. Was she in high school?

5 A. I think she had quit school before I met her.

6 Q. Oh, she quit school before or after you met her?

7 A. Before.

8 Q. And you introduced her to the world of meth?

9 A. Yes, sir.

10 Q. How old are you?

11 A. Twenty-seven.

12 Q. You think she's a little young for you?

13 A. Yes, sir.

14 Q. Where is she now?

15 A. She's probably at home right now.

16 Q. Have you heard from her?

17 A. Yes, sir.

18 Q. Did she get arrested in your enterprise with your
19 gang?

20 A. No, sir.

21 Q. How often was she using meth with you?

22 A. She really didn't like me using meth. She just -- she
23 just did it 'cause I was going to do it regardless. So she
24 basically just did it 'cause if she didn't do it, I
25 wouldn't -- I wouldn't want nothing to do with her.

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-742-

1 Q. So you kind of forced her into this meth addiction at
2 17 years old?

3 A. I didn't force her. She made her own choice.

4 Q. Oh, she made her own choice. You're 27, she's 17.
5 You get this little girl who's dropped out of high school,
6 and you get her hooked on meth. How do you feel about
7 that?

8 A. I feel bad about it now, sir.

9 Q. You feel bad about it?

10 A. Yes, sir.

11 Q. Have you done anything to fix the situation?

12 A. I haven't had a chance to.

13 Q. You ever lied under oath?

14 A. No, sir.

15 Q. Let's go there. When you bonded out the first time,
16 did you not swear before a magistrate judge that you'd be
17 on best behavior and get in any more trouble?

18 A. Yes, sir.

19 Q. And you lied then, didn't you, because you got
20 rearrested?

21 A. Basically.

22 MS. COLTON: Your Honor, I'm going to object because
23 at the time it wasn't a lie. He didn't -

24 THE COURT: I sustain the objection.

25 MR. BROWN: May we approach, Your Honor? I don't want

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-743-

1 to cross any -

2 THE COURT: You may approach, Counsel, if you want to
3 waste your time.

4 MR. BROWN: No, sir. I just want him to tell me --

5 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
6 THE JURY AT 04:17 PM.)

7 BY MR. BROWN:

8 Q. Then you -- did you plead guilty to all this stuff at
9 one time?

10 A. Yes, sir.

11 Q. One day in court, you pled to two burglaries, one
12 grand larceny, one for petit larceny, one possession of
13 cocaine, two counts for possession with intent to
14 distribute methamphetamine, second and third offense; is
15 that right?

16 A. No, sir. I didn't plead to all of them at one time.

17 Q. That's what I was trying to figure out when she was
18 asking you. Tell me how this occurred chronologically.

19 A. You mean the burglaries? The burglaries --

20 Q. Yeah, well the burglaries are back in '03 or '04.
21 Right?

22 A. Yes, sir.

23 Q. And the most recent charges you pled guilty to were?

24 A. The two possessions of Methamphetamines, the
25 proximity's, a burglary second, and a --

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-744-

1 Q. Recently, a burglary second? Another burglary second?

2 A. Yes, sir. And a CDV HAN and a failure to stop for a
3 blue light.

4 Q. You're looking at more than five to 30 years on these
5 charges; aren't you? That's just on this PWID or
6 possession with intent to distribute Methamphetamine?

7 A. Yes, sir.

8 Q. The burglary second carries 15; doesn't it?

9 A. Yes, sir.

10 Q. CVD HAN carries 10; doesn't it?

11 A. Yes, sir.

12 Q. Proximity carries another 15; doesn't it?

13 A. I believe so.

14 Q. So you're up to 65 years right there alone. Correct?

15 A. Yes, sir.

16 Q. Did you ever sell meth to Jason and Corey?

17 A. No, sir.

18 Q. Never?

19 A. No, sir.

20 Q. Do you ever have a conversation in prison while you've
21 been waiting for trial over here with Stephen Westbrook?

22 A. Stephen who?

23 Q. Westbrook?

24 A. I don't know that name.

25 Q. You don't know who Stephan or Stephen Westbrook is?

CHRISTOPHER MATUSE: CROSS BY MR. BROWN

-745-

1 A. I know -- I know -- I don't know a Stephen. I know a
2 Westbrook. I don't know a Stephen Westbrook.

3 Q. Did you talk to Mr. Westbrook about your testimony in
4 this case?

5 A. No, sir.

6 MS. COLTON: Your Honor, I'm going to object and ask
7 that we approach about Mr. Westbrook.

8 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
9 THE JURY AT 04:19 PM.)

10 BY MR. BROWN:

11 Q. So you did not discuss this with -- your testimony is
12 you did not discuss this testimony with Mr. Westbrook.
13 Correct?

14 A. No, sir.

15 MS. COLTON: I think his answer was that "I did not
16 know" -- He knew a Westbrook, not a Stephen Westbrook.

17 I'm not trying to -- I'm just trying to be accurate in
18 what he said, Judge. I'm not trying to belabor the point.

19 BY MR. BROWN:

20 Q. Of course, you've been told that your cooperation will
21 influence your sentence. Correct?

22 A. It will be taken into consideration.

23 Q. And the more you help, the more consideration,
24 quotation marks, you'll get. Correct?

25 A. Yes, sir.

CASSIDY COOPER: DIRECT BY MS. COLTON

-746-

1 Q. No further questions.

2 MS. COLTON: Your Honor, we ask that Mr. Matuse be
3 excused, Your Honor. We don't have any further questions.

4 MR. BROWN: Without objection.

5 THE COURT: You may be excused at this time, sir.

6 (WITNESS LEAVING WITNESS STAND.)

7 MS. COLTON: Thank you, Your Honor.

8 Your Honor, the State would call Cassidy Cooper.

9 Come on up. You have to be sworn, okay.

10 MADAME CLERK: Please raise your right hand, place
11 your left hand on the Bible.

12 (WHEREUPON: CASSIDY COOPER, BEING
13 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

14 DIRECT EXAMINATION

15 CASSIDY COOPER BY MS. COLTON:

16 Q. Cassidy, can you state your full name?

17 A. Cassidy Faye Cooper.

18 Q. Do you go by Cassidy or Cassie?

19 A. Cassie.

20 Q. And where do you live right now?

21 A. 1148 Hopsmiths Road.

22 Q. Where is that?

23 A. McConnells. Well it's in York, but near McConnells.

24 Q. You're real quiet. Can I ask you to speak up?

25 A. Okay.

CASSIDY COOPER: DIRECT BY MS. COLTON

-747-

1 Q. Just talk in the microphone. It's all right.

2 A. All right.

3 Q. And how long have you lived in York County?

4 A. Nineteen years.

5 Q. How old are you?

6 A. Nineteen.

7 Q. So your whole life?

8 A. Yeah.

9 Q. And who do you live with?

10 A. My daddy.

11 Q. And Cassidy, what do you do right now? Are you
12 working right now?

13 A. No. I'm about to go to school to get my CNA license.

14 Q. And when are you going to start back?

15 A. I'm going up there Friday.

16 Q. And Cassidy, you know Chris Matuse. Correct?

17 A. Yes, ma'am.

18 Q. And why do you know Chris?

19 A. That's my boyfriend.

20 Q. And how long have you dated Chris?

21 A. Off and on for three years.

22 Q. And were you dating Chris last year -- or 2010? I'm
23 sorry.

24 A. Uh-huh.

25 Q. And you have to answer "Yes" or "No" because this lady

CASSIDY COOPER: DIRECT BY MS. COLTON

-748-

1 has to --

2 A. Yes.

3 Q. Okay. And were you -- did you go out with Chris all
4 of 2010?

5 A. We broke up a little bit, so...

6 Q. Was he going out with somebody else?

7 A. Yes.

8 Q. Who was that person?

9 A. Brandy Hagen.

10 Q. And over the summer of 2010, were you dating Chris at
11 that time?

12 A. Yes, we got back together.

13 Q. You got back together. Do you remember when you got
14 back together?

15 A. It was in August.

16 Q. The end of August, the middle, or the beginning?

17 A. Middle.

18 Q. And when you got back together with Chris -- What did
19 you all break up for?

20 A. Because he was doing meth, and I didn't want to deal
21 with it at the time.

22 Q. By "deal with it," you mean you don't want to deal
23 with the meth, or you don't want to deal with Chris.

24 A. Both of it.

25 Q. How was Chris when he was on meth?

CASSIDY COOPER: DIRECT BY MS. COLTON

-749-

- 1 A. Crazy.
- 2 Q. And you all fought about that?
- 3 A. Yeah.
- 4 Q. And is that the primary reason why you all broke up?
- 5 A. That and cheating and --
- 6 Q. All that?
- 7 A. Yeah.
- 8 Q. He wasn't doing you right?
- 9 A. Yeah.
- 10 Q. And when you all broke up, he went out with Brandy ---
- 11 A. Uh-huh.
- 12 Q. --- Hagen?
- 13 A. Uh-huh, yes.
- 14 Q. And you all got back together. Was Chris still into
- 15 that?
- 16 A. Yes.
- 17 Q. And did you, through Chris, become acquainted with Mr.
- 18 Johnson?
- 19 A. Yes.
- 20 Q. And can you point Mr. Johnson out for the Court and
- 21 for the jury?
- 22 (WITNESS INDICATED TO DEFENSE TABLE.)
- 23 Q. The gentleman sitting to the left of Mr. Cronin, the
- 24 attorney with glasses on?
- 25 THE COURT: You have to answer affirmatively because

CASSIDY COOPER: DIRECT BY MS. COLTON

-750-

1 she can't record ---

2 THE WITNESS: Okay.

3 THE COURT --- a shaking of the head.

4 A. Yeah, right, next to the attorney.

5 MS. COLTON: Your Honor, let the record reflect, she's
6 identified Mr. Johnson, the defendant.

7 Q. Cassidy, and how did you -- when did you first meet
8 Mr. Johnson?

9 A. Like, two weeks after me and Chris got back together.

10 Q. And where was this?

11 A. At Tommy's.

12 Q. Do you know Tommy's last name?

13 A. Catoe.

14 Q. And was that in Clover?

15 A. Yes, ma'am.

16 Q. And who stayed out there at Tommy Catoe's place?

17 A. Shelley Pettigrew, Jason Johnson, Corey Catoe, and
18 Tommy Catoe.

19 Q. Was there anybody else over there?

20 A. People I didn't know.

21 Q. And that was -- I'm going to show you State's Exhibit
22 Fifty-six.

23 A. Okay.

24 Q. Do you recognize anything in that?

25 A. Uh-huh.

CASSIDY COOPER: DIRECT BY MS. COLTON

-751-

1 Q. What do you recognize?

2 A. That house right there.

3 (WITNESS INDICATED TO EXHIBIT.)

4 Q. Right here?

5 A. Yes, ma'am.

6 Q. And what's that house right there?

7 A. Tommy's.

8 Q. That's?

9 A. Tommy Catoe's.

10 Q. Tommy Catoe's house?

11 A. Uh-huh.

12 Q. And when you were staying out there -- or no, visiting
13 out there, and those folks were staying out there, what
14 were you going out there for?

15 A. To give him Sudafed pills.

16 Q. For what?

17 A. He traded us some meth.

18 Q. Okay, speak up a little bit.

19 A. He traded us some meth.

20 Q. Who traded you some meth?

21 A. Jason.

22 Q. What about Corey?

23 A. No.

24 Q. And when you went out there, how many times -- how
25 many times do you think you went out there with Chris?

CASSIDY COOPER: DIRECT BY MS. COLTON

-752-

1 A. A bunch. Like, maybe 20 times?

2 Q. Maybe 20 times, okay, to the trailer. Did you ever go
3 to the top point of the Springdale Road Apartments?

4 A. Yeah, once.

5 Q. Just once?

6 A. Yeah, just once.

7 Q. I'm going to show you State's Exhibit Forty-four. Do
8 you recognize that?

9 A. Yes, I do.

10 Q. What's that?

11 A. That's the apartment -- his brother's apartment.

12 Q. Where is that?

13 A. In Rock Hill. I mean, I'm not exact sure where.

14 Q. Speak up a little bit.

15 A. I'm not exact sure where it's at, but I know it's in
16 Rock Hill.

17 Q. Who was staying in that apartment?

18 A. His brother Josh.

19 Q. Whose brother?

20 A. Convict -- Jason's brother Josh.

21 Q. Jason Johnson's?

22 A. Yeah.

23 Q. And you only went out there one time?

24 A. Yes, ma'am.

25 Q. Did you ever see them -- anyone at that trailer or at

CASSIDY COOPER: DIRECT BY MS. COLTON

-753-

1 Springdale Road making methamphetamine?

2 A. At the trailer.

3 Q. At the trailer. You never saw it at Springdale Road?

4 A. No.

5 Q. Just the trailer. How many times do you think you saw
6 it being made over there?

7 A. Maybe about four or five times.

8 Q. And were you with Chris?

9 A. Yes.

10 Q. And you -- what did you -- how -- what did you see
11 them doing with it?

12 A. They put it in the jug and do what they had to do with
13 it, and then --

14 Q. Can you be real specific about what you saw?

15 A. I'm trying to.

16 Q. Okay.

17 A. They put it in the jug, and then gas it off. That's
18 really all I seen.

19 Q. Did you see what they put in the jug?

20 A. Yes.

21 Q. What did they put in the jug?

22 A. Cold packs, lithium batteries, Drano, and that's about
23 all I can remember. Oh, Coleman fuel, and that's about all
24 I know.

25 Q. What happens with it when they do that?

CASSIDY COOPER: DIRECT BY MS. COLTON

-754-

1 A. It starts bubbling up and everything, and then they --
2 when it gets ready, they end up gassing it.

3 Q. They don't do anything else to it when it's all
4 bubbling up? Do they move it, or do anything to it?

5 A. They shake it up, and they'll unscrew it a little bit,
6 let the pressure out, and then when it's ready, then
7 they'll pour it into a filter, and then a bowl, and then
8 gas it off.

9 Q. And did you see this done at that trailer?

10 A. Yes.

11 Q. And did Chris participate in this?

12 A. No.

13 Q. Did you see Chris? Did you participate in it?

14 A. No.

15 Q. Did you go with Chris to get supplies to bring to that
16 trailer?

17 A. Yes.

18 Q. Besides the Suda pills?

19 A. Uh-huh.

20 Q. Do you remember?

21 A. That's all it was, was Sudafed pills.

22 Q. Sudafed pills, okay. And where would you go to get
23 Suda pills?

24 A. Everywhere: Gastonia, Rock Hill, York, Shelby,
25 Gaffney, everywhere.

CASSIDY COOPER: DIRECT BY MS. COLTON

-755-

- 1 Q. And who would -- who would go with you?
- 2 A. Me, Chris, his brother --
- 3 Q. What's his brother's name?
- 4 A. Josh Matuse, Troy Carter, and Brittany Mueller.
- 5 Q. Who's Brittany Mueller?
- 6 A. His cousin. Chris Matuse's cousin. And Mickey
- 7 Papowski.
- 8 Q. Who's Mickey Papowski?
- 9 A. Chris Matuse's baby momma's sister.
- 10 Q. I'm almost with you there. And besides Mickey, who
- 11 else?
- 12 A. There was -- I know he got this dude KG one time to go
- 13 get it, but ---
- 14 Q. KG?
- 15 A. Yeah. I don't know his real name. That's all I know
- 16 him by.
- 17 Q. John Thomasson. Do you know John Thomason?
- 18 A. Yes, and him too.
- 19 Q. Do you know -- what's -- does John Thomasson have a
- 20 wife or an ex-wife or girlfriend?
- 21 A. Yeah, Jen.
- 22 Q. Did she ever go with you all to buy Suda?
- 23 A. Yes.
- 24 Q. And did you ever party with all them over at the
- 25 trailer. Or would you just go in and get your stuff and

CASSIDY COOPER: DIRECT BY MS. COLTON

-756-

1 go?

2 A. Sometimes we would.

3 Q. And who was there when you all would be hanging out
4 using meth?

5 A. Me, Chris, Jason, Corey, and Shelley.

6 Q. Shelley who?

7 A. Pettigrew. Petti - yeah, something like that.

8 Q. Do you know how many boxes you bought of Sudafed?

9 A. A lot.

10 Q. You think more than 10? More than 20?

11 A. About 20, maybe a little bit more.

12 Q. And then, did you -- you stayed with Chris through
13 December. Correct?

14 A. Uh-huh

15 Q. And you haven't broken up with him since?

16 A. Uh-huh.

17 Q. And then he went to jail?

18 A. Uh-huh.

19 THE COURT: Ma'am, you have to answer verbally ---

20 THE WITNESS: Okay, I'm sorry.

21 THE COURT: --- so she can -- the court reporter
22 can record your --

23 A. Yes.

24 Q. And you still are with Chris? He's still your
25 boyfriend. Correct?

CASSIDY COOPER: DIRECT BY MS. COLTON

-757-

1 A. Yes.

2 Q. And have you talked to Chris about this case?

3 A. No.

4 Q. Has Chris told you what to say to come up here?

5 A. No.

6 Q. And did you come up and approach me about coming to
7 testify, or did I ask you?

8 A. You -- you asked me.

9 Q. And did I tell you what to say?

10 A. No.

11 Q. And what did -- what did I tell you I knew about your
12 involvement?

13 A. That you knew I was getting Sudafed pills.

14 Q. And that I said you better tell me the truth?

15 A. Yeah.

16 Q. And then you didn't?

17 A. Yeah.

18 Q. But I didn't tell you anything. I didn't have -- law
19 enforcement didn't tell you anything about Mr. Johnson ---

20 A. No.

21 Q. --- or anything like that?

22 A. No.

23 Q. And you actually come up to speak with us about
24 Chris's case. Correct?

25 A. Yes.

CASSIDY COOPER: DIRECT BY MS. COLTON

-758-

1 Q. And at that point, you're still dating Chris?

2 A. Yes.

3 Q. You -- and why are you up here?

4 A. Yes.

5 Q. Why are you up here today?

6 A. Why I'm up here today?

7 Q. Yeah, why are you up here today?

8 A. To help Chris.

9 Q. And you're hoping that this -- I take this into
10 account to help Chris too?

11 A. Uh-huh.

12 Q. And what have I told you about that?

13 A. You ain't made me no promises.

14 Q. And what's going to happen to Chris?

15 A. He's still going to get some time.

16 Q. He's still going to prison. Correct?

17 A. Yeah.

18 Q. I did tell you that? And, Cassie, do you know -- did
19 I tell you what was going to happen if you didn't tell the
20 truth here today?

21 A. Yes.

22 Q. What's that?

23 A. I go to jail.

24 Q. Yeah. And have you told the truth, Cassidy?

25 A. Yes, I have.

CASSIDY COOPER: CROSS BY MR. BROWN

-759-

1 Q. Thank you. Please answer any questions Mr. Brown may
2 have. Okay?

3 A. Okay.

4 CROSS EXAMINATION

5 CASSIDY COOPER BY MR. BROWN:

6 Q. Ms. Cooper, as I understand your testimony when you
7 all went out to the trailer in Clover is that Chris would
8 get you or someone else to go buy pills. Correct?

9 A. Do what now, I didn't -

10 Q. Would get you or someone else to go buy Sudafed pills.
11 Correct?

12 A. Yes.

13 Q. And you all would take them out there, and Chris and
14 Jason would cook it up?

15 A. No. We just took the Sudafed pills over there, and he
16 traded us in dope.

17 Q. Was there ever a time there when Chris helped Jason
18 out, helped him burn off materials, helped him cook them
19 and so forth?

20 A. No.

21 Q. You never saw that?

22 A. No.

23 Q. Okay. Did -- You all would stay out there and party
24 sometimes too; is that correct?

25 A. Maybe for like an hour or two, if that.

CASSIDY COOPER: CROSS BY MR. BROWN

-760-

1 Q. Were you all doing meth then?

2 A. Yeah.

3 Q. You were too?

4 A. Yeah.

5 Q. Of course, you never did meth until you met Chris; did
6 you?

7 A. No. I didn't really do meth until I met them.

8 Q. When you say "them," you're talking about Jason and
9 Chris?

10 A. Yes, my bad -- Yeah, Jason ---

11 Q. You love Chris?

12 A. Yeah, I love Chris.

13 Q. Do you want him to get out of jail as soon as
14 possible?

15 A. Yeah, but I'm not lying for him.

16 Q. And I believe you testified that you're here to help
17 him any way you can?

18 A. Yeah, but I'm not going to lie for him.

19 Q. You and he never discussed you coming here to testify,
20 and all the times you visited on those recorded phone
21 conversations over there?

22 A. Do what?

23 Q. Did you and Chris ever discuss, when you visited him
24 in jail, that you'd come in here to testify?

25 A. No.

BRANDY HAGER: DIRECT BY MS. COLTON

-761-

1 Q. Never?

2 A. Never.

3 Q. You going to stay with him if he cheats on you again
4 and keeps using meth?

5 A. Do what?

6 Q. You going to stay with Chris if he keeps cheating on
7 you and using meth?

8 A. No.

9 Q. I have no further questions.

10 MS. COLTON: Your Honor, we ask that Ms. Cooper be
11 excused.

12 THE COURT: If not objection, you can be excused.

13 MR. BROWN: Without objection. I'm sorry, Your Honor.

14 THE COURT: Thank you for coming in. You may be
15 excused.

16 (WITNESS LEAVING WITNESS STAND.)

17 THE COURT: You got another witness?

18 MS. COLTON: We're ready. Yes, Your Honor. The State
19 would call Brandy Hagen.

20 Could you get Ms. Hagen, please.

21 MR. BROWN: Jen.

22 MS. COLTON: I'm sorry. Could you please go up and be
23 sworn?

24 MADAME CLERK: Please raise your right hand, place
25 your left hand on the Bible.

BRANDY HAGER: DIRECT BY MS. COLTON

-762-

(WHEREUPON: BRANDY HAGER, BEING
FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

BRANDY HAGER BY MS. COLTON:

Q. I'm sorry. Can you please state your full name for
the record?

A. Brandy Lee Hager.

Q. And you go by Brandy?

A. Yes, ma'am.

Q. Ms. Hager, how old are you?

A. Thirty-two.

Q. And where do you live?

A. In York, well, Clover.

Q. And Brandy, who do you live with?

A. My mom and dad and my son.

Q. And where are you working right now?

A. Café 49 in Lake Wiley.

Q. How long have you been living in York County?

A. About 3 years.

Q. Three years?

And do you know Chris Matuse?

A. Yes, I used to date him.

Q. You used to date Chris?

A. Uh-huh.

Q. And when did you meet Chris?

BRANDY HAGER: DIRECT BY MS. COLTON

-763-

1 A. Oh my word. It was in the winter time.

2 Q. Sometime in the wintertime?

3 A. It's a couple of years ago.

4 Q. And you began dating Chris?

5 A. Correct.

6 Q. And were you dating Chris in 2010?

7 A. No. I don't believe so.

8 Q. You don't believe so?

9 A. I think it was '90 -- '98 or '99, I think it was? I'm
10 not really sure. I don't keep up with --

11 Q. '98?

12 A. I mean, not '98, like '90 -- I mean, 2009, 2008,
13 something like that.

14 Q. All right, Brandy. Are you nervous?

15 A. Yes, very much so. Oh Lord.

16 (WITNESS LAUGHS.)

17 Q. Do you want to be here today?

18 A. No, I don't.

19 Q. Are you under subpoena to be here today?

20 A. Yes, I am.

21 Q. So at some point in time, in the 2000's, you dated
22 Chris Matuse?

23 A. Yes, ma'am.

24 Q. Let me ask you this. Do you know Mr. Jason Johnson?

25 A. Yes, I do.

BRANDY HAGER: DIRECT BY MS. COLTON

-764-

1 Q. How did you meet Mr. Johnson?

2 A. Through Chris.

3 Q. Chris Matus?

4 A. Correct.

5 Q. And were you dating Chris at the time?

6 A. Yes, I was.

7 Q. And was this last year? In the summer of last year?

8 A. Summer, we were on and off. He was dating, like,
9 three of us at the same time.

10 (WITNESS LAUGHS.)

11 Q. Chris was?

12 A. Yeah.

13 Q. All right, Brandy. Well let me ask you this. Okay?
14 How -- where did you meet Mr. Johnson?

15 A. Well actually, he came to our house the first time
16 I've ever met him. I don't think any of us was introduced
17 because my truck is broke down, and he was helping -- he
18 came with the guy named Tim over there to help Chris.

19 Q. Okay.

20 A. My fuel pump went out on my car, and that was the
21 first time I ever seen him.

22 Q. Whose house was that at?

23 A. Chris's house. His momma's.

24 Q. And Mr. Johnson came over with a guy named Tim?

25 A. Correct.

BRANDY HAGER: DIRECT BY MS. COLTON

-765-

1 Q. And do you know Tim's last name?

2 A. Boozer.

3 Q. And they fixed your car for you?

4 A. Well he was telling Chris what he needed to do to fix
5 it, and Chris fixed it.

6 Q. And that was the first time that you were introduced
7 to Mr. Johnson?

8 A. I don't think I was introduced to him at that time. I
9 think it was after he had been at our house.

10 Q. So you just saw him?

11 A. Seen him, correct.

12 Q. All right. And then, where's the next time you see
13 him?

14 A. At Tim's house.

15 Q. And thereafter, do you see him -- well, I'm going to
16 show you State's Fifty-six. Do you recognize that or
17 anything in that?

18 A. This trailer?

19 Q. Do you recognize the trailer?

20 A. Yes, ma'am.

21 Q. Yeah.

22 A. If I'm not mistaken. I could be wrong.

23 Q. Who do you think that trailer's is?

24 A. Him and --

25 Q. Him being? I'm sorry, you have to say.

BRANDY HAGER: DIRECT BY MS. COLTON

-766-

1 A. Jason and Corey and some other dark-headed guy.

2 Q. And do you think that's their trailer? What town was
3 it in?

4 A. Clover.

5 Q. And you went out to that trailer?

6 A. Yes, ma'am.

7 Q. Why did you go out to that trailer?

8 MR. BROWN: Your Honor, I hate to object, but she has
9 to put a time frame on this.

10 Q. Was this after you met Tim?

11 A. Yes.

12 Q. And ---

13 A. Like, way after.

14 Q. --- Mr. Johnson?

15 A. Yes.

16 Q. Did you ever know Mr. Boozer? How did you know
17 Mr. -- how did you know Tim Boozer?

18 A. Chris -- through Chris.

19 Q. Through Chris. How did Chris meet Tim Boozer?

20 A. Jail.

21 Q. And at this time, Mr. Boozer had gotten out of jail?

22 A. Correct.

23 MS. COLTON: Is that a sufficient time frame, Your
24 Honor? Is that --

25 THE COURT: No, ma'am.

BRANDY HAGER: DIRECT BY MS. COLTON

-767-

1 Q. Was Chris -- this is after Chris had been out on bond?

2 A. Yes. He was in there for like two months, and Chris
3 got out, and he got up with "Boozer." And that's how I met
4 him. And then Boozer went to prison, and then they started
5 hanging out a lot.

6 Q. And do you know -- it was in the middle of August that
7 Boozer went to prison?

8 A. I believe so. I'm not really sure of the times.

9 Q. Was it summertime?

10 A. Yes, it was.

11 Q. And that -- you went out -- you all went out, and then
12 you saw him started hanging out at his trailer in Clover?

13 A. Right.

14 Q. Is that correct?

15 A. Correct.

16 MS. COLTON: Is that sufficient, Your Honor?

17 THE COURT: Yes, ma'am.

18 BY MS. COLTON:

19 Q. And at that trailer out there, you were out there.
20 Who'd you be -- who would you be out there with?

21 A. Chris Matuse.

22 Q. Chris Matuse. And would You all go out with anybody
23 else at that trailer?

24 A. John T. and Chris's brother been out there.

25 Q. What's Chris's brother's name?

BRANDY HAGER: DIRECT BY MS. COLTON

-768-

1 A. Josh.

2 Q. And who -- what's "John T."? Do you know his full
3 name?

4 A. I just always know him by John T.

5 (WITNESS LAUGHED.)

6 Q. Do you know if he's got a girlfriend or a wife or
7 anything like that?

8 A. He had a ex-wife that hung out with him all the time
9 if they weren't fighting.

10 (WITNESS LAUGHS.)

11 Q. What's that name?

12 A. I'm not sure.

13 Q. You don't know?

14 A. I don't know. I haven't hung out with these people in
15 a while.

16 Q. Well, that's probably good for you.

17 A. Yes, most definitely.

18 Q. All right. Well, and when you all went over there,
19 you would go over there with Chris, what -- the purpose of
20 you going over there was?

21 A. Drug -- drugs.

22 Q. What -- specifically, what kind of drugs?

23 A. Methamphetamines.

24 Q. To get methamphetamine? Who would you get -- you have
25 to answer "Yes" or "No," I'm sorry. To get

BRANDY HAGER: DIRECT BY MS. COLTON

-769-

1 methamphetamine?

2 A. Yes.

3 Q. And when you went over there, who would you get
4 methamphetamine from?

5 A. I didn't get it from anybody. I was, you know. I was
6 with Chris. Chris would get --

7 Q. And then Chris would give it to you?

8 A. Right.

9 Q. Who would Chris get it from?

10 A. Jason.

11 Q. Mr. -- the defendant?

12 A. Uh-huh.

13 Q. And how many times do you think you went with Chris to
14 Mr. Johnson's and Mr Catoe's and --

15 A. Probably a dozen times because he really didn't care
16 for me. He thought I was police, and I wasn't allowed over
17 there. So Chris started hooking up with Cassidy, and
18 Cassidy would be over there all the time, so...

19 (WITNESS LAUGHS.)

20 Q. You say he didn't like you? He didn't --

21 A. He didn't like me.

22 (WITNESS LAUGHS.)

23 Q. Who's he?

24 A. Jason. He didn't -- he didn't care for me too much;
25 so...

BRANDY HAGER: DIRECT BY MS. COLTON

-770-

1 Q. He thought you were the police?

2 A. Yeah. He thought I was police. I wasn't.

3 (WITNESS LAUGHS.)

4 Q. And that's -- and then Chris started dating Cassidy?

5 A. Right, yeah.

6 Q. And so you think maybe about 12 times?

7 A. Probably, if that. It was -

8 Q. It could be less?

9 A. It could be less, yeah.

10 Q. Do you know how much methamphetamine Chris would get
11 from there?

12 A. No, ma'am. I sure don't.

13 Q. He would just give it to you?

14 A. Yeah, when he went and got high, I got high.

15 Q. Did you -- have you ever gone to -- well, I'm going to
16 show you a picture before I ask you that question. Are you
17 nervous?

18 (WITNESS LAUGHS.)

19 A. This is terrible. I've never done this before in my
20 life.

21 Q. I'm going to show you State's Forty-four. Do you
22 recognize State's Forty-four?

23 A. Yes.

24 Q. What is that?

25 A. It's an apartment complex.

BRANDY HAGER: DIRECT BY MS. COLTON

-771-

1 Q. Have you ever been there before?

2 A. One time.

3 Q. You've only been there one time? And whose apartment
4 complex was that, and who did you see there?

5 A. It was him and his girlfriend at the time. Well,
6 Jason and Shelley, but I believe it was his brother's
7 apartment or something like that.

8 Q. Do you know his brother's name?

9 A. No, I never seen him. Nobody was there, but them two.

10 Q. Do you know what Shelley's last name was?

11 A. No, ma'am.

12 Q. And did you buy methamphetamine there, or did Chris?

13 A. Not to my knowledge. I don't think he had anything at
14 that time.

15 Q. Who didn't have anything?

16 A. Jason. We weren't there no longer than five minutes,
17 and we were gone.

18 Q. Okay. Now during this time, did you buy -- were you
19 buying it with money? Were you giving money to Chris, or
20 how was it?

21 A. I believe he was exchanging pills for the meth.

22 Q. Did you ever see him, Chris, give Mr. Johnson money
23 for pills?

24 A. Money?

25 Q. I mean, money for methamphetamine?

BRANDY HAGER: DIRECT BY MS. COLTON

-772-

1 A. No, ma'am.

2 Q. So it was just boxes?

3 A. Yes, ma'am.

4 Q. Tell -- can you tell the jury what you know a box to
5 be.

6 A. Sudafed.

7 Q. Did you buy boxes of Sudafed?

8 A. Yes, ma'am, I did.

9 Q. How many boxes do you think you -- how many do you
10 think you bought?

11 A. I have -- quite a few.

12 Q. Quite a few?

13 A. Yes, ma'am.

14 Q. And do you know who else was buying boxes and giving
15 them to Chris?

16 A. A lot. It was me; it was Cassidy; John T.; Chris's
17 brother Josh; Brittany, which is Chris's cousin.

18 Q. Do you know Brittany's last name?

19 A. Mollar, or Mullins, or something like that.

20 Q. Anybody else?

21 A. Roy.

22 Q. Roy?

23 A. A black guy. I'm not sure if he's --

24 MR. BROWN: I'm going to ask the foundation of this
25 knowledge, Your Honor, unless she witnessed it herself.

BRANDY HAGER: DIRECT BY MS. COLTON

-773-

1 THE COURT: Do you want to rephrase the question?

2 BY MS. COLTON:

3 Q. Did you go with people to purchase Sudafed for Chris
4 to bring to Jason Johnson?

5 A. Yes.

6 Q. And who were those people that you went with to buy
7 Sudafed?

8 A. Chris; myself; John T.; Chris's brother Josh; Roy, I
9 think that's his name; and there was a girl Brittany, which
10 is Chris's cousin; a girl named Monica. There was a whole
11 slew of them, Cassidy, which is Chris's girlfriend's at the
12 present time. And I think that's about it. There was a
13 bunch in that -- I mean, when I wasn't around, I don't know
14 who else there was.

15 Q. Sure. Well, I'm just saying the ones that you know
16 that gave to Chris right over there. That's all I'm asking
17 you. And when you all went in, how would you go into the
18 pharmacies to do this?

19 A. One at a time.

20 Q. Why?

21 A. Why?

22 Q. Yeah. Why did you all, all go in and say, "I've got a
23 cold," and everyone buy at one time?

24 A. Well I wouldn't say nothing. I would just take the
25 car out there and give them the little thing, and they

BRANDY HAGER: DIRECT BY MS. COLTON

-774-

1 would give -- can I see you ID? I give them my ID, and
2 they would give me the box, and I would go on down my merry
3 way.

4 Q. Okay.

5 A. And then another person would go in, and I don't know
6 what they would say. I mean, I --

7 Q. You all would take turns, though?

8 A. Right, yeah. And I think, maybe, one or two of them
9 used my grandma doing it or something. Some kind of --

10 Q. Craziness?

11 A. Yeah. Just, not logical.

12 (WITNESS LAUGHS.)

13 Q. And then you and Chris break up. When do you all
14 break up?

15 A. It was, see -- I moved out of his house in September,
16 but we had been broken up for a month or two before that.

17 Q. And then, do you remember when it was that you went to
18 Springdale -- to Catawba Point, I'm sorry, Catawba Point?

19 A. It was -- after we was split up.

20 Q. Okay.

21 A. I don't remember. It was dark. I just know that.

22 Q. Do you remember -- Did you ever see Mr. Johnson or Mr.
23 Catoe cooking methamphetamine?

24 A. No, ma'am.

25 Q. You never saw that process?

BRANDY HAGER: DIRECT BY MS. COLTON

-775-

1 A. No.

2 Q. Have you ever seen that process done?

3 A. No, ma'am.

4 Q. How many times have you actually been able to go into
5 the trailer?

6 A. Well at first, I was going in there, you know, when I
7 first met him and everything. But then, I guess he didn't
8 like my attitude. I was pretty blunt and forward, and when
9 I was ready to go, I was ready to go, you know.

10 Q. That's it?

11 A. Several times, and then Chris told me I wasn't allowed
12 back over there. And I was like, why? And, "He thinks
13 you're the police." And I was like all right, whatever.

14 Q. In 2011, were you convicted of possession of
15 prescription drugs?

16 A. Yes, ma'am.

17 Q. And you have a pending grand larceny and criminal
18 conspiracy charge?

19 A. Yes, ma'am.

20 Q. And did you come in and speak to us before you even
21 got those charges?

22 A. Yes, ma'am.

23 Q. And did you contact me to come talk to me about all
24 this information?

25 A. No.

BRANDY HAGER: DIRECT BY MS. COLTON

-776-

1 Q. Did I contact you?

2 A. Well, I got subpoenaed.

3 (WITNESS LAUGHS.)

4 A. Yes.

5 Q. Well did you come to talk -- did we talk before you
6 showed up to court today?

7 A. Yes, you did contact me, yeah.

8 Q. Yes?

9 A. Yes.

10 Q. Or no?

11 A. Yes.

12 Q. Okay. And that was before those charges were pending?

13 A. Yes.

14 Q. And you agreed to come in and cooperate ---

15 A. Yes.

16 Q. --- before you picked up the pending charges?

17 A. Yes, ma'am.

18 Q. And have you been promised anything about those
19 charges?

20 A. No, ma'am.

21 Q. And you were going to get subpoenaed no matter what;
22 isn't that true?

23 A. Yes, ma'am.

24 Q. And, Ms. Hagen, do you want to get back together with
25 Chris?

-777-

BRANDY HAGER: DIRECT BY MS. COLTON
CROSS BY MR. BROWN

1 A. No, not at all.

2 Q. And did Chris ever contact you and try to get in touch
3 with you and tell you to come up here and testify for him
4 and help him out?

5 A. No.

6 Q. Are you here to help Chris out?

7 A. Not at all.

8 Q. And do you know -- you know Cassidy. Right?

9 A. Yes, I do.

10 Q. Did Cassidy call you up and ask you to come up here
11 and --

12 A. No.

13 Q. And are you telling the truth today?

14 A. Yes, ma'am.

15 Q. And what happens if you don't tell the truth?

16 A. I go to jail.

17 Q. For what?

18 A. For lying.

19 (WITNESS LAUGHS.)

20 A. I guess whatever you want to charge me with.

21 Q. Thank you. Please answer any questions Mr. Brown may
22 have.

23 CROSS EXAMINATION

24 BRANDY HAGER BY MR. BROWN:

25 Q. Was it possession of prescription drugs or

BRANDY HAGER: CROSS BY MR. BROWN

-778-

1 distribution of prescription drugs or possession with
2 intent to distribute prescription drugs you pled guilty to?

3 A. Possession of prescription drugs.

4 Q. Just possession?

5 A. Yes.

6 Q. No distribution?

7 A. Correct.

8 MR. BROWN: I beg the Court's indulgence just one
9 second.

10 (PAUSE.)

11 Q. When you went out with Chris to the trailer in Clover,
12 you all were using meth together. Correct? You and Chris.

13 A. Yes.

14 Q. You all would pick it up there and take it back over
15 to Chris's house?

16 A. Yes, sir.

17 Q. And you and he were smoking meth together?

18 A. Correct.

19 Q. You never saw Jason or anybody cooking meth?

20 A. I never seen Jason cook meth.

21 Q. You never saw money change hands?

22 A. No money changed hands.

23 MR. BROWN: I don't have any further questions, Your
24 Honor..

25 I'm going to approach a minute so we can -- if that

-784-

1 MS. COLTON: Twenty-five, Your Honor.

2 MR. BROWN: The letters?

3 MS. COLTON: The letters.

4 MR. BROWN: Whatever objection I had yesterday, if I
5 had any. I don't think I did.

6 THE COURT: I don't think you did.

7 Admitted without objection.

8 (WHEREUPON: COURT'S EXHIBIT NUMBER TWENTY-FIVE
9 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

10 THE COURT: All right. Anything else?

11 MR. BROWN: Your Honor, it's my understanding they're
12 going to call the chemist first.

13 Is that correct?

14 MS. COLTON: Yes it is.

15 MR. BROWN: I would like to object at this time to her
16 testimony concerning the weight involved. Without
17 belaboring the point there is a bottle with a mixture found
18 in a motel room that comes to 60. -- assuming they're going
19 to do this which I feel sure is coming -- 60.9 grams of
20 what's believed to be Methamphetamine.

21 I would object to the introduction of this evidence
22 because One: It is not methamphetamine that can be used.
23 I think the statute intended that the drug be in a mode
24 that can be used. I would use the equivalent of what cocoa
25 leaves, you can't snort those, you can't smoke those. Even

1 though it may be a violation to possess cocoa leaves it's
2 not the finished product and I would submit in this case
3 from all the evidence so far, I think the evidence will
4 bear this out, this is not a finished product; it cannot be
5 used and therefore the weight should not become into
6 evidence because it is determining of the ultimate fact of
7 trafficking and I would object to the introduction of that
8 evidence.

9 MS. COLTON: Your Honor, I believe that the case law
10 -- I'm sorry, the case law regarding statutory
11 interpretation is clear that when the legislature is
12 unambiguously serves that the court must follow the plain
13 meaning of the statute any mixture thereof. I would
14 reference State versus -- although that does reference
15 crack cocaine and any mixture thereof and cites as a public
16 policy -- states the public policy justification for that
17 going back to the Nevada case therein. If you look at that
18 Nevada case that our courts are citing, that is actually a
19 case involving methamphetamine. There's a slight as far as
20 the State's persuasive argument, Your Honor, there's two
21 schools of thought. There's the market based approach in
22 what you put into the stream of commerce should be the
23 weight. That follows the federal sentencing guidelines,
24 it's followed by Oregon as well, and I believe Tennessee
25 follow the federal sentencing guidelines. South Carolina

-786-

1 has not adopted a federal sentencing guidelines and we
2 follow the majority of the states such as Texas, North
3 Carolina, Iowa and California. All those cases I handed to
4 Your Honor that say it's any mixture thereof. It's the
5 plain and unambiguous meaning of the statute and that's
6 what comes in regardless of what the weight is. I think
7 some of those cases cite that bleach; bleach is an additive
8 is correct. North Carolina differs with us but they go
9 back to the plain statutory language and that's because
10 Methamphetamine is not included specifically in the
11 definition any mixture thereof.

12 And as far as -- I know this isn't my place to put
13 that on the record, Your Honor, but the State would also
14 argue that there is a public policy reason that would
15 support equally as well Methamphetamine. Crack cocaine
16 obviously is because it augments the amount, the mixture
17 augments the amount put into the stream of the market.
18 However with Methamphetamine the state that its in and the
19 volatility, the chemicals, at the point in time mixing the
20 lithium and the camp fuel at that time makes it highly
21 volatile; highly flammable, highly explosive and therefore
22 the State believes that it would be public policy reason
23 that is present to support the unambiguous definition of
24 any mixture thereof that was intended by the legislature.

25 THE COURT: Well I was hoping that we could avoid even

1 getting into that and given the nature of all the evidence
2 we had in this case, but if they choose to go - take that
3 position, of course that position the Court would be forced
4 to take up that issue in the case although I think it's
5 unnecessary.

6 Be that as it may in this particular case and even for
7 another day, but because the State wants to push that issue
8 we'll go forward with it. The court finds - and let me
9 say, I started off when this first motion was made by the
10 Defense that the solution that the meth was found in which
11 was in the process of the manufacturing in an interim stage
12 of manufacture process of the methamphetamine they took the
13 position the defense did that it had to be the finished
14 product if you're talking about weight in determining
15 whether it was trafficking or not. They took that
16 position. Initially that's kind of reasonable and logical
17 to me. What you're trying to guard against is the finished
18 product that's put into the main stream that same reason.
19 And I think the cases I have read have expressed some
20 sympathy for that position and I understand the logic of
21 it. However, once I read all of these state court
22 opinions, they take the position that their main purpose is
23 not to determine what might be necessarily whether it
24 should be the marketable approach or market or whatever,
25 that their purpose is to determine legislative intent. And

-788-

1 so they have to look at the expressed language of the
2 statute. And if you can determine the legislatures intent
3 from the expressed language of the statute then you have to
4 give effect to the legislative intent. That's what we're
5 looking at. You know you can have fifteen different
6 statutes out there that are worded different ways. And so
7 based on that and the interpretation of what the
8 legislative intended based on that language you can have
9 fifteen different interpretations on it.

10 What I found in all of the cases that were handed up
11 to me and the ones we found on our own in this case is that
12 only two state courts have ruled in favor basically of the
13 market approach. But their statutes and sentencing
14 statutes and their statutes are based on federal statutes
15 which are under federal sentencing guidelines is what they
16 go by in determining weight of the drugs and how you're
17 gonna be punished. And so theirs were based on that and
18 based on that same language. And there's been some split
19 of authority though within the federal court and so with
20 basically the same language. They disagreed on exactly
21 what it meant, some saying it's the market approach and
22 some saying it's the total solution, so you have that
23 outcome. But only two states Oregon and Tennessee have
24 taken the market approach position; all the rest including
25 North Carolina and Texas, Idaho, I believe it's Idaho or

1 Iowa. And I'll put all this on the record. I'm gonna give
2 this to the Court Reporter later. I'll give her the cites.
3 You all look at the cases, I'm not gonna go through all of
4 that now, maybe try to pick all that up. But what I'll do
5 is circle the cites and give them to her later so she can
6 record them. But I have considered them all and have them
7 here on the bench and give them to you.

8 Now Tennessee changed it's position however.
9 Tennessee originally went with the solution. They said
10 based on the language of their statute. They also took the
11 solution approach and used all of it including the liquid
12 and whatever in that Methamphetamine. They -- originally
13 that was their law. It changed when they changed their law
14 and adopted something like the federal sentencing
15 guidelines and then they applied federal - some of the
16 federal cases. Like is say not all the federal cases are
17 the same, but they adopted one set of the federal cases and
18 they agreed in their opinion that it was divided in the
19 federal courts, two different opinions based on the same
20 language. They chose more of the market approach. One
21 side of the issue of the federal decision. But they had
22 changed their law to reflect the federal sentencing
23 guidelines and so they say just like Oregon had adopted it.
24 Previously Tennessee did not take that approach. They had
25 other similar language to what we have in South Carolina.

-790-

1 And they included the weight of all of the compound and the
2 substance and everything in it. Their only changed when
3 they changed their law and adopted the federal sentencing
4 guidelines. But let me say that although their original
5 position is different.

6 What I'm looking at I'm hoping to avoid all of this
7 right now while I've got the jury setting back there once
8 again for another hour this morning while we're discussing
9 it. But nevertheless I put this on the record. Our law,
10 and I looked at it, and our law amended our trafficking
11 statute. Let me say the legislature has seen fit to when
12 they set forth the law and the penalties, et cetera, that
13 some of these narcotics of illegal substances they have set
14 aside cocaine, crack cocaine essentially to - and
15 Methamphetamine - also called crank, ice, meth; they have
16 set those aside and put them in a special statute and treat
17 them differently than some of the others. So you can see
18 that the legislature intended to treat those two drugs
19 differently than they did some of the others with the
20 specific statute. Now that statute, that is to say 44-53-
21 375 as to trafficking Subsection C was amended January 2,
22 2010, the latest statement on the law, so anything that
23 came before that, this is the latest statement on the law,
24 that's what we have to go by. And in it - of course I'm
25 not gonna read the whole statute, but it says "possession

1 of ten grams or more of Methamphetamine as defined in
2 otherwise limited in." Now they incorporate specifically
3 in this amendment Section 44-53-110 which is the definition
4 of all these drugs including meth, Methamphetamine. And
5 44-53-210 (D) (1) or 44-53-210 (D) (2); they specifically
6 incorporate them into our trafficking statute. Let me read
7 that to you.

8 In 44-53-110 which is the definition section with
9 regard to drugs in § -- I've got it marked over here but it
10 describes - defines Methamphetamine to include any salt
11 isomer or salt of an isomer or any mixture or compound
12 containing Amphetamine, or Methamphetamine.
13 Methamphetamine is commonly referred to as crank, ice, or
14 crystal meth.

15 Now, § 44-53-210 (D) (1) and (2) which are also
16 incorporated in our trafficking in 375, 44-54-375,
17 specifically incorporate and make it part of the definition
18 of trafficking. Let me read that to you. And this was
19 adopted in 1994, Subsection (D).

20 "Unless specifically accepted or unless listed in
21 another schedule, any material, compound, mixture or
22 preparation which contains any quantity of the following
23 substances having a stimulant effect on the central nervous
24 system."

25 § I: Amphetamine, it's salts, optical isomers and

-792-

1 salts of it's optical isomers." II: Methamphetamine, it's
2 salts, and salts of isomers.

3 So the legislature, the language that I have to go by,
4 that I have to let -- the intent that I've got to try to
5 determine what the legislature meant by the statute, is in
6 reading it and making a determination. I can't make my own
7 judgment about that. And they have said any material,
8 compound, mixture or preparation which contains any
9 quantity of the following substances. So it's clear to me
10 that the legislature intended to include any mixture,
11 compound, preparation in which Methamphetamine was found.
12 That's what they say. Now why would they do that as to
13 crack - cocaine, crack cocaine and Methamphetamine? Why
14 would they do it just with those? They had to have a
15 reason. Obviously they considered those more seriously and
16 more dangerous drug that they don't want to be disseminated
17 to the general public. And obviously that our Supreme
18 Court's already ruled - if I can find it up here, I've got
19 so many cases.

20 In *State versus Kerr* 299 S.C. 108, 382 S.E.2d 895,
21 this case they argued that the crack cocaine only contained
22 82.4952 percent of pure cocaine. And based on cocaine
23 which the statute is based on it, can only be based on
24 that; therefore you would get less than a hundred grams I
25 think and that it should be treated as pure cocaine. The

1 Supreme Court found otherwise and they said the entire
2 mixture or compound should be included in the weight of it
3 in determining the weight for trafficking purposes.

4 And the quote to the Supreme Court of Nevada with
5 approval in saying that the legislature enacted [the
6 trafficking statute] to deter large-scale distribution of
7 controlled substances, thus decreasing the number of
8 persons potentially harmed by drug use. We note, however,
9 that controlled substances are typically sold in a diluted
10 state. In such cases as this where the controlled
11 substance has been "cut", the substance is rendered more
12 harmful to society because the dilution increases the
13 potential number of persons who will partake... The
14 increased potential for harm to society justifies the
15 imposition of more severe penalties for the possession of
16 large amounts of diluted controlled substance than for
17 smaller amounts of a pure controlled substance. Further,
18 the possession of large amounts of diluted controlled
19 substance indicates an intent to engage in... large-scale
20 distribution... the very conduct that [the trafficking
21 statute] is designed to deter."

22 Now that was a kind of a policy reason for that, that
23 they approved. But in any event I agree that crack cocaine
24 which is made up of cocaine and some other substances they
25 mix with it to make it go further, cheaper, able to

-794-

1 distribute it more; some people think more addictive,
2 that's different than Methamphetamine in finding it in a
3 jar and including all of that I agree that's a different
4 situation. I think I made that distinction to start off
5 with the State. However the purpose that they found that
6 the legislature had, the intent the legislature had, was to
7 include it all and that was their basis for making that
8 finding, not just the pure substance. Even though that's
9 not - didn't deal with Methamphetamine I think the same
10 principle applies here. Furthermore as the Solicitor
11 stated I think it's common knowledge I don't think anyone
12 disagreed that these meth labs are extremely dangerous and
13 I think every knows that. And I think everybody is aware
14 of for example where meth labs have exploded, burned down
15 houses, apartments; could burn down I guess a motel as far
16 as that's concerned. They know how dangerous those things
17 are. I cant' speak for the legislature, I'm not sure why
18 they formed the intent to include that. I know that the
19 language includes it and of it and that may be their
20 reasoning. It may be that they considered it such a
21 dangerous process that they included it in there. I can't
22 speak for them. I can only say though that I think it is
23 clear that their intent was to include any material
24 compound, mixture, or preparation. Preparation - that is a
25 word that is not in some of these other state statutes,

1 they don't have material compound mixture. The legislature
2 in it's most - inserted also the word preparation which
3 would include whatever you're doing involved in preparing
4 the drug. So I think it's clear that they intended to
5 include it. Of course it's a question of first impression
6 in South Carolina but we maybe didn't need to get into it
7 in this case but we're there. I had no choice about the
8 matter. So we have to make that ruling clear. That's my
9 -- That's the Court's finding and that's my basis for it.
10 I'm sure the Appellate Court's will get the final word on
11 it.

12 MR. BROWN: And, Your Honor, just for the record, I
13 feel like I have to say this. This statute is overly broad
14 and unconstitutional, without belaboring the Court.

15 THE COURT: If it is there's an awful lot of state
16 courts that are in the same boat is all I can say. And you
17 got some federal court also in the same boat. All right.

18 But our statute goes further than most when they
19 include the word preparation or any material. All right.
20 That's my ruling. So let's go forward. I will not allow
21 you to get into any argument to the jury that cannot
22 include that. I've already made my ruling.

23 MR. BROWN: Yes, sir. Of course do I need to continue
24 to make that?

25 THE COURT: No. But you better not get into it.

-796-

1 MR. BROWN: You got the bottle here?

2 MS. COLTON: Yeah.

3 MR. BROWN: I'm just going to object at that time. I
4 just didn't want to during these motions.

5 MS. COLTON: I have the sample. We don't have the
6 bottle. We don't have the full bottle, it's a sample.

7 THE COURT: You got --

8 MS. COLTON: They distracted it. They put it into a
9 Mason jar, Judge, because they can't keep the lithium and
10 all the other volatile things in the actual bottle because
11 it's caustic.

12 THE COURT: Well I think you can go through all that.
13 You can make whatever objection you want to make at that
14 time.

15 MR. BROWN: Yes, sir.

16 THE COURT: All right. Anything else we need to get
17 into at this time?

18 MS. COLTON: I don't believe so, Your Honor.

19 THE COURT: Please bring the jury in.

20 I'll start off apologizing again.

21 (JURY REENTERS COURTROOM AT 10:04 AM.)

22 THE COURT: Good morning, Madame Forelady, members of
23 the jury panel. I start off as usual and apologize for
24 keeping you back there. Again an issue came up this
25 morning and it was very important that we resolve that

CYNTHIA MITCHUM: DIRECT BY MS. WEAVER

-797-

1 before we get started back with the trial, so we've done
2 that. So we're now ready to resume with the trial.

3 Some or you I think, some of you may be very well
4 concerned at this point. I told you we would try to finish
5 this case by Friday and it's very rare that we go beyond
6 Friday. And I'm still hoping to finish this case today.
7 We're going to do everything we can. I just don't control
8 that. And so we just have to see. We're going to do our
9 best to finish it. We can still possibly finish it today I
10 think and we're gonna try. That's the only thing I can
11 tell you, we'll do the best we can. All right.

12 Ready to proceed, Counsel?

13 MS. WEAVER: Your Honor, the State calls Cynthia
14 Mitchum.

15 (WHEREUPON: CYNTHIA MITCHUM,
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION

18 CYNTHIA MITCHUM BY MS. WEAVER:

19 Q. Ms. Mitchum, if you could, please state your name.

20 A. Cynthia Mitchum.

21 Q. And you're currently employed by the York County
22 Sheriff's Office?

23 A. Yes, I am.

24 Q. And how long have you been employed there?

25 A. I've been there for 12 years.

CYNTHIA MITCHUM: DIRECT BY MS. WEAVER

-798-

1 Q. And what are your duties, or what's your position with
2 the Sheriff's Office?

3 A. I work in the Drug Analysis Laboratory and I analyze
4 substances for controlled and non-controlled substances.

5 Q. And so you test substances to see if there are any
6 controlled substances present like Methamphetamine?

7 A. Correct.

8 Q. And what sort of education have you had or training to
9 get your prepared for the chemical analysis of substances?

10 A. I have a Bachelor of Science in Chemistry, which I
11 received from Winthrop University in 1990. And prior to
12 working with the Sheriff's Office, I worked with the South
13 Carolina Law Enforcement Division in Columbia, South
14 Carolina also known as SLED for seven and a half years.

15 Q. And have you ever testified in court before?

16 A. Yes, I have.

17 Q. And approximately how many times have you testified in
18 court?

19 A. In excess of 200 times.

20 MS. WEAVER: Your Honor, at this time, I offer Ms.
21 Mitchum as an expert in chemical analysis and, I think,
22 vocation of controlled substances.

23 MR. BROWN: Without objection.

24 THE COURT: Without objection, she's so qualified.
25 Counsel, let me give the jury a brief, explanatory

CYNTHIA MITCHUM: DIRECT BY MS. WEAVER

-799-

1 instruction about expert witnesses.

2 I charge you that although lay witnesses are limited
3 to testify about facts within their knowledge and not
4 allowed to give opinions, certain witnesses who by
5 training, education, and experience are considered as
6 experts on a particular field, they give opinions in that
7 field based upon the facts of the matter and their
8 conclusions. And these opinions constitute evidence to be
9 considered by you in connection with all of the other
10 evidence and testimony in the case. And it is for you the
11 jury to give it such weight as you and your experience and
12 discretion may determine.

13 By this, I mean that you must raise such evidence and
14 accept or reject it in the same manner as you treat all
15 other evidence in the case. The value of expert testimony
16 does not depend upon the skill and knowledge professed by
17 experts, but upon the skill and knowledge they actually
18 possess. Expert testimony is given for the purpose of
19 enlightening you, not for the purpose of controlling your
20 judgment.

21 Please proceed.

22 MS. WEAVER: Thank you, Your Honor.

23 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-TWO,
24 PREVIOUSLY MARKED FOR IDENTIFICATION.)

25 Q. Ms. Mitchum, I'm going to show you what's been marked

CYNTHIA MITCHUM: DIRECT BY MS. WEAVER

-803-

1 A. What it reveals to me, it gives me an idea of the
2 compound I'm looking at. And in this case, it gave me the
3 idea that I was looking at Methamphetamine.

4 Q. And then did you take another sample from the Mason
5 jar?

6 A. Yes.

7 Q. And did this sample -- was it one liquid, one solid,
8 or together?

9 A. It was together.

10 Q. And what did you do with that sample?

11 A. I then dissolved it in the solvent and ran it into
12 what's my -- my instrumentation that I have.

13 Q. And this instrumentation, what does it do?

14 A. It will let me know what's in the compound itself.
15 And then I will look at the results and interpret those
16 results to -- to make sure and match it against knowns that
17 I have run to make sure it's what's in the compound.

18 Q. And you got a result in this case?

19 A. Yes.

20 Q. And did you prepare a report showing your findings?

21 A. Yes, I did.

22 MR. BROWN: Your Honor, subject to my previous -- I
23 would object subject to my previous grounds.

24 THE COURT: All right. Admitted over objection.

25 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-TWO

CYNTHIA MITCHUM: DIRECT BY MS. WEAVER

-800-

1 as State's Exhibit Number Forty-two. When did you receive
2 that item?

3 A. I received this on March 25th of 2011.

4 Q. Who did you receive it from? Where did you receive it
5 from?

6 A. I received it from the evidence -- the evidence run
7 down at the Sheriff's Office.

8 Q. And where's your office located in proximity to the
9 Evidence Room in the Sheriff's Office?

10 A. Basically, the -- I'm in the basement of the Sheriff's
11 Office, and it's a big square. So when you come off the
12 elevator there, the Evidence Room is there, I'm all the way
13 around on the other end of it.

14 Q. And after you retrieved that item from the Evidence
15 Room, what did you do with it?

16 A. I then put it in the laboratory and stored it. I have
17 a locked -- locker in there, and stored it until the chance
18 I had to analyze it.

19 Q. And can you explain to the jury what it was like when
20 you received it?

21 A. It was in this box here just like this. And it was
22 sealed with the tape and everything. I cut up in the tape,
23 and now my initials are where I opened it up.

24 Q. And when you received it from evidence, did you notice
25 any evidence of tampering?

CYNTHIA MITCHUM: DIRECT BY MS. WEAVER

-801-

1 A. No.

2 Q. Had you noticed any evidence of tampering, what would
3 you have done?

4 A. I would have asked the Evidence Room about it, and
5 then we would have called in the officer so he could make
6 sure and look at the evidence to make sure what's their's,
7 supposed to be there and everything.

8 Q. So at some later date, you opened the box to test for
9 controlled substances?

10 A. Correct.

11 Q. And what was inside the box?

12 A. There is a -- I do believe it was a glass jar, like a
13 mason jar, and it has a liquid substance in it.

14 Q. And did you open the Mason jar?

15 A. Yes.

16 Q. And did you take a sample from the Mason jar?

17 A. Yes.

18 Q. What was inside the Mason jar when you first saw it?

19 A. When I opened -- when I looked at the Mason jar, what
20 it has, it has some solid in it, and it has some liquid.
21 So I analyzed both the solid and the liquid.

22 Q. And what did the solid appear to you?

23 A. Like in color? Is that what you mean?

24 Q. Right.

25 A. It's just a clear liquid that had a strong odor of

CYNTHIA MITCHUM: DIRECT BY MS. WEAVER

-802-

1 some type of solvent.

2 Q. And how about the solid? What -- How did it appear to
3 be?

4 A. It just looked -- appeared a white, grainy substance.

5 Q. And you said you took a sample of both the liquid and
6 the solid substance out of the Mason jar?

7 A. That's correct.

8 Q. And what did you do with those samples?

9 A. First what I did was I spot test. And the spot test,
10 basically, is I'll drop chemicals on it and look for a
11 color change. And then after that, I take a sample and run
12 it through what's called a GC Mass Spec for short. And
13 from the GS Mass Spec, I can get an analysis that tells me
14 exactly is in the compound. And in this case, I found it
15 to be Methamphetamine.

16 Q. Let's talk about the spot testing. So you spot tested
17 both a sample of just the liquid substance and the solid
18 substance?

19 A. That is correct.

20 Q. And after that spot testing, what did you see as far
21 as the testing?

22 A. The tests were the same. They spotted the same. So I
23 just took one test for my GC Mass Spec.

24 Q. And what does the spot testing reveal to you as a
25 chemist?

CYNTHIA MITCHUM: DIRECT BY MS. WEAVER

-804-

1 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

2 (WHEREUPON: STATE'S EXHIBIT NUMBER SEVENTY-THREE
3 PREMARKED FOR IDENTIFICATION.)

4 Q. Ms. Mitchum, I'm showing you what's been marked as
5 State's Exhibit Seventy-three. Do you know what that is?

6 A. Yes. This is my drug report that I issued in this
7 case.

8 Q. And can you read your findings to the jury?

9 A. Yes, I can. State's Exhibit Number Forty-two, which
10 Item Number Eleven in this case found to methamphetamine,
11 60.9 grams or 939.68 grains, controlled 2 substance.

12 MS. WEAVER: Your Honor, at this time, we ask that
13 State's Seventy-three be entered into evidence..

14 MR. BROWN: Subject to my previous objections, Your
15 Honor.

16 THE COURT: Admitted over objection.

17 (WHEREUPON: STATE'S EXHIBIT NUMBER SEVENTY-THREE
18 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

19 Q. And Ms. Mitchum, after taking those samples, what did
20 you do with the Mason jar?

21 A. I re-boxed it in this box and then kept it until the
22 time to return it to the Evidence Room where it stayed in
23 the Evidence Room until it came to court today -- or this
24 week.

25 MS. WEAVER: Your Honor, we have no further questions.

CYNTHIA MITCHUM: CROSS BY MR. BROWN

-805-

1 MR. BROWN: I'm -

2 MS. WEAVER: No further questions.

3 MR. BROWN: I beg the Court's indulgence just one
4 second.

5 (PAUSE.)

6 CROSS EXAMINATION

7 CYNTHIA MITCHUM BY MR. BROWN:

8 Q. If you know the state that the alleged Methamphetamine
9 was in, can you use it in the state that you found it in?

10 A. What do you mean? Like, to shoot it up or anything?

11 Q. To be smoked, snorted, or injected?

12 A. I do not know if you can use it in that state.

13 Q. You do not know. Okay.

14 In weighing it, what did you weigh?

15 A. I weighed the liquid itself. What I did is I took the
16 Mason jar, and I got a clean beaker and poured the liquid
17 out into a Mason jar, I mean, into the -- a beaker, put the
18 Mason jar on my balance, and zeroed that out so that the
19 weight of the Mason jar is not included, and poured the
20 liquid back into the Mason jar, and took that weight.

21 Q. And you just tested the whole liquid; is that correct?

22 A. Correct.

23 Q. You didn't break it down to see how much contained
24 Methamphetamine and how it did by particle analysis?

25 A. No.

-806-

CYNTHIA MITCHUM: CROSS BY MR. BROWN
INVESTIGATOR NICHOLAS SCHIFFERLE: DIRECT BY MS. COLTON

1 Q. So you just weighed the whole liquid. Correct?

2 A. That is correct.

3 Q. No particle analysis breaking down by section or
4 anything?

5 A. Correct.

6 Q. No further questions.

7 MS. WEAVER: Nothing from the State, Your Honor.

8 THE COURT: Thank you, ma'am. You may stand down,
9 ma'am.

10 You want to excuse this witness?

11 MS. WEAVER: Yes, yes, Your Honor.

12 THE COURT: Thank you for coming, ma'am.

13 MR. BROWN: Without objection.

14 THE COURT: Thank you for coming.

15 (WITNESS LEAVING WITNESS STAND.)

16 MS. COLTON: Your Honor, at this time, the State would
17 call Investigator Nick Schifferle.

18 (WHEREUPON: NICHOLAS EDWARD

19 SCHIFFERLE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
20 FOLLOWS:)

21 DIRECT EXAMINATION

22 NICHOLAS EDWARD SCHIFFERLE BY MS. COLTON:

23 Q. Investigator Schifferle, can you state your full name
24 for the record?

25 A. Nicholas Edward Schifferle.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -807-

1 Q. And Investigator, do you -- where do you work right
2 now?

3 A. Currently, I'm assigned to the York County Multi-
4 jurisdictional Drug Enforcement Unit.

5 Q. And what police department are you a member of?

6 A. I'm employed through the York County Sheriff's Office.

7 Q. And your detail is to work as the DEU Officer. Is
8 that what they call you?

9 A. That is correct.

10 Q. And that's a narcotics officer?

11 A. That's correct.

12 Q. Investigator, I'm going to ask you a few questions
13 about your training and background. Now you do have
14 personal knowledge of this case. Correct?

15 A. I do.

16 Q. And you were on the scene that day?

17 A. I was.

18 Q. Where -- What type of investigations do you engage in
19 as a narc agent?

20 A. As a narcotics officer, I investigate all kinds of
21 drugs, you know, anywhere from marijuana, cocaine, heroine,
22 all the way to prescription pills to include
23 Methamphetamine.

24 Q. And do you -- did you have -- get a special assignment
25 in the past few months as to yourself?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -808-

1 A. Yes, after receiving specialized training, I was
2 assigned to having -- focusing on investigation solely on
3 Methamphetamine.

4 Q. And you were assigned with one or two other officers
5 to do that?

6 A. At the time when we first got assigned to it, it was
7 with three officers.

8 Q. Who were those officers?

9 A. It was Investigator Canty, Investigator Welch --

10 Q. The -- Investigator Welch, the detective that
11 testified on the first day?

12 A. That is correct.

13 Q. And you talked about your specialized training, tell
14 the jury what specialized training that you have for
15 Methamphetamine investigations.

16 A. Well, my training into Methamphetamine started early
17 in my career.

18 In 2005, in July, I received three hours of training
19 in Methamphetamine and street drugs.

20 Then in January of 2008, I received eight hours of
21 training into Methamphetamine awareness in meth labs. I
22 then furthered my training.

23 In 2010, I received a one-hour course in basically
24 meth lab awareness at the York County Sheriff's Office. I
25 then continued my training, I went to a 40-hour training

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -809-

1 program at the Regional Counter Training Academy in
2 Meridian, Mississippi that was solely focused on
3 clandestine labs and Methamphetamine investigations.

4 I then attended, in November of 2010, a 52-hour class
5 in clandestine lab investigation where I became clan-lab
6 certified, again in Meridian, Mississippi at the Regional
7 Counter Drug Training Academy.

8 I then continued my training, I went in October of
9 2010, I received training from the State Law Enforcement
10 Division into the AVRIS System and to Pseudoephedrine
11 investigations and meth lab chemicals. I believe that was
12 a 4-hour course.

13 Then in 2011, in June, I went to Chester where I
14 received training from the State Law Enforcement Division
15 in Pseudoephedrine investigation and smurfing
16 investigations. I believe that was about a 4-hour course
17 as well.

18 And then in November of 2011, I went to Boone, the
19 Boone area in North Carolina, and I received training from
20 the North Carolina State Bureau of Investigation. I
21 believe that was a 16-hour training class. I was re-
22 certified, meaning to Methamphetamine, and basically gave
23 them my certification again for next year to clan lab
24 certifications.

25 Q. What is clan lab? You're clan lab certified, but what

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -810-

1 does that mean to be clan lab certified?

2 A. It basically -- it means that it certifies me to enter
3 meth labs and to investigate them. Meth labs are hazardous
4 in nature, and there's actually a restriction of who can
5 actually go inside of them and process the chemicals and
6 move them back and forth because of the hazards related to
7 it. I'm actually one of two people in York County that's
8 certified to investigate these meth labs.

9 Q. And who's the other officer that's certified to
10 investigate meth labs?

11 A. It's Detective Welch.

12 Q. Have you had the opportunity to actually be in the
13 field and investigate Methamphetamine labs?

14 A. Yes. In my experience, in Methamphetamine labs, I've
15 been to approximately 11 labs in the past couple of years.
16 I'm on top of my experience. I've also interviewed people.
17 We took part in every process of meth manufacturing process
18 from the smurfs who gather the supplies, to addicts that
19 use it, all the way to people who manufacture it, which
20 most people call "cooks."

21 Q. And in debriefing these individuals, have you gained
22 additional information that has helped you to supplement
23 what you've worked in these various training forces?

24 A. That is true.

25 Q. Okay.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -811-

1 MS. COLTON: Your Honor, at this time, the State would
2 move to offer Investigator Nick Schifferle as an expert in
3 the field of Methamphetamine, clandestine lab,
4 Methamphetamine lab detection and Sudafed, smurfing
5 investigations.

6 MR. BROWN: Your Honor, I'm going to object to that.
7 I think he can testified to what he saw on this particular
8 case, what he was involved in this case with. But I don't
9 think there's such a thing as an expert methamphetamine
10 investigation. He may be the York County Sheriff's
11 Department Multi-jurisdictional Task Force meth guy, but
12 that doesn't make him an expert per se.

13 THE COURT: Well, Counsel, I don't think we need to
14 qualify him as an expert for him to testify whatever he
15 knows and whatever he's learned in his training experience
16 with regard to meth labs.

17 And so let's just go from there. I think he's
18 qualified certainly to testify concerning meth labs. Go
19 ahead.

20 MS. COLTON: Okay.

21 Q. Investigator Schifferle, when you talked about -- you
22 said about -- you mentioned an APRIS System. What -- can
23 you tell the jury what the APRIS System is?

24 A. APRIS is actually the company. The simplex system is
25 actually what's in place. In 2011 -- correction 2010,

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -812-

1 legislation was passed in South Carolina, basically,
2 forcing pharmacies to comply with submitting applications
3 to the APRIS's system or to APRIS's through the simplex
4 system. What that system truly is, it basically documents
5 Pseudoephedrine purchases and sales and attempted sales,
6 and whenever someone gets blocked it documents all that
7 into a national database. What the simplex system is, it's
8 basically an application that's sent to pharmacies. And
9 whenever someone attempts to purchase Pseudoephedrine, the
10 person will present a government issued ID. That pharmacy
11 will enter the information into the computer. They'll
12 submit the application. APRES actually maintains control
13 of pharmacies throughout the whole state or whichever
14 states are participating in this program. And it will
15 compare, and basically it will look to see if the person
16 has purchased over their legal limit in that day or over
17 the legal limit in a 30-day period. And based on that, if
18 the person hasn't purchased over the legal limit in that
19 day or in that 30-day period, the person will permit the
20 pharmacy to present that sale. So then the pharmacy can
21 actually sell Sudafed to that individual. And what the
22 system does, it actually builds a profile on that person so
23 records can be attained later of what their Pseudoephedrine
24 purchase records are.

Q. And you mentioned January 2011, that went to effect.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -813-

1 Before January 2011, were there any pharmacies that had
2 voluntarily elected to use that database system?

3 A. Yes, there were several pharmacies. There's
4 pharmacies like CVS and Rite Aid. They've been on the
5 system for years prior to their requirement. Prior to
6 that, there was just a requirement that they document this,
7 but there are several pharmacies such as Walmart who
8 weren't on the APRIS system. But anticipating that the law
9 was going to be passed, and they were going to be forced to
10 switch to the system starting January 1st of 2011, they
11 came online with the APRIS system, you know, and Walmart in
12 particular in the Walmart area, or the area in York County,
13 I apologize, they actually came on mid-December is when
14 they first started reporting. And several other pharmacies
15 first started reporting to the APRIS system. They might
16 have come online a little bit earlier than January 1st,
17 2011.

18 Q. And so, I guess, to summarize that, after January 1st,
19 2011, every pharmacy is going to be in that APRIS's
20 database?

21 A. That is correct. Every pharmacy is going to be in
22 that database. There are some exceptions to it, and those
23 are -- usually exceptions are documented as places that
24 sell single-dose units.

25 MS. COLTON: I'm going to cut you off right there

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -814-

1 because --

2 I don't think any of that information is going to come
3 up, Judge. And I don't think it's good to have that
4 information out at this point.

5 THE COURT: All right.

6 MS. COLTON: But you don't have any objection to that?
7 You don't have any objection to that?

8 MR. BROWN: I couldn't hear you.

9 MS. COLTON: I asked him not to go into that.

10 MR. BROWN: Okay.

11 MS. COLTON: Okay.

12 Q. But as far as the pharmacies in York County, all their
13 information is going to be found after January 1st, 2011 in
14 an APRIS report?

15 A. That is correct.

16 Q. Before January 2011, CVS and Rite Aid are going to be
17 in that APRIS's report?

18 A. That is correct.

19 Q. And then before January 2011, Walgreens, Target,
20 Walmart, their going to come into -- they're going to come
21 online at various points.

22 A. That is correct.

23 Q. So APRIS - any APRIS reports that you have can contain
24 -- will contain Rite Aid, CVS and may contain some
25 Walmarts, may contain some K-mart, et cetera, from various

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -815-

1 dates.

2 A. That is correct.

3 Q. And you accumulated those -- well, as far as APRIS
4 goes, who's the county administrator for APRIS?

5 A. I am.

6 Q. And who determines who has access to APRIS?

7 A. I do.

8 Q. And you can access that anytime, block access for
9 other people as well?

10 A. That is correct.

11 Q. And in your investigation, did you go through the
12 APRIS database and look at Mr. Johnson and various other --
13 Mr. Johnson and Ms. Quinn, et cetera, did you look for
14 their records of Sudafed purchases?

15 A. I did.

16 Q. And in addition to the APRIS system and looking it up
17 that way, how did you get the records that predated January
18 of 2011 from those individual pharmacies?

19 A. What I would have to do is I actually have to manually
20 go out to those individual pharmacies, and I'd have to pull
21 their records. They're required to maintain their records.
22 So I'd actually have to go out there and physically request
23 to get a copy of those records through the -- that
24 pharmacy.

25 Q. I don't know why I didn't make you carry this up.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -816-

1 MR. BROWN: Your Honor, may we approach?

2 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
3 THE JURY AT 10:25 AM.)

4 Q. Detective Schifferle -

5 MR. BROWN: Your Honor, I would also ask that these be
6 the time frame that we talked about.

7 MS. COLTON: Your Honor, with the APRIS - well, let's
8 approach about that.

9 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
10 THE JURY.)

11 Q. Detective -- Investigator Schifferle, did you go to
12 Walmart and obtain their records?

13 A. Yes, I went to Walmart several times to obtain records
14 throughout my investigation.

15 Q. And Walgreens?

16 A. Yes.

17 Q. BiLo?

18 A. Yes.

19 Q. How many pharmacies did you go -- how many pharmacies
20 in the county did you go to in York County, to go and get
21 those paper files for your investigation?

22 A. I'm not sure, exact number.

23 Q. About every one? Would that be accurate?

24 A. That would be correct.

25 Q. And each time you went there, you'd have got -- have

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -817-

1 the list of every person that's purchased Suda and used
2 their ID, in your accounting.

3 A. That's correct. I was investigating the
4 pseudoephedrine purchases in York County. So I'd get a
5 copy of all of them.

6 Q. And when you got those copies of all of them, did you
7 look through every single one of those records?

8 A. I looked through a majority of them. It was -- The
9 quantity of records I would get was gigantic.

10 Q. And did you combine that and the APRIS records? Did
11 you run APRIS records on individuals as well?

12 A. I did.

13 Q. And based upon all that, were you able to compile a
14 database that took each of those pharmacies that you had to
15 look at and the APRIS results and put them into one
16 database where everyone's record will be from APRIS and
17 from each one of those individual pharmacies? Do you have
18 a database that basically brings all of that information
19 together?

20 A. Yes.

21 Q. And do you review that database to make sure that it
22 accurately reflected what was in all of these files from
23 the individual pharmacies and APRIS?

24 A. Yes.

25 Q. And in reviewing that database, did you begin to see

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -818-

1 patterns in there?

2 A. I did.

3 Q. What types of patterns did you start to see in this
4 database based -- that's based upon these results from the
5 pharmacies?

6 A. Well I'd see suspicious patterns, basically, groups of
7 people that are acquainted with each other, friends, family
8 members going to the pharmacies in intervals of time. You
9 know, when you see two people I know are acquaintances, and
10 they go to a -- the same pharmacy within 15 minutes of each
11 other, sometimes even 45 minutes of each other, and they
12 buy the same thing, that's suspicious to me. When I would
13 see people from the same residence, you know, going there,
14 obviously if one person at the residence is buying a box of
15 pseudoephedrine, there's pseudoephedrine in the house, then
16 you have three more people from the same house going to the
17 pharmacies and buying pseudoephedrine, that's suspicious to
18 me as well. When I just see known associates going to the
19 pharmacies and gathering large quantities of
20 pseudoephedrine, that is suspicious to me.

21 Q. And in these -- in developing these patterns, it's not
22 just a husband and wife may go and buy a box of Sudafed
23 because one's on one side of the store, one's on the other
24 side of the store. Are you looking for patterns over time
25 as well?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -819-

1 A. That's correct.

2 MR. BROWN: Your Honor, I'm going to object to this.
3 I think we're way afield here. He's speculating at best as
4 to how all this came to being. I'm going to ask that he be
5 restricted to what he found. What he -

6 THE COURT: I think he can explain how he compiled the
7 information he had, and what allowed him to do that.

8 MS. COLTON: That's all he's proffering before Your
9 Honor.

10 THE COURT: Please proceed.

11 MS. COLTON: Thank you, Your Honor.

12 Q. And so you look for long-term patterns over periods of
13 time?

14 A. That is correct.

15 Q. And that's -- and did that trigger some investigations
16 for you into other cases as well?

17 A. That is correct.

18 Q. And in doing so, did you find occasions where people
19 would go to multiple stores to buy Sudafedra?

20 A. I did.

21 Q. With different people going at each time and patterns?

22 A. Correct.

23 Q. And that would be something that you would be looking
24 for?

25 A. That is true.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -820-

1 Q. And when you became involved in this case, did you
2 look at the Sudafed records for Mr. Jason Johnson?

3 A. I did.

4 Q. Did you look at the Sudafed records for Corey Catoe?

5 A. I did.

6 Q. Brandy Quinn?

7 A. I did.

8 Q. All their known associates?

9 A. I did.

10 Q. And in doing so, did you compile a summary from based
11 on that database? Do you have a summary that accurately
12 reflects the information that you obtained from all the
13 pharmacies?

14 A. I do.

15 MR. BROWN: Your Honor, subject to our previous
16 conversation, she's going to fix it up later.

17 THE COURT: I understand.

18 As I understand it, the list that you're offering is
19 stipulated by parties that they're based on other larger
20 records in the box; are they not? That he compiled?

21 MS. COLTON: Yes, Your Honor.

22 (WHEREUPON: STATE'S EXHIBIT NUMBER SEVENTY-FOUR,
23 SEVENTY-FIVE, SEVENTY-SIX, PREMARKED FOR IDENTIFICATION.)

24 Q. Investigator Schifferle, I'm going to show you what's
25 been marked for identification purposes as State's Seventy-

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -821-

1 six. Do you recognize what that document is?

2 A. I do. It's the database that is collected throughout
3 the investigation of the pseudoephedrine records.

4 Q. And when you took the database and compiled that
5 database, what individuals did you include in that
6 database?

7 A. Other known associates of Mr. Johnson.

8 MR. BROWN: Objection, Your Honor. He doesn't know
9 who associated with Mr. Johnson, unless he personally knows
10 or observed it himself. This is speculation at best,
11 highly prejudicial.

12 THE COURT: Well I think you have to -- the objection
13 is proper in that he has to lay a foundation as to who he
14 is talking about and how they're related.

15 MS. COLTON: Okay.

16 Q. Did you have an opportunity to speak to Mandy Caudle?

17 A. I did.

18 Q. And did you have an opportunity to speak to Brandi
19 Quinn?

20 A. I did.

21 Q. Did you have an opportunity to speak to Brittany
22 Simmers?

23 A. I did.

24 Q. Lisa Simmers. Or with --

25 A. I apologize. I actually haven't spoke to Brittany

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -822-

1 Simmers. I actually spoke to Lisa Simmers.

2 Q. Lisa not Brittany. Christopher Matusz?

3 A. Yes.

4 Q. And based upon the information that you obtained from
5 them and the people that they indicated that they saw
6 or had boxes come from, did you put their names into your
7 database?

8 MR. BROWN: Objection, hearsay.

9 THE COURT: Overruled.

10 Q. Is that how you created your database?

11 A. Yes.

12 Q. And when you looked at that database, did you discover
13 what -- well to you based upon your training experience,
14 patterns of behavior up here in that database?

15 A. Yes.

16 Q. And what types of patterns of behavior did you
17 observe?

18 A. I observed people buying from the same pharmacies. I
19 observed people buying from the same pharmacies within
20 certain time frames. I've seen people in other -- you
21 know, buy in groups, things of that sort.

22 Q. And let me refer you to January 19th. Is your
23 database organized by date?

24 A. It is.

25 Q. On January 19th of 2011 -- are you there?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -823-

1 A. Yes.

2 Q. Walmart on Dave Lyle. Who -- does Shelley Pettigrew
3 make a purchase at 9:43 a.m.?

4 A. Yes.

5 Q. What time does Michael Nelson make a purchase on that
6 same day on Dave Lyle?

7 A. At 9:47 a.m.

8 Q. Four minutes later?

9 A. That's correct.

10 Q. And do you know the name Michael Nelson?

11 A. I do.

12 Q. Was that one of the -- where -- have you seen that on
13 an ID or anything else?

14 A. Yeah.

15 MR. BROWN: Same objection, Your Honor. I haven't
16 heard Michael Nelson's name in this trial that I remember.

17 MS. COLTON: The fake ID, Your Honor, had Michael
18 Nelson's name on it, his client's picture on it.

19 THE COURT: All right. Overruled.

20 BY MS. COLTON:

21 Q. And then, let's move on the same date, the Target in
22 Rock Hill at 9:58 a.m.

23 A. That's correct. I show that Shelley Pettigrew was
24 blocked when she attempted to purchase.

25 Q. She attempted to purchase. Okay. And then on that

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -824-

1 same day, 10:16 a.m., the Rite Aid in Rock Hill, does
2 Michael Nelson attempt or purchase Sudafed?

3 A. Yes, he attempted but was blocked.

4 Q. And that same date at 4:33 p.m., does Brandi Quinn
5 attempt to make a purchase and/or purchase at the Walmart
6 on Dave Lowell?

7 A. That is correct.

8 Q. I'm going to fast-forward you to February. On
9 February 25th, does Mickey Thomas make a purchase at the
10 Target in Rock Hill?

11 A. He does.

12 Q. On the 26th of -

13 MR. BROWN: Your Honor, the same objection, just so I
14 don't have to get up and continue throughout this
15 testimony.

16 THE COURT: Noted for the record. Over ruled.

17 BY MS. COLTON:

18 Q. On February 26th at the Walmart on Dave Lowell at
19 12:59 p.m., does Jason Johnson make a purchase of Sudafed?

20 A. He does.

21 Q. And is that the day before they're arrested on the
22 27th?

23 A. It is.

24 Q. Now in reviewing this Sudafed box, the names that were
25 on the ID's that were recovered by Officer Cribb and

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -825-

1 Investigator Oliver that they took into their custody, did
2 you pull the Sudafed logs on those names?

3 A. I did.

4 Q. And one of the ID's recovered on -- two sets of ID's,
5 I believe, the Nelson and the Bingham ID's were recovered
6 on February 8th, 2011?

7 A. That's correct.

8 Q. Were those ID's -- do those names appear in your APRIS
9 logs or any other logs after that date that they were
10 recovered?

11 A. No, they don't.

12 Q. And with regard to the fake ID's that were taken on
13 December 23rd, 2010, that would be Bingham, the ID that
14 depicted Mr. Johnson and Christopher Davis, the ID that
15 depicted Mr. Corey Catoe. After December 23rd, when those
16 ID's were taken into law enforcement custody, did those
17 ID's ever appear in your Suda log, again being used by
18 Sudafedra?

19 A. No, they did not.

20 Q. Let me put you back to December 17th, 2010. You with
21 me?

22 A. Yes.

23 Q. Okay, sorry. At the Walmart on Dave Lowell, at 7:43
24 p.m., Joshua Johnson purchased Sudafedra?

25 A. That's correct.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -826-

1 Q. 7:47, Christopher Davis purchases Sudafedra?

2 A. That is correct.

3 Q. And 7:49, Jason Johnson purchases Sudafedra?

4 A. That is correct.

5 Q. And on the 26th of December, if you can look at the
6 26th of December for me.

7 A. That's correct.

8 Q. Walmart, Dave Lyle, the 3:20 and 3:20 -- it was 3:20
9 and 3:32 p.m. did Brandi Quinn and Michael Nelson purchase
10 Sudafedra?

11 A. I apologize. Could you repeat that?

12 Q. On December 26th at the Walmart, Dave Lowell?

13 A. That is correct.

14 Q. And at Target at Rock Hill at 5:58 p.m.?

15 A. On that same day?

16 Q. On that same day.

17 A. Yes.

18 Q. Michael Nelson and Brandi Quinn?

19 A. That is correct.

20 Q. I'm going to direct you back to one more date, and
21 just bear with me. November 3rd, 2010, at Target, Rock
22 Hill at 11:02 a.m. and 11:04 a.m. are purchases made by
23 Troy Carter and James Bingham?

24 A. That is correct.

25 Q. And at 11:21 a.m. is a purchase made at Walmart, Dave

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -827-

1 Lowell by Troy Carter?

2 A. That is correct.

3 Q. And at Walmart in Stonecrest, which is in Tega Cay at
4 12:04 p.m. is a purchase made by Troy Carter?

5 A. It is.

6 Q. And three minutes later by James Bingham?

7 A. It is.

8 Q. And at Walmart, Newport at 1:18 p.m., does Corey Catoe
9 purchase Sudafedra?

10 A. He does.

11 Q. And at the Walmart in Lake Wiley at 2:07 p.m., does
12 James Bingham make another purchase?

13 A. He does.

14 Q. And at 12:15 p.m. at the Walmart, same Walmart in Lake
15 Wiley as James Bingham, does Corey Catoe make a purchase of
16 Sudafedra?

17 A. He does.

18 Q. And James Bingham is the name that appeared in that
19 fake ID with a picture of Mr. Johnson in that ID. Correct?

20 A. That is correct.

21 Q. Investigator Schifferle, on November 9th, on these
22 following dates, was Mr. Johnson -- Jason Johnson out of
23 the area? I'm going to start with November 9th.

24 A. He was.

25 Q. November 9th, 2010?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -828-

1 A. He was.

2 Q. December 23rd and 24th, 2010?

3 A. He was.

4 Q. February 8th through February 18th, 2011?

5 A. He was.

6 Q. And January 1st through January 12th of 2011?

7 A. He was.

8 Q. And during those dates, were there any pseudo
9 purchases made by anyone that you investigated? Her name
10 has come up -- name came up in this investigation that you
11 include in that database. Is there anybody's name in your
12 database that makes purchases during that time with the
13 exception of February 10th? Look at February 10th.

14 A. That is correct.

15 Q. Was there a February 10th purchase made?

16 A. There was.

17 Q. And who -- and that was at Walmart, Dave Lowell at
18 10:02 a.m.?

19 A. That's correct.

20 Q. Mick Thomas. And Walmart, Dave Lowell at 10:12 a.m.,
21 Mandy Caudle?

22 A. That is correct.

23 MS. COLTON: Your Honor, at this time, the State would
24 move to enter into evidence, State's Seventy-six subject to
25 what we discussed.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -829-

1 THE COURT: No objection to -

2 MR. BROWN: Yes, Your Honor.

3 THE COURT: All right, sir.

4 (WHEREUPON: STATE'S EXHIBIT NUMBER SEVENTY-SIX
5 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

6 Q. Investigator Schifferle, based upon your training
7 experience, would that be something that you would find
8 suspect?

9 A. I would.

10 MR. BROWN: I object to that question, Your Honor.

11 THE COURT: Overruled.

12 BY MS. COLTON:

13 Q. And based upon your training and experience, would
14 that be behavior that's consistent with drugs -- Sudafedra
15 smurfing?

16 A. It would be.

17 MR. BROWN: Same objection.

18 THE COURT: Overruled.

19 BY MS. COLTON:

20 Q. How long did it take you to go through all those
21 records?

22 A. A very long time.

23 Q. And I'm not going to ask you to go through each one of
24 those, the dates and the purchases, et cetera, but in
25 reviewing that document, reviewing State's Exhibit Seventy-

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -830-

1 six, what it is, your summary, did you find the same types
2 of behavior with Christopher Matusse and the individuals
3 that he indicated that he received Suda boxes from?

4 A. I did.

5 MR. BROWN: Same objection.

6 THE COURT: Overruled.

7 BY MS. COLTON:

8 Q. Investigator Schifferle, you actually went on the
9 scene on February 27th to investigate what they found at
10 the Best Way Inn. Correct?

11 A. That is correct.

12 Q. And why were you all called out to that scene?

13 A. I was called by Investigator Allen, who was my
14 partner, because he had information that there was a
15 methamphetamine lab inside the room.

16 Q. And you got called out to investigate because you're
17 the meth guy?

18 A. That is correct.

19 Q. And when you arrived on the scene, what did you see at
20 the scene?

21 A. While I was on scene, Ms. Quinn was already
22 transported. I met with Deputy Clark. I believe Deputy
23 Shealy was there, Deputy Stagner, patrol cars were parked
24 outside the motels, and the defendant Jason Johnson was in
25 the back of the patrol car with Corey Catoe.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -831-

1 Q. And had the lawful search warrant already been
2 executed when you arrived?

3 A. It had.

4 Q. And based upon that, you began to process the room for
5 methamphetamine -- your methamphetamine investigation?

6 A. Actually what we did because of the hazard of a
7 methamphetamine lab, frequently I get called to evaluate
8 whether there is a meth lab or whether there isn't. I was
9 informed by Pete Branham who was formerly certified to
10 investigate meth labs that he believed it was.

11 MR. BROWN: I'm going to object to hearsay, Your
12 Honor.

13 THE COURT: That's not offered for the truth of the
14 matter asserted. Overruled.

15 A. I then went inside the room, examined the container,
16 and based on that I believed it was a meth lab. I then
17 exited the room, and we called a cleanup team to come out
18 and basically clean up the container.

19 Q. And is that part of your protocol?

20 A. It is.

21 Q. And are you allowed to do any of that yourself?

22 A. I can handle the items, but I don't -- I don't dispose
23 of them. I don't deal with the hazardous waste portion of
24 it.

25 Q. And when the cleanup crew arrives, what do you all do?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -832-

1 A. Basically when the cleanup arrives, I go over there, I
2 meet with them, explain to them what we have. They come in
3 there with their protective gear on. I assisted them.
4 They went over there. The bottle was currently laying on
5 the ground, they righted it. I document it with pictures.
6 While they were present, we withdrew a sample of the fluid
7 that was inside the container, and we withdrew the sample.
8 I took that sample, and they gathered up the rest of the
9 hazardous waste from the room.

10 Q. And when you say you drew a sample, how do you -- I'm
11 going to show you State's Twenty-six. Do you recognize
12 that?

13 A. I do.

14 Q. And where do you recognize that from?

15 A. That is the bottle that was found in the room.

16 Q. Does that truthfully and accurately depict what you
17 found -- what was found in the room?

18 A. It does.

19 Q. Okay.

20 MS. COLTON: And, Your Honor, at this time, we move to
21 enter State's Twenty-six into evidence.

22 MR. BROWN: Subject to my previous objection, Your
23 Honor.

24 THE COURT: Okay. Subject to objection, overruled.

25 (WHEREUPON: STATE'S EXHIBIT NUMBER TWENTY-SIX

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -833-

1 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

2 Q. Investigator Schifferle, whose hands are those?

3 A. That is actually a lab technician.

4 Q. Could -- are you allowed to handle the outside of the
5 bottle?

6 A. I can actually handle it, but I -- my partner Josh
7 Welch that normally assists me in this, he was actually out
8 of town at the time. So I was only one person. So I
9 waited until they got there. But I can actually handle the
10 outside of the container.

11 Q. In this particular case, how would you extract -- or
12 did you extract the sample from this bottle?

13 A. I actually requested this sample be drawn, from the
14 lab technician that was there. I was present with him when
15 he inserted a fresh and clean -- I apologize, the name has
16 slipped my mind. It's basically like a turkey baster. But
17 he withdrew a liquid sample from the bottle, and I provided
18 a sanitary container to put it inside.

19 Q. And when you put it in the sanitary container, did
20 you -- what did you do with the sanitary container?

21 A. I basically -- I sealed the container, and I secured
22 it inside my vehicle.

23 Q. And did you keep that in your sole care and custody?

24 A. I did.

25 Q. And who did you give it to? Do you recall?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -834-

1 A. After we got done processing the scene, we went back,
2 and I eventually turned it over to Investigator Allen.

3 Q. And what happened to that bottle? Where did it go?
4 Did you keep it?

5 A. No, that bottle is actually hazardous waste, and it's
6 extremely dangerous in the state that it was in. So it was
7 actually -- the hazardous waste company did the best that
8 they could to neutralize it, and then they secured it
9 inside a safe container so they could transport it to a
10 waste management facility to dispose of it properly.

11 Q. Investigator Schifferle, I'm going to ask you to step
12 down and over here.

13 (WITNESS LEFT WITNESS STAND.)

14 Q. I want you to take the pointer and tell the jury
15 everything that's in there.

16 A. Well in this particular bottle, it's actually a liquor
17 bottle.

18 MR. BROWN: Your Honor, I'm going to object to this
19 because he's not the chemist. I mean, he can tell what he
20 saw, but I don't know he knows everything that's in there,
21 is the question were phased.

22 MS. COLTON: I can -- I'll do a foundation for it,
23 Your Honor, for it.

24 THE COURT: Please.

25 Q. Detective -- Investigator Schifferle, will you please

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -835-

1 take your seat, please?

2 (WITNESS RETURNED TO WITNESS STAND.)

3 MS. COLTON: And, Madame Clerk, can you please bring
4 the lights up?

5 MADAME CLERK: Back down or up?

6 MS. COLTON: It's okay where it is.

7 Q. And investigating a methamphetamine lab, and based
8 upon your training and experience, what types of labs are
9 there out there?

10 A. There are several different types of labs. There's
11 actually over 30 different ways to manufacture meth that I
12 learned in my training.

13 Q. And do you -- did you recognize this particular method
14 of methamphetamine production?

15 A. I did.

16 Q. Can you tell the jury based upon your training and
17 experience, what type of methamphetamine production lab
18 this one is?

19 A. This is a one-pop meth lab.

20 Q. And in the one-pop process, how does that work? What
21 do they do to make methamphetamine in the one-pop process?

22 A. Basically what they're going to do is they're going to
23 take the ephedrine product or pseudoephedrine product, and
24 they'll convert it into methamphetamine through the process
25 of cooking it. What they do is they take a container. It

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -836-

1 can be several different things. It can be a glass wine
2 jug. It can be a liquor bottle. It could be a 2-liter
3 bottle. They're going to take the bottle. They're going
4 to take the pills, the pseudoephedrine pills that they're
5 gather -- get from a pharmacy. And they have several
6 options what they can do. They can grind them up, and they
7 can put them in the container. Some people put the pills
8 straight into the container. Some people actually extract
9 the ephedrine out of the pills before they're actually
10 added into the container through another step. They add
11 the ephedrine inside the container. Then also inside the
12 container, they add lithium. Lithium is basically a metal
13 that you -- commonly found in batteries.

14 Q. Where else can lithium be found?

15 A. You can get lithium from other areas. Based on my
16 training and experience in meth labs, one of the meth labs
17 I went to, they were actually extracting lithium batteries
18 from electronics. So that was a source of lithium that,
19 that person was trying to extract the lithium from.

20 So they take the lithium, they insert it inside the
21 bottle along with the pseudoephedrine. They're also going
22 to add in ammonium nitrate from cold packs. Basically a
23 cold pack is basically something that you buy at the store.
24 And when you break it, it turns cold. It's one of those
25 one-time use only containers. So they're going to cut that

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -837-

1 open. They're going to pour the contents inside of it
2 minus the water pack that's inside of it, or the substances
3 inside the little plastic thing, you wouldn't want to put
4 that in there. But you're going to add that inside the
5 container. You're going to put some Coleman camp fuel or a
6 solvent inside of it. You can also put paint thinner, and
7 there's other solvents you can use. And then from there,
8 you're going to add in your Drano or your lye. And you put
9 it in inside of this container. You add a little bit of
10 water to it, and that basically starts the reaction. It
11 accelerates it.

12 Q. And it -- that's where that was. This bottle was at
13 that stage of production?

14 A. It's actually after that stage of production where the
15 reaction has already occurred.

16 Q. And by the reaction, the pseudoephedrine has now been
17 converted in methamphetamine?

18 A. That is correct.

19 Q. The little black pieces in there, what's that?

20 A. That is what I believe is leftover lithium metal.

21 Q. And is that the aspect of it that you're cautious
22 about handling?

23 A. I am.

24 Q. Why?

25 A. Because lithium metal is reactive with water. So

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -838-

1 it's -- it will catch fire if it's exposed to moisture or,
2 you know, water.

3 Q. And the stuff on the bottom, the pink and white stuff
4 on the bottom, what's the pink and white stuff on the
5 bottom?

6 A. I believe that's the ground up pills.

7 Q. And do you -- did you identify the type of solvent
8 used in this?

9 A. I did not.

10 Q. And what's the gold stuff on top?

11 A. The gold stuff, from my training, they've said that
12 it's leftover lithium that's part of the metal. At this
13 lab I was concerned that there's also possibly some
14 contaminants in it from whatever they used wherever they
15 extracted the lithium from.

16 Q. And why did you keep ---

17 THE COURT: Can I interrupt just a minute?

18 MS. COLTON: Yes, sir.

19 THE COURT: When you say the lithium in the batteries,
20 electronic, what are you talking about?

21 THE WITNESS: Certain electronics contain lithium
22 batteries.

23 THE COURT: Such as, electronics?

24 THE WITNESS: The case that I -- was actually a TV
25 that had lithium batteries where the person was extracting

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -839-

1 the lithium batteries from the TV.

2 Q. And what other types -- based upon your training and
3 experience, what other types are you aware of batteries
4 being contained in other types of electronics, if you could
5 be specific about that. Okay?

6 A. Yeah. I know cell phones contain -- cell phone
7 batteries contain lithium. I believe computers contain
8 lithium. I believe there's even some lithium in the small
9 lithium batteries and a lot of things that can be recharged
10 like baby monitors and phones and things.

11 Q. Okay. And why didn't you take -- I'm sorry. I
12 thought I asked you this. Why didn't you take this whole
13 bottle into evidence?

14 A. Well, basically, that bottle -- it's one -- it's
15 hazardous because of the substances that are inside of it.
16 You know, you have extreme acids and bases inside. And
17 then too, it's basically like a small bomb.

18 Q. And why -- how does that function? How is it a danger
19 to you when you're investigating this?

20 A. When you add Coleman camp fuel, Coleman camp fuel is a
21 fuel. All right? So it's something that will catch fire.
22 The lithium when you ---

23 MR. BROWN: I'm going to object, Your Honor. There's
24 no evidence there's any Coleman fuel in there. This is
25 pure speculation, highly prejudicial.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -840-

1 THE COURT: Well, I'm going to sustain the objection.
2 There's no evidence that he would know the solvent that was
3 used in there.

4 MS. COLTON: Yes, sir. Okay.

5 Q. If there is a solvent, whatever the solvent is that's
6 used to extract, to transport it, okay? That's
7 inflammable?

8 MR. BROWN: Your Honor, I'm going to -- same
9 objection.

10 THE COURT: Overruled.

11 BY MS. COLTON:

12 Q. And the solvent being flammable -- I'm sorry. Please
13 tell the jury why this is a potential danger, and why you
14 are concerned, and why you didn't take it into evidence.

15 A. Well on top of it being a hazardous issue as far as
16 the container, the substances are inside of it, the
17 solvent. Based on my training, I learned that the
18 solvents, most of them are flammable. And the lithium
19 strips when they react to the water that's added inside of
20 it, will spark inside the container. All right? Obviously
21 if there is a spark created in open air environment, you
22 know fire needs, it needs oxygen. You know, which a lot of
23 times when it's in the closed container, it prevents a lot
24 of oxygen from getting inside the container, which it could
25 cause an explosion if it was introduced.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -841-

1 Q. And you didn't take this into evidence and fingerprint
2 it. Correct?

3 A. No.

4 Q. Because where was it? Where was it after you were
5 done having the sample extracted?

6 A. It was put into the hazardous waste.

7 Q. I'm going to show you State's Twenty-two, State's
8 Twenty-one, State's Twenty, State's Nineteen, State's
9 Eighteen, and State's Seventeen. Can you look through all
10 of those exhibits and tell me if they truthfully and
11 accurately reflect what you saw in the room when you
12 investigated the room?

13 A. Now, State's Nineteen was not actually taken inside
14 the room.

15 Q. Where was that taken at?

16 A. That was taken back at the narcotics office.

17 Q. And did you have an opportunity to see that picture be
18 taken or review those pictures?

19 A. I was the one that actually took this picture.

20 Q. Does this truthfully and accurately reflect what you
21 took a picture of?

22 A. Yes.

23 Q. And you saw that? Did you see that in the room too?
24 Did you recover it from the room?

25 A. I did. These are.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -842-

1 MS. COLTON: With regard to State's Eighteen --
2 Seventeen, Eighteen, Nineteen, Twenty, Twenty-one, and
3 Twenty-two, Your Honor, I do not believe all of these have
4 been entered into evidence. At this time, the State would
5 move to enter them into evidence.

6 THE COURT: Any objections, Mr. Brown?

7 MR. BROWN: Subject to my previous objection, Your
8 Honor.

9 THE COURT: Okay. In over objection.

10 (WHEREUPON: STATE'S EXHIBIT NUMBERS SEVENTEEN,
11 EIGHTEEN, NINETEEN, TWENTY, TWENTY-ONE, TWENTY-TWO
12 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

13 Q. Can you step down here, please?

14 (WITNESS LEFT WITNESS STAND.)

15 Q. I don't know if -- I'm going to take a chance.

16 Investigator Schifferle, State's Twenty-two, did you
17 recover that item?

18 A. I did.

19 Q. Can you show it to the jury so everybody can see it?

20 (STATE'S EXHIBIT TWENTY-TWO PUBLISHED TO THE JURY.)

21 Q. And did you determine those to be real ID's or fake
22 ID's?

23 A. Fake ID's.

24 Q. And they were recovered from Best Way Inn. Correct?

25 A. That is correct.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -843-

1 Q. And then State's Twenty, that's just a different
2 picture of it. What's that -- what did that appear to be
3 to you on the right-hand side of State's Twenty? Show the
4 jury, please.

5 (STATE'S EXHIBIT TWENTY PUBLISHED TO THE JURY.)

6 A. On the right-hand side, are you referring to this?

7 Q. Well -

8 A. Okay.

9 Q. And I think this is a better picture, State's
10 Nineteen. Show them what that's a picture of.

11 (STATE'S EXHIBIT NINETEEN PUBLISHED TO THE JURY.)

12 A. On this piece of paper, it looks like there's cursive
13 handwriting that appear to be signatures.

14 Q. And then State's Eighteen.

15 (STATE'S EXHIBIT EIGHTEEN PUBLISHED TO THE JURY.)

16 Q. Do you recognize State's Eighteen, so I can tell the
17 jury what State's Eighteen is.

18 A. Yes, those are the fake identification cards I found
19 in the room.

20 Q. And those aren't the ones that -- which you saw in the
21 previous picture and the printout. Those are -- have been
22 laminated; is that correct?

23 A. That is correct.

24 Q. And State's Twenty-one, did you recover that from the
25 room as well?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -844-

1 (STATE'S EXHIBIT TWENTY-ONE PUBLISHED TO THE JURY.)

2 A. I did.

3 Q. Did you know who Jonathan - is?

4 A. I do not.

5 Q. Has his name ever come up in your investigations,
6 Sudafed investigation?

7 A. I can't actually remember.

8 Q. Do you recognize that?

9 A. Recognize this item?

10 Q. Yeah, that name? To the best of your recollection, if
11 you don't that's okay.

12 A. No, I can't. I apologize.

13 Q. Investigator Schifferle, I'm going to show you State's
14 Forty-seven, State's Forty-eight. Do you recognize those
15 items?

16 A. I do.

17 Q. And what are they?

18 THE COURT: Before you show them -

19 MS. COLTON: Oh, I'm sorry.

20 THE COURT: Let's see.

21 MS. COLTON: I think I showed you them already; didn't
22 I?

23 MR. BROWN: Were these allegedly found in the room?

24 MS. COLTON: Yes, they were.

25 MR. BROWN: Subject to my previous objection, Your

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -845-

1 Honor.

2 BY MS. COLTON:

3 Q. Investigator Schifferle, did you find those -- did you
4 recover those items from the room?

5 A. I did.

6 Q. And do they truthfully and accurately reflect what you
7 saw in the room on that day?

8 A. Yes.

9 Q. Did you take those pictures?

10 A. Yes.

11 MS. COLTON: Your Honor, at this time, the State would
12 move to enter into evidence, State's Forty-seven and
13 State's Forty-eight.

14 THE COURT: Admitted over objection.

15 MS. COLTON: We ask that we be able to publish that to
16 the jury, Your Honor.

17 THE COURT: You may publish it.

18 (WHEREUPON: STATE'S EXHIBIT NUMBERS FORTY-SEVEN AND
19 FORTY-EIGHT IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

20 Q. Let's start with State's Forty-seven. Okay?

21 (STATE'S EXHIBIT FORTY-SEVEN PUBLISHED TO THE JURY.)

22 Q. Tell the jury -- you can probably stand over here,
23 they may be able to see it better.

24 What ID is that?

25 A. That's an ID for Kilson Craig.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -846-

1 Q. Do you know who Kilson Craig is?

2 A. No.

3 Q. Was he recovered in the room?

4 A. No, he wasn't.

5 Q. Does his name ever come up in your investigations to
6 the best of your knowledge?

7 A. No.

8 Q. And State's Forty-eight, do you recognize what State's
9 Forty-eight is?

10 (STATE'S EXHIBIT FORTY-EIGHT PUBLISHED TO THE JURY.)

11 A. Yes, it's a actual -- it's a case of beer. They
12 were -- I guess there was trash.

13 Q. Investigator Schifferle, I'd ask that you take your
14 seat, please.

15 (WITNESS RETURNS TO WITNESS STAND.)

16 Q. At this time, I'm going to show you what's been marked
17 for identification purposes as State's Thirty-seven. Do
18 you recognize those items?

19 A. Yes.

20 Q. Tell the jury what -- how you recognize those items
21 contained therein.

22 A. They were two fake drivers' licenses that were found
23 on the night stand.

24 Q. Okay.

25 A. I apologize. There are actually three fake drivers'

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -847-

1 licenses.

2 Q. Can you take those out?

3 MS. COLTON: Well, at this time, the State would move
4 to enter into evidence and publish to the jury, Your Honor,
5 State's Thirty-seven.

6 MR. BROWN: Subject to my previous objection.

7 THE COURT: Admitted over objection.

8 (WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-SEVEN
9 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

10 MS. COLTON: And I'm sorry to make you do this again,
11 but could you please step down?

12 (WITNESS LEAVES WITNESS STAND.)

13 Q. I'm going to show you State's Eighteen as well.

14 (STATE'S EXHIBIT NUMBER EIGHTEEN PUBLISHED TO THE
15 JURY.)

16 Q. And is that a picture of those fake ID's that you
17 took?

18 A. Yes.

19 Q. Truthful and accurate?

20 A. Yes.

21 MS. COLTON: The State would move to enter into
22 evidence, Your Honor, State's Eighteen.

23 MR. BROWN: Subject to my previous objection.

24 THE COURT: Entered over objection.

25 (WHEREUPON: STATE'S EXHIBIT NUMBER EIGHTEEN

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -848-

1 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

2 Q. And these ID's are the ones that you recovered from
3 that night stand?

4 A. That is correct.

5 Q. And each one of these ID's have been laminated.
6 Correct?

7 A. That is correct.

8 Q. As well as this second one. And the name on that is?

9 A. Justin Paul Burnette.

10 Q. Do you recognize the individual in that picture?

11 A. I do.

12 Q. Who's that individual?

13 A. Jason Johnson.

14 Q. And the second ID that you recovered that's been
15 laminated?

16 A. Justin Edward Burnette.

17 Q. And do you recognize the individual in that picture?

18 A. I do.

19 Q. Who's that?

20 A. It's Jason Johnson.

21 Q. And do you recognize the name on that?

22 A. Yes. It's Corey Seth Catoe.

23 Q. And is that a picture of Mr. Catoe on that ID?

24 A. Yes.

25 Q. And did you determine that, that is a fake

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -849-

1 identification card, that, that is not a real drivers'
2 license to your investigation?

3 A. Yes.

4 Q. I'm going to show you State's Thirty-five, Thirty-six,
5 and Thirty-eight.

6 MS. COLTON: The cell phones.

7 MR. BROWN: Same objection.

8 THE COURT: Entered over objection.

9 Well, go ahead and lay your foundation. These - how
10 he has knowledge of them.

11 MS. COLTON: Yes, sir.

12 Q. State's Thirty-five, do you recognize State's Thirty-
13 five?

14 A. Yes.

15 Q. What is that?

16 A. It's a Samsung cell phone that I recovered from the
17 table.

18 Q. And State's Thirty-eight?

19 A. It's a Samsung cell phone as well, I recovered from
20 the table.

21 Q. And State's Thirty-six?

22 A. It's a Samsung cell phone that was on the floor in
23 front of the bed.

24 Q. And did you take them into your custody?

25 A. I did.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -850-

1 Q. And you turned them over to Lee Allen?

2 A. I did.

3 MS. COLTON: At this time, Your Honor, the State would
4 move to enter into evidence State's Thirty-five, State's
5 Thirty-six, and State's Thirty-eight.

6 THE COURT: Admitted over objection.

7 (WHEREUPON: STATE'S EXHIBIT NUMBERS THIRTY-FIVE,
8 THIRTY-SIX, AND THIRTY-EIGHT IDENTIFIED AND MARKED,
9 RECEIVED INTO EVIDENCE.)

10 Q. I'm going to show you State's Forty-one. And do you
11 recognize State's Forty-one?

12 A. I do.

13 Q. And did you take that item into evidence?

14 A. I did.

15 Q. And did you give it to Investigator Lee Allen?

16 A. I did.

17 Q. And what is that item?

18 A. It's a package of material.

19 Q. Can you remove that from the packaging, please?

20 (WITNESS OPENED STATE'S EXHIBIT FORTY-ONE.)

21 Q. And where did you find that item?

22 A. It was inside the case of beer that was being used --
23 utilized as a trash can.

24 Q. And what is significant to you as a narcotics
25 investigator about that plastic bag?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -851-

1 A. That the corner of the bag is actually missing.

2 Q. Why is that significant?

3 A. Because typically that's synonymous with drug
4 packaging.

5 Q. Do you commonly find that in distribution
6 investigations?

7 A. I do.

8 Q. Thank you.

9 MR. BROWN: Did you move that into evidence?

10 MS. COLTON: State's Forty-one?

11 MR. BROWN: You did move that in?

12 MS. COLTON: I did.

13 THE COURT: You didn't.

14 MS. COLTON: Your Honor, I'm going to move -- I
15 apologize. I thought I did. I move to enter State's
16 Forty-one, the meth packaging.

17 THE COURT: Same objection?

18 MR. BROWN: Same objection.

19 MS. COLTON: I apologize.

20 THE COURT: Admitted over objection.

21 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-ONE
22 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

23 Q. Investigator Schifferle, could you return to your
24 seat?

25 (WITNESS RETURNED TO WITNESS STAND.)

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -852-

1 Q. Investigator Schifferle, I'm going to show you what's
2 been marked for identification purposes, State's Forty-two.

3 A. Yes.

4 Q. Do you recognize State's Forty-two?

5 A. Yes.

6 Q. What's State's Forty-two?

7 A. That's the sample of methamphetamine from the bottle.

8 Q. And that's the Mason jar you talked about?

9 A. Yes.

10 Q. And when you took the Mason jar, what did you do with
11 it?

12 A. I basically kept it in my care, custody, and control.

13 Q. And did you give it to Investigator Allen?

14 A. Yes.

15 Q. And did anyone else have access to that container
16 while you had it?

17 A. No.

18 Q. Okay.

19 MS. COLTON: Your Honor, at this time, the State would
20 move to enter into evidence State's Forty-two.

21 MR. BROWN: Same objection.

22 THE COURT: Admitted over objection.

23 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-TWO
24 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

25 BY MS. COLTON:

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -853-

1 Q. And the cell phones that you recovered, how do you
2 look at the cell phones that you recovered? How do you
3 review the information in the cell phones that you
4 recovered?

5 A. Well typically I hook the cell phone up to the cell
6 bright you fed system.

7 Q. Tell the jury what the cell bright you fed system is.

8 A. It's basically -- it's a system that has a way of
9 transferring data that's stored on a phone to another
10 device.

11 Q. And did you use that to look at -- examine these
12 phones?

13 A. I did on one of the phones.

14 Q. Do you know whose phone that was?

15 A. That was Jason Johnson's phone.

16 Q. And did that download a significant amount of
17 information?

18 A. It did.

19 Q. And as far as contact lists, phone incoming, out
20 coming, missed phone calls, and text messages, were you
21 able to generate a report from that system?

22 A. I was.

23 (SIDE BAR CONVERSATION BETWEEN ATTORNEYS OFF THE
24 RECORD.)

25 MR. BROWN: Your Honor, I think we have a matter of

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -854-

1 law we need to take up.

2 THE COURT: Madame Forelady, members of the jury
3 panel, we're going to -- excuse me. We're going to go
4 ahead and take a short recess at this time. I have a
5 matter I need to take up with Counsel at this time. It
6 would probably be a good time to just go ahead and take a
7 break in any event, so you may refresh yourselves during
8 the break. We'll probably take about 15 minutes. Thank
9 you.

10 (JURY EXITS COURTROOM AT 11:17 AM.)

11 MR. BROWN: Can I have a couple of seconds?

12 THE COURT: Yes, sir.

13 We're going to take a break anyway. Is there
14 something you want to put on the record about the
15 objection?

16 MR. BROWN: I may not have one, Judge.

17 THE COURT: All right.

18 Officer, you can stand down, Detective, and freshen up
19 during the break. You may not discuss the case with the
20 attorneys.

21 DETECTIVE SCHIFFERLE: Thank you, Your Honor.

22 (COURT IN RECESS AT 11:18 AM.)

23 (COURT BACK IN SESSION AT 11:37 AM.)

24 (DEFENDANT REENTERS COURTROOM AT 11:39 AM.)

25 THE COURT: Are you all ready, Mr. Brown?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -855-

1 MR. BROWN: Yes, sir, one moment please.

2 (PAUSE.)

3 THE COURT: All right, you ready to go?

4 MR. BROWN: Yes, sir, Your Honor.

5 THE COURT: Is there anything you want to put on the
6 record?

7 MR. BROWN: No, sir, Your Honor.

8 THE COURT: Please bring them in please, ma'am.

9 (JURY REENTERS COURTROOM AT 11:40 AM.)

10 THE COURT: You may proceed.

11 MS. COLTON: Yes, Your Honor.

12 DIRECT EXAMINATION - CONTINUED

13 NICHOLAS EDWARD SCHIFFERLE BY MS. COLTON:

14 Q. I have a couple of things from Investigator
15 Schifferle's report, backtracking to that room. State's
16 Forty, do you recognize that?

17 A. Yes.

18 Q. And what is -- what's contained therein?

19 A. This is paperwork relating to the making of fake --
20 fake ID's.

21 Q. And is that the printouts that we've already shown in
22 State's -- the exhibits that we've already show that you
23 talked about, about the printouts of fake ID's and
24 signatures and stuff. You collected those items?

25 A. It is.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -856-

1 Q. Okay.

2 MS. COLTON: Your Honor, at this time, the State would
3 move to enter State's Forty into evidence.

4 MR. BROWN: Subject to previous objections.

5 THE COURT: Okay. Admitted over objection.

6 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY IDENTIFIED
7 AND MARKED, RECEIVED INTO EVIDENCE.)

8 Q. And you handed that to Investigator Allen as well?

9 A. I did.

10 Q. And then you took and brought, made photographs as
11 well?

12 A. Yes.

13 Q. And those are the exhibits you testified to?

14 A. Yes.

15 Q. Okay.

16 (SIDE BAR CONFERENCE BETWEEN ATTORNEYS OFF THE
17 RECORD.)

18 MS. COLTON: Your Honor, these are certified documents
19 under seal. It's State's Fifty-two, and that is a
20 disposition on Ronald Timothy Boozer, conviction date of
21 8-12-2010. The State would move to enter that into
22 evidence at this time, State's Fifty-two.

23 MR. BROWN: Without objection.

24 THE COURT: Admitted without objection.

25 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-TWO,

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -857-

1 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

2 MS. COLTON: And a certified document under seal,
3 State's Fifty-four. And that would be the bond for James
4 Christopher Matusse for a similar burglary and conspiracy
5 charges that he received a bond on July 1st of 2010. Your
6 Honor, we would move to enter Fifty-four into evidence.

7 MR. BROWN: Without objection.

8 THE COURT: Admitted without objection.

9 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-FOUR,
10 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

11 MS. COLTON: And then, the bond paperwork of Ronald
12 Timothy Boozer, State's Exhibit Fifty-three. We move to
13 enter that certified document under seal into evidence as
14 well, Your Honor.

15 MR. BROWN: Without objection.

16 THE COURT: Be without objection.

17 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-THREE,
18 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

19 MS. COLTON: And on that, Your Honor, indicates that
20 Ronald Timothy Boozer on June 21st, 2010 bonded out of the
21 York County Detention Center.

22 Q. When you were on scene at that room, you investigated
23 the context of the room to the methamphetamine
24 investigation as well. And you were joined by Investigator
25 Lee Allen; is that correct?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -858-

1 A. That is correct.

2 Q. And did you speak to the defendants, Mr. Johnson and
3 Mr. Catoe?

4 A. I did briefly.

5 Q. Briefly. And were you with Investigator Allen when
6 *Miranda* rights were read to Mr. Johnson?

7 A. I was.

8 Q. And was that in the back of Travis Shealy's patrol
9 car?

10 A. It was.

11 Q. Did you observe that on videotape yesterday?

12 A. I did.

13 Q. And in reading the *Miranda* warnings to Mr. Johnson at
14 that time, were those *Miranda* warnings given pursuant to
15 what your language is that you have on your little cards?

16 A. Yes.

17 Q. Did you observe Investigator Allen read off his card?

18 A. I did.

19 Q. And did Mr. Johnson invoke his rights at that time?

20 A. He did not.

21 Q. And did he have any questions for you all?

22 A. He did.

23 Q. Did he invoke his right to remain silent?

24 A. No.

25 Q. Did he ask for an attorney?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -859-

1 A. No.

2 Q. And when he was to the back of the patrol car, he's
3 handcuffed?

4 A. That is correct.

5 Q. And he's not free to leave?

6 A. I apologize. Could you --

7 Q. He's not free to leave at that point?

8 A. He is not.

9 Q. And he's under arrest at that point?

10 A. That is correct.

11 Q. And did you ask him any specific questions? Do you
12 recall?

13 A. Not that I can recall.

14 Q. And during the time that you interacted with him, he
15 waived his rights, et cetera, prior to him speaking to
16 anybody, did anyone threaten him? Did you observe anyone
17 threaten him?

18 A. No.

19 Q. Did you observe anybody coerce him?

20 A. No.

21 Q. Did you observe anybody promise him anything?

22 A. No.

23 Q. You had your fire with you though. Correct?

24 A. I apologize.

25 Q. You had your firearm with you?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -860-

1 A. I did.

2 Q. And where was that?

3 A. It was in my holster on my side.

4 Q. And you had the opportunity to observe all the other
5 officers that were present there?

6 A. I did.

7 Q. And did you see anyone threaten or coerce Mr. Johnson
8 or Mr. Catoe on this -

9 A. No.

10 Q. Did he indicate that he understood his rights?

11 A. I'm not sure. I can't recall.

12 Q. Okay. Did you ask him any questions afterwards?

13 A. I did not.

14 Q. Okay. Did you observe Detective Allen ask him any
15 questions after that?

16 A. I can't recall.

17 Q. Did Mr. Johnson or Mr. Catoe ask you all any
18 questions?

19 A. Yes.

20 Q. What did they ask you?

21 A. They asked me procedural questions. In particular,
22 Jason Johnson asked procedural questions about a search
23 warrant.

24 Q. And was that all you were in here to observe that
25 those tapes play?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -861-

1 A. Yes.

2 Q. And was your conversation captured on those
3 videotapes; do you recall?

4 A. It was.

5 Q. Okay.

6 MS. COLTON: Your Honor, I'm --

7 Q. Investigator Schifferle, I'm going to show you what's
8 been marked for identification purposes as State's Sixty-
9 three, State's Sixty-four, State's Sixty-five, and I'm
10 bringing you back to those cell phones and the records that
11 you pulled off of those cell phones. Okay? Do you
12 recognize those items? Let's start with the first one.
13 What's the first one? Sixty-three?

14 A. Sixty-three.

15 Q. Sixty-three?

16 A. I do.

17 Q. What's State's Sixty-three?

18 A. This is a record of the contact list from that cell
19 phone.

20 Q. And that is a summary, is that not correct, of that --
21 the records from that cell phone. How many entrees were in
22 that -- how many contacts were in that cell phone?

23 A. I believe there were thousands.

24 Q. And did you find in reviewing that, they were the same
25 records over and over again?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -862-

1 A. Yes.

2 Q. And did you review that document and pair it down to
3 where it was just people relevant that, in your belief,
4 that were relevant to this investigation?

5 A. Yes.

6 Q. And so you prepared that document from the larger 3000
7 list of contacts?

8 A. Correct.

9 Q. Were a lot of those numbers repetitive, et cetera.?

10 A. Yes.

11 Q. The way you put them in there?

12 Okay.

13 MS. COLTON: Your Honor, the State would move to enter
14 State's Sixty-three into evidence at this time.

15 MR. BROWN: Your Honor, I'm going to object on my
16 previous grounds, and also that it's speculative at best.
17 It's his interpretation.

18 THE COURT: The Court admits -- admitted over
19 objection. And this is for what it is.

20 MS. COLTON: Yes, sir.

21 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY-THREE,
22 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

23 Q. And State's Sixty-five, can you identify what State
24 Sixty-five is?

25 A. Yes, this is the call log from the calls.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -863-

1 Q. And the calls -- is it just calls -- is it calls in,
2 calls out? What is the call log of?

3 A. It's both incoming and outgoing telephone calls.

4 Q. And is that taken off Mr. Johnson's telephone by you?

5 A. It is.

6 Q. And does it accurately reflect what you took off that
7 phone log?

8 A. Yes.

9 MS. COLTON: At this time, Your Honor, the State moves
10 to enter Sixty-five into evidence.

11 MR. BROWN: Same objection.

12 THE COURT: Admitted over objection.

13 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY-FIVE,
14 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

15 Q. Now State's Sixty-four, do you recognize State's
16 Sixty-four?

17 A. I do.

18 Q. What's State's Sixty-four?

19 A. It's a record of the text messages.

20 Q. That were taken off Mr. Johnson's phone?

21 A. That's correct.

22 Q. And that is exactly how they appeared when you
23 extracted them from his phone?

24 A. That is correct.

25 Q. And that has not been edited or altered in any

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -864-

1 fashion?

2 A. No.

3 Q. Okay.

4 MS. COLTON: Your Honor, at this time, the State would
5 move into evidence State's Sixty-four.

6 MR. BROWN: Same objection.

7 THE COURT: Admitted over objection.

8 (WHEREUPON: STATE'S EXHIBIT NUMBER SIXTY-FOUR,
9 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

10 Q. I want to talk to you a little bit about State's
11 Sixty-four if those are those text messages. And in your
12 training and experience, are you familiar with -- have you
13 had the opportunity to debrief people engaged in drug
14 transactions; is that not correct?

15 A. That is correct.

16 Q. And they -- as a general rule, do they use the same
17 terminology we would think that we would use if you were
18 talking about a drug transaction, civilians?

19 A. No.

20 Q. Do they tend to speak in code?

21 A. Yes.

22 Q. And over time, have you observed in your training
23 that, that type of code seems to be consistent between
24 people engaged in the drug trade?

25 A. Yes.

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -865-

1 Q. For example, if somebody said, "Can you get me
2 straight?" What does that mean?

3 A. To me, that would indicate -

4 MR. BROWN: Your Honor, I'm going to object to this
5 interpretation. I think the document speaks for itself. I
6 would also object on the best evidence rule, the document
7 speaks for itself.

8 THE COURT: Well I will overrule it.

9 If I can suggest, I think you need to lay your proper
10 foundation as to his knowledge and background in that.

11 MS. COLTON: Okay.

12 THE COURT: Before he is able to testify on that.

13 MS. COLTON: Okay.

14 Q. As a narcotics agent, you debrief suspects?

15 A. Correct.

16 Q. People that have used drugs?

17 A. Correct.

18 Q. People that have sold drugs?

19 A. That is correct.

20 Q. How many cell phones do you think that you've reviewed
21 and identified information indicative of drug transactions?

22 A. Over 80 phones.

23 Q. And have you been trained to look for certain keywords
24 and information in those phones?

25 A. I have not specifically been trained, but in my

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -866-

1 experience through looking at those phones, I have found a
2 consistent pattern.

3 Q. And there's certain words or terminology that you've
4 been able to -- that you all as police officers look for.
5 You know the meaning of that?

6 A. That is correct.

7 Q. And it's not the same common meaning that we would
8 have in conversation. It's code.

9 A. That is correct.

10 Q. And looking at the records of the cell phone records
11 from the number 803-370-9736, and that would be call number
12 95, could you turn to that?

13 A. Yes.

14 Q. All right. I'm going to ask you to do something real
15 quick for me. Okay? All the times indicated in that cell
16 phone, it says on that cell phone -- associated with that
17 phone call, it says 7:30 p.m. GMT. What's "GMT" mean?

18 A. Greenwich Mean Time.

19 Q. And what -- for practical purposes, what does that
20 mean if it says 7:30 p.m? What time is that really
21 in --

22 A. Eastern standard time, it's five hours from then. So
23 it would be 2:30 p.m.

24 Q. 2:30 p.m? Okay. And they -- everything's gaged off
25 Greenwich Mean Time?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -867-

1 A. On the cell bright system when it transfers the
2 information, it prints it -- it stores it as Greenwich Mean
3 Time.

4 Q. So basically everything we see on here, if we're going
5 be in our time zone, we've got to subtract five hours from
6 it. Correct?

7 A. That is correct.

8 Q. Okay. And so Greenwich Mean Time, this called
9 occurred at 7:30 p.m. It was an incoming call to Mr.
10 Johnson's cell phone? What is that -- what does that
11 message say?

12 A. It's actually an incoming text message, and it says,
13 "Hey, it's Mickey. Call me back, p-l-z. Need to talk to
14 y-a ya."

15 Q. And call number 100, call 100 -- I mean text 100. I'm
16 sorry.

17 A. Yes.

18 Q. Is there a return call? Is there an incoming text to
19 that same number?

20 A. Yes.

21 Q. It was identified as Mickey?

22 A. Yes.

23 Q. And does that message say, "Can you get K8's?"

24 A. It does.

25 Q. And what do you know K8's, based on your training

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -868-

1 experience, to be?

2 A. K8's is a term for a Dilaudid pill, 8 milligram.

3 Q. And how about -- if you look down to -- if you look up
4 to call 47?

5 A. Okay.

6 Q. And there's a call -- on call 47 from 415-2155, and
7 that's an incoming text?

8 A. Yes.

9 Q. And that's at 2-25 -- that's on 2-25-2011. Correct?

10 A. That is correct.

11 Q. What does that text say?

12 A. That text says, "Man, I" -- It says, "CNT believe you
13 are blowing this D-A-T far out of proportion. If I was
14 irritating you so bad then why didn't you get me S-T-R
15 Number 8" the letter -- next word is letter "B", number
16 "4", "you left." And it says, "You are a trip, man."

17 Q. And is there anything in that text that through your
18 training and experience, you know to be consistent with
19 drug terminology?

20 A. Yes.

21 Q. Can you please tell the jury what that is?

22 A. Where it states, "You" -- or, "You didn't get" -- "You
23 get me str8". You know, the "str8," basically refers
24 usually to settling up a drug debt.

25 Q. And the text says that "Why didn't you get me str8"?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -869-

1 A. That is correct.

2 Q. Okay.

3 A. That's my interpretation.

4 Q. Okay. I'm going to move you down to call 102. Are
5 you with me?

6 A. Yes.

7 Q. You called from 370-6348, and that's identified as
8 "Sham"?

9 A. Correct.

10 Q. And that call as an incoming text, it says, "What's up
11 with you? You good yet?"

12 A. Correct.

13 Q. And that caller calls back, approximately two hours
14 later and says, "You ready yet?" or "You ready 'Y'?"

15 Correct?

16 A. That is correct.

17 Q. That's 1:05. I'm sorry. That's 1:05.

18 A. 1:05.

19 THE COURT: Counsel, approach just a minute.

20 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
21 THE JURY AT 12:00 PM.)

22 BY MS. COLTON:

23 Q. Were you able -- ever able to make a determination of
24 the number Sham, who that number referred to through your
25 investigation?

INVESTIGATOR NICK SCHIFFERLE: DIRECT BY MS. COLTON -870-

1 A. Yes.

2 Q. Who?

3 A. Shannon James.

4 MS. COLTON: The Court's indulgence, Your Honor.

5 Is State's Seventy-six in?

6 MADAME COURT REPORTER: No.

7 MS. COLTON: State's Seventy-six?

8 MADAME COURT REPORTER: No.

9 MS. COLTON: Your Honor, at this time we move State's
10 Seventy-six into evidence.

11 MR. BROWN: Your Honor, this is the listing from the
12 pharmacy subject to my previous objections and redactions.

13 THE COURT: Admitted without objection.

14 You still object to it; is that right? Do you object
15 to it in this kind of form?

16 MR. BROWN: No, sir, not in this kind of form, just
17 subject to my previous objections.

18 THE COURT: Okay, all right. Admitted over
19 objections.

20 MS. COLTON: And, Your Honor, it's my understanding
21 that we're not going to enter into evidence the underlying
22 records and that Mr. Brown is stipulating that those
23 records are accurate reflections?

24 MR. BROWN: That is correct, Your Honor.

25 THE COURT: The summary is an accurate reflection ---

DETECTIVE NICHOLAS SCHIFFERLE: CROSS BY MR. BROWN

-871-

1 MR. BROWN: Yes, sir.

2 THE COURT: --- of the boxes, of the records?

3 MR. BROWN: Yes, sir.

4 MS. COLTON: Thank you.

5 MR. BROWN: And subject to the redaction we talked
6 about too.

7 THE COURT: Yes, sir.

8 (WHEREUPON: STATE'S EXHIBIT NUMBER SEVENTY-SIX,
9 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

10 MS. COLTON: Thank you, Investigator Schifferle.
11 Please answer any questions Mr. Brown may have for you.

12 CROSS EXAMINATION

13 NICHOLAS EDWARD SCHIFFERLE BY MR. BROWN:

14 Q. You said what you -- basically, your investigation
15 determined that it was the -- you guessed it -- or you
16 guessed that it was a one-pop meth lab?

17 A. That is correct.

18 Q. And was that -- you've been in the courtroom the whole
19 time; is that correct? This trial.

20 A. That's correct.

21 Q. And was that the process where they're talking about
22 where you have to run a tube in to cook it, so to speak?
23 They have a chemical reaction. Would that be the same
24 thing we've heard testimony about?

25 A. If you're referring to the process, the next step in

DETECTIVE NICHOLAS SCHIFFERLE: CROSS BY MR. BROWN

-872-

1 this stage where --

2 Q. Yes, sir.

3 A. That is actually the gassing out stage, which is what
4 people refer to as gassing out, which is --

5 Q. All right. So is cooking and gassing out the same
6 terminology or am I in left field on that?

7 A. It's different terminology.

8 Q. But he has to have a tube to finish his process.
9 Right?

10 A. That is correct.

11 Q. There was no tube found in that hotel room was it?

12 A. I did not recover a tube.

13 Q. So he didn't even have the material in that motel room
14 to finish the process; did he?

15 A. That is correct.

16 Q. And basically he just had -- or somebody in there,
17 there was three people in there, and at some point in time
18 there were five people in there. Somebody had the raw
19 materials; is that correct?

20 A. Are you referring to the substance that was in the
21 bottle?

22 Q. Yeah.

23 A. That is correct.

24 Q. And that's just step one -- well step one obviously
25 you buy the Sudafed. Step two is you're mixing that

1 concoction that you found in there?

2 A. That is correct.

3 Q. And as been stated previously, you can't use it in
4 that form; can you?

5 A. That is correct.

6 Q. You have a forensics lab at the York County Sheriff's
7 Department office; do you not?

8 A. That is correct.

9 Q. And you also have a chemical analysis lab in there
10 too. Correct?

11 A. I believe it's a drug analysis lab.

12 Q. I'm sorry. I apologize. Drug analysis; is that
13 correct?

14 A. That is correct.

15 Q. The forensics do DNA fingerprints, et cetera.
16 Correct?

17 A. Yes. And I actually do apologize. We do have a DNA
18 lab, but it is not operational yet.

19 Q. It's still centered in Columbia, I guess?

20 A. Yes.

21 Q. All right. When you do a drug investigation, most of
22 these people are less than honest; are they not?

23 A. I believe so.

24 Q. And you have to filter through a lot of lies to get to
25 the bottom; don't you?

DETECTIVE NICHOLAS SCHIFFERLE: CROSS BY MR. BROWN

-874-

1 A. Yes.

2 Q. And -- On these records that you obtained, I give you
3 credit you did a lot of work on, on purchasing Sudafed;
4 this just shows it was purchased. Correct?

5 A. That is correct...

6 Q. You have no direct tie that Mr. Johnson was involved
7 in all these purchases; do you?

8 A. Not all of the purchases.

9 Q. It's speculation at best. Correct?

10 A. It's my -- my investigation has led me to believe
11 that.

12 Q. But you can't testify under oath that all this
13 meth -- or excuse me, Sudafed got cooked by Mr. Johnson?

14 A. That is correct. I was not there.

15 Q. Other people could have cooked it. There's been
16 testimony throughout this trial other people used it.
17 Correct?

18 A. That is correct. Other people could have cooked it,
19 and other people have used it.

20 Q. I have no further questions.

21 MS. COLTON: Your Honor, the State has no redirect for
22 this witness, Your Honor.

23 THE COURT: Thank you, sir. You may stand down, sir.

24 (WITNESS LEAVES WITNESS STAND.)

25 MS. COLTON: Your Honor, if I may, I think the State

1 has one thing we wanted to enter into evidence, but we have
2 no further witnesses, and we may be in a situation to rest.
3 We have taken an opportunity during the break to review the
4 evidence that had come in.

5 At that time, I believe further, Mr. Brown...

6 MR. BROWN: Your Honor, we'll stipulate that for the
7 sake of her and I, three things actually, these two
8 pictures will be verified by which they don't have to
9 recall. We're also stipulating that Corey Catoe pled
10 guilty to manufacturing in this courtroom Tuesday.

11 MS. COLTON: And that would be State's Seventy, Your
12 Honor, and State's Seventy-one that we're moving into
13 evidence.

14 THE COURT: Admitted without objection.

15 MR. BROWN: Without objection.

16 (WHEREUPON: STATE'S EXHIBIT NUMBERS SEVENTY AND
17 SEVENTY-ONE IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

18 MS. COLTON: And, Your Honor, I'd like to have one
19 opportunity just to ensure that everything's in evidence,
20 but I believe we're in a position that we will not call any
21 further witnesses at this time.

22 THE COURT: All right. Before you rest then, let
23 me -- Counsel, approach just a minute.

24 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
25 THE JURY AT 12:07 PM.)

-876-

1 THE COURT: All right. Madame Forelady, we're trying
2 to work on scheduling here, see what we've got left and
3 what we need to do and trying to work that out. We're
4 going to finish this case today for sure. I just -- we've
5 have a couple of things we've got to make sure to wrap up
6 and a couple -- a few things I need to take up with Counsel
7 out of your presence and meet with them about. And in
8 addition to that, I've got a short hearing, probably about
9 15 minutes that's been schedule for a while that I need to
10 do in another case. Saying all that, I think what we're
11 going to do is just go ahead and excuse you for lunch at
12 this time, and you all take a longer than normal lunch
13 hour. Matter of fact, I'm going to ask you to be back at
14 Two o'clock, at Two O'clock, and we'll have completed all
15 of this other stuff, hopefully by Two o'clock, and be ready
16 to go at 2:00. And it may very well be, we'll be at -- at
17 that time, we'll be at the point where we're going to do
18 arguments and stuff, the lawyers, and instruction to you on
19 the law, but we'll definitely get it to this afternoon.
20 That will make you feel a little sure. But please enjoy
21 your lunch, and I'll ask you -- I'd rather -- I don't want
22 you sitting back there while we're doing these other
23 things. So be back in the jury room ready to go at Two
24 o'clock, Two o'clock. Thank you.

25 (JURY OUT FOR LUNCH RECESS AT 12:12 PM.)

1 THE COURT: Let's do what we can. I need to question
2 Mr. Johnson about his right to testify or not testify.

3 MR. BROWN: Can I have two seconds just to tell him
4 what's coming?

5 THE COURT: Yes, sir.

6 (PAUSE.)

7 MR. BROWN: He's ready, Your Honor.

8 MS. COLTON: Your Honor, and I - do we have to do a
9 *Denno* hearing outside the presence of the jury? I know
10 it's a little -- I'm a little confused about that. I know
11 we proffered testimony, we didn't proffer the testimony
12 with Investigator Schifferle, we talked about *Denno*. I
13 don't believe that any of the questions that were asked
14 after Miranda or before Miranda were interrogations, but I
15 want to make sure the records clear, Your Honor.

16 MR. BROWN: I don't see any for *Jackson Denno* in this
17 case and I think the answer was he asked a procedural
18 matters. There was nothing inculpatory or exculpatory.

19 THE COURT: I'll agree with that, I didn't hear
20 anything, I heard the rights when they were given. But I
21 think basically you wanted that on there more than -

22 MR. BROWN: I did at the time. In looking back I
23 don't need it.

24 THE COURT: All right. Okay. So there's no need to
25 do a *Jackson Denno*.

-878-

1 MS. COLTON: Yes, sir. Now the second issue is, well
2 I'll wait, Your Honor.

3 THE COURT: Let's do what we can time wise so help
4 bring Mr. Johnson around and place him under oath.

5 (DEFENDANT AND ATTORNEY BROWN APPROACH THE BAR.)

6 MADAME CLERK: Sir, please raise your right hand,
7 place your left on the Bible.

8 (WHEREUPON: JASON JOHNSON, BEING
9 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 THE COURT: Sir, for the record you are Jason Alen
11 Johnson; is that correct?

12 MR. JOHNSON: Yes, sir.

13 THE COURT: Mr. Johnson, we've reached the stage of
14 the trial where you may present your defense. You have the
15 right to testify in your own behalf; however, no one can
16 make you testify. In the event you have a record of any
17 conviction involving dishonesty or false statement or for a
18 crime punishable by imprisonment for more than one year and
19 this court determines the probative value of admitting this
20 evidence out weighs its prejudicial effect to you the
21 Solicitor will be able to introduce this record for
22 impeachment purposes to attack your credibility.

23 If you elect not to take the stand, I will charge the
24 jury that they are not to give the fact you did not testify
25 any consideration whatsoever and there is to be absolutely

1 no prejudice to you because you did not testify. It is
2 left entirely up to you whether or not you testify. You
3 may talk with your attorney, your family, your friends or
4 anyone else. The ultimate decision is left entirely up to
5 you. Do you understand that it is your decision whether
6 you will or will not testify in your case?

7 MR. JOHNSON: Yes, sir.

8 THE COURT: Have you discussed with your attorney the
9 advantages and disadvantages of testifying in your case?

10 MR. JOHNSON: Yes, sir.

11 THE COURT: And do you wish to testify in your case,
12 sir?

13 MR. JOHNSON: No.

14 THE COURT: Is that your decision?

15 MR. JOHNSON: I would say so yes.

16 THE COURT: Well I don't want you to say so. I want
17 you -

18 MR. JOHNSON: Yes.

19 THE COURT: It's your decision or not?

20 MR. JOHNSON: Yes its my decision.

21 THE COURT: All right. Thank you. You may return to
22 your seat.

23 MR. BROWN: And, Your Honor, I think what he was
24 trying to say to the court he was in consultation with me
25 last Friday and given the pros and cons of testifying.

-880-

1 THE COURT: I just want to be sure its his decision.
2 He says it is.

3 MR. BROWN: Yes, sir.

4 Your Honor, you want me to go ahead and make my motion
5 for directed verdict now? Or do you want to wait?

6 THE COURT: What I would like to do on a directed
7 verdict motion was wait until the Solicitor has requested
8 an opportunity to go through the exhibits and make sure
9 their all present. If they are not all present and she
10 wanted to try to introduce something else before she
11 closes, I mean --

12 MR. BROWN: Yes, sir.

13 THE COURT: Then we will need to make it at that time.
14 So let's wait. What I will ask you to do is let's do this.
15 We'll go to lunch and come back in. Let's come back in
16 around - well I need to meet with you all as well and we
17 probably need to do that before we go to lunch about the
18 instruction on the law and also the verdict form that we
19 are going to prepare. So we need to go over that together
20 and so why don't we just -- but we'll come back in, in
21 let's say about -- Really I think we can do all that pretty
22 quickly around 2:00 so why don't we just plan to come back
23 in and do that around 2:00 put whatever we need to on the
24 record.

25 MR. BROWN: Yes, sir.

1 THE COURT: In the meanwhile let's go ahead and break
2 and I'll get you to come back with me.

3 (WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-NINE
4 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

5 (COURT IN LUNCH RECESS AT 12:26 PM.)

6 (COURT BACK IN SESSION AT 02:18 PM.)

7 THE COURT: Please be seated.

8 (DEFENDANT REENTERS COURTROOM.)

9 THE COURT: Counsel, did you check on all the
10 exhibits?

11 MS. COLTON: Yes, Your Honor, we did.

12 THE COURT: Are all of them in evidence that you
13 wanted in?

14 MS. COLTON: Yes, sir, all we wanted in.

15 THE COURT: Now, Counsel, motions will be considered
16 timely made, when made, so we don't have to send the jury
17 back out and everybody rest. So we'll go ahead and take up
18 your motions when we bring the jury in unless the State
19 rest before the jury and the defense will need to rest
20 before the jury and then we'll go straight into final
21 arguments.

22 So the defense didn't present any testimony or
23 evidence, although the state tried to get you to at one
24 time.

25 He didn't fall for it.

-882-

1 MS. COLTON: No.

2 THE COURT: And so the defense will get the last
3 argument. Is that right?

4 MS. COLTON: Yes, sir.

5 MR. BROWN: Judge, make sure I know, she makes motion
6 to rest then back out and I make motions -

7 THE COURT: No. We'll do motions right now.

8 MR. BROWN: I got it. I understand.

9 THE COURT: I consider them timely made so I won't
10 have to send them back out. So the motions are considered
11 having been made at the conclusion of the State's case and
12 also at the close of the defense's case in other words. So
13 we'll go ahead and take up motions now please.

14 MR. BROWN: Are you ready?

15 THE COURT: Yes, sir.

16 MR. BROWN: Your Honor, at this time I would also like
17 to incorporate this into not only a motion for directed
18 verdict since we plan to present no evidence, and the State
19 has closed their case, this is my motion for a direct
20 verdict and also my motion for a directed verdict at the
21 close of all the evidence. Your Honor, I move for a
22 directed verdict on the charge of trafficking against Mr.
23 Johnson. And taken the evidence in the light most
24 favorable to the State reasonable minds could not differ as
25 to his involvement in this.

1 Also, Your Honor, I base this motion on a previous
2 motion, the suppression motion and also all motions
3 incorporated by this motion throughout the course of the
4 trial as a suppression of evidence and as to the content of
5 the evidence.

6 THE COURT: Okay. Does the State wish to be heard on
7 that?

8 MS. COLTON: Your Honor, I think in the light most
9 favorable to the State there's more than an overwhelming
10 evidence of this defendant's guilt in trafficking in the
11 amount of a hundred grams based on the testimony of the
12 witnesses; based upon the corroborated evidence; based upon
13 the pseudophed records; based upon the fact that he was
14 found in the hotel room with a methamphetamine lab that
15 tested positive for 60.9 grams of methamphetamine.

16 THE COURT: In looking at the motion for a directed
17 verdict the Court is required to look at the evidence in
18 the light most -- and the evidence and all inferences that
19 can be drawn from that evidence be drawn on that evidence
20 in the light most favorable to the party against whom the
21 motion is being made. In this case then in looking at the
22 evidence in the light most favorable to the State, I find
23 there is substantial evidence from which the jury could
24 infer the State had proven the elements of the offense of
25 trafficking methamphetamine. I haven't decided on which

-884-

1 trafficking I'm going to submit to the jury, but I know I'm
2 gonna submit at least trafficking in one hundred - or more
3 than one hundred grams or one hundred or more grams, which
4 ever the wording of the statute reads. And 28 to 100
5 grams. I know I'm going to submit those two and I' haven't
6 decided finally on the 10 to 28 on that so I'll decide on
7 that before I actually charge them and let you know on
8 that.

9 MS. COLTON: Judge, we discussed this over lunch at
10 length, and I think, our thoughts on it and in speaking to
11 Solicitor Brackett is we think that there is a
12 manufacturing distribution lesser included. Kevin Brackett
13 briefed us about that and I think that's -

14 THE COURT: Say again what you just said.

15 MS. COLTON: There is a manufacturing and distribution
16 lesser included. I think the evidence would support that
17 and probably should be -

18 THE COURT: So you want me to include that?

19 MS. COLTON: I think you have too. We're willing to
20 take that risk, Judge, and that's Solicitor Brackett's
21 decision. I think then of course it would be a 10 to 28
22 grams as well as a lesser included and the State has
23 decided - and I don't think this has even been before the
24 judge about the 100 grams - to go forward on just the 28 to
25 a 100 grams for simplicities sake, Your Honor, and have 28

1 if that makes sense. Do not go forward on the 100, just to
2 go forward on the 28.

3 THE COURT: You're not going forward with the 100 plus
4 grams?

5 MS. COLTON: No, I'll go forward with the 28 to a 100
6 then the 28 to a 100 lesser and the manufacturing
7 distribution. I think that makes it much more simple
8 because I think it's inconsequential if it's --

9 THE COURT: Okay. So you're not going forward on the
10 100 grams?

11 MS. COLTON: No, sir. We'll go 28 to a 100 to be the
12 highest level.

13 MR. BROWN: You want me to put on the record now my -

14 THE COURT: No I don't. Let me finish with my - I
15 just got into that.

16 MR. BROWN: Yes, sir.

17 THE COURT: I was just saying that I think there is
18 substantial evidence really for the 100 plus gram. I think
19 there is substantial evidence from which the jury could
20 infer the State has proven the elements of that charge
21 beyond a reasonable doubt. And certainly as to 10 to 28
22 grams that they are requesting that I submit to the jury.
23 Today there is substantial evidence from which the jury
24 could infer the State has proven the elements of that
25 offense beyond a reasonable doubt. Also submit the lesser

-886-

1 included offenses of 10 to 28 grams and manufacturing, so
2 we'll submit that requested by the defense in any event as
3 well. But in any event there is substantial evidence from
4 which the jury could infer the State has proven the
5 elements of the offense. And the Court in looking at a
6 motion for directed verdict does not weigh the evidence;
7 does not look at the credibility of the witnesses, that's
8 not the Court's function. That's the jury's function so
9 it's up to the jury to judge the credibility of the
10 witnesses and to determine what weight to give any evidence
11 introduced in this case. They are the fact finders so the
12 Court doesn't do that. I don't weigh it. The only
13 decision the Court needs to make is whether there is any
14 substantial evidence and I find there is substantial
15 evidence from which the jury could infer the State has
16 proven the elements of the offenses beyond a reasonable
17 doubt. So I therefore deny your motion for a directed
18 verdict.

19 What's next? Did you have something else you wanted
20 to be heard on?

21 MR. BROWN: I just want to know if you want me to put
22 on the record my request to charge now.

23 THE COURT: Yeah you can go ahead and do that.

24 MR. BROWN: All right, I'll be very brief. We
25 belabored this point back in chambers enough. I would also

1 request an additional of the State's request to charge,
2 Your Honor. I would request a charge as to simple
3 possession of methamphetamine. And also possession with
4 intent to distribute methamphetamine; distribution of
5 methamphetamine and manufacturing methamphetamine as
6 additional charges. If the jury who is the ultimate finder
7 of fact chose to believe parts of one testimony or not
8 parts of the other testimony and considering the search and
9 there were various points throughout that twenty-four hour
10 episode in Room 124 at Best Way Inn that somebody else
11 could have had control and possession of that liquid meth
12 or unfinished product. I'm gonna refer to it as that. And
13 also considering the witnesses testimony they can chose to
14 believe or disbelieve parts of their testimony if they
15 chose to believe that he was just a meth user, a meth
16 addict, I think he would be entitled to those charges.

17 THE COURT: If he pleaded a meth addict he would
18 therefore only possesses a hundred grams okay. I don't
19 understand that argument frankly, Counsel. I have a
20 question about charging possession. I'll listen to the
21 State on it. You are agreeable to charging - not charging
22 the original charge which was 100 grams or more. Do you
23 agree with charging and submitting to the jury 10 to 28 --
24 excuse me, 28 to a 100 grams, 10 to 28 grams and
25 manufacturing. Are you all agreeable to charging that?

-888-

1 MS. WEAVER: Yes, Your Honor. And that would be the
2 actions of manufacturing and distribution as testified to
3 the witnesses beforehand because I think some of it was he
4 made meth for me or gave me some of the meth he made so I
5 think manufacturing distribution would be a part of the
6 witnesses that testified.

7 THE COURT: All right. Well how about the possession?

8 MS. WEAVER: The possession, Your Honor, I've already
9 handed to Defense a copy of this case.

10 (DOCUMENTS HANDED UP TO THE COURT.)

11 MS. WEAVER: Your Honor, where the Court of Appeals
12 said that a distribution of marijuana case that just
13 because some evidence tends to suggest possession that
14 doesn't mean that their entitled to be charged, and I think
15 that would be the this case; is that every witness that
16 testified, testified about distribution or manufacturing
17 that Mr. Johnson did on their behalf. So I think that
18 would be consistent with the case here. They're not
19 entitled to a possession charge.

20 THE COURT: I agree with that. I think if they are
21 going to find him guilty, if they were to find him guilty
22 of simple possession, they would find him not guilty at all
23 because he is guilty of possessing more than an amount that
24 would be at a traffic level or at least distribution. And
25 so I will then -- I'm not gonna charge simple possession.

1 I don't think there is any basis for that whatsoever from
2 the facts and evidence in this case and no evidence to
3 support it whatsoever. I will charge then distribution of
4 methamphetamine. And I will charge manufacturing
5 methamphetamine.

6 And possession with intent to distribute, you didn't
7 agree with that did you?

8 MS. WEAVER: No, Your Honor. The acts previously
9 support that charge that he had to manufacture to
10 distribute it to the witnesses.

11 THE COURT: All right then, I will deny the request to
12 charge simple possession and possession with intent to
13 distribute and I will deny the request to charge on that.
14 I will charge distribution of methamphetamine and
15 manufacturing methamphetamine. I will charge that.

16 All right. Anything else?

17 MS. COLTON: Your Honor, I just had a question about
18 -- I know there is a stipulation that Mr. Catoe pled guilty
19 to manufacturing methamphetamine. I don't know how Mr.
20 Brown intends to use that but I hope its not something to
21 the effect of the State, you know, they agreed, they let
22 him plead, they agreed he's just a manufacturer.

23 THE COURT: Can't do that.

24 MS. COLTON: I just wanted --

25 THE COURT: They can let him plead to anything they

-890-

1 want too. Its not got anything to do with this -

2 MS. COLTON: I just -

3 MR. BROWN: I have very little to say about that in my
4 closing argument other than the fact he's pled guilty to
5 manufacturing methamphetamine.

6 THE COURT: And you can address it.

7 MS. COLTON: Yes, sir.

8 THE COURT: Why they let him plead to that.

9 MR. BROWN: If she opens the door now I may respond.
10 I just want to give you fair warning on that but that's my
11 original intentions. If she goes on about it or something
12 then I'm gonna respond to it.

13 THE COURT: She can testify as to why they let him
14 plead to manufacturing. He was charged with the other, she
15 can say that he was charged with that, that he was guilty
16 of that. But they chose to let him choose - plead to that.
17 And they can say they considered him to be a lesser player
18 in this case. You know I don't see any reason why they
19 can't do that.

20 MS. COLTON: Judge, we don't plan to touch it because
21 frankly -

22 MR. BROWN: Well I'm not going to -

23 MS. COLTON: --- I don't believe it's relevant to
24 anything that has to do with he's guilty or not.

25 MR. BROWN: If you're not going to touch it I'm gonna

1 say Corey Catoe was here, we started this trial he pled
2 guilty to manufacturing meth during the trial. I'm not --
3 that's not a big point for me.

4 MS. COLTON: Okay. I just wanted -

5 THE COURT: Well what I'm trying to say is, you open
6 the door a little bit and you gonna jump in. And if you're
7 gonna jump in, they got a right to open the door all the
8 way open. Do you understand what I'm saying?

9 MR. BROWN: Yes, sir.

10 THE COURT: You can't have it both ways. But you get
11 the last argument and it will be me the one to get on you
12 about it -

13 MR. BROWN: Yes, sir.

14 THE COURT: --- during the trial in front of the jury
15 and I don't want to do that.

16 MR. BROWN: Yes, sir.

17 THE COURT: So that's the point I'm trying to make.
18 You say well they opened the door. You know they get first
19 argument. You get the last argument. But you can't go
20 somewhere where you're not supposed to go in final argument
21 just because you say they opened the door to something. If
22 they open the door to it, fine, all right. I'm not gonna
23 play that game.

24 All right, anything else?

25 MS. COLTON: Nothing from the State, Your Honor.

-892-

1 MR. BROWN: Nothing else, Your Honor.

2 THE COURT: Please bring the jury in.

3 (JURY REENTERS COURTROOM AT 02:34 PM.)

4 THE COURT: Good afternoon, Madame Forelady, members
5 of the jury panel. I hope you enjoyed your lunch. We've
6 had a lot going on but we are ready to proceed with the
7 trial. We are to that part of the trial where counsel will
8 make their final arguments to you and I ask that you listen
9 attentively now as counsel address you in final argument.

10 Counsel, ready to proceed.

11 MS. COLTON: We are, Your Honor. The State rest, your
12 Honor.

13 THE COURT: I beg your pardon. I've got the cart
14 before the horse.

15 Defense?

16 MR. BROWN: The Defense present no evidence, Your
17 Honor.

18 THE COURT: I should have had them do that before we
19 get into that. But now we are ready to go with final
20 argument.

21 Counsel.

22 MS. COLTON: Thank you, Your Honor.

23 May it please the Court.

24 THE COURT: Counsel.

25 MS. COLTON: Can I get you to dim the lights please.

CLOSING STATEMENT: BY MS. COLTON

-893-

(COURTROOM LIGHTS DIMMED.)

MS. COLTON: When I first came before you I told you that this defendant was charged with manufacturing methamphetamine and trafficking methamphetamine. And there are a variety of different ways you can be convicted of trafficking in methamphetamine. You can actually or constructively possess it or sell it by deliver, or delivered, manufacture or conspire, aide, abet or attempt to buy sell, manufacture methamphetamine in an amount over 28 grams and this must occur in York County, South Carolina.

Now the key factor here is 28 grams. That's the triggering factor. That's what makes you a trafficker. Once you get to the 28 gram mark, that's trafficking. And by possession, what that means is actual constructive possession, you can be guilty of possessing in two different ways. If I hold this in my hand I'm actually possessing it. But if I put it down in front of Ms. Weaver and walk across the room, that doesn't mean it's not mine because anytime I want I can go pick it up. So you don't have to find this defendant had that bottle in his hand to find him guilty of possession.

You can also be guilty of trafficking by selling or delivering methamphetamine and by manufacturing. And that's making it, any part of the process from start to

CLOSING STATEMENT: BY MS. COLTON

-894-

1 finish is manufacturing in methamphetamine.

2 You can also be guilty by conspiring to do any of
3 those acts. To sell, buy, manufacture or deliver
4 methamphetamine or attempting to do the same. Or aiding or
5 abetting to do the same. So if you've got any part, no
6 matter how small, in the trafficking methamphetamine you're
7 just as guilty as everyone else.

8 And this story begins at the Best Way Inn Motel, when
9 officers find a methamphetamine lab. That's what that is.
10 It's methamphetamine in there. That's how they make it,
11 you've heard the officers testify to the process and what's
12 contained in that bottle, the volatility of that bottle,
13 and you heard the chemist testify to how much that is. Out
14 of that bottle officers were only able to obtain
15 approximately 70 grams of methamphetamine because that's
16 what was safe to take out of that bottle. It's a mixture
17 and that's what the law in South Carolina says.
18 Methamphetamine is any mixture thereof.

19 They didn't take the whole bottle and sample it. They
20 didn't preserve the bottle that's true, but they couldn't
21 because of the volatility of the bottle. They couldn't
22 fingerprint it, they couldn't do anything to it because
23 they had to call somebody in to dispose of it because they
24 are not permitted to do it because it's caustic and it's
25 toxic.

CLOSING STATEMENT: BY MS. COLTON

-895-

1 All three of these defendants are guilty of
2 trafficking. Brandi Quinn, guilty of trafficking. Corey
3 Catoe, guilty. This defendant, guilty. They all had a
4 hand in what was going on in that room because they all
5 possessed that bottle and they all manufactured it. Each
6 one of them played a part whether it was buying the
7 Sudafed, whether it was crushing the pills, whether it was
8 adding the lithium. Regardless of what part they played in
9 that, once that substance is methamphetamine in that
10 bottle, their trafficking in methamphetamine period -
11 period. And that amount was over 28 grams.

12 And just based upon what was found in the hotel room,
13 this defendant's guilty of possessing and manufacturing
14 meth. One or the other, it doesn't have to be both, it
15 could be either one. I submitted to you both but you just
16 have to find that he did one in order to convict him of
17 trafficking in meth over 28 grams. Brandi Quinn does rent
18 the room. The rooms in her name. But Johnson and Catoe
19 aren't just visitors. They're spending the night. They're
20 partying, their having friends over, they're having other
21 people do deals in that room. They all had possession of
22 that room. And you look at the computers and what the
23 testimony was. And you heard Jason Johnson on those tapes
24 over and over and over and over again, those are my
25 computers, you all need to get out of my room, this is my

CLOSING STATEMENT: BY MS. COLTON

-896-

1 room. Who possessed that room? Not Ms. Quinn just because
2 she signed for it. She's his girlfriend. That's Johnson's
3 room, that's Johnson's stuff.

4 The drugs, the tin foil, the syringes, they're not
5 hidden. They're all over the place. They didn't all know
6 what was going on? Everybody knew what was going on in
7 that room because everybody was taking part in it.

8 They aren't computer repair men. They have them
9 ripped apart to get lithium to make methamphetamine or to
10 tweak with them when their on methamphetamine. Do computer
11 repair men take -- I would hope that if you had your
12 computer repaired that you don't have parts scattered all
13 over the bathroom like that and CD's ripped up all over the
14 place. They certainly didn't take very good custody of
15 whatever somebody gave them to fix if that was what they
16 were doing. That's the bathroom. And in that volume of
17 computers in a little room that they're staying in for two
18 days to fix these items thrown across the floor. They were
19 going to be out of that hotel room at Eleven o'clock that
20 morning. Why bring all that stuff to the hotel room?
21 Because they're tweaking. Because they're using meth. And
22 because they're using it for meth.

23 Officers found scales. Brandi Quinn testified what
24 those scales were for. Measure out the meth so it could be
25 distributed to other people. The baggie corners consistent

CLOSING STATEMENT: BY MS. COLTON

-897-

1 with drug use from Ms. Quinn's car. And this, found in the
2 trash with the missing baggie corner. Consistent with the
3 distribution of drugs. Syringes, razor blades, and then
4 the fake ID's. Again, the tin foil which is consistent
5 with drug packaging but it's also utilized in the
6 production of methamphetamine as Investigator Schifferle
7 told us. Again not just the fake ID's that were made, but
8 the fake ID's that they were making.

9 And then there's the meth bottle. The law says that
10 the weight of methamphetamine is any mixture. And you have
11 to take the law as the Judge charges it, and he will charge
12 you that, is any mixture thereof. He is the judge of the
13 law, you all are the judges of the facts, but you have to
14 take the law as he charges it. Any the stage of that
15 process it does not matter under the law, it does not
16 matter. And the chemist testified that, that weighed 60.9
17 grams. Because of that he is guilty of trafficking over 28
18 grams.

19 So why did you have to sit here and hear from all
20 these witnesses the rest of the time? We have to show that
21 Mr. Johnson had knowledge that he was not just some guy
22 that stopped by to hang out to use meth and to party with
23 them like Robbie Catoe, like Matt Oakes. He's not just
24 some guy dropping off a box of pseudo to trade out for
25 meth. He's not because Jason Johnson is the meth cook.

CLOSING STATEMENT: BY MS. COLTON

-898-

1 Certainly Brandi Quinn, certainly Shelley Pettigrew at one
2 time, certainly Corey Catoe had a part in this. He's the
3 cook. And we ask them whose dope it was. It's Jason's
4 dope. Could you just go in there and get it? Even his
5 girlfriend, Could you just go in there and get some dope?
6 No. Why not? It's Jason's dope. He controlled everything
7 and everyone involved because he did that. He needed them
8 to give him pseudo because he needed to make meth.
9 Regardless of whether it was for his own personal use or
10 not he needed that. And how did he control them? He
11 controlled them and manipulated them in their addictions
12 because he controlled the dope. They ain't get'n their fix
13 unless he makes dope. So he can get whatever he wants out
14 of them. Just like Mandy Caudle and Brandi Quinn and all
15 those horrible things that they did, that's humiliating to
16 have to come in here and tell people that. I don't think
17 they're proud of that to say those things. Shelley
18 Pettigrew twenty-two years old -- she look like she's
19 twenty-two years old -- with her mom sitting right in here
20 and have to say those degrading things about herself. She
21 could have lied about that. It's disgusting, it's
22 disgusting. Why did she do those? What do they all do
23 those things? Because they want too? Because that's
24 funny? No. They want to get dope from him that's why.
25 And it's about control. He controlled the dope because

CLOSING STATEMENT: BY MS. COLTON

-899-

1 he's the cook.

2 Corey Catoe: Witnesses testified yeah Corey Catoe's
3 part of this. Yeah Corey Catoe, he's guilty, he's Jason's
4 do boy. Take out the trash, go get the supplies, go do
5 this, go do that. Why? He needs the dope. So Jason
6 treated him like his do boy. Kind of like a little bit
7 like what Chris talked about. Chris wouldn't admit he was
8 a do boy but he was a do boy. He'd take out the trash.
9 He'd get the supplies, he's run around. Together they used
10 Shelley and later Brandi Quinn and all the other meth and
11 Sudafed suppliers to buy, sell, trade, take part in
12 manufacturing methamphetamine. But make no mistake about
13 it, the head of everything is sitting right there.

14 (SOLICITOR INDICATED TO DEFENDANT.)

15 MS. COLTON: They are as Mr. Brown said they're all
16 just as guilty as him. That's true. Johnson didn't just
17 gets caught with all these grams. He made, sold, and
18 continuously delivered methamphetamine since August 2010.
19 And how do we know that? You can also be guilty of
20 conspiracy. And that is any agreement, understanding
21 between two or more people to bring about an unlawful act.
22 We didn't submit any evidence of a contract. Its not like
23 going and leasing a car. They're not going - criminals
24 don't enter into written contracts and say I'm gonna sue
25 you if you don't follow through with the deal. How do we

CLOSING STATEMENT: BY MS. COLTON

-900-

1 know that happened? You look at their actions, you look at
2 their agreement. The biggest evidence of that is them
3 being together and manufacturing. But at that point the
4 conduct becomes the agreement. The crime is the agreement.
5 I'm going to go do something wrong, I'm going to go kill
6 somebody, I'm gonna do whatever. Once you say that is's a
7 done deal. We don't ever have to show any acts. We don't
8 have to show - offered the testimony of Ms. Caudle or Ms.
9 Pettigrew or anybody else to substantiate that. They go to
10 show whether there was an agreement. But the roles of the
11 participants provide evidence of their conspiracy. And it
12 doesn't matter that anyone involved sets up the deal, makes
13 the phone call, delivers the package, takes the money, is a
14 look out, it's irrelevant. You're all guilty as being part
15 of that conspiracy. All they have to do is agree to engage
16 in illegal activity. And once a person's linked, no matter
17 how slight their connection is, their guilty.

18 The Johnson conspiracy really begins -- and I said
19 that everything begins at the Best Way Inn -- it truly
20 begins when everyone involved in the cook when Mr. Johnson
21 moves in with Tommy Catoe and Corey Catoe.

22 (STATE'S EXHIBIT DISPLAYED ON COURTROOM OVER HEAD.)

23 MS. COLTON: And that's the trailer, and that's the
24 burn pit that Chris Matuse testified to. And they began
25 making and selling methamphetamine together. You've heard

CLOSING STATEMENT: BY MS. COLTON

-901-

1 from Chris Matus; you've heard from Ms. Pettigrew; you
2 heard from Ms. Cooper; you heard from Mandy Caudle; you
3 heard from Brandy Hager that they all bought
4 methamphetamine from that location, that they all saw
5 methamphetamine being manufactured there and they all saw
6 this being done by Mr. Catoe and by Mr. Johnson.

7 There was testimony that after that they moved to
8 Corey Catoe's mother's house for a short period of time.
9 And that was testified to by Matus, Cooper and Caudle.
10 And then there's the apartments on Springdale Road. Again,
11 the same individuals testifying to that.

12 Here's what it looks like. Here's what you got at the
13 top. Mr. Johnson, Mr. Catoe his do boy, Shelley who is in
14 the thick of it helping them make it. And later on when
15 they break up Ms. Quinn. You got Chris Matus who's got
16 his own little smurf ring going on over here. He's getting
17 his boxes from Brandy, John Thomasson, Cassidy Cooper,
18 Brittany Muller, his brother Josh, Troy Carter. And then
19 you get all these folks over here. Ms. Caudle, Robbie
20 Catoe his brother, Andy Cook, Kelly Cameron, Pee Bo Ingham,
21 Matt Oakes. All these individuals associated with them as
22 well. The interesting thing about this, the interesting
23 thing about this is when you look at those pseudo records
24 and the buying patterns, you never see these people buying
25 meth. And you heard from people that testified that each

CLOSING STATEMENT: BY MS. COLTON

-902-

1 side of that board, you heard from Ms. Caudle, you heard
2 from Chris Matuse, you heard from Brandy, we don't have
3 anything to do with these people any more. And you heard
4 from Cassidy Cooper. What's the common tie? Right there.
5 Those four folks. And none of these people over here even
6 heard of Brandi. Chris Matuse was in jail. I think he
7 said he heard of her. These girls. It doesn't matter.
8 She testified to the same thing. How did they know that
9 they were to come up in this? They didn't because what
10 they said was true. And the question is why believe all of
11 them? They all tell a part of the same story. They had
12 the opportunity to see part of the same story.

13 Credibility, corroboration and consistency. Each of
14 them told the truth. And you all, you're charged with
15 judging their credibility. And I'm not going to come up
16 here and say that each and everyone of them does not have
17 some problem. They did, they did. Good enough for Mr.
18 Johnson to hang out with. Those are his friends.
19 Certainly they have problems. But they told the truth no
20 matter how bad it was. They told their grandparents. They
21 told the disgusting things that they did for meth. It's
22 humiliating, its humiliating. But they did. And they
23 didn't have too. They could have come in here and they
24 could have tried to make themselves look better and they
25 could have said oh no I'm gonna take care of my baby.

CLOSING STATEMENT: BY MS. COLTON

-903-

1 Anything. They could have lied about that. They could
2 have made themselves look better but they admitted that
3 they had been bad people and done bad things. Weigh their
4 credibility. They weren't covering up anything. They were
5 embarrassed, they were humiliated, they admitted they had
6 done bad things to their kids. But more than that, they
7 all implicated themselves in a crime much more serious than
8 any of the charges that they were charged with. Any of the
9 charges that they were charged with.

10 And they told on themselves. They told on themselves.
11 When you get up and testify in court it's pretty hard to
12 turn around and say I didn't make that statement. They
13 told on themselves.

14 Now, they're all considered snitches. And look at
15 Chris Matuse. Mr. Matuse is going to go to prison and now
16 he gets to go to prison as a snitch. He didn't have
17 incentive to not come in and tell the truth. On the
18 streets they're all going to be considered snitches and
19 nobody will deal with them no more. But they admit their
20 roles in crimes and they don't make up things that they
21 didn't know. When Brandi Quinn was up on the stand and I
22 ask her to look at certain pictures that were taken
23 directly from that hotel room, she didn't know them. She
24 didn't tell you that she did. She didn't. And I ask them
25 if they knew certain people and they didn't know them.

CLOSING STATEMENT: BY MS. COLTON

-904-

1 They didn't tell you. They could have put any amount of
2 dope on Ms. Johnson and they didn't do it. Even Chris
3 Matuse. I think I bought from him one time on Springdale
4 Road. Well if he wanted to get himself out of trouble so
5 much - maybe it was four or five times, I'm sorry, whatever
6 Chris Matuse said. He could have said I bought five grams
7 every time I went there and we wouldn't know the
8 difference. How do we know? How do we know? We wouldn't.
9 Mandy Caudle: I think she testified that what she can
10 recall is maybe buying a total of three grams of
11 methamphetamine. She's seen it cooked but it's only three
12 grams. Big deal. Why didn't she say thirty? Yeah I was
13 over there all the time. She didn't because it was the
14 truth. And if she was just saying what she wanted the
15 police and the prosecutor's to believe, why not put more on
16 there? We can't prove that she didn't. Why not make it
17 more? She's got pending charges; she knows more is better
18 for us. She's just trying to help us out and why not say a
19 hundred? Why not say two hundred? Because it wasn't the
20 truth.

21 These people all know details that only a person
22 involved in this we know. Chris Matuse knows exactly how
23 to make it. It matches what you heard everyone else say
24 how Jason made it. And Detective Schifferle said there's
25 about thirty different ways to do it. If he hadn't seen it

CLOSING STATEMENT: BY MS. COLTON

-905-

1 done the way Johnson does it how did he know exactly how he
2 did it? Because he saw him do it. Everyone else testifies
3 to the same thing. Bits and pieces. Brandy doesn't know
4 quite everything that's going on with that. Brandy Hager
5 came in. Brandy was as nice as could be. I don't know
6 they wouldn't let me in there. They thought I was the
7 police. She didn't testify to it. She was being fed
8 information and made to come in here. You don't think
9 she'd get her story straight? None of these witnesses were
10 coached, none of them were given a script. They all said
11 the same thing. And those officers testified how they
12 interviewed them. They didn't go in here and say here's
13 what I want you to say. I want you to testify against
14 Jason Johnson. I'm going to give you this incident and you
15 just check all this out. That's not how it was done. You
16 think the officers lied about that? What reason did they
17 have to lie about it? Because it's the truth. They're
18 testimony doesn't contradict each other. Each person is a
19 piece of the puzzle. And the testimony is the same where
20 they have common knowledge of those events.

21 All six corroborate what the others say, and all six
22 corroborated by the police officers and all six are
23 corroborated by the pseudo logs. All right. And all six
24 are corroborated by that meth lab. And if you look at the
25 cell phone, everyone in there except Ms. Hager had contact

CLOSING STATEMENT: BY MS. COLTON

-906-

1 information with Jason Johnson's cell phone.

2 All six know the method that they used to cook. All
3 identified the same cook houses. And all six say that
4 Jason Johnson is the shot caller. He's the boss. And all
5 six confirm that Catoe has the lesser roll. Why not say he
6 plays an equal part? What difference does it make? How
7 are we gonna know? Sure they're both just as bad. Yeah
8 their bad, their evil. That's not what you heard. They
9 felt bad for it because he was mistreated. But the easiest
10 thing in the world say Corey's just as equal, oh yeah,
11 Corey's a bad guy, Corey did all these bad things. You
12 didn't that because it's not true because Jason Johnson
13 he's the boss.

14 These individual smurfs don't know each other. And if
15 you look to the text messages with Micky and Mandy, 2:26;
16 2:30 pm., and that's the day before the arrest at the Best
17 Way Inn. Brandi's got problems that's true. How is she
18 gonna know this is gonna be showing up on Jason Johnson's
19 cell phone. Do you think a year ago she texted him with
20 the knowledge that the next day he's gonna be arrested with
21 a meth lab in there and that sometimes she's gonna be
22 called to testify and come up here and have that
23 corroborated? No. What does she testify to? She called
24 him to get K 8's. K 8's, Dilaudid. They got them. She
25 didn't lie about that.

CLOSING STATEMENT: BY MS. COLTON

-907-

1 Robbie Catoe, if I was so irritating so bad then why
2 didn't you get straight before you left? What's that
3 Schifferle told you? "Just hook me up." That's two days
4 before. "What you got for me?" Maybe Robbie Catoe left
5 his computer over there and wanted it back? Text message
6 from Shannon James. "What's up with you?" What's up with
7 you? "You good yet?" 2:26, and this is not Greenwich
8 Village time I adjusted it back. 10:35 pm; "What's up with
9 you? You good yet?" 11:00; "You ready?" 11:08; "If you
10 can have it soon I want two." Two computers. That's a
11 business he's engaging in allegedly. 11:18; "Are you gonna
12 have that ready soon?" Remember this is the night before
13 officers discover that meth lab in the room. "You coming?
14 I'm gonna go to bed if not." "Want to spend lots of
15 money." 1:46 am. "Doctor Vic, I'm getting very tired;"
16 12:07 am and the text messages stop. So on a Saturday
17 night from Ten O'clock to Two O'clock in the morning she's
18 waiting for Jason Johnson to bring her a computer. Really?
19 That's not the reasons he's engaged in. He's selling
20 methamphetamine.

21 And then Sergeant Cribb at 1127 Springdale Road, the
22 place that all these people testified that Jason Johnson is
23 staying at. Sergeant Cribb just so happens to be there on
24 December 23rd, 2010 and find fake ID's with the name
25 Christopher Ryan Davis and a picture of Corey Catoe on it.

CLOSING STATEMENT: BY MS. COLTON

-908-

1 And a picture of Jason Johnson named James Arlin Biggamyer.
2 And on the 8th of February a couple of weeks before they're
3 arrested with the meth lab, Mr. Johnson's made another fake
4 ID same exact name James Arlin Bigger. And he's added one,
5 Michael Shawn Nelson, and those are taken into evidence by
6 the police. And you don't ever see those names being used
7 on those pseudo logs after that date because they didn't
8 have them any more. This is that 12:23 arrest by Sergeant
9 - investigation by Sergeant Cribb. And you look at what's
10 in this picture, okay. The laminator, sandwich baggies in
11 the room. And then you look at what we find in the Best
12 Way Motel. Manufacturing more fake ID's. Now the names
13 Justin Paul Burnette, Justin Edward Burnette and then Corey
14 Seth Catoe. He uses his real name here but still it's a
15 fake ID.

16 So you have on the 23rd; Catoe, the ID name being
17 seized of Christopher Davis, the ID of James Bingham, the
18 ID of James Bingham again seized; obviously it's a
19 duplicate. The ID of Mike Nelson. And then on the 27th
20 two different ID's with the names of Justin Burnette and
21 Catoe with his own ID but fake numbers. And look where we
22 find that laminator comes up again. In a common area of
23 that room. And they want to try to imply that Mr. Catoe's
24 the one with the fake ID's and it's all about him and it's
25 all about his computers. How did his picture get on it?

CLOSING STATEMENT: BY MS. COLTON

-909-

1 These are the ones that they were producing and the
2 practicing of the signatures. The part of the
3 corroboration is that if they're not meth cooks then why
4 are they found in a room with a meth lab? Everything else
5 aside that corroborates exactly everything you heard from
6 the stand. They're guilty. And the only way that they're
7 not guilty is everyone conspired, everyone that testified
8 here; all the officers that found all this evidence, that
9 they all conspired against Johnson and Catoe in some big
10 conspiracy. It's not with them. It's everybody else.
11 Maybe that's that meth paranoia. It's everybody else they
12 all conspired. Chris Matus was locked up in December.
13 Brandy Hager, Cassidy Cooper and Matus don't know the rest
14 of the witnesses. I don't think Ms. Hager really cares to
15 know anybody else who testified. You know did Cassidy
16 Cooper have a reason to come out here and try to help
17 Chris? Yeah, she does. But between the two of them you
18 think they can keep their story straight? She's nineteen
19 years old; she saw what she saw. And Brandy Hager has
20 absolutely no reason to testify for Chris Matus.
21 Absolutely no reason. She hadn't seen him. She hadn't
22 been dating him, she didn't want to have nothing to do with
23 him. And then they prefer to be up here testifying against
24 all these people, coming up here and saying all this stuff.
25 She's got better things to do with her time. She's changed

CLOSING STATEMENT: BY MS. COLTON

-910-

1 her life. She's in a good place now. And you can tell
2 that by her demeanor from the witness stand. She had no
3 reason and no benefit to come up here and testify but she
4 did so because it was the truth. And not one person up
5 here was excited to be here. Not one of them. And no one
6 testifies that Corey's a bad guy.

7 No one planted the meth lab in that room. No one
8 cooked up the exact same way that everybody says it was.
9 And there is no way that these six witnesses are lying
10 about what they saw, that they some how went to the
11 pharmacy and they went into the APRIS system and they fixed
12 the records. And there is no way that they could fix cell
13 phone records. And if you listen to the jail tapes, your
14 biggest source of corroboration is right there.

15 As long as Brandi keeps her mouth shut they're fine.
16 He knows Corey will keep his mouth shut and his brother
17 Josh and Brandi's cousin Randy Cook are gonna make sure of
18 that. Those jail tapes speak for themselves about what
19 happened. Those jail tapes speak for themselves about who
20 was being in control. Not only was he in control of all
21 the methamphetamine, all the distribution, all the cooking
22 and all the dope and everything that happened, he's in
23 control on what they're gonna do with their own cases. He
24 doesn't care about them doing what's good and best for them
25 to help them out. This isn't their friend. They're not

CLOSING STATEMENT: BY MS. COLTON

-911-

1 friends.. He's using them. They're gonna keep their mouth
2 shut because he knows what happens if they don't. Because
3 if there isn't any crime why is he so worried about Brandi
4 talking? And he knows Corey's not gonna talk because
5 Corey's a boy. It's because he's guilty.

6 And you look at that letter that Johnson wrote to
7 Mandy. Everyone that testifies, everyone that they testify
8 about they're in there; he knows them. It's everybody in
9 Johnson's phone; it's everybody on those pseudo logs and it
10 shows the connection and it shows all the players. And it
11 shows that he's not just some drug user. They're guilty
12 because of that lab, they're guilty because of the pseudo
13 records, they're guilty because of the fake ID's; they're
14 guilty because the fake ID's using other people buying
15 pseudo for them and they're guilty because they made, sold.
16 and traded and gave meth to all these smurfs. And you know
17 that's because of the pseudo logs, the fake ID's, the
18 officer's reports, the phone calls and text and mail logs
19 and they're continuing agreement to keep quiet and to make
20 sure that Brandi doesn't take either.

21 Johnson and Catoe are both over twenty-one years old;
22 they can buy cigarettes, they can buy alcohol. So why do
23 they need fake ID's? And why do those fake ID's appear on
24 the pseudo logs buying with all these people that are
25 involved in methamphetamine? And why are they going to one

CLOSING STATEMENT: BY MS. COLTON

-912-

1 store the same day to buy the same exact product? Because
2 they're guilty. If you look at the pseudo logs and that
3 date August 12th Matusse goes to jail. And you have Brandy
4 Hager. Brandy Hager; Chris Matusse, Chris Matusse and Robbie
5 Catoe all buying the same exact day. What is the
6 coincidence of them needing the same exact medicine the
7 same day and in that volume? Jason Jordan, 10:28 am.,
8 10:40, Shelley Pettigrew. 1:26, Josh Matusse. 1:31, Brandi
9 Hager. And then at the Walmart. And this is when they're
10 all living at Tommy Catoe's trailer. There's Corey Catoe,
11 Tommy Catoe. Tommy Catoe and Corey Catoe buying. Right
12 there that corroborates everything that those witnesses
13 said.

14 Chris Matusse, Cassidy Cooper and Brandi Hager all
15 talked about Troy Carter and how Troy Carter was one of
16 their smurfs. Well if Chris is such a big liar, how does
17 this happen? They're all buying on the same day, Corey
18 Catoe, Jason Johnson and Shelley Pettigrew. How did that
19 happen? Because they're not connected? Of course. What
20 was the coincidence of that happening? Shelley Pettigrew
21 testified that she went to Charleston with Barbara and that
22 was Barbara Porter and she bought Sudafed. Oh look CVS in
23 north Charleston fourteen minutes of each other Barbara
24 Porter and Shelley Pettigrew. Because she's lying about
25 everything? How was she gonna know that we had the pseudo

CLOSING STATEMENT: BY MS. COLTON

-913-

1 records that was going to confirm that all. How was she
2 gonna know that? And if she was told that or if she
3 happened to look through one of the officers notebooks,
4 wouldn't she be able to tell you the date? This is the
5 fake ID with Jason Johnson's picture on it. 11:02 am.,
6 Target, Rock Hill, Troy Carter. Chris Matuse's smurf buys
7 with a fake ID, James Bingham. How do you know that?
8 They're buying within two minutes of each other the same
9 product. Then they leave there. Troy Carter goes to Dave
10 Lyle Boulevard, okay. A couple of minutes to get over
11 there. Twenty minutes later, fifteen minutes later Carter
12 buys again. Walmart, Stonecrest, Dave Lyle, 12:04 Troy
13 Carter. Three minutes later James Bingham this defendant's
14 alias the ID that's found in his possession are buying
15 again. What's the coincidence of that? I don't know maybe
16 they're related to James Bingham. Maybe there really is a
17 James Baker. Maybe James Bingham is Troy Carter. Okay.
18 You got 1:18, Walmart in Newport, Corey Catoe. And one at
19 Lake Wylie. Oh look James Bingham, Corey Catoe, within
20 minutes of each other. It's not James Bingham. It's the
21 defendant right there using that fake ID to get around the
22 pseudoephedrine logs so that he can get methamphetamine,
23 make methamphetamine. That's him. Walmart Dave Lyle,
24 7:03, 7:03, 7:04; Shelley Pettigrew, Jason Johnson.
25 Shelley's buying two boxes at one time. Corroborates what

CLOSING STATEMENT: BY MS. COLTON

-914-

1 she says. Walmart Dave Lyle the 17th Joshua Johnson,
2 Christopher Davis, Jason Johnson within six minutes of each
3 other. That's not a conspiracy right there? They all
4 happen to get sick on the same day? And then you get
5 Brandi Quinn and Michael Nelson. If they went to the store
6 together why did they buy twelve minutes apart? We know
7 who Michael Nelson is. Jason Johnson. And then they all
8 walk into Target buy the same thing again. Finally Ms.
9 Pettigrew. Four minutes later Mr. Nelson who now know is
10 Jason Johnson. Pettigrew: Pettigrew and Michael Nelson
11 arrive and then Brandi Quinn after that.

12 And then finally when we talked about Brandi Quinn and
13 we talked about that incident, what did Brandi say about
14 what happened? They went to Micky Thomasson's house the
15 day before picked up pseudo in that bottle that we saw in
16 that hotel room. Right? And that Jason went to Walmart.
17 Guess who got pseudo there? How did she make that appear
18 in Walmart and Target pseudo? How did she make that
19 happen? She was there. If you look at the pattern it's
20 what everybody testifies to every few days when they run
21 out except. The interesting thing is on those days where
22 Mr. Johnson is out of the area, look who's not buying
23 Sudafed. Where they're X'd off.

24 Why not? Why not? With the exception of Mickey
25 Thomasson and Mandy Caudle the one day, that one day. She

CLOSING STATEMENT: BY MS. COLTON

-915-

1 testified by then they're making their own meth. That's
2 what she said. So why isn't anybody buying pseudo then?
3 Because their cook, the head cook, is out of the area.
4 They didn't need to because he wanted to be cooking meth
5 that's why. All the evidence points to Johnson and Catoe
6 his helper that Johnson and Catoe cook; that Johnson sells
7 and delivers methamphetamine and that he uses Catoe and the
8 other witnesses to supply him with the materials that he
9 needs and that's the agreement to make, sell, deliver
10 methamphetamine. And that's between Catoe and Johnson.
11 And that's why Jason Johnson's guilty over 28 grams.

12 When we talk about the question of how much they
13 really trafficked in, right there you got 60, almost 70
14 grams or 61 grams of methamphetamine and a mixture thereof.
15 That's what they're really guilty of. But the Judge is
16 gonna give you several options. And you all are the finder
17 of the facts so you have to decide which option applies.
18 And that first one I submit to you is actually what
19 happened, is that Jason Johnson is guilty of trafficking
20 over 28 grams. And just because it says 28 to a hundred,
21 if you think it's more of then, it's anything over 28
22 grams. You got the bottle in the hotel room and that's
23 regardless of whether or not you believe any person who
24 testified. You got that bottle from the hotel room, you
25 take the laws the Judge charges okay. Right there. You

CLOSING STATEMENT: BY MS. COLTON

-916-

1 think he possessed that or he made that, he's guilty.

2 Second option. Possess, manufacture or attempt to
3 manufacture 10 to 28 grams the lesser included. So
4 basically if you don't think that was his bottle in the
5 hotel room, but you chose to believe one of the witnesses
6 instead of believing what the officers found you can find
7 him guilty if you think the amount he distributed remained
8 between 10 to 28 grams if you don't believe all of this
9 about this bottle that the officers took into custody in
10 weight.

11 The last lesser included offense that you will get
12 charged that you can also come back guilty on, just
13 manufacturing distribution. Giving a little bit to
14 someone, making a little bit methamphetamine. In that case
15 you don't believe anything about that bottle in the room,
16 you don't think he had anything to do with that and you
17 only believe one or two people that testified about what he
18 did because it's under 10 grams. This is why he's guilty
19 of the 28 grams.

20 Let's talk about each individual and now much they
21 said they got from him. Brandi Quinn: Six times together,
22 two to three times per day, one to two boxes of Sudafed
23 each time. Shelley Pettigrew: Half gram every time she
24 used. Cooked two times a week; it's a four month party.
25 Mandy Caudle talks about a half gram at the trailer when

CLOSING STATEMENT: BY MS. COLTON

-917-

1 she went alone. A half gram from the trailer when she went
2 with Robbie Catoe. Four times with Mr. Johnson when he
3 lived at the Springdale Road. Saw Johnson cook five to six
4 times. And then Chris Matuse. If we go on the low end on
5 what they testified to and just say one gram each time in
6 the two months for Chris Matuse, got meth twice a week one
7 to two grams each time two to three months. Or Mandy
8 Caudle on the low end of what everybody told us, in all
9 fairness and not alone now, the amount of time she saw them
10 cook when she testified she saw them cook, thirteen grams.
11 Shelley, five and a quarter, five and a quarter a week for
12 a four month party 84 grams. Mandy: Mandy only gives you
13 three grams. Matuse: Two grams a week for two to three
14 months at the trailer and he bought one gram four times at
15 the apartment 20 grams. That totals a 120 grams right
16 there. So if you don't believe what the officers found and
17 you don't believe the chemist that it came back
18 methamphetamine, and you chose to believe anyone of those
19 victim - any one of those witnesses there's your 120 grams.
20 Pick and chose. Pick and chose.

21 The Judge is gonna charge you about beyond a
22 reasonable doubt and that's our burden of proof. The
23 State's burden of proof to show their case beyond a
24 reasonable doubt. But in order for you to find him not
25 guilty, that doubt has to be reasonable. And I submit that

CLOSING STATEMENT: BY MS. COLTON

-918-

1 if it is not reasonable that Matuse, Pettigrew, Quinn,
2 Cooper, Ms. Hager are all lying about this, if so, it would
3 implicate Catoe more. They don't know each other. Why are
4 they credible? Because of their knowledge of the
5 information. It would be difficult at best to coordinate
6 their testimony and because they all implicate themselves
7 as well. Their testimony is credible; it's corroborated
8 and it makes sense.

9 I'll leave you with this. And ask that you don't
10 confuse deliberation with hesitation to act because that's
11 what the judge is going to charge you with. Reasonable
12 doubt is that hesitation that will make a reasonable person
13 to hesitate to act. When you go back in the jury room you
14 are going to have to make hard decisions and discuss all
15 the evidence. And you are going to be left asking how do
16 we know that the State's met it's burden of proof? We've
17 proven this case beyond a reasonable doubt. And the answer
18 to that is simple. If you believe that this defendant
19 made, sold, distributed more than 28 grams of
20 methamphetamine, you believe that, then he's guilty. And
21 that's the verdict you should have because he is.

22 THE COURT: Counsel.

23 MR. BROWN: May it please the Court.

24 THE COURT: Yes, sir.

25 MR. BROWN: Madame Forelady, ladies and gentlemen of

CLOSING STATEMENT: BY MR. BROWN

-919-

1 the jury, we at Friday afternoon at 3:30; I'm not going to
2 be near as long winded as some of the testimony was on my
3 opposing counsel because I'm tired and I'm sure you're
4 tired and I'm sure you're sick and tired of hearing about
5 methamphetamine, prostitution, lying, cheating and
6 stealing.

7 Before I go into my view of the evidence, I do want to
8 discuss some matters of law with you because I feel it is
9 very important that you understand these concepts in
10 reaching a verdict. We have two forms of law in this
11 country and there are very quite simple when you break it
12 down. We have civil law and we have criminal law. And the
13 reason I am going to compare the two so I want to put you
14 in the proper mind frame of what I feel the judge is gonna
15 charge you on how you should use the law in reaching a
16 verdict. And these are really common sense notions, civil
17 laws when someone sues someone for economic gain. And what
18 that happens in all civil cases we have a general rule of
19 evidence known as preponderance of the evidence. And what
20 that means is both sides have to bring to you evidence and
21 if you believe one side slightly more than the other, say
22 fifty-one percent versus forty-nine percent, you have to
23 vote that way.

24 Criminal law is completely different. Criminal law
25 occurs when someone makes an allegation against somebody

CLOSING STATEMENT: BY MR. BROWN

-920-

1 who gives rise to criminal liability. And not to bore you
2 with a civics lesson, but in a nut shell this case the
3 State of South Carolina through the prosecutors office and
4 Officer Schifferle, et al., have made this allegation
5 against Jason Johnson. His Honor will charge you there is
6 some common precepts that all criminal cases that are
7 applicable. And they are applicable in this courtroom all
8 the way up to the United States Supreme Court. And the
9 first one is His Honor will charge you is that Mr. Johnson
10 is presumed innocent and that presumption of innocence is
11 as strong and as real as any fact you believe beyond a
12 reasonable doubt. It is as strong as you know the sun is
13 going to come up tomorrow morning and you can go to the
14 bank on that right now, he is innocent. And he stays
15 innocent until such time as you twelve collectively go back
16 in the jury room, deliberate the evidence, weigh the
17 evidence out, apply it to the law as His Honor charges you
18 and reach a verdict. It really is like a mathematical
19 equation. You decide what the facts are.

20 There's four major participants in this trial and they
21 are really kind of obvious. As you well know I'm court
22 appointed. That means Mr. Johnson is indigent and I'm
23 court appointed and my job is to defend him to the best of
24 my ability. Their job, the second major participant, is to
25 prosecute the case to the best of their ability. His Honor

CLOSING STATEMENT: BY MR. BROWN

-921-

1 is the sole judge of the law. Part of your oath as jurors
2 is to take the law as he gives it to you whether you agree
3 or disagree with it and apply it. And the most important
4 job in this courtroom is you twelve collective because you
5 will set in judgment of Jason Johnson. No one in this
6 courtroom can tell you how to do your job. You come on
7 jury duty, you don't throw away your everyday good common
8 sense and you twelve collectively will decide what the
9 facts are. And once you do that, it becomes your job to
10 apply it to the law and render a verdict.

11 Criminal law as I told you is completely different
12 from civil law. They made that allegation against Mr.
13 Johnson, the burden of proof is not preponderance of the
14 evidence unlike civil cases. They must bring to you not
15 just allegations, not just speculation, not just theory
16 which is about half their argument. You have to connect
17 the dots. Don't use your imagination because it's their
18 job to connect the dots for you. And by way of example,
19 somebody buys Sudafed doesn't turn it into meth. They have
20 to connect the dots for you. And they must connect each
21 and every dot to a certain standard. And that standard is
22 proof not to, not to, but it is proof beyond a reasonable
23 doubt. I'm sure all of you at some point in time in your
24 life have heard the phrase beyond a reasonable doubt. Our
25 Supreme Court has a simple and short definition of what a

CLOSING STATEMENT: BY MR. BROWN

-922-

1 reasonable doubt is. A reasonable doubt is the kind of
2 doubt that would cause you to hesitate to act. It's
3 evidence that leaves you firmly convinced of someone's
4 guilt. And to put it in the context of this case or any
5 other case you may hear, if after hearing all of the
6 evidence you hesitate, think twice about voting for
7 conviction then it is your duty as jurors to return a
8 verdict not guilty. Likewise, if you've heard it all yeah
9 that makes sense to me I'm not thinking twice about this,
10 it is also your duty to return a verdict guilty. And
11 that's your job in this case.

12 There's a couple of other things I feel His Honor will
13 charge you and I will point out and emphasize a little bit.
14 This is a kind of unique case because he's charged with
15 trafficking and the crux of that trafficking is conspiracy.
16 And His Honor will tell you that conspiracy is a tacit
17 agreement, understanding, meeting of the minds, to commit a
18 crime. They have to prove that to you beyond a reasonable
19 doubt. And His Honor will discuss credibility. And I
20 notice opposing counsel spent a great deal of time trying
21 to convince you of this jail house lie they brought in as
22 witnesses was troubling. Listen closely when he tells you
23 how to judge credibility. As I told you previously when
24 you come on to jury duty you don't throw away your common
25 sense. Yeah you can dress them up and you put them up

CLOSING STATEMENT: BY MR. BROWN

-923-

1 there and you can make them look nice, don't throw away
2 your common sense. You use your everyday good common sense
3 and judgment to decide if someone is telling the truth.
4 Why that's important here is to convict Mr. Johnson what
5 they want you to do you have to believe each and everyone
6 of those witnesses. And they might be telling the truth.
7 You have to be convinced beyond any doubt that would cause
8 you to hesitate to act that they're telling the truth. And
9 that's important here because they can holler about
10 corroboration all they want, they didn't bring you a whole
11 lot.

12 This is a two prong case. And the indictment and I'll
13 read it to you, and you will have this back in the jury
14 room.

15 THE COURT: They won't have it back in the jury room.

16 MR. BROWN: I stand corrected, Your Honor. May I
17 publish it?

18 THE COURT: You may.

19 MR. BROWN: "That on or about August 1st, 2010 and
20 February 27th 2011 in York County, South Carolina the
21 defendant, Jason Alen Johnson, did knowingly sell,
22 manufacture, deliver, purchase, bring into this state or
23 did provide financial assistance or otherwise aide, abet,
24 attempt or conspire to sell, manufacture, deliver, purchase
25 or bring into this state knowledge, actual constructive

CLOSING STATEMENT: BY MR. BROWN

-924-

1 possession or knowingly attempted to come into actual
2 constructive possession of one hundred grams of
3 methamphetamine."

4 And His judge is going to charge you there is various
5 levels of trafficking. A hundred grams plus twenty-eight
6 to a hundred as she pointed out or ten to twenty-eight.
7 You have to decide the weight. That's your job, part of
8 your job if you decide he's trafficking in drugs. It's two
9 prong case and she's correct. The first prong and I'll
10 call it this for lack of a better term, occurs at the motel
11 room. And I want to visit that first before we go to the
12 other witnesses in this case.

13 This case arises, and you remember; again, if I
14 misspoke any testimony you thirteen take it collectively as
15 you heard it. Thirteen members are better than one. I
16 assure you it's not intentional but these are the notes I
17 made. Deputy Gladden goes and gets an arrest warrant for
18 malicious injury to property for Brandi Quinn. At the
19 start of Deputy Gladden's tape, nobody's worried about car
20 damage. The first words out of her mouth is, "she's
21 probably got drugs in there". It's 8:30 on Sunday morning,
22 they go there with an arrest warrant ostensibly to arrest
23 her for malicious injury to property. They go in there any
24 by Deputy Quinn's [sic] testimony within twenty seconds
25 have her under arrest. In my opinion their business was

CLOSING STATEMENT: BY MR. BROWN

-925-

1 finished there. However, officer's safety, we have to take
2 these other two into custody for doing or being in the bed
3 and there's some computer parts in there. So they take
4 them into custody. And then they wait an hour give or take
5 for a search warrant to get there. In the mean time - you
6 saw the video and I'm not gonna sit here --

7 MS. COLTON: Your Honor, I'm going to object at this
8 point. I'm going to ask that we approach on that issue.

9 THE COURT: Yes, ma'am.

10 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
11 THE JURY AT 03:31 PM.)

12 MR. BROWN: While waiting for the search warrant, you
13 saw the tape, they go in and out the room. Finally the
14 search warrant comes and what do we have. Well you've seen
15 the film of it, the liquor bottle with methamphetamine. No
16 question it's an unfinished product it can't be used. All
17 three officers at the scene testify that no one claimed
18 possession of it. Why is that important? This particular
19 first prong is a possession case. And she's correct,
20 there's two forms of possession under our law. It's actual
21 and constructive. Actual: this watch is on my wrist. I
22 have actual possession of that, there's no question it's
23 mine, it's on my body. Constructive possession means you
24 have control and dominion over certain assets. And I'm
25 going to use my office for example. If I put my glasses

CLOSING STATEMENT: BY MR. BROWN

-926-

1 down on my desk in my office, I have control and dominion
2 over the items in my office. If you take the copy machine
3 out in the lounge in my office, that's a little unclear.
4 It's five or six people that have access to that copy
5 machine and those people have control and dominion of it.
6 Why that's important is because this particular situation
7 with the alleged meth and the liquor bottle falls in that
8 category. You recall the testimony because this is a
9 possession case as far as trafficking goes. Somebody had
10 to possess meth to be convicted of trafficking. You have
11 at least five people in and out of that room.

12 Corroboration: It's fine to call everybody in here
13 and say or insinuate or try to lead you to believe that's
14 Mr. Johnson's meth. What is the one thing in this case
15 would have cleared that up? Uncontradictably left you no
16 doubt as to whose meth bottle that was. One of the
17 questions I ask Officer Schifferle. Not only do you have a
18 drug lab down there, you have a forensic lab who does
19 nothing but take DNA -- well excuse me. They don't have a
20 DNA lab yet, that's coming. Fingerprints, et cetera. You
21 saw the gloves. And did they use those gloves and dust it
22 down for prints and take fingerprints? Lord knows they had
23 his fingerprints. Lord knows they had Mr. Catoe's
24 fingerprints. Lord knows they had Ms. Quinn's
25 fingerprints. They had the other two individuals who came

CLOSING STATEMENT: BY MR. BROWN

-927-

1 by fingerprints. If they did it you didn't hear about it.
2 And that would have cleared that issue up for you once and
3 for all. A simple fingerprint test. Tell me it came back
4 negative. Tell me it came back to nothing. But they
5 didn't present you any evidence, any forensics, off that
6 bottle. And somebody without a doubt had carried that
7 bottle into that hotel room. Somebody had to hold it,
8 somebody had to grip it and I guarantee you there's
9 fingerprints on there.

10 Reasonable doubt: Where do you find reasonable doubt.
11 That may come in two places in the law. It can come from
12 evidence and the witnesses you heard on the witness stand.
13 Or it can also come from the lack of evidence. What they
14 failed to give to you. What they failed to show you.
15 Because in criminal law they always carry the burden of
16 proof. We have to prove nothing because it's their
17 allegation. Do I believe beyond a reasonable doubt; beyond
18 any doubt that would cause me to hesitate to act, to think
19 twice about it that, that's Mr. Johnson's bottle. And I
20 submit to you they could have cleared that up for you from
21 day one. But for whatever reason they have not done that.
22 And I submit to you from what I call the first prong of
23 this case, they haven't carried the burden of proof. So
24 I'm going to ask you to ignore without further proof this
25 60.9 grams because it wasn't partially tested, it was an

CLOSING STATEMENT: BY MR. BROWN

-928-

1 unfinished form, and nobody has proven to you beyond a
2 reasonable doubt who had possession of that bottle.

3 Lastly on the motel room, she kept calling it a meth
4 lab. I don't think I ask him four or five questions
5 because I didn't have a lot to ask him. But I ask him I
6 think it was the "One Pop" or -- I can't remember what he
7 said but the method he insinuated they were probably using
8 or could be using to cook meth up, and I ask him do you
9 have the necessary items there of what they found in that
10 room, the tube and so forth, and the filters and so forth
11 to finish cooking this, and he honestly said no. It's not
12 a meth lab. You have a raw unfinished product there and
13 possessed by at least one or five people. We don't know
14 who it is. There is no meth lab in there and by their own
15 witnesses admission they didn't have the stuff to cook it
16 there anyway no matter who was in control and possession of
17 it.

18 Now the second prong of their case involves with the
19 six witnesses, I didn't count, this jail house lineup they
20 brought to you. You have to be careful and don't loose
21 your everyday common sense because the government comes in
22 here and vouches for these people. But I don't want to go
23 through the testimony of each and every one of them so I
24 want to hit some high points on what they told you. And I
25 also want to from the start, I want to submit those records.

CLOSING STATEMENT: BY MR. BROWN

-929-

1 are not corroborative of what they told you. You go back
2 with the exaggerated numbers they gave you and match them
3 up with those records there is no way, there is no way.
4 And I'm talking about the purchase records for Sudafed. If
5 you believe, if you believe they have not connected the
6 dots on this, if you believe that yes all this Sudafed they
7 bought went straight to Jason Johnson, he was cooking it
8 all up and you know he's a pep boy junior of York County if
9 you believe that but I submit you should not because they
10 have not connected the dots on that, that destroys their
11 testimony and credibility because they all exaggerated.

12 And I'm not going to belittle people but it's my job
13 to point out the credibility or believability of these
14 witnesses. And you as jurors take an oath to consider
15 their backgrounds, their past, their experiences. And this
16 bull malarkey about they have no reason to lie, they spent
17 a life time lying. Brandi Quinn, unemployed, needs money
18 for synthetic heroin, Dilaudid, goes and sees Pops, Mr.
19 Harvey, for some elicited photos or whatever. Or sometimes
20 he just gave her the money. If you believe that I got some
21 beach front property I want to sell you in Utah. Read
22 between the lines on that. These are the people he's
23 dealing with. Ask yourself, life long history of heroin
24 use, crack use, cocaine use, got a record; burglary, grand
25 larceny, resisting arrest, I can't remember it all it's too

CLOSING STATEMENT: BY MR. BROWN

-930-

1 convoluted. Do I believe that person beyond a reasonable
2 doubt? Do I believe that person beyond any doubt that
3 would cause me to hesitate to act, to think twice? Of
4 course you don't because they dress them up and put a fine
5 wine on it doesn't make it champagne. It's still Boone
6 Farm, it smells like Boone's Farm and all it is, is a cheap
7 rot gut mess. You have a duty to judge her credibility
8 believe me. So what's her reason for lying? Why would she
9 make this up? She wanted "the truth to come out." I'll
10 tell you why. If they will lie, cheat and steal to get
11 their drugs can you imagine what these people will do to
12 spend one less day in jail. Now I know it's very nice to
13 sit up here and say no promises have been made, we're not
14 guaranteeing anything. Don't be that naive. Don't be that
15 nieve.

16 Who was the second one? One of my personal favorites,
17 Ms. Pettigrew. Talks to Officer Schifferle and low and
18 behold the grand larceny's gone, my probation violation
19 gets reduced down to house arrest, and I hadn't been
20 sentenced yet either. I guess she found a four leaf clover
21 on the way to the courthouse. Use your common sense.
22 Although no promises have been made this is the same woman
23 who down in Lee County, South Carolina took a bunch of
24 marijuana, I'm not talking about a little bit of marijuana.
25 I believe her testimony was Six Hundred Dollars into

CLOSING STATEMENT: BY MR. BROWN

-931-

1 prison. Sold that marijuana and was kind of proud of
2 herself. Yeah I got Six Hundred Dollars out of that. Do I
3 believe Ms. Pettigrew beyond a reasonable doubt? Do I
4 believe her beyond any doubt that would cause me to
5 hesitate to act? I'm not going to belabor the point. It's
6 a Latin phrase for it; it's res ipsa loquitur, it means it
7 speaks for itself. And she also told you that a vast
8 majority of the meth they had was for personal consumption
9 between her and Jason Johnson.

10 Amanda Caudle, heroin addict by her own admission,
11 bad memory from drug abuse. Pending a trafficking charge
12 testified that when she got out of prison -- excuse me, I
13 got this wrong. It's too convoluted. Too many people
14 coming out of prison. When her boy friend got out of
15 prison to support her heroin habit and her Dilaudid habit,
16 the boy friend was stealing because neither one of them had
17 jobs, testified her memory is not that good and by her own
18 admission four to five times with the defendant
19 methamphetamine. Do I believe this person beyond a
20 reasonable doubt? If Ms. Caudle came and knocked on my
21 door and sold me something with a money back guarantee
22 would you hesitate to buy that? Would you think twice
23 before you believed her? Of course you wouldn't and you
24 wouldn't do it because in judging credibility you have to
25 look at the believability and motive for this. Does she

CLOSING STATEMENT: BY MR. BROWN

-932-

1 have a motive? You bet your sweet bippy. Pending
2 trafficking charge. Pending trafficking charge. And if my
3 memory serves correctly I believe she was the one who just
4 wanted to get back home to her kids. If I'm wrong you all
5 remember it like it was said. Well not too worried about
6 yourself up two or three nights in a row doing meth with
7 Lord knows whoever.

8 My personal favorite was James Matus. I will give
9 him credit for this. Unlike the rest of them that they
10 dressed up and tried to turn from Boone's Farm into Don
11 Perignon they did bring him in as Boone's Farm in an orange
12 jump suit. I had this vision after listening to Ms.
13 Cooper's testimony and the story about how they met. Him
14 a twenty year old in a Camaro cruising the parking lot of
15 York Comprehensive High. I think he's the worst of the
16 whole lot to take a seventeen year old girl. And you saw
17 her she is the biggest victim in this case. I personally
18 did not bear him on the stand because she is the biggest
19 victim because she is seventeen years old; he's twenty-
20 seven and that's the kind of person they want you to
21 believe beyond any doubt that would cause you to hesitate
22 to act. Why he is not on trial for that is beyond me.
23 Career criminal. I lost track of this, you remember it as
24 you heard it. Two burglaries, one grand larceny, one petit
25 larceny, previous PWID, a possession with intent to

CLOSING STATEMENT: BY MR. BROWN

-933-

1 distribute meth, and to cap it all off with criminal
2 domestic violence of a high and aggravated nature on his
3 mother's baby, the baby's mother. What a champ. Do you
4 believe that gentleman, I use that term lightly, beyond a
5 reasonable doubt? If he came knocking on your door to tell
6 you - -

7 MS. COLTON: Your Honor, I'm going to object because I
8 let that go one time. Your Honor, I'm going to object to
9 that. It's a Golden Rule violation, Your Honor. That's
10 the second time it's happened.

11 THE COURT: Let's stay away from the Golden Rule,
12 Counsel. You know better.

13 MR. BROWN: Do you believe him beyond any doubt that
14 would cause you to hesitate to act? And the answer's no.
15 He's the worst of the whole lot.

16 Cassidy Cooper: She's a victim. And I want you to
17 feel sorry for her. And I kind of want to believe her.
18 One small problem with that, and she's young, nineteen
19 still. She's still with Matus. And the biggest hole in
20 her testimony is, she testified that James never
21 participated in making any of this meth. And they didn't
22 talk about her testimony ever over the jail. What did
23 James testify out of his own mouth? And the witness was
24 sequestered so he couldn't hear her and she couldn't hear
25 his because they didn't know. Sure, whenever I helped I

CLOSING STATEMENT: BY MR. BROWN

-934-

1 helped cook it up. Oh no he didn't. Because she's not
2 going to hurt him; she's going to do everything to help him
3 she can because she's love struck. She's a love struck
4 nineteen year old kid. I hope to God at some point in time
5 somebody talks some sense into her or we'll be seeing her
6 soon. And that is tragic because she had no chance when
7 she was a seventeen year old kid.

8 Brandy Hager: Never saw money change hands. I simple
9 ask that question, drug traffic for a profit. Never saw
10 money change hands. Didn't want her out there, didn't like
11 her, very little interaction with those two. The common
12 theme with all these witnesses and the common theme is the
13 lying, cheating and stealing. They're all drug addicts,
14 they all have a police record, they all or a vast majority
15 have pending charges or want something from the government.

16 I told you I wasn't going to be up here long and I'm
17 going to wind it up now. If you believe that he just used
18 less than a certain amount he's not guilty. No question he
19 was associated with methamphetamine. You have to believe
20 beyond a reasonable doubt, beyond any doubt that would
21 cause you to hesitate to act that he was trafficking
22 methamphetamine as the judge will charge you the amounts.
23 No question he's a meth addict. No question they are all
24 drug addicts. I have a problem with convicting anybody
25 once you get past the motel room which they had ample

CLOSING STATEMENT: BY MR. BROWN

-935-

1 opportunity to show that to you, and I submit to you they
2 could solve that from day one but for whatever reason they
3 chose not to bring that evidence. The other six lying,
4 cheating, stealing, semi-prostitution and all have pending
5 charges who want some kind of reward from the government.
6 I submit to you unless you're firmly convinced by the
7 evidence they presented ask yourself do I believe beyond a
8 reasonable doubt, beyond any doubt that would cause me to
9 hesitate to act, that he's guilty of trafficking on the
10 first prong on the hotel room with a liquor bottle which
11 they saw the first day by bring forensic in here. And the
12 second one convict him on what those six witnesses said
13 because there is no corroboration. There is no clean up
14 from either that trailer out in Clover. There is no clean
15 up from that apartment. And as he testified where you may
16 cook meth it leaves a distinct residue which is hazardous.
17 They could have brought you forensic in from that. There
18 is no forensics from that. What better way to prove that
19 to you than lying, six jail birds? I submit to you when
20 you weigh all the evidence, have they proven to you beyond
21 a reasonable doubt, beyond any doubt that would cause me to
22 hesitate to act Mr. Johnson is guilty of trafficking? I
23 submit to you they have not and that gentleman is entitled
24 to a verdict of not guilty on the trafficking charge. I
25 thank you very much for your patience this week. You've

CHARGE TO THE JURY

-936-

1 been a very attentive jury. It's Friday afternoon, I'm
2 very short. Thank you.

3 THE COURT: Madame Forelady, members of the jury
4 panel, you've heard final arguments from counsel; it's now
5 time for me to charge and instruct the law to you as
6 regards to the elements of the offense in which the
7 defendant is charged in this case.

8 The State charges Jason Alen Johnson with the offense
9 of trafficking in methamphetamine. To this charge the
10 defendant has pled not guilty which then places upon the
11 State the burden of proving the defendant guilty. A person
12 charged with committing a criminal offense in South
13 Carolina is never required to prove himself innocent. I
14 charge you that it is a vital important rule of law that a
15 defendant in a criminal trial must always be presumed
16 innocent until his guilt has been proved beyond a
17 reasonable doubt. This presumption of innocence remains
18 with the defendant at all times throughout the trial, it is
19 only removed when and if the State has proved guilt beyond
20 a reasonable doubt. For it is your solemn duties, ladies
21 and gentlemen, if not clearly convinced of guilt beyond
22 every reasonable doubt to the contrary to find the
23 defendant not guilty.

24 Madame Forelady, members of the jury panel, I instruct
25 you and emphasize to you the fact the defendant has chosen

CHARGE TO THE JURY

-937-

1 not to testify in his own behalf in this case is not a
2 factor to be considered by you in any way in your
3 deliberation. You must not consider the fact the defendant
4 has chosen not to testify when you determine the guilt or
5 innocence of the defendant. It must not be considered by
6 you in any manner whatsoever either against or for the
7 defendant. A defendant has the constitutional right to
8 remain silent. The assertion of that constitutional right
9 cannot and must not be considered by you in your
10 deliberations. Under your oath then you are to reach no
11 inference and draw no conclusion whatsoever from the fact
12 that the defendant did not testify. The fact the defendant
13 did not testify should not even be discussed in your jury
14 room.

15 The burden of proof as I have stated to you is upon
16 the State and it is not the burden of the accused to prove
17 his innocence. The burden of proof remains upon the State
18 to prove guilt beyond every reasonable doubt. So the State
19 has the burden of proving the defendant guilty beyond a
20 reasonable doubt. But what is a reasonable doubt?

21 Some of you may have served as jurors in civil cases
22 where you were told it is only necessary to prove the fact
23 is more likely true than not such as by the greater weight
24 or the preponderance of the evidence. However in criminal
25 cases the State's proof must be more powerful than that, it

CHARGE TO THE JURY

-938-

1 must be beyond a reasonable doubt.

2 Now, ladies and gentlemen, proof beyond a reasonable
3 doubt is proof that leaves you firmly convinced of the
4 defendant's guilt. There are very few things in this world
5 that we know with absolute certainty. And in criminal
6 cases the law does not require proof that over comes every
7 possible doubt. A reasonable doubt may also be described
8 as the kind of doubt that would cause a reasonable person
9 to hesitate to act. If you have such a doubt as to the
10 guilt of the defendant then he would be entitled to a
11 verdict of not guilty. Reasonable doubt may arise from
12 evidence which is in the case or from the absence or lack
13 of evidence in the case. If based on your consideration of
14 the evidence you are firmly convinced that the defendant is
15 guilty of the crime charged, you must find him guilty. If
16 on the other hand you think there is a real possibility
17 that he is not guilty you must give him the benefit of the
18 doubt and find him not guilty. You alone must make the
19 determination of whether or not reasonable doubt exist as
20 to the guilt of the defendant.

21 There are two types of evidence which are generally
22 presented during a trial. There is direct evidence and
23 circumstantial evidence. Direct evidence is the testimony
24 of a person who asserts or claims to have actual knowledge
25 of a fact such as an eye witness. Circumstantial evidence

CHARGE TO THE JURY

-939-

1 is proof of a chain of facts and circumstances indicating
2 the existence of a fact. The law makes absolutely no
3 distinction between the weight or value to be given to
4 either direct or circumstantial evidence. Nor is a greater
5 degree of certainty required of circumstantial evidence
6 than of direct evidence. You should weigh all the evidence
7 in the case, after weighing all the evidence if you are not
8 convinced of the guilt of the defendant beyond a reasonable
9 doubt, you must find the defendant not guilty.

10 Madame Forelady, members of the jury panel, you've
11 heard the testimony of a witness who has special knowledge,
12 skill, experience, training or education in a particular
13 field who has given opinions as to matters in which she is
14 skilled. In determining the weight to be given such
15 opinions you should consider the qualifications and
16 credibility of the expert witness and the reasons given for
17 her opinion. You are not bound by such opinions, give them
18 the weight if any you deem them entitled.

19 Madame Forelady, members of the jury panel, under the
20 *Constitution of South Carolina* you are the finders of facts
21 in this case. I do not have the right to pass upon the
22 facts or even to express any opinion I might have as to the
23 facts. Nor may I suggest in any way what I may think about
24 the guilt or innocence of the defendant. You should form
25 no opinion in that regard from anything I may have said, or

CHARGE TO THE JURY

-940-

1 any ruling I have made during the course of the trial.

2 As the sole judges of the facts in this case you are
3 also necessarily the sole judges of the credibility or
4 believability of each of the witnesses that have testified
5 during the course of the trial. There are a number of
6 factors which you may consider in arriving at your
7 assessment as to a particular witness's credibility or
8 believability. Some factors I'm going to list for you and
9 should you think of other factors that you believe also
10 ought to be considered when you go back into the jury room
11 on the question of credibility then you should consider
12 those factors as well. But you may consider the demeanor
13 of the witness from the witness stand. What was that
14 witness's manner of appearance? Was the witness straight
15 forward in answering questions or hesitant in responding to
16 questions? Simply put, do you believe the witness was
17 telling the truth or not telling the truth. Do you believe
18 the witness knew of what that witness testified or did not
19 know of what that witness testified? You may consider
20 whether or not the testimony of a witness is consistent or
21 inconsistent with that witness's own testimony or with
22 other testimony, or evidence presented during the course of
23 the trial. You may also consider how the witness came to
24 know the facts to which he or she testified. You may
25 consider the opportunity that a witness had to observe or

CHARGE TO THE JURY

-941-

1 hear; that is, to perceive the existence of a fact by means
2 of their senses. You may also consider whether or not a
3 witness is biased or prejudiced. That simply means do you
4 find a particular witness had some reason to come into
5 court and testify one way or another to help or hurt one
6 side or the other. You may also consider whether or not
7 the testimony of a witness was strengthened or weakened by
8 other testimony or other evidence presented during the
9 course of the trial.

10 Now you as the finders of the facts in this case, you
11 as the judges of the credibility or believability of each
12 of the witnesses that have testified may believe as much or
13 as little of what a witness testifies to as you deem
14 appropriate. You may believe all of what a witness says,
15 you may believe none of what a witness says, or you may
16 believe only part of what a witness says. You may believe
17 one witness as against several or several as against one.
18 Whatever your good judgment and common sense tells you is
19 the most believable testimony is the testimony you should
20 accept and reject that testimony which you find not to be
21 credible or believable.

22 Madame Forelady, members of the jury panel, the same
23 constitution that makes you the finders of the facts makes
24 me the sole and only instructor in the law. You must
25 accept as correct the law that I charge and apply to the

CHARGE TO THE JURY

-942-

1 law the evidence as you find it and reach your verdict.
2 But aside any conceptions you may have had as to the law
3 before coming here today and accept the law as I instruct
4 it to be. You for purposes of your duty as jurors today
5 should not be concerned about what the law ought to be, but
6 what I charge you the law is now in this state.

7 Madame Forelady, members of the jury panel, I charge
8 you with regard to criminal intent. Criminal intent is a
9 necessary element of each crime that must be proved by the
10 State beyond a reasonable doubt. Criminal intent is always
11 a matter that must be determined by the jury from the
12 circumstances surrounding the situation. There is no way
13 to prove intent to a mathematical certainty. There is no
14 way medical science can dissect a person's brain and
15 determine what he had in mind. So the law says that
16 criminal intent may be inferred from the circumstances
17 shown to have existed. This is how the jury makes a
18 determination whether or not the element requiring intent
19 was present. Criminal intent is a state of mind which
20 operated jointly with an act is the commission of a crime.
21 Criminal intent is a mental state, a conscious wrong doing,
22 so it is up to you the jury to determine what the defendant
23 intended to do based on the circumstances shown to have
24 existed. I tell you that the State must prove criminal
25 intent beyond a reasonable doubt just as the State must

CHARGE TO THE JURY

-943-

1 prove every element beyond a reasonable doubt. It is not
2 necessary to establish intent by direct and positive
3 evidence, but intent may be established by inference in the
4 same way as any other fact by taking into consideration the
5 acts of the parties and all the facts and circumstances of
6 the case. While the State may prove motive, it is
7 unnecessary that the State do so. However the State must
8 prove intent.

9 Now, Madame Forelady, members of the jury panel, I'm
10 going to charge you now with regard to the law that applies
11 to the charge in this particular case and this is not all
12 that easy to understand, and you will not have these
13 charges written down for you back in the jury room when you
14 go back there to deliberate. So I'm going to ask that you
15 listen very attentively as I go through the statute and the
16 law in this case. And please listen carefully as I go
17 through them because each of the words has some
18 significance in this case so please listen carefully.

19 Now under the legal theory that the greater offense
20 includes any lesser offenses, I'm going to charge you not
21 only with the charge that the State has chosen to submit to
22 you today which is the offense of trafficking in
23 methamphetamine more than 28 grams. But I'm also going to
24 submit to you some lesser included offense of trafficking
25 in methamphetamine greater than 28 grams. So I'll do that

CHARGE TO THE JURY

-944-

1 separately, I'm going to go through each one of them
2 separately.

3 First with regard to trafficking in methamphetamine.
4 *South Carolina Code of Laws* 1976 as amended provides as
5 follows: Section 44-53-375 § C reads as follows.

6 "A person who knowingly sells, manufactures, delivers,
7 purchases, or brings into this State, or who provides
8 financial assistance or otherwise aids, abets, attempts, or
9 conspires to sell, manufacture, deliver, purchase, or bring
10 into this State, or who is knowingly in actual or
11 constructive possession or who knowingly attempts to become
12 in actual or constructive possession of ten grams or more
13 of methamphetamine, as defined and otherwise limited in
14 Section 44-53-110 and 44-53-210(d)(1), or 44-53- 210(d)(2)
15 is guilty of trafficking in methamphetamine."

16 As one of the attorneys explained to you, or maybe
17 both of them as we went along, there are various levels of
18 trafficking based on weight of the drugs involved. But it
19 has to be, it's got to be ten grams or more to be
20 trafficking in any one of these ways.

21 Now Section 44-53-110 of the South Carolina Code as
22 referred to in Section 44-53-375©, this is the definition
23 section with regard to drug offenses. 44-53-110 defines
24 methamphetamine is to include any salt, isomer, or salt of
25 an isomer, or any mixture or compound containing

CHARGE TO THE JURY.

-945-

1 amphetamine or methamphetamine. Methamphetamine is
2 commonly referred to as "crank", "ice", or "crystal meth".

3 Section 44-53-210 § (d), I'm gonna read 1 and 2 of
4 that as referred to in the trafficking section reads as
5 follows: § (d), "Unless specifically excepted or unless
6 listed in another schedule, any material, compound,
7 mixture, or preparation which contains any quantity of the
8 following substances having a stimulant effect on the
9 central nervous system.

10 Subsection 1, Amphetamine, its salts, optical isomers,
11 and salts of its optical isomers.

12 And 2, Methamphetamine, its salts, and salts of
13 isomers."

14 Now in this case the defendant Jason Alen Johnson is
15 charged with trafficking in methamphetamine. The State
16 must prove beyond a reasonable doubt that the defendant
17 Jason Alen Johnson knowingly either sold, manufactured,
18 cultivated, delivered, purchased, brought into this State,
19 provided financial assistance, or otherwise aided, abetted,
20 attempted, or conspired to sell, manufacture, cultivate,
21 deliver, purchase, or bring into this State, or was
22 knowingly in actual or constructive possession, or
23 knowingly attempted to become in actual or constructive
24 possession of methamphetamine. To deliver means to
25 actually constructively or attempt to transfer the drug.

CHARGE TO THE JURY

-946-

1 To distribute means to deliver other than by administering
2 or dispensing a drug. To manufacture means to produce,
3 prepare, convert, process, plant, cultivate, grow, or
4 harvest a drug naturally or chemically.

5 The State must also prove beyond a reasonable doubt
6 that the amount of methamphetamine was in this case 28
7 grams or more with regard to trafficking methamphetamine 28
8 grams or more. So they must prove the weight, the State
9 must prove to you beyond a reasonable doubt the weight of
10 the methamphetamine in order for you to be able to convict
11 him, the defendant with trafficking in that amount.

12 Now because there are different terms defined in this
13 trafficking statute, I want to define those terms for you
14 as well. I read to you with regard to possession is one of
15 the ways that you can traffic in a drug. Now with regard
16 to prove possession, the State must prove beyond a
17 reasonable doubt the defendant had both the power, and the
18 intent to control the disposition or use of the
19 methamphetamine. Possession may be actual or constructive.
20 Actual possession means that the methamphetamine was in the
21 actual physical custody or the defendant. Constructive
22 possession means that the defendant had the dominion or
23 control or the right to exercise dominion and control over
24 the methamphetamine.

25 I think I read this to you. It's part of the

CHARGE TO THE JURY

-947-

1 trafficking statute. But to deliver means to actually
2 constructively or attempt to transfer the drug. To
3 distribute means to deliver other than by administering or
4 dispensing a drug.

5 Now also mentioned in the statute is manufacture. To
6 manufacture means -- I think I already went through that.
7 I read that to you so I'm not going to go back over that
8 except as to a lesser included offense.

9 Another term used in the trafficking statute is the
10 word conspire. What is a conspiracy? The crime of
11 conspiracy is a combination between two or more persons for
12 the purpose of accomplishing either a criminal or unlawful
13 object by whatever means or an object which is neither
14 criminal or unlawful by criminal or unlawful means. If two
15 or more persons agree to unite in a common purpose to
16 commit a criminal act they conspire. A conspiracy is a
17 combination between two or more persons to do an unlawful
18 act or to do a lawful act by criminal or unlawful means. I
19 charge you that there can be no conspiracy when one
20 individual acts by and for himself only. To become a party
21 to a conspiracy a person must combine with someone else to
22 effect the object of conspiracy by the means agreed upon.
23 A common design or plan is essential to the charge of
24 conspiracy. To establish conspiracy it is necessary first
25 that an agreement to commit the offense alleged in the

CHARGE TO THE JURY

-948-

1 indictment be established. What is required for an
2 agreement is a shared, single criminal objective. Not just
3 similar or parallel objective between similarly situated
4 people. What is needed is proof that they intended to act
5 together for their shared mutual benefit within the scope
6 of the conspiracy charged. The State must prove further
7 that one or more of the parties, engaged in the agreement,
8 committed some act to effect the object of the conspiracy
9 or as alleged in the indictment. Although the offense of
10 conspiracy may be complete without proof of an overt act,
11 such acts may nevertheless be shown since from them an
12 inference may be drawn as to the existence and object of
13 the conspiracy. To constitute conspiracy is not necessary
14 that two or more persons meet and enter into an expressed
15 or formal agreement to do an unlawful act. Or that they
16 should direct their words or in writing unite between
17 themselves as to what the unlawful object is to be or what
18 the details of the plan are or by what means the unlawful
19 combination is to be more effective. It is sufficient if
20 two or more persons in any manner or through any
21 contrivance positively or tacitly come to a mutual
22 understanding to accomplish a common unlawful design. In
23 other words, when an unlawful end is sought to be effected,
24 and two or more persons get together for the common purpose
25 of accomplishing that end and work together in any way in

CHARGE TO THE JURY

-949-

1 furtherance of the unlawful scheme, each of those persons
2 become a member of the conspiracy. The success or failure
3 of conspiracy is immaterial. But before any person to be
4 found guilty of a charge of conspiracy, it must appear
5 beyond a reasonable doubt that the conspiracy was formed
6 and that the particular person was an active part to it.
7 Although the offense of conspiracy may be committed without
8 proof of overt acts as I have stated such acts may
9 nevertheless be shown. Here the conspiracy itself
10 constitutes the offense and it must appear from the
11 evidence beyond a reasonable doubt before a defendant may
12 be convicted he was a party to a conspiracy. The mere fact
13 the defendant named may be engaged in the performance of
14 any of the acts charged in the indictment such as overt
15 acts is not sufficient evidence to convict him of
16 conspiracy. You may not convict the defendant of
17 conspiracy on that fact alone. It is necessary to show
18 that the defendant was a party to the conspiracy, an
19 unlawful agreement, before he or she is guilty of a
20 conspiracy. The evidence and proof of a conspiracy may be
21 circumstantial. The term overt acts as I've used it means
22 an act committed by one or more of conspirators as alleged
23 in the indictment.

24 I charge you, ladies and gentlemen, that the State of
25 South Carolina is required to prove all the material and

CHARGE TO THE JURY

-950-

1 essential elements, allegations of conspiracy beyond a
2 reasonable doubt before you can find the defendant
3 conspired. Of course in this case with regard to
4 trafficking drugs you must be able -- the State must show
5 that a conspiracy involved a weight of a drug and in this
6 case methamphetamine with regard to the 28 gram level or
7 more than 28 grams.

8 Madame Forelady, members of the jury panel, I charge
9 you that mere presence is not enough. A defendant cannot
10 be found guilty on any charge solely because he was merely
11 present at the scene of a crime. To be found guilty a
12 person must personally commit the crime or be present at
13 the scene and intentionally take a role in the commission
14 of the crime.

15 Now, Madame Forelady, members of the jury panel,
16 nothing that I may have said or done during the course of
17 this trial has been in any way intended to express or
18 suggest a view of the case or an opinion as to the facts,
19 the weight of the evidence, or the credibility of the
20 witnesses. If any of my actions or words have seemed to so
21 indicate, you will disregard such and form your own opinion
22 as to these matters. You've been selected as fair and
23 impartial jurors sworn to impartially try and determine the
24 facts of this case. When you've complied with your oath to
25 do so then no one will have a right to criticize your

CHARGE TO THE JURY

-951-

1 verdict and you are fully discharged your duty as jurors.
2 You are to decide this case according to the testimony you
3 heard from the lips of the sworn witnesses along with other
4 evidence introduced during the course of the trial. I
5 charge you as jurors you must decide the issues in this
6 proceeding without bias or without prejudice to any party.
7 You cannot allow yourself to be governed by sympathy, by
8 prejudice, by passion, by public opinion, or any other
9 arbitrary factor. Both the State and the defendant have
10 the right to expect that each of you will carefully and
11 impartially consider all of the evidence in the case and
12 that you will follow the law as I have explained it to you.

13 Madame Forelady, members of the jury panel, whatever
14 your verdict in this case, it must be your unanimous
15 verdict. All twelve jurors must agree on the verdict which
16 the foreperson will be authorized to write on behalf of the
17 jury.

18 Madame Forelady, I charge you that once you begin your
19 deliberations that you maintain some order in those
20 deliberations; that all who wish to be heard and to
21 participate in deliberations be allowed to do so. If for
22 any reason any members of the jury panel should take a
23 break from the deliberations, all should take a break. By
24 that I mean all twelve jurors should be present and
25 deliberating when deliberations are going on.

CHARGE TO THE JURY

-952-

1 Madame Forelady, members of the jury panel, once you
2 begin your deliberations should you become divided somehow,
3 and advise the Court that you are divided, please do not
4 tell me how you are divided, I do not wish to know the
5 number. You can tell me if you are divided if that comes
6 to pass but please do not give me the numbers of how you
7 are divided.

8 Now I have prepared for your use in the jury room a
9 verdict form. On this verdict form there are - excuse me.
10 You have five possible verdicts. The first possible
11 verdict that appears on the verdict form -- Let me say in
12 preparing the verdict form, I have to prepare it in some
13 order. I do it the same way every time. But the order in
14 which the possible verdicts appear on the verdict form mean
15 absolutely nothing and you should infer nothing from it.
16 What you should do is deliberate.

17 Madame Forelady, once the jury has reached a unanimous
18 verdict, you will simply go to the verdict form find the
19 verdict which corresponds to the unanimous verdict reached
20 by the jury, put a check mark beside in the blank beside
21 that particular verdict, sign your name on the line above
22 the word Foreperson's signature, date it, knock on the
23 door, let the bailiff know you've reached a verdict, and I
24 will bring you back out into the courtroom to receive that
25 verdict.

CHARGE TO THE JURY

-953-

1 Now here are the possible verdicts that appear on the
2 verdict form. The first possible verdict: We the jury
3 find the defendant Jason Alen Johnson guilty of the offense
4 of trafficking in methamphetamine more than 28 grams. You
5 have to find that there were more than 28 grams.

6 The second possible verdict that appears on the
7 verdict form is, We the jury find the defendant Jason Alen
8 Johnson guilty of the lesser included offense of
9 trafficking in methamphetamine in an amount between 10 and
10 28 grams. Again you have to find the weight involved.

11 The third possible verdict that appears on the verdict
12 form is, We the jury find the defendant Jason Alen Johnson
13 guilty of the lesser included offense of manufacturing
14 methamphetamine.

15 The fourth possible verdict which appears on the
16 verdict form reads as follows: We the jury find the
17 defendant Jason Alen Johnson guilty of the lesser included
18 offense of distributing methamphetamine.

19 And the final verdict which appears on the verdict
20 form is, We the jury find the defendant Jason Alen Johnson
21 not guilty. Now again, the order in which they appear mean
22 nothing and you should infer nothing from it.

23 Now I'm not sure if I defined for you and I want to go
24 back because as I read over the charge on distributing
25 methamphetamine I'm not sure I explained to you what

CHARGE TO THE JURY

-954-

1 distribution is.

2 All right, distribution. In order to find the
3 defendant guilty of the offense of distributing
4 methamphetamine you have to find that the State has proven
5 beyond a reasonable doubt that in fact Mr. Johnson
6 distributed methamphetamine. Section 545-53-370 in the
7 South Carolina Codes states that it is unlawful for any
8 person to manufacture, distribute, dispense, deliver,
9 purchase, or aid, abet, attempt or conspire to manufacture,
10 distribute, dispense, deliver, purchase or possess with -
11 well that's not here - therefore in order to find the
12 defendant guilty of distribution of methamphetamine, you
13 must find the State has proven the following elements
14 beyond a reasonable doubt that the defendant Jason Alen
15 Johnson distributed willfully, knowingly and unlawfully
16 methamphetamine in York County during the time alleged in
17 the indictment.

18 What does distributing mean? It means to deliver
19 other than by administering or dispensing a controlled
20 substance authorized by law. Deliver means to actually or
21 constructively transfer a controlled substance. A transfer
22 can involve an exchange for money, a barter, and need not
23 involve any consideration at all. An act that is done
24 knowingly and willfully is one that is done with knowledge,
25 consciously and not accidentally.

CHARGE TO THE JURY

-955-

1 All right, thank you, ladies and gentlemen. I'm going
2 to ask you if you will at this time to retire to the jury
3 room but do not yet begin your deliberations. I have to
4 give counsel an opportunity to request additional
5 instructions on the law. If additional instructions are
6 requested and I deem them necessary, I will bring you back
7 out and give you those additional instructions. It follows
8 then we should make sure all instructions are complete
9 before you begin to deliberate. If no additional
10 instructions are necessary, I will send to you by means of
11 the bailiffs the verdict form, all exhibits which have been
12 admitted into evidence and instructs to begin deliberating.
13 Please do not begin to deliberate until you get that
14 instruction. Please retire to the jury room all except the
15 alternate.

16 Ma'am, I ask you at this time not to go into the jury
17 room but wait just outside the courtroom door for further
18 instructions. Please retire to the jury room.

19 (JURY EXITS COURTROOM AT 04:24 PM.)

20 THE COURT: Exceptions, additional request to charge
21 from the State?

22 MS. COLTON: Nothing from the State, Your Honor.

23 THE COURT: Defense?

24 MR. BROWN: Just request my -- You previously denied
25 that I wanted possession.

-956-

1 THE COURT: You requested possession. I didn't charge
2 simple possession. That's correct. I'm not going to
3 charge that. Your objection is noted for the record.

4 All right, Counsel, I'm going to ask you and you need
5 to get with the Court Reporter, I'm going to ask you to
6 check all exhibits and make sure that those exhibits which
7 were admitted into evidence go back to the jury.

8 Let's make sure we don't get any Court exhibits mixed
9 up in there. All right. Thank you.

10 MADAME COURT REPORTER: Michael.

11 MR. BROWN: Yes, ma'am.

12 MADAME COURT REPORTER: Come on.

13 MR. BROWN: Me too?

14 MADAME COURT REPORTER: Yes, sir. You're going to see
15 what I put in this bucket.

16 THE COURT: Make sure that they were admitted into
17 evidence.

18 MR. BROWN: Yes, sir.

19 (PAUSE.)

20 (DEFENDANT ESCORTED TO HOLDING CELL.)

21 (SOLICITOR'S COLTON AND WEAVER AND MR. BROWN REVIEW
22 ALL EXHIBITS.)

23 (WHEREUPON: STATE'S EXHIBIT TWENTY-FOUR AND COURT
24 EXHIBIT TWENTY-FOUR PREVIOUSLY IDENTIFIED AND MARKED,
25 REMARKED AS COURT'S EXHIBIT NUMBER THIRTY-TWO, RECEIVED

1. INTO EVIDENCE.)

2. THE COURT: Ma'am, you just stand right there please.

3. Ms. McCombs, you as it turned out we made it all the
4. way through the trial without an emergency developing with
5. regard to one of the first twelve jurors chosen so it will
6. not be necessary for you to participate in deliberations.
7. I want to take this opportunity to thank you for your
8. service this week and the sacrifices you made this week to
9. help make our justice system work. We don't take that for
10. granted believe me. We're going to release you at this
11. time, you are free to go. Of course this will complete
12. your service. A check will be put in the mail will be put
13. in the mail shortly from the treasurer's office for your
14. service this week. And do you need anything to take to
15. your employer to show them you were required to be here?

16. ALTERNATE JUROR: No.

17. THE COURT: Ma'am, you're free to go. Of course you
18. are welcome to stay if you want to or go as you please but
19. you are free to go this will complete your service. Thank
20. you very much.

21. (ALTERNATE DISMISSED 04:30 PM.)

22. THE BAILIFF: Judge, we've got a note.

23. THE COURT: This is almost an impossible question to
24. answer here. You're right. It's gonna be a long evening.
25. Come on up and look at it.

-958-

1 (BENCH CONFERENCE OFF THE RECORD.)

2 (BACK ON THE RECORD.)

3 (DEFENDANT REENTERS COURTROOM.)

4 THE COURT: All right. Please bring them in.

5 (JURY REENTERS COURTROOM AT 04:47 PM.)

6 THE COURT: Madame Forelady, members of the jury
7 panel, I got two notes from you. The first note I think I
8 sent back a response to it and I just said that you have a
9 question about the law I can recharge you or re-instruct
10 you on anything you're not clear about. But I cannot
11 answer questions for you about the law. I can re-instruct
12 you on anything you want me to re-instruct you on but I
13 can't answer questions about it. You had a second note and
14 there are two parts to that note. The first part of the
15 note says "Does the 28 grams have to be all at once or
16 accumulative?" And I'm not sure about what you're asking
17 so I'm going to re-instruct you on -- you ask me about 28
18 grams so I'm going to re-instruct you on trafficking
19 methamphetamine again. You listen carefully as I go
20 through that and maybe that will answer your question.

21 The second question you ask me on this, What was said
22 about bartering when discussing distribution or deliver?
23 And I'm going to restate what I said to you about that. So
24 if you'll listen I'm will re-instruct you with regard to
25 distribution or what was said about bartering when

1 addressing you. Let me go back over that with you what I
2 charged you before with regard to...

3 I charged distributing means to deliver other than by
4 administering or dispensing a controlled substance
5 authorized by law. That means by prescription or a doctor.
6 Deliver means to actually or constructively transfer a
7 controlled substance. A transfer can involved an exchange
8 for money, a barter, and need not involve any consideration
9 at all. Transfer. Okay.

10 Now coming back to the trafficking statute let me re-
11 instruct you on that. I instruct you that the defendant
12 Jason Alen Johnson is charged with trafficking in
13 methamphetamine. The State must prove beyond a reasonable
14 doubt that the defendant knowingly either sold,
15 manufactured, cultivated, delivered, purchased, brought
16 into this State, provided financial assistance, or when I
17 say it's either or it doesn't have to be all, or otherwise
18 aided, abetted, attempted, or conspired to sell,
19 manufacture, cultivate, deliver, purchased, or bring into
20 this State, or was knowingly in actual or constructive
21 possession, or knowingly attempted to become in actual or
22 constructive possession of methamphetamine.

23 And then I've already instructed you with regard to
24 delivery. I charge you also that the State must also prove
25 beyond a reasonable doubt that the amount of

-960-

1 methamphetamine was with regard to the 28 grams or more
2 that the methamphetamine was 28 grams or more. And with
3 regard then -- well that's what you ask me about so that's
4 what I responded to.

5 All right. Hopefully that answers your question. If
6 you will please retire back to the jury room to deliberate.
7 If you need any more information please send me a note.

8 (JURY EXITS COURTROOM AT 04:51 PM.)

9 THE COURT: Exceptions?

10 MS. COLTON: No, Your Honor.

11 MR. BROWN: No, Sir.

12 THE COURT: All right. Well make this a Court
13 Exhibit. And hopefully we can take a few minutes. I'll
14 let you know if we get another note. Don't go off.

15 (WHEREUPON: COURT'S EXHIBIT NUMBER THIRTY-THREE
16 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

17 (COURT IN RECESS AT 04:51 PM.)

18 (JURY NOTE RECEIVED.)

19 (COURT BACK IN SESSION AT 05:53 PM.)

20 (DEFENDANT REENTERS COURTROOM.)

21 THE COURT: Please bring the jury in.

22 (JURY REENTERS COURTROOM AT 05:36 PM.)

23 THE COURT: Madame Forelady, members of the jury
24 panel, I got your note out, you want me to re-instruct you
25 on what constitutes the definition of weight of

1 methamphetamine. I have no idea what you're asking me
2 there. Can you clarify what it is you want me to instruct
3 you on?

4 MADAME FORELADY: You instructed us before about what
5 the methamphetamine, how we judge 28 grams or not. What
6 constitutes the definition of methamphetamine by law, what
7 that includes.

8 THE COURT: Are you asking me specifically about any
9 evidence that came in or are you just asking me in
10 generally?

11 MADAME FORELADY: We're asking you about the 60.9.

12 THE COURT: That's what I wanted you to clarify for
13 me.

14 All right, let me go back over that with you and
15 instruct you. Listen carefully and I think this will
16 answer this for you. And in order to do that I'm gonna run
17 back through and I'm going to reread the statutes that
18 apply and the answer is in the statute, so please listen
19 carefully while I go through it.

20 I charged you previously that the South Carolina Code
21 of Laws 1976 as amended Section 44-53-375 §C provides as
22 follows: A person who knowingly sells, manufactures,
23 delivers, purchases, or brings into this State, or who
24 provides financial assistance, or otherwise aids, abets,
25 attempts, or conspires to sell, manufacture, deliver,

-962-

1 purchase, or bring into this State, or who is knowingly in
2 actual or constructive possession, or who knowingly
3 attempts to become in actual or constructive possession of
4 ten grams or more of methamphetamine and as defined and
5 otherwise limited in Section 44-53-110 and 44-53-210(d) (1)
6 or 444-53-210(d) (2) is guilty of trafficking in
7 methamphetamine.

8 Section 44-53-110, the definition section with regards
9 to drugs in the code provides as follows: Methamphetamine
10 is to include any salt, isomer, or salt of an isomer, or
11 any mixture or compound containing amphetamine or
12 methamphetamine. Methamphetamine is commonly referred to
13 as crank, ice, or crystal meth.

14 Section 44-53-210 §(d) provides as follows: Unless
15 specifically accepted or unless listed in another schedule,
16 any material, compound, mixture, or preparation which
17 contains any quantity of the following substances having a
18 stimulant effect on the central nervous system. § 1:
19 Amphetamine, it's salts, optical - optical isomers and
20 salts of it's optical isomers. § 2: Methamphetamine, it's
21 salts, and salts of isomers.

22 Now do you understand that or do you need me to go
23 back over that?

24 MADAME FORELADY: That's the part we had in mind for
25 you to go over.

1 THE COURT: Okay. That's what the section says. Do
2 you want me to reread any portion of it again?

3 MADAME FORELADY: Maybe the definition part.

4 THE COURT: Definition. All right.

5 Methamphetamine is to include any salt, isomer, or
6 salt of an isomer, or any mixture or compound containing
7 amphetamine or methamphetamine. Methamphetamine is
8 commonly referred to as "crank", "ice", or "crystal meth."

9 Now do you want me to go over S D again? Or just go
10 over the same thing I just went over. Do you want me to go
11 over that again? Anybody?

12 MADAME FORELADY: No, sir.

13 THE COURT: Do you have the information you need? All
14 right. Please go back to the jury room and continue your
15 deliberations. Let me know if you have another question.

16 (JURY OUT TO CONTINUE DELIBERATIONS AT 06:02 PM.)

17 THE COURT: Any exceptions from the State?

18 MS. COLTON: No, Your Honor.

19 THE COURT: From the defense?

20 MR. BROWN: No, sir.

21 THE COURT: We'll make this a Court Exhibit.

22 (WHEREUPON: COURT'S EXHIBIT NUMBER THIRTY-FOUR
23 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

24 (COURT IN RECESS AT 06:03 PM.)

25 (COURT BACK IN SESSION AT 06:07 PM.)

VERDICT

-964-

1 THE COURT: They've got a verdict.

2 MR. BROWN: May I make a suggestion. I don't know
3 what he's gonna do.

4 THE COURT: Well let's get some extra help. You may
5 not have to do anything. Let's see what the verdict is.

6 (DEFENDANT REENTERS COURTROOM.)

7 THE COURT: All right, we got everybody. Let me say
8 before I bring the jury in, I'm informed the jury has a
9 verdict. I have no idea what the verdict is. Whatever the
10 verdict is I'm going to ask you to respect the jury's
11 verdict. Please don't anyone react or show any kind of
12 emotion here in the courtroom. I will not allow that. And
13 so if anybody has any emotional response to that, to the
14 verdict whatever that might be, I ask you to save that
15 until you get outside the court somewhere else because we
16 can't have that here in the courtroom. Thank you.

17 All right, please bring the jury in.

18 (JURY REENTERS COURTROOM AT 06:11 PM.)

19 THE COURT: Madame Forelady, I'm informed that the
20 jury has reached a unanimous verdict in this case; is that
21 correct?

22 MADAME FORELADY: We have.

23 THE COURT: Please, ma'am, if you will hand the
24 verdict form up to the bailiff he will bring it up to me.

25 Just the verdict form. Thank you.

VERDICT

-965-

1 (VERDICT RECEIVED UP BY THE COURT.)

2 THE COURT: The Clerk will please publish the verdict.

3 MADAME CLERK: In the State of South Carolina versus
4 Jason Alen Johnson with Indictment No. 2011-GS-46-01752 for
5 trafficking methamphetamine, we the jury find the defendant
6 Jason Alen Johnson guilty of the offense of trafficking in
7 methamphetamine over more than 28 grams. Signed by the
8 Foreperson this day.

9 If this so be your verdict so say you all by raising
10 your right hands

11 Let the record show all affirmed.

12 (ALL JURORS AFFIRMED.)

13 THE COURT: Any questions of the jury panel from the
14 State?

15 MS. COLTON: Nothing, Your Honor.

16 THE COURT: From the defense?

17 MR. BROWN: No, sir.

18 THE COURT: Madame Forelady, members of the jury
19 panel, this will conclude your service on this case and of
20 course it will conclude your service for the week. This
21 will conclude our week. And I want to take this
22 opportunity to thank you for your service this week. We
23 had another trial going on in the other court and it lasted
24 all week and that jury just got through shortly, a couple
25 of hours ago. But in any event I want to thank you for

-966-

1 your service and sacrifices you made this week to help make
2 our justice system work. We do not take that sacrifice for
3 granted. We deeply appreciate your being here and your
4 willing to serve on the jury. I'm going to excuse you at
5 this time. Now the Clerk's office will put a check in the
6 mail for your service this week. They do that fairly
7 quickly so you will get a check in the mail in the near
8 future for your service this week. Does anyone on the jury
9 panel need anything for the Clerk's office showing that you
10 were required to be here this week to take to your
11 employer?

12 Does anybody need that? If so raise your hand.
13 Nobody raises their hand. So this will complete your
14 service. You are free to go at this time with our thanks
15 all except the Forelady.

16 Ma'am, I'll get you to come up and actually sign the
17 indictment for us if you will on behalf of the jury. You
18 are free to go at this time. Of course you are welcome to
19 stay in the courtroom if you wish but if you wish to be
20 excused you're certainly free to do so. Thank you.

21 (JURY DISMISSED AT 06:14 PM.)

22 THE COURT: Mr. Bailiff, get somebody to go down with
23 the jury out to their cars. I think its already dark.

24 I'll hear you with regard to any motion you might wish
25 to make at this time. I'm sure the State doesn't have any.

1 The defense have any motions it wishes to make at this
2 time?

3 MR. BROWN: Your Honor, I renew my previous motion for
4 a directed verdict. A direct verdict in place of the
5 evidence for the judgment notwithstanding the verdict
6 based on all my previous motions and my grounds for my
7 directed verdict motion.

8 THE COURT: I understand you're making it pursuant to
9 your previous objection to the evidence and the Court
10 certainly finds that there is substantial evidence from
11 which the jury could infer that the State proved the
12 elements of the offense beyond a reasonable doubt;
13 therefore, I would deny your motion for any judgment not
14 withstanding the verdict. I'm not shocked by the jury's
15 verdict at all. All right.

16 Anything else?

17 MR. BROWN: No, sir.

18 THE COURT: Then do you have the sentencing sheet
19 ready?

20 MS. WEAVER: Your Honor, I just want to be sure I got
21 the correct CDR Code, 0-3-4-9; that would be trafficking 28
22 to 100, third offense.

23 THE COURT: It's a third offense? That would be
24 0-3-4-9.

25 MS. WEAVER: 0-3-4-9. Okay.

SENTENCING

-968-

1 THE COURT: All right, please bring the defendant
2 around.

3 (DEFENDANT AND ATTORNEY BROWN APPROACH THE BAR.)

4 THE COURT: Solicitor, what have you got to show that
5 this would be a third?

6 MS. COLTON: Your Honor, I have - -

7 THE COURT: You got a certified copy?

8 MS. COLTON: I do. I do, Your Honor.

9 Judge, I thought I had the certified copies but York
10 County, that occurred on 2-18-2011 it was possession
11 methamphetamine. He pled guilty to possession of a
12 scheduled - a scheduled I controlled substance in front of
13 Judge Nettles. Christopher Epting handled that plea, he
14 received a time served sentence of two days, Your Honor.
15 And that was this year, Your Honor. He also has and that's
16 a certified true copy of Western District of North Carolina
17 in Federal Court; possession with intent to distribute LSD,
18 2000 -- January 14th, 2005, possession with intent to
19 distribute LSD, assault, resisting, impeding, intimidating
20 a federal officer with a dangerous weapon and possession of
21 a firearm during in relation to a drug trafficking crime.

22 THE COURT: Do you have a certified record?

23 MS. COLTON: This is a certified copy, Your Honor. I
24 do not have a certified copy of the York County record.

25 THE COURT: Let's make that a part of the record.

SENTENCING

-969-

1 (WHEREUPON: COURT'S EXHIBIT NUMBER THIRTY-FIVE
2 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

3 THE COURT: Now can you get the certified copy of the
4 one here?

5 MS. COLTON: Yes, sir. Yes, sir. I may have it in my
6 file. I think I misplaced it.

7 MR. BROWN: If she looks this up I'm not going to
8 object.

9 THE COURT: Well I want to make it a part of the
10 record. That's my policy to try and get certified copies
11 to make it a part of the record so we'll have that in case
12 some question comes up later.

13 Now any question about that being an enhancible
14 charge?

15 MR. BROWN: Not that I'm aware of.

16 THE COURT: Can you provide that later if you don't
17 have it?

18 MS. COLTON: I can provide it. I'll get it from down
19 stairs; Your Honor. I've seen it. I know I have a copy of
20 it, I just can't - I don't have it.

21 THE COURT: Let's make that a part of the record.

22 Does the State wish to be heard on sentencing?

23 MS. COLTON: Your Honor, we do. We would like to put
24 to the Court Mr. Johnson's prior record. He does have in
25 1993 a prior conviction of juvenile protected criminal

SENTENCING

-970-

1 sexual conduct with a minor in the second degree.
2 Possession of a stolen pistol in 1995. Assault and battery
3 of a high and aggravated nature in 1996. Failure to stop
4 for a blue light in 1998. Receiving stolen goods, 2001.
5 Two counts of fake ID's in 2011. And giving false
6 information to police in 2011. Carrying a concealed weapon
7 in 2011 which is a separate offense, Your Honor. No, sir,
8 that's the same offense date, Your Honor, I apologize.
9 12/23/2010 resisting arrest, giving false information to
10 the police. And then, Your Honor, the 2011 possession of
11 cocaine which he pled, was actually methamphetamine; it was
12 reduced to schedule I drug in which he pled in front of
13 Judge Nettles, Your Honor, February 8th 2011. That's the
14 first enhancible offense and then he also has a possession
15 with intent to distribute the LSD, that was the federal
16 conviction, Your Honor, from 2003.

17 Your Honor, I think it's clear from the facts that
18 were presented in this court this carries twenty-five to
19 thirty years and that is a very significant period of time.
20 However I think the State would be remiss in not asking for
21 the full thirty years. This gentleman has created a huge
22 problem in our county. He took over essentially what would
23 have been -- It's the State's position that he took over
24 for Timothy Boozer when Timothy Boozer went to jail that he
25 took over all his prior clientele and that when Mr. Johnson

SENTENCING

-971-

1 he has influenced other people to do it, they watched him,
2 they've learned, it's a very easy method to do. We've had
3 all these spin off labs and the danger inherent therein is
4 that the people don't quite know how to do it correctly so
5 they're blowing up their houses and we've had I believe ten
6 meth labs from last year, Your Honor, where that's been a
7 significant growth. All those people through our
8 investigation can be tied back to Mr. Johnson and the
9 people that he's associated with. All these clicks, this
10 whole group is all related to one another. It's a huge
11 problem and in my eleven years of prosecuting here, Your
12 Honor, and six years of being a drug attorney I handled
13 four methamphetamine cases the entire time. And we've had
14 ten labs in the past year all of which law enforcement
15 tells me can be directly attributed back to the associates
16 of Timothy Boozer and Mr. Johnson. I think that -- I would
17 ask the Court to send a message that we're going to be very
18 strict with and ask for the maximum with these individuals.
19 He's ruined a lot of people's lives, there's a lot of
20 people that have become addicted to methamphetamine to feed
21 his habit to feed others because they need the Sudafed.
22 There's a whole range of crimes associated with the drug
23 use. It's basically been an explosion because of the
24 restriction in their need to get methamphetamine to feed
25 their own habit. They're preying on people, young people,

SENTENCING

-972-

1 young girls, and it's destroying our community and we want
2 to put an end to that before it gets worse. The problem
3 especially being in the hotel rooms and the clean ups
4 that's a hazard to other people who that are unknowingly
5 going into those hotel rooms. It's getting dumped into the
6 environment which is poisoning the environment so it's a --
7 it's touching more people than just the individuals that
8 are using it. It's affecting our entire community. The
9 State would ask for the full thirty years, Your Honor.

10 THE COURT: Thank you.

11 Mr. Brown.

12 MR. BROWN: Your Honor, there's not much more I can
13 tell you about Mr. Johnson. I will say he did not take the
14 stand, he did not deny his involvement, his testimony would
15 allow me to defend the accusations.

16 THE COURT: Mr. Johnson, anything you want to say to
17 the Court?

18 MR. JOHNSON: Nothing right now.

19 THE COURT: Case No. 2011-GS-46-1752 Jason Alen
20 Johnson having been found guilty by a jury trafficking in
21 methamphetamine in an amount exceeding 28 grams, the
22 sentence of the Court is he be committed to the State
23 Department of Corrections for a determinate term of Twenty-
24 eight years. He's given credit for any time he has served
25 with regard to this charge.

1 MR. BROWN: Judge, we are in recess are we not?

2 THE COURT: We are in recess.

3 (COURT ADJOURNED AT 06:30 PM.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

WITNESSES

DEU / Allen

ARREST WARRANT NUMBER

Direct Indictment
RE: M601763

ACTION OF GRAND JURY
TRUE BILL

J. Bel
Foreperson of Grand Jury
6/16/11

VERDICT

Guilty

Barbara [Signature]
Foreperson of Petit Jury

Date: 1/27/2012

DOCKET NO. 2011-GS-46- 01752

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

June 16, Term 2011

THE STATE

vs.

JASON ALAN JOHNSON
AKA
CONVICT

Indictment for

TRAFFICKING METHAMPHETAMINE

SC Code: §44-53-375
CDR Code: 0368

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. R.I.S. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

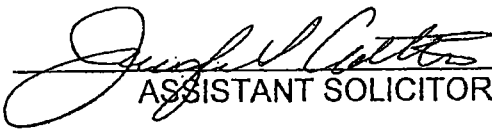
INDICTMENT

At a Court of General Sessions, convened on June 16, 2011, the Grand Jurors of York County present upon their oath:

TRAFFICKING METHAMPHETAMINE

That on, about or between August 1, 2010 and February 27, 2011, in York County, South Carolina, the Defendant, Jason Alan Johnson AKA Convict, 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 100 grams or more of methamphetamine, as defined and otherwise limited in Sections 44-53-110, 44-53-210(b)(4), 44-53-210(d)(1), or 44-53-210(d)(2), all in violation of Section 44-53-375, Code of Laws of South Carolina, (1976) as amended.

is a crime against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 ASSISTANT SOLICITOR

0272 PM 8 JUN 2011
 100 0001 0001 1000

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

919

COUNTY OF
STATE

York

VS.

Jason Alan Johnson

AKA:

Race: WHITE

Sex: M

Age: 33

DOB:

SS#:

Address:

City, State, Zip:

DE#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Trafficking Methamphetamine 28 grams but less than 100 gramsin violation of § 44-53-375(c)(2)(c) of the S.C. Code of Laws, bearing CDR Code # 0349☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Colton, Jennifer S.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 28 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforcement Funding)	\$25	\$ 25.00
§ 14-1-213 (Law Enforcement Funding)	\$150	\$ 150.00
§ 50-2-20 (Court Fee)	\$50	\$
§ 56-5-2942 (Vehicle Assessment)	\$40/ea	\$
Proviso 47.9 (Public Def/Prob)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ 280.00

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/B beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

Presiding Judge

Judge Code: 2113Sentence Date: 01/27/2012

~~12/27/11~~
ORIGINAL

STATE OF SOUTH CAROLINA

County of York

SEARCH WARRANT

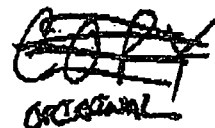
Date 2/27/11

Officer J. Clark

STATE OF SOUTH CAROLINA

COUNTY OF York

AI FIDAVIT



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

DESCRIPTION OF PROPERTY SOUGHT

Any unlawful drug or drug paraphernalia to include marijuana, crack, cocaine and methamphetamine. Stolen electronic equipment
including laptop computers, monitors, and/or processors.

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

825 Riverview Road, Room # 124 Bestway Inn, Rock Hill, SC 29730. A motel room with two beds and a bathroom. Premises to
include any and all spaces, cabinets, drawers, suitcases, travel bags, etc. in this room that may contain any of the above listed property
and/or narcotics.

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

Deputies arrested a female suspect from this room on a warrant for malicious injury to property. While deputies were in the room,
deputies observed numerous laptop computers and electronic equipment, two unused capped syringes, a package of razor blades, and
multiple small tin foil packages consistent with that of drug packaging. The female suspect taken into custody also has a prior drug
related conviction.

Sworn to and Subscribed before me

this 27 day of February 20 11
 (L.S.)

Signature of Judge

9:18 AM

Affiant

Address 1675-2A York HighwayYork, SC 29745Phone (803) 628-3059

STATE OF SOUTH CAROLINA

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-180
March 15, 1978

COUNTY OF York

ORIGINAL

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF York

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

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

825 Riverview Road, Room # 124 Bestway Inn, Rock Hill, SC 29730. A motel room with two beds and a bathroom. Premises to include any and all spaces, cabinets, drawers, suitcases, travel bags, etc. in this room that may contain any of the above listed property and/or narcotics.

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

DESCRIPTION OF PROPERTY

Any unlawful drug or drug paraphernalia to include marijuana, crack, cocaine and methamphetamine. Stolen electronic equipment including laptop computers, monitors, and/or processors.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Judge Davenport

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

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

York County

S. C.

February 27

.20 11

Signature of Judge

(L. S.)

0

RETURN

Received the attached Search Warrant 2/27 20 11 and have executed it as follows:
 On 2/27 20 11 at 10:15 o'clock A M, I searched
 (the person) described in the warrant and (the premises).

I left a copy of the warrant with Brandi Quinn
 Name of person searched or "at the place of search" with
 Together with a receipt for the items seized.

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

- 1) Methamphetamine in plastic
- 2) Samsung T-Mobile Cellphone
- 3) Samsung Cellphone
- 4) Digital Scale with Meth residue
- 5) Meth packaging materials
- 6) Spoon containing methamphetamine
- 7) 2 fake driver's licenses for Jason Johnson & 1 fake driver's license for Cory Catoe
- 8) paperwork relating to the making of fake I.D.'s
- 9) Samsung Cellphone
- 10) Unknown substance
- 11) Methamphetamine
- 12) 3 hypodermic needles
- 13) Liquor bottle containing methamphetamine

This inventory was made in the presence of SENATOR
 AND ANNA

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this

day of March 20 11

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

[Signature]
 (Signature of Officer Executing Warrant)

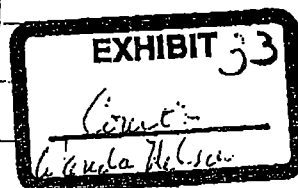
York County Sheriffs Office Evidence/Inventory Sheet

Incident Number 201100006270		Date 02/27/11		SRN #	
Found or Recovered From: ☐ Victim ☒ Suspect ☐ Other		Found or Recovered From: ☐ Victim ☒ Suspect ☐ Other			
Name Jason Allen Johnson		Name Brandi Nicole Quinn			
Found or Recovered From: ☐ Victim ☒ Suspect ☐ Other		Found or Recovered From: ☐ Victim ☐ Suspect ☐ Other			
Name Cory Seth Catoe		Name			
Incident/Seizure Location 825 Riverview Rd. (BestWay Inn) Rm 124, Rock Hill, SC 29732					
Time	Officer	Item #	Description, Model, Serial No., Color, etc...	Location Found/Seized	Evidence Use Only
10:00 am	Singler S-9910	1	Methamphetamine in plastic	Driver's side back seat floorboard of Quinn's Jeep Grand Cherokee	
2:48 pm	Schiffert S-5043	2	Samsung T-Mobile Cellphone	On table	
2:48 pm	Schiffert S-5043	3	Samsung Cellphone	On table	
2:49 pm	Schiffert S-5043	4	Digital Scale with Meth residue	On table	
2:49 pm	Schiffert S-5043	5	Meth packaging materials	Trash behind door	
2:50 pm	Allen A-5761	6	Spoon containing methamphetamine	Shelf in bathroom	
2:53 pm	Schiffert S-5043	7	2 fake driver's licenses for Jason Johnson & 1 fake driver's license for Cory Catoe	On night stand	
2:53 pm	Schiffert S-5043	8	paperwork relating to the making of fake IDs	on bed in motel room	
2:55 pm	Schiffert S-5043	9	Samsung Cellphone	floor in front of bed	
2:25 pm	Schiffert S-5043	10	Unknown substance	from container in room	
2:25 pm	Schiffert S-5043	11	Methamphetamine	from container in room	
I hereby acknowledge that the above facts represent all taken from my possession and that I have received a copy report.			Item # 1,6,11 Processing request Drug/Chemical Analysis (GS Court)		
Signature X			Item # Processing request		
Item # (a)	From: (Sign)	To: Sign	MJC Evidence Drop		Date and Time Received 02/27/11 - 7:00 pm
Item # (a)	From: (Sign)	To: Sign			Date and Time Received
Item # (a)	From: (Sign)	To: Sign			Date and Time Received
Item # (a)	From: (Sign)	To: Sign			Date and Time Received
Item # (a)	From: (Sign)	To: Sign			Date and Time Received
Item # (a)	From: (Sign)	To: Sign			Date and Time Received
Item # (a)	From: (Sign)	To: Sign			Date and Time Received
Item # (a)	From: (Sign)	To: Sign			Date and Time Received
Item # (a)	From: (Sign)	To: Sign			Date and Time Received
Type of Disposition: ☐ Release ☐ Disposal ☐ Other					
Item No. _____ Date: _____			AUTHORIZATION FOR DISPOSITION		
If released, property released to:			Person Authorizing: _____		
Name _____			Name (print) _____		
Address _____			Signature _____		
City, St _____			Date _____		
IT IS THE AUTHORIZING OFFICER'S RESPONSIBILITY TO RETURN PROPERTY TO AN AUTHORIZED OWNER					
WHITE - Evidence with Property		CANARY - Department		PINK - Officer	
				GOLD - Defendant / Owner	

Can we ask questions
about the instructions/
definitions?

N.O. BUT IF YOU REQUEST ME
TO I CAN REINSTRUCT YOU
ON ANYTHING I INSTRUCTED
YOU ABOUT EARLIER.

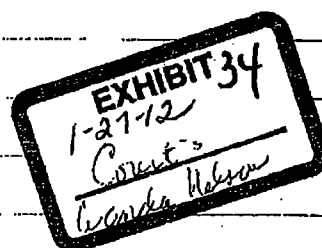
Judge Joe B. DeLoe



1) Does the 28 grams
have to be all at once
or cumulative?

2) What was said about
Barter when discussing
distribution or deliver?

want to be reinstated
on what constitutes the
definition of the weight of
methamphetamine.



STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

STATE OF SOUTH CAROLINA)

vs.)

CORY CATOE)

IN THE COURT OF GENERAL SESSIONS

SIXTEENTH JUDICIAL CIRCUIT

DEFENDANT'S MOTIONS IN LIMINE
AND MOTIONS TO DISMISS

WARRANT/TICKET: M601765/M601766

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SCCERTIFIED TRUE COPY
2011 MAY 20 2:10 PM

TO: PRESIDING JUDGE

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through its undersigned attorney, will move before the Presiding Judge of the General Sessions Court as soon as counsel may be heard for an Order suppressing evidence obtained as the result of the detention and subsequent search in the above referenced matter. If granted, Defendant further moves for a dismissal of the case on the basis that the State cannot prosecute the matter without the aforementioned suppressed evidence.

This motion will be based on discovery and the statutory and common law of this state.

Factual Background

Defendant, Cory Catoe, was sleeping in a room at the Best Way Inn in Rock Hill, SC on the morning of February 27th, 2011. The day before he and his cousin, Jason Johnson, were repairing computers in the room. His cousin and the other co-defendant Brandi Quinn left the hotel room approximately 8:30 P.M. on the night of February 26th, 2011. Mr. Catoe went to sleep shortly thereafter. When he awoke the police were at the door looking for Ms. Quinn. She stepped out of the hotel room and the officers placed her under arrest for Malicious Injury to Property.

After she was placed under arrest the officers came into the hotel room and began to search the room despite protests from Mr. Catoe and Mr. Johnson. Neither party gave consent to this initial search but officers entered the room and placed both Mr. Catoe and Mr. Johnson in

handcuffs and sat them on one of the beds in the room. During the initial search of the room the police officers observed computer modems that were disassembled, laptops, two capped syringes, several foil packages lying on the floor, an unknown white powder located on the floor next to one of the beds, multiple blank checks, and a package of razor blades.

At this point the officers contacted the magistrate to request a search warrant for the room. Once the warrant was requested officers moved Catoe and Johnson to separate patrol cars while they were still in handcuffs. During the search after the warrant officers found a liquor bottle which contained methamphetamine.

Law/Analysis

Privacy

In order to suppress evidence resulting from an illegal search and seizure, a defendant must demonstrate a legitimate expectation of privacy in connection with the search. *State v. Austin*, 306 S.C. 9, 409 S.E.2d 811 (Ct. App. 1991). Motel guests enjoy the same constitutional protection against unreasonable search as seizures as do the occupants of a home. *U.S. v. Napue*, 834 F.2d 1311 (7th Cir. 1987). In this case, Mr. Catoe did have a reasonable expectation of privacy in the motel room he occupied. The police officers did not have reason to search the room based on the fact that Ms. Quinn stepped out of the room and was arrested. Mr. Catoe should have been given privacy in the room and since he was not the acts of the police officers were illegal. All evidence received as a result of this search should be suppressed as fruit of a poisonous tree.

Plain View

The police officers contend they saw questionable items in plain view. Under the plain view doctrine, any object falling within the plain view of a law enforcement officer who is lawfully in a position to view the object is subject to lawful seizure. The plain view exception to the warrant requirement requires that (1) the initial intrusion which afforded the authorities the

plain view was lawful; (2) the discovery of the evidence was inadvertent; and (3) the incriminating [nature of the] evidence was immediately apparent to the seizing authorities. *State v. Abdullah*, 357 S.C. 344 (S.C App. 2004).

The plain view exception to obtaining a search warrant would not be applicable to the current case. First, Ms. Quinn exited the hotel room. The officers did not step into the room in order to arrest her. Second, the discovery was not inadvertent. The officers came into the room to search for contraband. The original arrest was for destruction of property, there would be no need to search the room. Lastly, the incriminating nature of the evidence was not immediately apparent to the seizing authorities. In fact none of the evidence the officers observed in plain view was of an illegal nature. All of the computers and modems were legally obtained. The "powder substance" turned out to test negative for drugs. The aluminum wrappers did not contain traces of any drug. The syringes and razors did not test positive for drugs either. Everything in plain view was legal and certainly was not immediately apparent that they were used for drug production.

Illegal Search and Seizure

To determine whether a seizure has occurred, the Court must consider whether a reasonable person would have believed that he was free to leave. *Kaupp v. Texas*, 123 S.Ct. 1843 (2003). Therefore, "if a reasonable person would feel free to terminate the encounter then he or she has not been seized." *United States v. Drayton*, 536 U.S. 194 (2002). The police officers placed Mr. Catoe in handcuffs, sat him on the bed, and looked around the room before they received a search warrant. He was certainly seized when the officers searched the room. Mr. Catoe was not free to leave the scene. The officers had no reason to actually search the hotel room because there were no apparent illegal activities occurring nor did they have a reason to seize Mr. Catoe. Also, Mr. Catoe was placed in handcuffs and the room was searched before the officers ever received a search warrant. They did not have probable cause to search the room and

overstepped their boundaries. All evidence received as a result of this illegal search and seizure should be suppressed as fruit of a poisonous tree.

Consent

The State has burden to prove consent's validity. *Palacio v. State*, 333 S.C. 506, 511 S.E.2d 62 (1999) (citing *United States v. Zapata*, 997 F.2d 751 (10th Cir 1993) The applicable test is "the totality of circumstances". Consent must be given freely and voluntarily and not product of duress or coercion. *State v. Greene*, 330 S.C. 551, 499 S.E.2d 817 (Ct. App. 1997). Furthermore, when an officer asks for consent to search after an unconstitutional detention, the consent is per se invalid unless it is both voluntary and not an exploitation of the unlawful detention. *State v. Williams*, 351 S.C. 591, 604, 571 S.E.2d 703, 710 (Ct. App. 2002) Validity of consent a matter for the trial judge to decide. *State v. Mattison*, 352 S.C. 577, 584, 575 S.E.2d 852, 855 (Ct. App. 2003)

Neither defendant consented to the search of the motel room. This is made even more apparent by the fact that the officers waited for the search warrant to arrive. The initial search of the room was an illegal search. All evidence found as a result of this search should be suppressed.

Weight

A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2), is guilty of a felony which is known as "trafficking in methamphetamine or cocaine base" and, upon conviction, must be

punished as follows if the quantity involved is: (2) twenty-eight grams or more, but less than one hundred grams: (a) for a first offense, term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars. S.C. Code Ann. § 44-53-375(C)(2). Methamphetamine includes any salt, isomer, or salt of an isomer, or any mixture or compound containing amphetamine or methamphetamine. S.C. Code Ann. § 44-53-110. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system: 1)

Amphetamine, its salts, optical isomers, and salts of its optical isomers. 2) Methamphetamine, its salts, and salts of isomers. S.C. Code Ann. § 44-53-210(d)(1), (2). These statutes state that a person can be convicted of trafficking methamphetamine even if the product is not in its pure form (the argument that it is not actually the drug will not suffice). However, the statutes do not state that the excess product from the production of the drug should be calculated in the weight used to obtain the trafficking element.

In the present case, the methamphetamine was not a finished product. It needed to be processed more before the drug could be consumed. Most of the liquid contained in the bottle, about sixty grams, is poured off and considered "trash" in regards of the production process.

The case law which supports the government's position has involved cocaine. These cases state that any mixture containing the drug would be included in the weight for purposes of trafficking in regards to cocaine and the diluted form crack. A leading case, *State v. Kerr*, states "The Statute, by its clear and unambiguous terms, applies to the aggregate weight of any mixture containing cocaine, not merely the weight of the cocaine in its pure form... The legislature enacted [the trafficking statute] to deter large-scale distribution of controlled substances, thus decreasing the number of persons potentially harmed by drug use. We note, however, that controlled substances are typically sold in a diluted state. In such cases as this, where the controlled substance has been "cut", the substance is rendered more harmful to society because

the dilution increases the potential number of persons who will partake." *State v. Kerr*, 299 S.C. 108 (1989).

The difference between crack/cocaine and methamphetamine is that the pure form of cocaine and the mixture of crack will both be consumed in whole. With the Methamphetamine mix, the additional portion is unusable and not actually consumed with the drug. *Kerr* states that crack, the diluted form of cocaine, is typically sold in this form and is harmful to society because it increases the number of persons who will partake. The statute is designed to deter large scale distributions. However, the spirit of this statute and purpose is compromised by weighing the mixture of methamphetamine before it is a finished product. Whereas the weight of crack is the amount that can be used, the weight of methamphetamine in this case cannot actually be consumed. Therefore, if the court does not dismiss this case in its entirety, the court should reduce the weight prescribed by the State which would nullify the trafficking charge.

WHEREFORE, the Defendant prays for an Order suppressing the evidence obtained in the search of the motel room in this case and an Order dismissing this case as insufficient and/or lacking probable cause.

Cory Catoe
By Counsel:


Jarranis L. Yates, Esquire (SC Bar # 77631)
THE YATES LAW FIRM, LLC
P.O. Box 37641
Rock Hill, South Carolina 29732
(P) (803) 517-6404
(F) (803) 937-3186

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 3rd, 2013


David Alexander
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