

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Abbeville County

R. Lawton McIntosh, Circuit Court Judge

S.C. Supreme Court

2009-CP-01-00105

MARSHALL MILLER, #249557,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

Appellate Case No. 2013-001076

APPENDIX

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TINA STEVENSON - DIRECT

1 TINA STEVENSON,
2 after being first duly sworn testified as follows:

3 THE CLERK: Have a seat and state your full
4 name for the record.

5 THE WITNESS: Tina Stevenson.

6 THE COURT: All right, you may examine, Mr.
7 Hood.

8 MR. HOOD: Thank you very much, Your Honor.

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. HOOD:

11 Q Good afternoon, Mrs. Stevenson.

12 A Good afternoon.

13 Q How are you today?

14 A Fine.

15 Q Have you ever testified before?

16 A No, sir.

17 Q Are you a little nervous?

18 A Yes, sir.

19 Q Is your first name Tina?

20 A Yes, sir.

21 Q Do you mind if I call you Tina?

22 A No, sir.

23 Q Were you transported here today from a
24 correctional facility, Tina?

25 A Yes, sir.

TINA STEVENSON - DIRECT

- 1 Q Which one did you come from?
- 2 A Leath Correctional.
- 3 Q Are you familiar with the circumstances on
- 4 which we're all here today?
- 5 A Yes, sir.
- 6 Q Are you indicted in this case?
- 7 A Yes, sir.
- 8 Q Did you plead guilty?
- 9 A Yes, sir.
- 10 Q Who sentenced you?
- 11 A Who sentenced me?
- 12 Q Do you remember which judge sentenced you?
- 13 A Not really.
- 14 Q Okay. What was your sentence?
- 15 A Ten years.
- 16 Q Did you enter into a plea agreement with the
- 17 State of South Carolina?
- 18 A Yes, sir.
- 19 Q As part of that plea agreement did you agree
- 20 to testify at any subsequent trial that may take
- 21 place?
- 22 A Yes, sir.
- 23 Q Are you subpoenaed to come to court today?
- 24 A Yes, sir.
- 25 Q Do you have a prior record?

TINA STEVENSON - DIRECT

1 A Yes, sir.

2 Q In fact is it true you have been convicted of
3 possession of a controlled substance, simple
4 possession of marijuana, burglary third, and
5 trafficking?

6 A Yes, sir.

7 Q Tell us about the possession of a controlled
8 substance, do you remember that charge from
9 Oklahoma?

10 A Yes, sir.

11 Q Tell us what happened with that.

12 A I was sentenced to ten years, suspended to
13 five years probation.

14 Q Tell us about the burglary third, what
15 happened with that?

16 A I got three years probation.

17 Q Who were you with during the commission of
18 the burglary?

19 A Bonnie Saylor.

20 Q And tell us a little bit about the facts of
21 that case.

22 A It was a gas can.

23 Q Where did you take the gas can from?

24 A The yard.

25 Q Whose yard?

TINA STEVENSON - DIRECT

- 1 A I can't remember the woman's name.
- 2 Q Where are you from, Tina?
- 3 A Abbeville.
- 4 Q How long have you lived in Abbeville?
- 5 A Probably about thirty something years.
- 6 Q Your whole life, almost?
- 7 A Yes.
- 8 Q Are you married?
- 9 A Yes, sir.
- 10 Q Who are you married to?
- 11 A Sammy McNeil.
- 12 Q Do you have any children?
- 13 A Yes, sir.
- 14 Q How many children do you have?
- 15 A One daughter.
- 16 Q How old is she?
- 17 A Twenty-three.
- 18 Q Where is she right now?
- 19 A She lives here in Abbeville.
- 20 Q Did you attend high school?
- 21 A Yes, sir.
- 22 Q Where did you go to high school?
- 23 A Abbeville High School.
- 24 Q Did you graduate?
- 25 A No, sir.

TINA STEVENSON - DIRECT

- 1 Q Have you ever been married to anybody besides
2 Sammy?
- 3 A Yes.
- 4 Q Who also were you married to?
- 5 A Tommy Stevenson.
- 6 Q When did you first meet Marshall Miller?
- 7 A 1999.
- 8 Q Would you say that that's in the late part of
9 1999?
- 10 A Yes, sir.
- 11 Q Who introduced you to Marshall Miller?
- 12 A Jeff Horne.
- 13 Q Tell us how that happened.
- 14 A Through a phone call.
- 15 Q Who called you?
- 16 A Jeff Horne.
- 17 Q And as a result of the phone call that you
18 had with Mr. Horne, without saying what he said,
19 did you eventually meet with Mr. Miller?
- 20 A Yes.
- 21 Q Where did you meet with Marshall at?
- 22 A At a motel.
- 23 Q And what motel and in what city?
- 24 A In Greenwood, I'm not sure what the motel is
25 called.

TINA STEVENSON - DIRECT

1 Q Tell us about what happened when you met
2 Marshall Miller for the first time.

3 A We just discussed that he could sell me dope
4 and the terms of how I bought dope and he give me
5 some to try and that was about it for that little
6 brief meeting.

7 Q Have you previously, prior to that meeting,
8 used methamphetamine?

9 A Yes, sir.

10 Q How long have you been on methamphetamine?

11 A Several years.

12 Q Was it unusual just to meet someone at a
13 hotel room?

14 A Yes, kind of unusual to be called like that,
15 yes.

16 Q Did you try Mr. Miller's meth that day?

17 A Sir?

18 Q Did you try Mr. Miller's meth that day?

19 A Yes.

20 Q Did you like it?

21 A Uh-huh, yes.

22 Q Do you remember what kind of vehicle Mr.
23 Miller was driving the day you met him?

24 A I don't know what kind of vehicle he was
25 driving that day. The first time I ever seen him

TINA STEVENSON - DIRECT

1 in a vehicle he was driving a red Grand Am, I
2 think.

3 Q Did you eventually start up a purchasing
4 methamphetamine relationship with Marshall Miller?

5 A Yes, sir.

6 Q Where was the first -- did Marshall Miller
7 tell you where he lived?

8 A Not for awhile.

9 Q Where would you meet him to buy drugs from
10 him?

11 A At the store in Donalds.

12 Q Store in where?

13 A In Donalds, South Carolina.

14 Q And how often did this take place?

15 A For a little while.

16 Q Less than a month?

17 A Yes, about something like that.

18 Q How would you get in touch with him?

19 A Call him on his phone.

20 Q Did he give you his phone number?

21 A Yes.

22 Q Did you start purchasing methamphetamine from
23 him?

24 A Yes, sir.

25 Q How much would you purchase at a time,

TINA STEVENSON - DIRECT

1 average?

2 A A quarter ounce. Different amounts at
3 different times.

4 Q Did you have a set amount that you had to
5 purchase?

6 A No.

7 Q How did you determine how much you were going
8 to purchase?

9 A By what day it was and how much money I had.

10 Q Did Mr. Miller eventually tell you where he
11 lived?

12 A Yes, sir.

13 Q Did he give you directions to his house?

14 A Yes.

15 Q Where did he tell you he lived?

16 A On the Ware Shoals Highway.

17 Q And did he live in an apartment complex or a
18 house or a trailer or what?

19 A A trailer.

20 Q Did you go out to his trailer on Ware Shoals
21 Highway?

22 A Yes.

23 Q Do you know what the number of that highway
24 is?

25 A I think it's 252.

TINA STEVENSON - DIRECT

1 Q When did you start going out to the trailer
2 on Highway 252?

3 A When?

4 Q General time frame.

5 A 2000.

6 Q Would you do drug deals in his trailer?

7 A Yes.

8 Q Did you purchase methamphetamine from him?

9 A Yes, sir.

10 Q Where would the purchases take place?

11 A In the trailer.

12 Q Where inside the trailer?

13 A In the bedroom.

14 Q Okay. Whose bedroom would you go into?

15 A His.

16 Q Where would he have the methamphetamines?

17 A In his pocket and in the drawer sometimes.

18 Q Did he have a set place?

19 A No.

20 Q Would you always pay him for his
21 methamphetamine?

22 A Yes.

23 Q Did he ever front any methamphetamine to you?

24 A Yes.

25 Q Would you tell the jury what fronting is?

TINA STEVENSON - DIRECT

1 A That's when you get the meth before you pay
2 for it.

3 Q Are you supposed to pay him back later?

4 A Yes.

5 Q Were you selling methamphetamine at this
6 time?

7 A Yes, sir.

8 Q Did you have a set list of customers?

9 A No, sir.

10 Q From the time you met Marshall Miller, up
11 until the time of your arrest, how many customers
12 of methamphetamine do you think you might have had?

13 A I don't know.

14 Q A rough estimate?

15 A Fifty.

16 Q Did you eventually move up to larger
17 quantities of methamphetamine from Marshall?

18 A Yes.

19 Q What did you move up to?

20 A A half ounce.

21 Q Did you move up more than that?

22 A Yes.

23 Q How many times do you think you purchased,
24 let's start with quarter ounce, how many times do
25 you think you purchased a quarter ounce from him?

TINA STEVENSON - DIRECT

- 1 A I'm not sure, I'm really not.
- 2 Q More, or less than ten?
- 3 A More.
- 4 Q Did you move up to half an ounce?
- 5 A Yes.
- 6 Q How many times did you purchase a half an
- 7 ounce from him?
- 8 A More than ten.
- 9 Q Did you move up to an ounce?
- 10 A Yes.
- 11 Q How many times do you think you purchased an
- 12 ounce?
- 13 A More than ten.
- 14 Q Did Mr. Miller move from the trailer on Ware
- 15 Shoals Highway?
- 16 A Yes.
- 17 Q Where did he move to?
- 18 A From Ware Shoals Highway?
- 19 Q Uh-huh (affirmative).
- 20 A His next house was at the Isle of Palms.
- 21 Q Does that have another name? That's okay if
- 22 it doesn't.
- 23 A I don't know. I mean --
- 24 Q Was it called Isle of Palms?
- 25 A I think so, yes.

TINA STEVENSON - DIRECT

1 Q Did you go down there to purchase
2 methamphetamine?

3 A Yes.

4 Q How many times do you think you went to the
5 Isle of Palms?

6 A Probably less than five.

7 Q Are you familiar with a shop in Cokesbury?

8 A No, sir.

9 Q You never went to the shop in Cokesbury?

10 A No, sir.

11 Q Are you familiar with a gentleman by the name
12 of Ray Powell?

13 A Yes, sir.

14 Q Who is Ray Powell?

15 A He's a man that lived in Lowndesville.

16 Q Did you ever go to Ray Powell's house?

17 A Yes, I did.

18 Q Was Marshall Miller ever there?

19 A Yes, he was.

20 Q Did you ever purchase methamphetamines from
21 Marshall Miller there?

22 A Yes, I did.

23 Q Did you ever purchase methamphetamines from
24 Ray Powell?

25 A Not directly from Ray Powell.

TINA STEVENSON - DIRECT

1 Q What does that mean?

2 A I have gotten some from Ray that was left for
3 me by Marshall.

4 Q Did you have a fairly decent relationship
5 with Marshall?

6 A Yes.

7 Q Were you all friends?

8 A Yes.

9 Q Have you ever seen Marshall Miller
10 manufacturing methamphetamine?

11 A Yes.

12 Q Or cooking?

13 A Yes.

14 Q Tell me the locations you have seen him
15 cooking.

16 A At Tony Howard's trailer in Hickory Tavern.

17 Q Okay. Who is Tony Howard?

18 A He was a guy I was living with.

19 Q And where does Tony Howard live?

20 A In Hickory Tavern.

21 Q Was Tony Howard indicted in this case?

22 A Yes, he was.

23 Q How many times did you see Marshall Miller
24 cooking behind Tony Howard's house?

25 A One time.

TINA STEVENSON - DIRECT

1 Q Was that also your house?

2 A Yes, it was.

3 Q And who let Marshall Miller go back there and
4 cook methamphetamine?

5 A I did.

6 Q Tell us other places you have seen him
7 manufacture methamphetamine.

8 A Ray Powell's.

9 Q Anywhere else?

10 A That's it, yes, Ray Powell's.

11 Q How many times would you see him at Ray
12 Powell's house manufacturing meth?

13 A Two.

14 Q When meth is cooked or manufactured does it
15 have a smell or an odor?

16 A Yes.

17 Q Tell us about that odor.

18 A Strong.

19 Q What does it smell like?

20 A Chemicals.

21 Q When it's strong, is there anything you can
22 compare it to with things that you run into in
23 everyday life?

24 A Ammonia.

25 Q How strong is that smell of ammonia?

TINA STEVENSON - DIRECT

1 A It's strong.

2 Q Let me ask you this, Tina. Have you ever
3 used ammonia to clean your house at all?

4 A Yes.

5 Q Does it smell like that?

6 A No, it's stronger than that.

7 Q How much stronger?

8 A Three or four times.

9 Q Did you ever assist Mr. Miller in his
10 manufacturing methamphetamine?

11 A Yes, I did.

12 Q What would you do, what was your role?

13 A Just helped him with it, washed pitchers,
14 help him pour stuff.

15 Q Did you ever pop pills?

16 A Yes, I popped pills out of packs.

17 Q Did you ever wash Mason jars?

18 A No.

19 Q Did you ever see anyone washing Mason jars?

20 A No. I bought some.

21 Q Where did you buy those Mason jars?

22 A Walmart.

23 Q Did you ever buy pills for Mr. Miller?

24 A Yes.

25 Q Where would you buy pills?

TINA STEVENSON - DIRECT

1 A Walmart.

2 Q What kind of pills would you buy?

3 A Pseudoephedrine.

4 Q Would you pay for those?

5 A Yes.

6 Q Who would you give them to?

7 A Marshall.

8 Q Were you distributing methamphetamines to
9 Tony Howard?

10 A Yes.

11 Q How much were you distributing to Tony
12 Howard?

13 A Maybe one to two eightballs a week sometimes.
14 Not the same amounts all the time.

15 Q When would you say the last time you
16 purchased from Mr. Miller was?

17 A (No response).

18 Q Do you remember the day you were arrested?

19 A No, I don't remember the date.

20 Q If I told you it was sometime around
21 September of 2002 would you disagree with that?

22 A No.

23 Q When was the last time you think you had
24 contact with Marshall before you were arrested?

25 A A few days.

TINA STEVENSON - DIRECT

1 Q Where did you go to meet him a few days
2 before you were arrested? Did you go somewhere to
3 see Marshall?

4 A I really couldn't tell you. I don't remember
5 exactly where I seen him.

6 Q Tell us about your husband Sammy McNeil.
7 Would you give Sammy McNeil some methamphetamine?

8 A Yes.

9 Q Would you and Sammy share some of the
10 methamphetamine you got from Marshall?

11 A Yes.

12 Q Would Sammy ever go directly to Marshall and
13 purchase methamphetamine?

14 A Not with me.

15 Q Did Sammy travel a lot, or did he stay home a
16 lot?

17 A Yes, he worked, worked out of town on
18 construction.

19 Q This entire time that you say you know
20 Marshall Miller from essentially late 1999 to
21 sometime around September of 2002, did you have
22 another source for methamphetamine?

23 A Yes.

24 Q Who was that?

25 A I can't think of his name right now but he

TINA STEVENSON - DIRECT

1 lived in Ninety Six.

2 Q Okay. How often were you getting it from
3 him?

4 A I got it from other people, various places.

5 Q Who were you getting the most methamphetamine
6 from?

7 A During what time?

8 Q During late 1999 until September of 2002?

9 A Marshall.

10 Q Were people coming to your house to purchase
11 methamphetamine from you?

12 A Yes.

13 Q Were you selling to them?

14 A Yes.

15 Q Are you familiar with an individual by the
16 name of Julie Prince?

17 A Yes.

18 Q Were you with Julie Prince when she sold
19 illegal narcotics, methamphetamine, to an
20 undercover SLED agent?

21 A Yes, you all say I was.

22 Q Tina, while you were out on bond on these
23 charges did SLED make an undercover purchase from
24 you?

25 A Yes.

TINA STEVENSON - DIRECT

1 Q What did they purchase from you?

2 A Five Oxycontin.

3 Q And why were you out selling Oxycontin if you
4 were out on bond?

5 A I was approached for them.

6 Q Did you sell that person five Oxycontin
7 tablets?

8 A Yes.

9 Q Can you describe Marshall Miller for us, his
10 characteristics, facial, height, things like that,
11 just like if you were describing me?

12 A He's pretty average.

13 Q How tall do you think he is?

14 A Five-eight or nine, probably maybe like, I
15 don't know, I haven't really seen him in awhile, do
16 you know what I'm saying?

17 Q I understand.

18 A Probably about 160 or 70 pounds, kind of salt
19 and pepper hair. I don't really, I couldn't even
20 tell you what color his eyes are.

21 Q Okay. Miss Prince, did you get approached by
22 anybody, excuse me, Miss Stevenson, I apologize,
23 it's been a long day. Miss Stevenson, did you get
24 approached by anybody about signing a statement for
25 Marshall Miller?

TINA STEVENSON - DIRECT

1 A No.

2 Q Have you seen any voluntary statements that
3 Mr. Miller may have on him?

4 A No.

5 MR. HOOD: No further questions, Your Honor.

6 THE COURT: Mr. Varner, cross-examination,
7 please.

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TINA STEVENSON - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. VARNER:

- 1 Q Tina, you said that after you were out on
2 bond you got caught selling five Oxycontin?
3 A Yes.
4 Q Okay. Tell the jury what are Oxycontin?
5 A Pain pills.
6 Q Okay. Pharmaceutical pills?
7 A Yes.
8 Q In other words, you have to have a
9 prescription?
10 A Yes.
11 Q All right. When you were arrested in
12 September of 2002 how long did you stay in jail
13 before you got out on bond?
14 A A few days.
15 Q Okay.
16 A I don't remember.
17 Q All right. And after that how long was it
18 before you got arrested with the Oxycontin, a month
19 later, two months later, six months later?
20 A No, it was more than six months.
21 Q More than six months?
22 A Could you repeat that again?
23 Q All right. After you got out of jail, like
24
25

TINA STEVENSON - CROSS

1 October of 2002, how long were you out of jail on
2 the street before you got arrested for the
3 Oxycontins?

4 A I was never arrested for the Oxycontins.

5 Q Oh, you didn't even get arrested but you were
6 selling Oxycontin? How did that happen?

7 A I don't know.

8 Q You don't know how you could sell Oxycontins
9 and not even get arrested, okay. Were you asked to
10 wear a wire and go buy drugs from Marshall Miller?
11 In other words, be wired up, to set Marshall up?

12 A Was I ever asked?

13 Q Yes.

14 A Yes.

15 Q And you weren't able to accomplish that, were
16 you, that couldn't be done?

17 A No.

18 Q He wouldn't sell any drugs to you, would he?

19 A No, sir, he wouldn't.

20 Q You were talking about your record. You also
21 had a whole pile of charges, you had charges in the
22 City of Abbeville, the County of Abbeville and in
23 Laurens for distribution, correct?

24 A Yes, sir, I did.

25 Q Distribution of crystal meth, distribution

TINA STEVENSON - CROSS

1 within half mile of a school district, a whole
2 bunch of charges?

3 A Yes, sir, I did.

4 Q And all of those disappeared, didn't they?

5 A No, sir. I'm doing my time for them now, I
6 think.

7 Q I thought you were doing time on this
8 conspiracy charge?

9 A I assumed it was all in together. I'm not
10 sure.

11 Q All these charges we were talking about, the
12 city, the county and in Laurens, do you know what
13 the word nol pros means?

14 A No, sir.

15 MR. VARNER: Your Honor, I would ask the
16 Court to take judicial notice and let the jury be
17 aware nol pros means not prosecuted, dismissed.

18 THE COURT: Any objection?

19 MR. HOOD: No, sir.

20 THE COURT: Any objection?

21 MR. WISE: No, sir.

22 THE COURT: Ladies and gentlemen, the term
23 normally used, nol pros, means nolle prosequi,
24 which means the State has elected not to prosecute
25 at that time. The Supreme Court has later

TINA STEVENSON - CROSS

1 interpreted a nolle prosequi or nol pros to mean a
2 termination of the prosecution rights by the State,
3 so it ends the matter.

4 Continue, Mr. Varner.

5 BY MR. VARNER:

6 Q So, you had one, two, three, four different
7 charges that got dismissed, you don't dispute that,
8 do you?

9 A No, sir, I don't.

10 Q And then after that you had two other charges
11 dismissed, a total of six charges dismissed. You
12 don't dispute that, do you?

13 A No, sir, I don't.

14 Q And one charge that was never even brought,
15 you weren't even arrested for it, were you? Who
16 was that that got you on that distribution of
17 Oxycontins, who was the officer?

18 A I don't even know.

19 Q Well, do you know what county or agency it
20 was? Was it from Abbeville or SLED or --

21 A I don't know about that either.

22 Q Do you know Brandon Scott?

23 A Yes, I do.

24 Q Did Brandon Scott talk with you about he
25 wanted you to get Marshall Miller for him?

TINA STEVENSON - CROSS

1 A Yes, he did.

2 Q Is it a fair statement that's basically all
3 Brandon Scott wanted to talk about, was Marshall
4 Miller, if you heard his name once, you heard it a
5 thousand times?

6 A Yes, sir.

7 Q You were even advised, told under this
8 distribution charge that you were facing
9 twenty-five years and that additionally you could
10 get your probation revoked out in, where was it,
11 Kansas, Missouri, where was that?

12 A Oklahoma.

13 Q Oklahoma, and that you would even have to
14 serve 85 percent of that time, you knew what you
15 were looking at, plus the six other charges, you
16 knew that, didn't you?

17 A Yes, I did.

18 Q Instead, you got a ten year charge, is that
19 what you're serving?

20 A Yes, sir, it is.

21 MR. VARNER: That's all the questions I have.

22 THE COURT: Mr. Wise.

23

24

25

TINA STEVENSON - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. WISE:

3 Q Just a few questions. You don't know Billy
4 Moore?

5 A No, sir, I don't.

6 Q Okay. You dealt with Marshall Miller how
7 long?

8 A From late 1999 until 2002.

9 Q 2002, about three years?

10 A Yes.

11 Q Okay. Did you ever know a Tommy Stewart?

12 A No, I don't.

13 Q Did you ever go by the Cokesbury place where
14 Marshall had a shop?

15 A No, I didn't.

16 Q Do you know when Marshall moved from there?

17 A No, I don't.

18 Q When you went by Marshall's place at the Isle
19 of Palms you made some purchases from him there?

20 A Yes.

21 Q And he would take you into the bedroom where
22 he kept his dope?

23 A Yes.

24 Q He wouldn't do it outside in public, would
25 he?

TINA STEVENSON - CROSS

1 A No, he didn't.

2 Q He was kind of secretive about it, correct?

3 A Correct.

4 Q Because at Isle of Palms the houses are kind
5 of close together?

6 A Yes.

7 Q And a lot of people could see what was
8 happening outside?

9 A Yes.

10 Q Okay. And Marshall carried a lot of little
11 zip bags like this?

12 A Yes.

13 Q Okay. Which is State's 22 and State's 21, is
14 that correct?

15 A I reckon, yes.

16 Q You saw him with zip bags like this carrying
17 stuff in it?

18 A Yes.

19 Q And did he carry needles and stuff in it?

20 A Yes.

21 Q What is commonly call work?

22 A Yes.

23 Q Okay. And when you went to purchase stuff
24 for Marshall you purchased Sudafed?

25 A Yes.

TINA STEVENSON - CROSS

- 1 Q That is what he asked you to purchase?
- 2 A Yes.
- 3 Q As opposed to another brand name?
- 4 A Yes.
- 5 Q Okay. The little red Sudafed pills?
- 6 A Yes.
- 7 Q Because he was kind of a Sudafed man, I
- 8 guess?
- 9 A Yes.
- 10 Q Okay. Now, when Marshall was cooking, you
- 11 said the odor of the ammonia was strong, right?
- 12 A Yes.
- 13 Q It overwhelmed everything else?
- 14 A Yes.
- 15 Q And when Marshall, when you got through,
- 16 Marshall got through making his methamphetamine,
- 17 you smelled it and you could still pick up a little
- 18 bit of that ammonia odor?
- 19 A Yes.
- 20 Q Ammonia is very distinct from a lot of other
- 21 chemicals?
- 22 A Yes.
- 23 Q And who did you sell those five Oxycontin
- 24 to?
- 25 A Bobby Grimes.

TINA STEVENSON - CROSS

1 Q Bobby Grimes?

2 A Yes, sir.

3 Q And he apparently was working undercover with
4 somebody?

5 A Yes, he was.

6 MR. WISE: Thank you very much.

7 THE COURT: Redirect examination?

8 MR. HOOD: Very briefly, Your Honor.

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TINA STEVENSON - CROSS

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. HOOD:

3 Q Miss Stevenson, Tina, did you sit down with
4 the SLED agents and be debriefed, do a long
5 interview with them?

6 A Yes.

7 Q At that time did anyone make any promises to
8 you?

9 A No, they didn't.

10 Q Did anyone threaten you?

11 A No.

12 Q Did anyone coerce you?

13 A No, sir.

14 Q Did anyone make any statement about how much
15 time you would be getting?

16 A No, sir.

17 Q Do you remember that line of questioning from
18 Mr. Varner about all those distributions?

19 A Yes, sir.

20 Q Where did you get all that methamphetamine
21 from?

22 A It was bought from Marshall.

23 MR. HOOD: No further questions, Your Honor.

24 THE COURT: Anything further?

25

TINA STEVENSON - CROSS

RECROSS EXAMINATION

QUESTIONS BY MR. VARNER:

Q You say you weren't promised anything. Were you ever told you would get credit for it, for this to be taken into consideration in the sentence you got, was that your understanding?

A No, I don't recall that either.

Q What was it you thought you would get out of cooperating?

A Nothing. I'm just trying to get it over with, whatever, I was cooperating, just cooperating, I wasn't promised anything.

MR. VARNER: Nothing further.

THE COURT: Mr. Wise?

MR. WISE: Nothing further.

THE COURT: Anything further?

MR. HOOD: No, sir.

THE COURT: Thank you very much. Come down, ma'am. Watch your step.

(Witness excused).

THE COURT: Any objection to this witness being excused, from the State?

MR. HOOD: No, sir, Your Honor.

THE COURT: Defendant Miller?

MR. VARNER: Nothing, Your Honor.

TINA STEVENSON - CROSS

1 **THE COURT:** Defendant Moore?

2 **MR. WISE:** No objection.

3 **THE COURT:** Thank you. She's excused,
4 released.

5 All right. Now, we've got a number left, do
6 you want to do one more?

7 **MR. HOOD:** Yes, sir, I would like to do one
8 more and I don't anticipate him being the length of
9 the other witnesses.

10 **THE COURT:** Anybody want to take a break?

11 (No response).

12 **THE COURT:** Call your witness.

13 **MR. HOOD:** Thank you, Your Honor. The State
14 at this time calls Sammy McNeil.

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SAMMY McNEIL - DIRECT

1 SAMMY McNEIL,
2 after being first duly sworn testified as follows:

3 THE CLERK: Have a seat and state your full
4 name for the record.

5 THE WITNESS: Sammy McNeil.

6 THE COURT: You may examine, Counsel.

7 MR. HOOD: Thank you very much, Your Honor.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. HOOD:

10 Q Good afternoon, Mr. McNeil. Could you spell
11 your last name for the record?

12 A M-c-N-e-i-l-l.

13 Q Do you go by Sammy?

14 A Right.

15 Q Is it okay if I call you Sammy?

16 A It'll be all right.

17 Q Sammy, were you transported here today from a
18 correctional facility?

19 A Yes, sir.

20 Q Which one did you come from?

21 A Kirkland.

22 Q Where is that?

23 A It's in Columbia.

24 Q Were you involved in this case that you're
25 here today on?

SAMMY McNEIL - DIRECT

- 1 A Yes, sir.
- 2 Q Were you indicted?
- 3 A Yes, sir.
- 4 Q Excuse me?
- 5 A Yes, sir.
- 6 Q Did you eventually plead guilty?
- 7 A Yes, sir.
- 8 Q Who sentenced you to your current sentence
- 9 that you're serving?
- 10 A Who sentenced me?
- 11 Q Yes, sir.
- 12 A I'm not sure what the judge's name was.
- 13 Q Did a judge sentence you?
- 14 A Yes, sir.
- 15 Q And what was that sentence, Mr. McNeil?
- 16 A Seven years.
- 17 Q When do you plan on getting out of the
- 18 Department of Corrections?
- 19 A December, 2006.
- 20 Q As part of your plea did you enter into an
- 21 agreement with the State, do you remember a plea
- 22 agreement?
- 23 A Yes, sir.
- 24 Q As part of that plea agreement did you agree
- 25 to testify in any subsequent trial that may come

SAMMY McNEIL - DIRECT

1 about as part of this investigation?

2 A Yes, Uh-huh (affirmative).

3 Q Were you subpoenaed to come to court today?

4 A Yes.

5 Q Sammy, do you have a prior record?

6 A Yes, sir.

7 Q In fact, is it true that you have been
8 convicted of theft of electric current?

9 A Yes, sir.

10 Q Criminal domestic violence?

11 A Yes, sir.

12 Q Possession of methamphetamine?

13 A Yes.

14 Q DUI?

15 A Yes.

16 Q CDV?

17 A Yes.

18 Q And trafficking methamphetamine?

19 A Right.

20 Q And of course the sentence you're on now --

21 A Uh-huh (affirmative).

22 Q -- when did you actually plead guilty?

23 A In June of last year.

24 Q How old are you, Sammy?

25 A Forty-seven.

SAMMY MCNEIL - DIRECT

- 1 Q Where did you grow up?
- 2 A Here in Abbeville.
- 3 Q Where did you go to high school?
- 4 A Abbeville High.
- 5 Q Are you married?
- 6 A Yes, sir.
- 7 Q Who are you married to?
- 8 A Tina Stevenson.
- 9 Q How long have you and Tina been married?
- 10 A We've been married about a year.
- 11 Q Do you have any children?
- 12 A Yes, sir.
- 13 Q How many children do you have?
- 14 A I've got a son, one son.
- 15 Q How old is your son?
- 16 A Twenty-one.
- 17 Q Where does he live?
- 18 A He lives here in Abbeville.
- 19 Q Tell us about the kind of work you did up
- 20 until you were, you became incarcerated on this
- 21 charge.
- 22 A Mostly I worked in mills fixing looms.
- 23 Q How long did you do that?
- 24 A About fifteen years.
- 25 Q Was your wife Tina also indicted in this

SAMMY McNEIL - DIRECT

1 case?

2 A Yes, sir.

3 Q Did she plead guilty?

4 A Yes, sir.

5 Q Do you remember the first time you ever met
6 Marshall Miller?

7 A Yes, Uh-huh (affirmative).

8 Q When did you meet Marshall Miller?

9 A It was about, about three years ago.

10 Q Okay. Can you give us a time frame?

11 A I'm terrible on dates. No. It was about
12 three years ago.

13 Q Three years ago would be, I'm not good with
14 numbers either, early 2000?

15 A Yes, sir, I would say early 2000.

16 Q Or maybe even before that?

17 A Uh-huh (affirmative).

18 Q How did you meet Mr. Miller?

19 A Went to his house to buy meth from him.

20 Q Who did you go with?

21 A Me and Tina.

22 Q How much did you buy that day?

23 A I think a half ounce is what we got.

24 Q How much did a half an ounce cost?

25 A I believe it was a thousand bucks, I believe

SAMMY McNEIL - DIRECT

1 it was.

2 Q A thousand dollars?

3 A Uh-huh (affirmative).

4 Q How did you all have that kind of money?

5 A We didn't.

6 Q How did it work, then?

7 A He just let us hold it and pay him for it
8 later.

9 Q And did you and Tina sell some of it?

10 A Uh-huh (affirmative).

11 Q Did you sell methamphetamine?

12 A No.

13 Q Who out of the couple sold methamphetamine?

14 A Tina.

15 Q Did you start receiving methamphetamine from
16 Mr. Miller on a regular basis?

17 A Yes.

18 Q And how often were you going to his place to
19 get methamphetamine?

20 A A couple times a week.

21 Q I'm sorry, I got distracted.

22 A A couple times a week.

23 Q And how often did that go on for?

24 A A good little while.

25 Q Where was Mr. Miller living when you would go

SAMMY MCNEIL - DIRECT

1 to his residence?

2 A Honea Path.

3 Q And where in Honea Path?

4 A On 252.

5 Q What kind of structure was he living in, a
6 house, an apartment, trailer?

7 A A house trailer.

8 Q And how many times did you go out there?

9 A Myself personally, I never went there by
10 myself but twice.

11 Q Who would you normally go with?

12 A Me and Tina.

13 Q And would you all pool your money together to
14 buy meth?

15 A Uh-huh (affirmative).

16 Q How many times have you been to see Marshall
17 Miller at the 252 trailer alone?

18 A Twice.

19 Q During this time frame did Tina have a job?

20 A No, sir.

21 Q Did you have a job?

22 A Yes.

23 Q What were you doing?

24 A I was working for Industrial Maintenance in
25 Belton.

SAMMY McNEIL - DIRECT

1 Q And what did that job entail you doing on a
2 day to day basis?

3 A Millwright and pipefitting, stuff like that.

4 Q Did it involve you having to travel out of
5 town?

6 A Yes, sir.

7 Q And how often were you traveling out of town?

8 A I would leave and stay gone for two or three
9 weeks at a time.

10 Q How often were you and Tina going to Marshall
11 Miller's trailer on 252?

12 A When I was around, like I say, a couple times
13 a week.

14 Q How much were you purchasing a time?

15 A Most of the time an ounce.

16 Q An ounce?

17 A Uh-huh (affirmative).

18 Q How many times do you think you and Tina
19 purchased an ounce from him, rough estimate?

20 A Lord, I don't know. A bunch of times.

21 Q More, or less than ten?

22 A More.

23 Q More, or less than twenty?

24 A I say more than ten, less than twenty.

25 Q Okay. Who did Marshall Miller live with?

SAMMY McNEIL - DIRECT

1 **A** Her name was Tracy Davis.

2 **Q** When you would go or Tina would go or when
3 you and Tina went to Mr. Miller's trailer on 252
4 Highway where would the drug deal take place?

5 **A** In the end of the trailer, in the bedroom.

6 **Q** And whose bedroom was that?

7 **A** Marshall's and Tracy's.

8 **Q** Tell us how it would go down.

9 **A** Well, when me and Tina would go I just sat in
10 the living room, she would go back to the bedroom
11 and do the deal and then she would come out and we
12 would leave.

13 **Q** Did you know what was going on?

14 **A** Oh, yes.

15 **Q** How did you know what was going on?

16 **A** That's what we went there for.

17 **Q** Did you and Tina have to discuss it?

18 **A** Oh, yes.

19 **Q** And what would you all talk about?

20 **A** We, you know, was counting the money and make
21 sure we had enough money to go and we would go.

22 **Q** Do you know a woman by the name of Bonnie
23 Saylors?

24 **A** Yes.

25 **Q** Who is Bonnie Saylors?

SAMMY McNEIL - DIRECT

1 A It's a girl, she lived with us for awhile.

2 Q Did you ever get methamphetamine from Bonnie
3 Saylor?

4 A Yes.

5 Q Did you ever sell methamphetamine to Bonnie
6 Saylor?

7 A Well, she used to get it for us for a while.

8 Q Okay. How long did she get it for you? When
9 you say us, who are you referring to?

10 A Me and Tina.

11 Q And you said, "She would get it for us,"
12 explain that to us.

13 A She got it for us several times and we found
14 out she was ripping us off on it so we quit messing
15 with her.

16 Q Tell us what ripping us off means.

17 A Well, she was charging us more than what we
18 was getting, and she was cutting the meth, too.

19 Q What is cutting meth?

20 A Taking some out and putting a cut on it of
21 some kind, like a vitamin B powder.

22 Q Explain that to us.

23 A Put that powder vitamin B on it and mix it up
24 and you can't tell it.

25 Q Does it take away from the potency?

SAMMY McNEIL - DIRECT

1 **A** A little, Uh-huh (affirmative), a little.

2 **Q** What did you do because Tina was cutting,
3 excuse me, Bonnie was cutting your meth?

4 **A** We just quit fooling with her.

5 **Q** Who did you move on to?

6 **A** Marshall.

7 **Q** How did you know to go to Marshall?

8 **A** Well, he called us.

9 **Q** What did he say?

10 **A** Well, he talked to Tina, told us, you know,
11 if we needed anything, just give her a phone number
12 and told her just to give him a call.

13 **Q** Did Mr. Miller ever move from that trailer on
14 252?

15 **A** Yes.

16 **Q** Where did he move to?

17 **A** I'm not sure where he moved to from there. I
18 never, I never seen him after that.

19 **Q** Did you ever see him at a shop in Cokesbury?

20 **A** No, sir.

21 **Q** Did you ever see him at a house near
22 Waterloo?

23 **A** Huh-uh (negative)

24 **Q** The only place you ever went was?

25 **A** 252.

SAMMY McNEIL - DIRECT

1 Q The trailer?

2 A Yes, sir.

3 Q Did you ever see Tina with a large quantity
4 of methamphetamine?

5 A Yes, sir, we had a pretty good bit a few
6 times there.

7 Q I want you to tell me about each of those
8 times. When you say a pretty good bit, if you
9 could, give us in your own opinion how much it was.

10 A A bag like that.

11 Q What was it full of?

12 A Meth.

13 Q How many times did you see that?

14 A A couple times.

15 Q Where had she gotten that large quantity of
16 meth?

17 A From Marshall.

18 Q How do you know that?

19 A That's where we got it all from.

20 Q Did you have another source of
21 methamphetamine besides Marshall?

22 A Huh?

23 MR. VARNER: Your Honor, I ask it be stricken
24 if he doesn't know where it came from to his own
25 knowledge. That's speculation.

SAMMY McNEIL - DIRECT

1 **THE COURT:** The objection is sustained. Lay
2 a better foundation.

3 **MR. HOOD:** Yes, sir, Your Honor.

4 **THE COURT:** Or the Court will strike the
5 testimony.

6 **BY MR. HOOD:**

7 **Q** Did you and Tina have a conversation about
8 where the methamphetamine came from?

9 **A** No, sir. No, sir, huh-uh.

10 **Q** Did you need to have a conversation about
11 where it came from?

12 **A** No, sir.

13 **Q** Did Tina ever tell you where it came from?

14 **A** Uh-huh (affirmative).

15 **Q** What would she tell you?

16 **MR. VARNER:** Your Honor, I object. That
17 question has been asked and answered, he is
18 impeaching his own witness now.

19 **THE COURT:** Sustained.

20 **MR. HOOD:** I will move on to a different line
21 of questioning, Your Honor.

22 **THE COURT:** Very well.

23 **BY MR. HOOD:**

24 **Q** Did you ever see Marshall Miller manufacture
25 methamphetamine?

SAMMY McNEIL - DIRECT

1 A Yes, sir.

2 Q Where?

3 A In a trailer I was working on in Anderson.

4 Q A trailer in Anderson?

5 A Uh-huh (affirmative).

6 Q What were you doing up at a trailer in
7 Anderson?

8 A I was going to do a little carpenter work for
9 him.

10 Q Do you know how to do carpenter work?

11 A Yes, sir.

12 Q Did he ask you to do that for him?

13 A Uh-huh (affirmative).

14 Q Tell us where you went.

15 A Going up 28 from here towards Anderson, it's
16 a caution light, you turn right, I mean turn to the
17 left, and go back up in there, it's a housing
18 development back in there named Green, Green Hill
19 Heights or something like that, the old trailer was
20 sitting beside his sister's house. Anyway, I was
21 doing some carpenter work on it for him.

22 Q Do you have a general time frame when this
23 was?

24 A About 2001.

25 Q Tell us what happened when you got up there.

SAMMY McNEIL - DIRECT

- 1 A Well, I was laying out a wall, going to build
2 some walls in the trailer for him, and --
- 3 Q What was Marshall Miller doing?
- 4 A He was back there spraying some jars.
- 5 Q What kind of jars?
- 6 A Glass Mason jars.
- 7 Q What was he using to spray them with?
- 8 A One of them things like you spray under your
9 house with for bugs.
- 10 Q Like a pump sprayer?
- 11 A Yes, Uh-huh (affirmative).
- 12 Q What would he be spraying in those jars?
- 13 A It smelled like ammonia and ether, is what it
14 smelled like to me, all that smell.
- 15 Q Were both smells present?
- 16 A Yes, sir, Uh-huh (affirmative).
- 17 Q What else did you see him doing?
- 18 A Just spraying jars.
- 19 Q Did you use methamphetamine with him while
20 you were in Anderson?
- 21 A Yes, sir.
- 22 Q Tell us how that happened.
- 23 A Well, we was taking a little break and he
24 asked me, he just pulled some out and asked if I
25 wanted some, I told him yes.

SAMMY McNEIL - DIRECT

1 Q Did he make you pay for that?

2 A No, sir, huh-uh.

3 Q Did you ever see any anhydrous ammonia tanks
4 up there?

5 A Yes, sir, there was two of them.

6 Q What color were they?

7 A Green.

8 Q Green?

9 A Uh-huh (affirmative).

10 Q What kind of vehicle was Mr. Miller driving
11 at that time?

12 A He had a 2000 Trans Am, I believe is what he
13 was driving at the time.

14 Q Was that up there in Anderson?

15 A Yes, sir, Uh-huh (affirmative).

16 Q Describe the location of this house in
17 Anderson. How close is it to other houses?

18 A There is no other houses real close.

19 Q How close would you say the closest house is
20 to that place in Anderson, estimate?

21 A Probably 75, maybe a 100 yards away, but the
22 side of the trailer we're working on, it was
23 sitting pretty close to the house.

24 Q To whose house?

25 A To Marshall's sister's house.

SAMMY McNEIL - DIRECT

1 Q When was the last time you think you
2 purchased methamphetamine from Mr. Miller?

3 A Just twice up there on 252 is the only times
4 I bought from him.

5 Q Do you know when the last time that Tina
6 bought from him?

7 A No, sir.

8 Q Do you remember signing a statement for Mr.
9 Miller that said voluntary statement at the top of
10 it?

11 A No, sir.

12 Q Let me show you this item, Mr. McNeil, Sammy.

13 A Uh-huh (affirmative).

14 Q Do you recognize that document?

15 A No, not really, I don't.

16 Q You don't recognize it? Is that your name at
17 the top of it?

18 A Yes, that's my name.

19 Q Is that your signature?

20 A That's my name there, yes, sir, Uh-huh
21 (affirmative).

22 Q Is that your signature next to where it says
23 signed?

24 A Uh-huh (affirmative).

25 Q You have to answer so everybody can hear you.

SAMMY McNEIL - DIRECT

1 A Yes, sir,.

2 Q That is your signature?

3 A Uh-huh (affirmative).

4 Q Do you remember when that was signed?

5 A Huh-uh, I sure don't.

6 Q Do you know who Ernest Covan is?

7 A Yes, Uh-huh (affirmative).

8 Q How do you know Ernest Covan?

9 A Well, he hung out with Marshall all the time.

10 Q You don't ever remember seeing this before?

11 A Huh-uh (negative).

12 Q But you think that's your signature?

13 A Yes, sir, it looks just like my signature,
14 yes.

15 Q Okay. Do you remember Marshall asking you to
16 sign that statement?

17 A He asked me something about signing a
18 statement for him but I never did sign it for him.

19 MR. HOOD: No further questions -- excuse me,
20 beg the Court's indulgence.

21 Q Did you ever know Mr. Miller to drive any
22 other vehicles besides the car you saw in Anderson?

23 A Yes. He had a black Z71 Chevrolet truck.

24 Q Did he have a toolbox in the back of that
25 truck?

SAMMY McNEIL - DIRECT

1 **A** Yes, sir, Uh-huh (affirmative).

2 **Q** Did you ever buy any pills for Mr. Miller?

3 **A** No.

4 **Q** Did you ever pop any pills?

5 **A** Huh-uh (negative).

6 **Q** Can you describe Marshall Miller for us?

7 **A** Well, he's about, he's about my height, kind
8 of chunky, he's got kind of light brown, grayish
9 looking hair, most of the time he had a little old
10 ragged looking beard most of the time.

11 **Q** Do you know Billy Moore?

12 **A** Huh-uh (negative).

13 **Q** Have you ever met him before in your life?

14 **A** No, sir.

15 **MR. HOOD:** No further questions, Your Honor,
16 thank you.

17 **THE COURT:** Mr. Varner.

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SAMMY McNEIL - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. VARNER:

1 Q All right, Mr. McNeil, you know Little Ray?

2 A Yes.

3 Q Ray Powell?

4 A Right.

5 Q Okay. And was he a cook also?

6 A I never seen him cook nothing.

7 Q Okay. Did you ever buy dope from him?

8 A No, sir, Huh-uh (negative).

9 Q Would you consider Little Ray to be a friend
10 of yours?

11 A Well, no, not exactly. We was just
12 acquaintances, you know.

13 Q How long have you known Marshall as compared
14 to how long you have known Little Ray?

15 A Well, I've known Little Ray longer.

16 Q How long have you known Little Ray?

17 A Probably about five years.

18 Q Okay. And the question was asked about that
19 statement about Ernest Covan. Was he one of the
20 witnesses on that statement?

21 A Witnesses?

22 Q Yes. Do you know why or how Ernest Covan's
23 name was on that statement?

SAMMY McNEIL - CROSS

1 A I hadn't got any idea.

2 Q Okay. Well, at the time you were asked to
3 sign that was Ernest Covan with Marshall?

4 A No, Huh-uh (negative).

5 Q Was anybody else with him?

6 A No, sir.

7 Q Do you even remember that happening?

8 A I remember him asking me about it. I seen
9 him up in Anderson one day and he asked me, he
10 flagged me over and was talking to me and asked me
11 would I sign one for him, I told him no, I wasn't
12 signing nothing.

13 Q So the jury knows what we're talking about
14 here, an ounce of crystal meth, how big would that
15 be? Can you show me with your hands? Would it be
16 the size of a golf ball, the size of a tennis ball,
17 the size of a baseball, a softball, a basketball,
18 how big is an ounce?

19 A Smaller than a golf ball.

20 Q Smaller than a golf ball? And this amount
21 you were describing that your wife had, it was like
22 this, this would be what, like a pound, not an
23 ounce, but a pound?

24 A I'm not sure. It was, like I say, a bag like
25 that.

SAMMY McNEIL - CROSS

1 Q Okay. And your wife is Tina?

2 A Right.

3 Q And you knew she would buy an ounce,
4 according to her, and sometimes an ounce and a half
5 from Marshall?

6 A Uh-huh (affirmative).

7 Q Who did she buy that pound from?

8 A I don't know.

9 Q You don't know? Do you know as part of the
10 deal you're supposed to basically tell the State
11 the whole truth, right?

12 A Uh-huh (affirmative).

13 Q And everything you know?

14 A Right.

15 Q So, if your wife had a bag that big she was
16 getting pounds from somebody, wasn't she, she
17 wasn't cooking it herself, was she?

18 A No, sir.

19 MR. VARNER: That's all the questions I have.

20 THE COURT: Mr. Wise.

21 MR. WISE: Just a few questions.

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SAMMY McNEIL - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. WISE:

Q When you went out to Marshall Miller's house did you go out to Isle of Palms on the lake?

A No sir.

Q Do you know where that's at?

A No, sir.

Q When you went to his residence to make the purchase he always took you into the bedroom?

A Yes, sir.

Q He wouldn't deal with you outside?

A No, sir.

Q All right. Did you ever go down to Cokesbury?

A No, sir.

Q And you and Tina started seeing each other when?

A Me and Tina has been seeing each other for about thirteen years.

Q Thirteen years? When did you all become man and wife?

A About a year ago.

Q One year ago?

A Yes, sir.

Q All right. And as you say, you never met

SAMMY McNEIL - CROSS

1 Billy Moore before?

2 A No, sir.

3 Q And Marshall Miller never talked about him?

4 A No, sir.

5 MR. WISE: Thank you.

6 MR. HOOD: Nothing, Your Honor.

7 THE COURT: Come down, and watch your step,
8 please, sir.

9 (Witness excused).

10 THE COURT: All right, we'll recess for the
11 evening now, unless you have a very brief witness.

12 MR. HOOD: No, sir, we do not.

13 THE COURT: Madam Forelady, ladies and
14 gentlemen of the jury, we will recess at this time.
15 You will tire of hearing these remarks.

16 Do not talk about the case by, between and
17 among yourselves or with any other person. Do not
18 allow any other person to talk with you, and if
19 anybody attempts to, please alert the person or
20 persons that you are a juror and you are not
21 permitted to discuss this case. If anyone attempts
22 to continue discussing the case after you tell them
23 that you are a juror that would be improper, wrong
24 and illegal and you should use every means at your
25 disposal at that time to identify any such person

SAMMY McNEIL - CROSS

1 or persons and report it to one of the bailiffs or
2 to the court clerk who sits before the Court, and
3 that would be investigated and dealt with. Do not
4 talk with anybody.

5 Now, again, this evening the Court makes you
6 aware that it's natural human nature to be curious
7 and you will be asked. This is our, what, third
8 night we've been here, and so everybody is going to
9 want to know what kind of case it is and what it's
10 about, but you must be stalwart in your effort to
11 follow the Court's order not to discuss this case
12 because something that someone may tell you or say
13 to you, regardless of how innocent or insignificant
14 such remark may appear or be at the time, it may in
15 some way upset your balance and your view of the
16 evidence of the case when it comes time for you to
17 deliberate. So, do not allow anybody to speak to
18 you, just tell them that after the case, as you
19 already know, "After the case is over I might talk
20 with you," but you have a right to talk about the
21 case or not to talk about the case after the case
22 is over. But until then do not discuss it with
23 anyone, do not allow anyone to discuss it with you.
24 That's your oath, that is an order.

25 If there were to be any newspaper, television

SAMMY McNEIL - CROSS

1 or radio coverage of the trial please disabuse,
2 disregard anything that you may see, hear or read
3 about this trial because you're on your oath to
4 decide this case only and exclusively upon the
5 evidence that's presented during the course of the
6 trial and on no other evidence or things, nothing
7 else is evidence, but upon nothing else whatsoever
8 at all.

9 Have a pleasant evening and we will return in
10 the morning at 10:00 a.m. Some of you have some
11 things to do, tomorrow is Saturday, we expect the
12 case, I'm not holding you to this, counsel, but we
13 expect the State to rest its case tomorrow, so that
14 you can plan on your future, foreseeable future, we
15 will not go into the defense, once the State rests,
16 now, we don't know when that will be, that may be
17 near the middle of the day, it may be tomorrow
18 afternoon, but we will recess until Monday at 2:00
19 o'clock. Now, there is another jury that is going
20 to be in this courtroom, quite a large jury, it
21 will be in this courtroom, Madam Clerk?

22 THE CLERK: Yes, sir.

23 THE COURT: That morning they are coming at
24 10:00.

25 THE CLERK: 10:00.

SAMMY McNEIL - CROSS

1 **THE COURT:** In another matter that we're
2 going to try, otherwise we would start early on
3 Monday morning, but we have another venire coming
4 in and we have to go through the qualification
5 process with that venire and we hope to be through
6 with that in order to have you back in the jury
7 room and begin the testimony from the defense side,
8 if any there be. Keep in mind that the defense has
9 no burden of proof and they do not have to put up
10 any evidence. But we'll come back at 2:00 o'clock,
11 we're shooting for 2:00 o'clock. We might ought to
12 make it 2:30 because we have a large venire.

13 **THE CLERK:** We summoned 200.

14 **THE COURT:** We better ask you to come back at
15 2:30, because the venire in the next case is a good
16 deal larger than your venire was, so we don't want
17 you just to sit there in the jury room in confined
18 space any longer than necessary, so come back at
19 2:30, not 2:00 o'clock, 2:30 on Monday afternoon.

20 Come back in the morning at 10:00 o'clock and
21 we will go until the State says that that is the
22 end of the case in chief.

23 Anybody have any questions?

24 Thank you very much. The jurors are excused
25 until 10:00 a.m., everyone else remain seated.

SAMMY McNEIL - CROSS

1 (The jury was excused from the courtroom).

2 THE COURT: Is there anything you would like
3 to put on the record?

4 MR. HOOD: We would just like for Mr. McNeil
5 to be excused, if it's without objection, Your
6 Honor.

7 THE COURT: Any objection?

8 MR. WISE: No objection.

9 MR. VARNER: No objection.

10 THE COURT: Mr. McNeil is excused, he may
11 leave.

12 Anything further for the record, Mr. Hood?

13 MR. HOOD: No, sir.

14 THE COURT: Anything, Mr. Varner, you would
15 like to place on the record?

16 MR. VARNER: No, sir.

17 THE COURT: Mr. Wise?

18 MR. WISE: No, sir.

19 THE COURT: The record is closed until
20 tomorrow when we reconvene.

21 (Recessed at 5:45).

22

23

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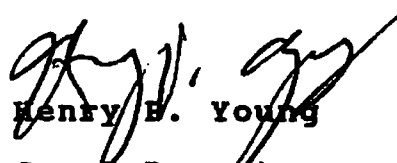
SAMMY McNEIL - CROSS

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I, the undersigned Henry P. Young, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case in the Circuit Court for Abbeville County, South Carolina, on the 23rd day of January, 2004.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 8, 2005


Henry P. Young
Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
CASE NO. 2002-GS-47-32

COUNTY OF ABBEVILLE

STATE OF SOUTH CAROLINA,

-vs-

MARSHALL MILLER and
BILLY MOORE,

Defendants.

B E F O R E:

HONORABLE WYATT T. SAUNDERS, JR.

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

JOHN K. CROUT, Esquire
ROBERT E. HOOD, Esquire
Attorneys for the State

KIM R. VARNER, Esquire
Attorney for the Defendant Marshall Miller

C. RAUCH WISE, Esquire
Attorney for the Defendant Billy Moore

Henry P. Young
Court Reporter

VOLUME V of VIII

JANUARY 24, 2004

1 (Reconvened at 10:00 a.m., January 24, 2004).

2 THE COURT: The record is open, State of
3 South Carolina versus Marshall Miller and others,
4 indictment 2002-GS-47-32. In this matter the
5 defendant Marshall Miller and defendant Billy Moore
6 are standing trial.

7 Is there anything from the State before the
8 jurors come in, please?

9 MR. CROUT: Nothing from the State, Your
10 Honor.

11 THE COURT: Anything from the defendant
12 Miller?

13 MR. VARNER: Nothing, Your Honor.

14 THE COURT: From the defendant Moore?

15 MR. WISE: Nothing, Your Honor.

16 THE COURT: Thank you. Ask the jury in,
17 please, Mr. Busby.

18 (The jury returned to the courtroom).

19 THE COURT: Let the record reflect that all
20 the jurors are present, with the forelady and
21 alternates properly seated. The matter lies with
22 the State. Call your next witness, please.

23 MR. CROUT: Your Honor, at this time the
24 State calls Miss Martha Ellis, please.

25 THE CLERK: Place your left hand on the Bible

MARTHA ELLIS - DIRECT

1 and raise your right hand, please.

2 MARTHA LOUISE ELLIS,
3 after being first duly sworn testified as follows:

4 THE CLERK: Have a seat and state your full
5 name for the record.

6 THE WITNESS: Martha Ellis.

7 THE COURT: This witness is with you.

8 MR. CROUT: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. CROUT:

11 Q Miss Ellis, how old are you?

12 A Fifty.

13 Q How far did you go in school?

14 A The eleventh.

15 Q Where did you go to school?

16 A Abbeville High.

17 Q Have you lived in Abbeville all your life?

18 A Yes, sir.

19 Q When did you start doing methamphetamine?

20 A A long time ago. About -- it was fifteen
21 years ago.

22 Q You have been using meth on and off for
23 fifteen years, or just continuously for about
24 fifteen years?

25 A On and off.

MARTHA ELLIS - DIRECT

- 1 Q Who introduced you to methamphetamine?
- 2 A Herman Prince.
- 3 Q Who?
- 4 A Herman Prince.
- 5 Q Who is he?
- 6 A He's dead now, he lived in Due West.
- 7 Q At the time he introduced you to it who was
- 8 he?
- 9 A He was just a mechanic at a shop.
- 10 Q You weren't married to him?
- 11 A Oh, no. No.
- 12 Q Now, I want to take a look at your prior
- 13 record. Have you ever been arrested before?
- 14 A Yes, in Elberton, Georgia. I put a pair of
- 15 sunglasses on top of my head, I was shopping, and
- 16 it still had the price tag and everything on it and
- 17 I forgot about it and they charged me with
- 18 shoplifting.
- 19 Q And where did that occur?
- 20 A Elberton, Georgia.
- 21 Q Were you arrested and charged in this case?
- 22 A Yes, sir.
- 23 Q When did that occur?
- 24 A September 26th, '99 -- 2000? '99 or 2000.
- 25 Is that right? It's been awhile.

MARTHA ELLIS - DIRECT

1 Q Do you know an individual by the name of
2 Marshall Miller?

3 A Yes, sir.

4 Q How did you meet Marshall Miller?

5 A At a friend's house.

6 Q Did you ever buy any methamphetamine from
7 Marshall Miller?

8 A Yes, sir.

9 Q How did you know he was somebody you could
10 buy methamphetamine from?

11 A From people talking.

12 Q The first time you met him what was the
13 purpose of that meeting?

14 A I had stopped at, let's see, the first time I
15 met him I was at a friend's house and he came in
16 and I just was talking, I talked to him.

17 Q Did you all discuss methamphetamine at that
18 time?

19 A No.

20 Q When is the first time you started talking
21 about using methamphetamine with him?

22 A I had stopped at Godfrey's Grocery Store in
23 Hodges to get a drink and he pulled in and me and
24 him sat down and talked.

25 Q Did you know Marshall Miller when he lived in

MARTHA ELLIS - DIRECT

1 the Shamrock Apartments?

2 A No, sir.

3 Q Did you know him when he lived in a trailer
4 on Highway 252?

5 A In Honea Path?

6 Q Yes, ma'am.

7 A Yes, sir.

8 Q Is that where you would go to purchase your
9 meth?

10 A I rode with a friend one time up there.

11 Q Who is the friend you rode with?

12 A David Cumming.

13 Q Did you ever buy any methamphetamine from the
14 shop in Cokesbury?

15 A Yes, sir.

16 Q Did you ever buy methamphetamine from his
17 house in Waterloo?

18 A Yes, sir.

19 Q I want to start, then, with the trailer on
20 252. Who told you you could go there to buy
21 methamphetamine?

22 A I just rode with David when he went there,
23 David Cumming.

24 Q All right. The second time you went there
25 who did you go with?

MARTHA ELLIS - DIRECT

- 1 A I didn't go but one time to the trailer.
- 2 Q So, you only went to that trailer one time?
- 3 A I just rode up there with him one time.
- 4 Q Did you go inside the trailer?
- 5 A Yes, sir.
- 6 Q Where did you stay?
- 7 A I stayed in there and talked to Tracy.
- 8 Q Who is Tracy?
- 9 A His girlfriend.
- 10 Q And where did David Cumming go?
- 11 A In the back.
- 12 Q When you all left did he have methamphetamine
- 13 with him?
- 14 A Yes, sir.
- 15 Q The house in Waterloo, did you go and
- 16 purchase any methamphetamine there?
- 17 A Yes, sir.
- 18 Q How many times did you go there?
- 19 A Several, three or four.
- 20 Q What about the shop on Cokesbury, how many
- 21 times did you go there?
- 22 A Three, four, five times there, too.
- 23 Q All right. At the shop in Cokesbury, explain
- 24 how the transaction would take place there.
- 25 A I just go in, talk to him and we would go in

MARTHA ELLIS - DIRECT

1 a little room on the side there, he had a little,
2 like a little tarp between there, you know, where
3 he had cars on one side and he had like an old car
4 on the other side.

5 Q Would Tracy Davis be there?

6 A No, sir.

7 Q All right. When you would go on the other
8 side of that tarp where would Marshall Miller get
9 his methamphetamine from?

10 A He had a little bag, a little black bag.

11 Q How big was the black bag?

12 A Say so big, like an overnight bag.

13 Q Was it full of methamphetamine or did he have
14 other stuff in there?

15 A He had all kind of stuff in there.

16 Q How much methamphetamine would you say he had
17 in there?

18 A I really couldn't say.

19 Q How did you all determine what amount you
20 would buy?

21 A I mean, I would just say stuff like an ounce,
22 half an ounce, and that would be it.

23 Q I know, but --

24 A I would --

25 Q But how did you know it was a half ounce?

MARTHA ELLIS - DIRECT

1 A I mean, I would just tell him that's what I
2 needed.

3 Q Did he weigh it out for you or or did he
4 already have it packaged?

5 A He already had it out.

6 Q Would you call him ahead of time?

7 A Sometimes, sometimes I just ride by there.

8 Q Now, the house at Waterloo, how would that
9 transaction take place?

10 A Most of the time I would call.

11 Q Who would answer the phone?

12 A Well, most of the time Tracy.

13 Q Would you tell her what you were coming there
14 for?

15 A No. I just asked to speak to Marshall.

16 Q When you conducted --

17 A If he wasn't there I wouldn't go.

18 Q I understand. When you conducted the
19 transactions at the house in Waterloo how did those
20 transactions take place?

21 A In the back room.

22 Q Would Tracy go with you?

23 A No.

24 Q Would anybody go with you?

25 A No.

MARTHA ELLIS - DIRECT

1 Q Would there be other people there?

2 A Tracy and her little girl.

3 Q And how did you determine an amount, the
4 amount that you were purchasing at the house in
5 Waterloo?

6 A I would tell him.

7 Q Would he measure it out?

8 A He would usually have it out.

9 Q What kind of vehicles did Marshall drive?

10 A He had a truck and a white Chrysler, I think
11 it was, white car, and a Harley Davidson.

12 Q What does Marshall Miller look like?

13 A Kind of short, a beard, not a full beard,
14 gray.

15 Q How long have you known Marshall Miller?

16 A I have known him for awhile, a long time,
17 something like, I will say fifteen years, you know,
18 just know of him.

19 Q If you saw a photograph of him could you
20 identify him?

21 A Yes.

22 Q I would like you to take a look at this --

23 MR. VARNER: We will so stipulate that is Mr.
24 Miller and no objection to its introduction.

25 MR. WISE: No objection, Your Honor.

MARTHA ELLIS - DIRECT

1 THE COURT: Very well.

2 MR. CROUT: Moved in as State's next exhibit,
3 Your Honor.

4 THE COURT: Let her identify it.

5 MR. CROUT: Yes, sir.

6 BY MR. CROUT:

7 Q Is that Mr. Miller in that picture?

8 A Yes, sir.

9 Q In both pictures?

10 A Yes, sir.

11 THE COURT: Madam witness, will you state
12 your full name?

13 THE WITNESS: Martha Louise Ellis.

14 THE COURT: Thank you.

15 MR. CROUT: Your Honor, I do have that moved
16 in, then, as State's next exhibit.

17 (State's Exhibit Number 35 was marked
18 and received in evidence).

19 BY MR. CROUT:

20 Q Miss Ellis, going back to the trailer where
21 you would purchase or where you purchased meth
22 from, how much did you buy at a particular time, do
23 you recall?

24 A Anywhere from a half an ounce to an ounce.

25 Q And what would you do with that?

MARTHA ELLIS - DIRECT

1 A Do most of it, me and my friends.

2 Q Would you give it away?

3 A Well, yes, they would do it up with me, yes.

4 Q Did you sell any of it?

5 A Some of it, very little.

6 Q How much did you sell, do you think?

7 A I would say a quarter, a quarter of it, you
8 know, a fourth of it.

9 Q And how much were you paying Marshall Miller
10 for it at that time?

11 A Sixteen.

12 Q Ma'am?

13 A Sixteen-hundred.

14 Q Every time you would visit him at the
15 trailer?

16 A If it was an ounce.

17 Q Sixteen-hundred for an ounce?

18 A If it was an ounce.

19 Q Did he ever front you any methamphetamine?

20 A Yes, sir.

21 Q How often, and I'm talking, right now I just
22 want you to concentrate on the trailer.

23 A Huh?

24 Q Did he ever front you any methamphetamine
25 there?

MARTHA ELLIS - DIRECT

1 A Yes. Yes, sir.

2 Q Explain that process for us.

3 A What do you mean, front it? I pay for it
4 later, when I have got the money or something I
5 would bring it back to him.

6 Q And where would you get that money from?

7 A Well, sometimes I would have some of it, you
8 know, but I would just pay for it all together, you
9 know.

10 Q Did you ever use the money that you got from
11 selling methamphetamine to buy more amphetamine?

12 A Yes, sir.

13 Q Now, the shop in Cokesbury, how much
14 methamphetamine do you think you purchased there?

15 A I'll say, I know two or three ounces.

16 Q And how much at a time, an ounce at a time?

17 A No, half, half an ounce.

18 Q A half?

19 A A half of an ounce.

20 Q A half an ounce, and how much were you paying
21 for it there?

22 A Nine-hundred.

23 Q And how often did you say you went to the
24 shop in Cokesbury?

25 A It was three or four, you know, several

MARTHA ELLIS - DIRECT

1 times.

2 Q And would you use all of that meth or would
3 you sell some of it?

4 A As I said, I used most of it but I would do
5 it up with my friends and stuff.

6 Q And did you use any of that money to buy more
7 meth?

8 A Yes.

9 Q Now I want you to move forward, then, to the
10 house at Waterloo. How much methamphetamine do you
11 think you purchased from him out of that house?

12 A I didn't go to his house in Waterloo that
13 much.

14 Q Well, how many times did you go?

15 A I say two or three times.

16 Q All right.

17 A It was hard to catch him there.

18 Q All right. And on those two or three
19 occasions when you went there how much
20 methamphetamine did you purchase each time?

21 A I would say like half an ounce or an ounce,
22 that would be it.

23 Q And how much would you pay for that?

24 A Most of the time I would get it on front and
25 pay him later, it would be nine for a half and

MARTHA ELLIS - DIRECT

1 sixteen for the whole ounce.

2 Q And once again those drugs, did you use money
3 from the sale of those or that methamphetamine to
4 purchase more methamphetamine?

5 A Yes.

6 Q Who were you distributing the methamphetamine
7 to?

8 A Just several friends that would come by and
9 stuff.

10 Q And what are their names?

11 A Steve Newell, Bubba Stone, Scottie Prince
12 came by, David Cumming came by. That's about, you
13 know, all I can think of right now.

14 Q When did you stop purchasing methamphetamine
15 from Marshall Miller.

16 A When I got in trouble.

17 Q When was that?

18 A The last time, when they got me for
19 conspiracy.

20 Q Did you ever purchase methamphetamine, and
21 let me rephrase the question, just starting in
22 1999, did you ever purchase methamphetamine from
23 anybody else?

24 A Ray Powell.

25 Q Did you ever use methamphetamine -- let me

MARTHA ELLIS - DIRECT

1 rephrase that question, I'm sorry. Did you ever
2 use that methamphetamine with anybody else?

3 A What, I mean, what are you saying?

4 Q The methamphetamine you purchased from Ray
5 Powell.

6 A Did I use it with anybody else?

7 Q Yes, ma'am.

8 A Yes, sir.

9 Q And was that kind of common?

10 A Yes.

11 Q Between friends?

12 A Yes.

13 Q To share your meth?

14 A Yes.

15 Q Did Marshall Miller ever tell you where his
16 methamphetamine came from?

17 A No.

18 Q Did Ray Powell ever tell you where his
19 methamphetamine came from?

20 A No.

21 Q Did you ever know Marshall Miller to cook
22 methamphetamine or make methamphetamine?

23 A Well, I heard of him making it but as far as
24 seeing --

25 MR. VARNER: Objection.

MARTHA ELLIS - DIRECT

1 THE COURT: Sustained.

2 A As far as seeing it, no.

3 Q Now, prior to being arrested in this case had
4 you ever been arrested with any methamphetamine?

5 A When they come and got me for conspiracy?

6 Q No, ma'am. Just prior to that date had you
7 ever been arrested?

8 A No. No, sir.

9 Q Now, when they came and arrested you for this
10 case did you have any methamphetamine with you?

11 A On conspiracy?

12 Q Yes, ma'am.

13 A Yes, sir.

14 Q Where did that methamphetamine come from?

15 A Marshall Miller.

16 Q When did you purchase it?

17 A He gave it to me.

18 Q Where were you at when he gave it to you?

19 A On Morgan Road, I think it's Morgan Road, I
20 think it is.

21 Q Was it a shop?

22 A Yes, sir.

23 Q If I showed you a picture of it could you
24 identify it?

25 A Yes, sir.

MARTHA ELLIS - DIRECT

1 MR. CROUT: Your Honor, while we're looking
2 for that piece of evidence I will move on to
3 another line of questioning.

4 THE COURT: Yes, sir.

5 BY MR. CROUT:

6 Q Prior to being arrested had you spoken with
7 anybody from the South Carolina Law Enforcement
8 Division?

9 A What, after I was arrested?

10 Q No, prior to.

11 A No, sir.

12 Q Prior to being arrested had you, prior to
13 being arrested had you spoken to any other law
14 enforcement officials?

15 A No, sir.

16 Q After you were arrested did you speak to
17 anyone from the South Carolina Law Enforcement
18 Division?

19 A Like when I was arrested, like Brandon or
20 some of them like that? I mean --

21 Q No, ma'am.

22 A I don't understand the question.

23 Q Not when you were arrested but after you were
24 arrested did you have an opportunity to sit down
25 with anybody from SLED?

MARTHA ELLIS - DIRECT

1 A Yes, sir.

2 Q Do you remember who that was?

3 A Frank O'Neil.

4 Q And where were you at when you sat down with
5 Frank O'Neil?

6 A I was at home when he came by and then he met
7 me down on the side of the road.

8 Q Go ahead, I'm sorry.

9 A I was at home, he went down the road to a
10 little side street down below my house and I
11 followed him and went down there to the side street
12 and talked to him.

13 Q Now, was that before you were arrested, or
14 after you were arrested?

15 A It was before, before I was arrested, I'm
16 sorry. I'm sorry, I didn't understand what you
17 were saying.

18 Q I understand. We have had some confusion.

19 A I'm sorry.

20 Q And what did you do as a result of that
21 conversation?

22 A He was asking me about Marshall Miller making
23 dope and everything and I told him I couldn't do
24 that because I didn't know where he was making any
25 at, you know, where he was making meth, I didn't

MARTHA ELLIS - DIRECT

1 know where he was making it at.

2 Q All right. Did he leave a phone number with
3 you?

4 A Yes, sir.

5 Q What did he write it on?

6 A The phone number?

7 Q Yes, ma'am.

8 A A piece of paper.

9 Q Like a little --

10 A Out of the truck, yes, sir, a little piece of
11 paper out of the truck.

12 Q Was it a whole piece of paper or, I mean, I
13 want you to describe that for me.

14 A I think it was a piece of paper he had on the
15 dash up there, like a little square piece of paper,
16 I think. And he gave me his phone number and told
17 me to call. I think he had a meeting or something
18 in Columbia, some kind of SLED meeting or
19 something, as far as I can remember.

20 Q Yes, ma'am. Now, did you tell Marshall
21 Miller about this meeting?

22 A Later on I did.

23 Q And did you give Marshall Miller that piece
24 of paper?

25 A I gave him the phone number.

MARTHA ELLIS - DIRECT

1 Q Did you tell Marshall to call Frank O'Neil?

2 A No. I told him that is who called me and
3 told me that, you know, they were having a meeting,
4 SLED meeting.

5 Q During the time that you were getting your
6 meth from Marshall Miller did he ever cut you off?

7 A What do you mean, cut me off, stop me?

8 Q Stop selling to you?

9 A No.

10 Q Did he sell to you after you had told him you
11 had spoken to Frank O'Neil?

12 A Yes, sir.

13 Q Now, the place you bought the meth from on
14 Morgan Road, could you identify that for us, excuse
15 me, could you describe that for us?

16 A All I know, it was a shop there, it was on a
17 back road like going -- I don't even know the name
18 of the road that you turn off of, it's a little
19 side road you turn off on the old Hodges Road and
20 go to a little side road, then you join in on
21 Morgan Road.

22 Q Did you go in the shop?

23 A No. He met me on the side of the road.

24 Q Do you know whose shop that was?

25 A No, sir. Later on I read in the paper but

MARTHA ELLIS - DIRECT

1 then that night I didn't.

2 Q What did the shop look like?

3 A Just an old rundown shop.

4 Q Who all else was there when you -- was anyone
5 else there when you purchased the methamphetamine
6 from him?

7 A There was vehicles there but I didn't see
8 anyone else.

9 Q What vehicles were there?

10 A I mean, it was dark, I can't tell you what
11 kind of vehicles. His truck was there and that
12 Harley Davidson thing was there but, you know, as
13 far as other vehicles, the kind, I don't know, it
14 was dark.

15 Q I would like to show you a picture of what
16 has been previously marked as State's Exhibit
17 Number 17 and ask if you can identify that?

18 A That's it.

19 Q When you say that's it, what do you mean?

20 A The shop.

21 Q And that's the shop where you bought the
22 methamphetamine?

23 A He gave me the eightball that night.

24 Q Step down from the chair, please. If you
25 would, just point to that shop, and make sure all

MARTHA ELLIS - DIRECT

1 the jury can see. And that is --

2 MR. CROUT: Let the record reflect that she
3 identified the picture of the shop on Morgan Road
4 on State's Exhibit Number 17.

5 Go ahead and have a seat.

6 Q Now, did Marshall Miller ever ask you to sign
7 a statement for him or some type of a statement for
8 him?

9 A Tracy did.

10 Q And did you get a chance to see that
11 statement?

12 A Yes, I went over it.

13 Q What did it say?

14 A It said he had never done in any, had any
15 dealings with drugs or, drugs or stuff like that.

16 Q Did you sign it?

17 A I think I signed one.

18 Q Was the statement true?

19 A No. No, sir.

20 Q Why did you sign it?

21 A Stupidity.

22 Q When you say stupidity --

23 A It was, it was stupid on my part.

24 Q And why was it stupid?

25 A Because I shouldn't have signed no kind of

MARTHA ELLIS - DIRECT

1 paper like that.

2 Q Why not?

3 A Because it wasn't true.

4 Q Were you under oath when you signed it?

5 A No.

6 Q Did you raise your right hand and swear it
7 was true?

8 A No. I just picked a pen up and signed it.

9 Q Did you ever take one of those notes to
10 anybody else to try to get them to sign it?

11 A I went with a friend, with a guy that
12 Marshall knew, to Calhoun Falls, to David Cumming's
13 house.

14 Q Who was that fellow you went with?

15 A They always called him Big'un, I don't know,
16 I think later on somebody told me his name was
17 Paul.

18 Q How many times did you go to David Cumming's
19 house?

20 A With that note?

21 Q Yes, ma'am.

22 A One time.

23 Q Did David Cumming sign it?

24 A No.

25 Q Did you tell Marshall he didn't sign it?

MARTHA ELLIS - DIRECT

1 A No. I think that guy called and told
2 Marshall he didn't sign it.

3 Q In the time period that you were buying
4 methamphetamine from Marshall Miller, just in your
5 estimation, how much did you purchase?

6 A I'll say six ounces.

7 Q And what would be, in your estimation, the
8 total that you spent for that six ounces?

9 A Sixteen-hundred dollars apiece.

10 Q That's your estimate?

11 A I mean, sixteen-hundred dollars for each
12 ounce, that's six ounces.

13 Q All right. That's fine.

14 A Yes. My calculator ain't working too good
15 this morning.

16 Q I don't think anybody's is. Now, Miss Ellis,
17 I want you to think real hard about this. Were you
18 ever arrested by Mr. Brandon Scott, an individual
19 by the name of Brandon Scott?

20 A Yes, sir.

21 Q And was that on the 26th?

22 A Yes, sir.

23 Q Prior to that date had you ever been arrested
24 by Mr. Brandon Scott?

25 A The second time when he came back for the

MARTHA ELLIS - DIRECT

1 conspiracy, yes, sir.

2 Q Now, you say the second time when he came
3 back for conspiracy, is that the date of the 26th,
4 that you're referring to?

5 A The second time -- it might not have been the
6 26th on the second time. As I said, I can't
7 remember those dates, I forget.

8 Q Prior to being arrested in this case for
9 these charges were you ever arrested by Brandon
10 Scott?

11 A No, sir.

12 Q After you were arrested for this case were
13 you ever arrested by Mr. Brandon Scott?

14 A No, sir.

15 Q So, the only time you have ever had any
16 contact or ever been arrested by him was when you
17 were arrested for this case?

18 A Uh-huh (affirmative), yes, sir.

19 Q Did you ever tell Brandon Scott that you got
20 methamphetamine from Ray Powell?

21 A Yes, sir.

22 Q Did you ever tell him that you had also
23 gotten it from Marshall Miller?

24 A Yes, sir.

25 Q Under what circumstances did you tell him you

MARTHA ELLIS - DIRECT

1 had gotten it from Ray Powell?

2 A I don't understand the question.

3 Q When did you tell him you had gotten
4 methamphetamine from Ray Powell?

5 A When they locked me up the first time I told
6 him that it came from Ray Powell.

7 Q When did you get locked up the first time?

8 A That was when they got me for meth, not
9 conspiracy, and it was on my statement that it came
10 from Ray Powell.

11 Q Then, when you got locked up again, or a
12 second time, what are you referring to there?

13 A When they come in and got me for conspiracy
14 that was the second time, that's the only two times
15 I've been locked up.

16 Q You have actually been arrested twice?

17 A Yes, sir.

18 Q The first time, and I just want to make sure
19 we're clear on this, the first time you were
20 arrested where did you tell Brandon Scott you got
21 your meth from?

22 A I told him it was from Ray Powell.

23 Q All right.

24 A But it was Marshall Miller's dope.

25 Q It was actually Marshall Miller's?

MARTHA ELLIS - DIRECT

1 A Yes.

2 Q The methamphetamine in this case, where did
3 you get that from?

4 A Marshall Miller.

5 Q Now, excuse me, I want to return to your
6 meeting with agents from the South Carolina Law
7 Enforcement Division. Was your lawyer present?

8 A No, sir.

9 Q Did your lawyer --

10 A When you say meeting, are you talking about
11 when he come to my house and I met him on the side
12 of the road, is that what you're saying.

13 Q I'm sorry, I didn't mean to confuse you.

14 A I didn't understand what you're saying.

15 Q I'm sorry. After you were arrested did you
16 meet with the, with any individuals from the South
17 Carolina Law Enforcement Division after you were
18 arrested?

19 A That was when they come in the first time,
20 right, is that what you're saying?

21 Q No, ma'am, the second time.

22 A The second time?

23 Q Yes, ma'am.

24 A They took me to Columbia, that's when I went
25 to Columbia for the Grand Jury thing?

MARTHA ELLIS - DIRECT

1 Q Yes, ma'am.

2 A I don't understand the question.

3 Q I understand.

4 A I don't understand the question.

5 Q There is a series of events here, I'm just
6 trying to walk you through them. I understand,
7 that's okay, let me rephrase the question, then.
8 On May 14th of 2003 did you meet with individuals
9 from the South Carolina Law Enforcement Division
10 about this case?

11 A Was it when I went and talked to Brandon, was
12 that it? I don't know.

13 Q Did you and your lawyer ever meet with
14 anybody from the South Carolina Law Enforcement
15 Division?

16 A At his office, I got you, yes, sir.

17 Q Yes, ma'am.

18 A Yes.

19 Q All right. Do you recall when that meeting
20 took place?

21 A You just told me May 14th.

22 Q And who was your lawyer at that time?

23 A Geoly.

24 Q Is he still your lawyer?

25 A Yes, sir.

MARTHA ELLIS - DIRECT

- 1 Q You were charged in this case, right?
- 2 A Yes, sir.
- 3 Q You were indicted?
- 4 A Yes, sir.
- 5 Q And you are looking at a prison sentence,
- 6 correct?
- 7 A Yes, sir, I am.
- 8 Q Now, when you were at that meeting with your
- 9 lawyer Mr. Geoly and members of the South Carolina
- 10 Law Enforcement Division were you made any promises
- 11 about anything that would happen to you if you
- 12 testified?
- 13 A That I'm still going to serve some time,
- 14 seven to ten.
- 15 Q Were you made any promises?
- 16 A No.
- 17 Q To give that testimony?
- 18 A Oh, no, no.
- 19 Q And did you sign an agreement that you would
- 20 testify in this case?
- 21 A That day?
- 22 Q No, ma'am, not that day but you did sign an
- 23 agreement that you would testify in this case?
- 24 A Yes, sir.
- 25 Q Did you agree to tell the truth?

MARTHA ELLIS - DIRECT

1 A I did.

2 Q And what would happen if you didn't tell the
3 truth?

4 A That I would serve anywhere from seven to
5 twenty-five years.

6 Q Yes, ma'am.

7 MR. CROUT: Your Honor, I have no further
8 questions of this witness. Miss Ellis, if you
9 would, answer any questions Mr. Varner or Mr. Wise
10 have for you, please.

11 THE COURT: Cross-examination, Mr. Varner.

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MARTHA ELLIS - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. VARNER:

3 Q You're Martha Ellis, correct?

4 A That's correct.

5 Q They commonly refer to you as Mott, is that
6 correct?

7 A Yes, that's correct.

8 Q This lawyer you are talking about, Mr. Geoly,
9 that's the gentleman seated over here?

10 A Yes, sir.

11 Q In regard to the time line, in the last three
12 years, up until September 23rd, 24th of 2003,
13 Marshall had lived at a couple different places,
14 right?

15 A Yes, sir.

16 Q Okay. And this Cokesbury, that is what they
17 call the shop, right?

18 A Yes, sir.

19 Q And to help you with your time line, if you
20 were arrested -- well, were you arrested on
21 September 24th, 2003, along with everybody else?

22 A Uh-huh (affirmative).

23 Q Were you part of that --

24 A Yes, sir.

25 Q -- sweep or --

MARTHA ELLIS - CROSS

1 A I was in that.

2 Q Okay. And prior to that time is that when
3 Marshall had that shop in Cokesbury?

4 A Yes, sir.

5 Q Okay. Now, around the beginning of August,
6 about two months before that, is it a fair
7 statement Marshall started getting a little edgy
8 and so did everybody else, everybody kind of knew
9 SLED was coming down on them, people were starting
10 to get cautious?

11 A Yes, sir.

12 Q And Marshall was kind of disappearing during
13 that time? He would go to Georgia, he was taking
14 stuff to Georgia, everybody was trying the best
15 they could to, I guess, to clean their tracks, so
16 to speak. Is that a fair statement?

17 A Yes, sir.

18 Q About when was it prior to the arrest on
19 September 24th, about when was it that Marshall got
20 out of Cokesbury or left that Cokesbury shop?
21 Wasn't that a couple months before that, back in
22 about July, June or July he left the Cokesbury shop
23 and was staying in Georgia and staying in different
24 places?

25 A Somewhere around there, I can't remember the

MARTHA ELLIS - CROSS

1 day.

2 Q Well, just the best of your recollection. He
3 wasn't even in Cokesbury or had the Cokesbury shop
4 in September or August, he had left before then,
5 just the best of your recollection?

6 A Well, as far as I can remember, but like I
7 said, he was in and out, I don't know if he was --
8 he wasn't staying there, if that's what you're
9 saying.

10 Q Is it a fair statement the last two months
11 before anybody was arrested Marshall was out more
12 than he was in?

13 A Yes.

14 Q You didn't see much of Marshall. And have
15 you signed a written plea agreement yet?

16 A I don't understand the question.

17 Q Have you signed an agreement with the State?

18 A Just to be here for a witness, that's it.

19 Q All right. While we're looking for that,
20 let's just back up here a little bit so we get our
21 time line straight.

22 Back on September 28th, back in September of
23 2001 Brandon Scott came to your house, correct?

24 A 2001? Are you talking about when he come to
25 arrest me?

MARTHA ELLIS - CROSS

1 Q Yes, when they found two ounces at your
2 house.

3 A Yes.

4 Q Okay. And you told the jury just a little
5 while ago you told them that it came from Ray
6 Powell?

7 A Yes.

8 Q Well, at that time you were talking to
9 Brandon Scott isn't it a fair statement all Brandon
10 Scott wanted to hear about was Marshall Miller,
11 Marshall Miller, Marshall Miller, as many times as
12 it has been said, as many times as you can think
13 of?

14 A Yes, sir.

15 Q At that point in time you gave him what is
16 called a voluntary statement, didn't you?

17 A Yes, sir.

18 Q Do you recognize that statement?

19 A Yes, sir.

20 Q If you would, read that statement to the
21 jury, ma'am.

22 A Read the whole thing?

23 Q Yes, ma'am.

24 A I'd need my glasses but -- I won't be able to
25 see.

MARTHA ELLIS - CROSS

1 Q Mine may work, they're from Walmart, they
2 might work.

3 A If they're from Walmart I might can see out
4 of them. It said, "I first met Marshall Miller
5 while I was at Tina Stevenson's house on Wardlow
6 Street in Abbeville, South Carolina. At this time
7 I bought two eightballs of meth from him. I think
8 Tina gave him my phone number and he began calling
9 me at my house ever so often to see if I needed
10 anything. This happened about six months ago when
11 he would call," wait a minute, "in Abbeville County
12 and Greenwood County, would begin buying half an
13 ounce of meth from him for \$800. I continued
14 buying a half an ounce from him on average once a
15 week. About a month ago I began buying a half
16 ounce of meth from him, \$1,600. Last night he
17 called me and I met him at the Godfrey's Grocery
18 Store in Hodges and he asked me if I wanted one or
19 two ounces and I told him two. I got two ounces
20 from him and paid him \$1,600. Every time I bought
21 from Marshall Miller it would take place around
22 12:00 or 1:00 o'clock in the morning. I am writing
23 this statement on behalf of Martha Ellis," end of
24 statement.

25 Q You signed that statement, correct?

MARTHA ELLIS - CROSS

1 A Yes. But that night I was so scared I would
2 have wrote anything.

3 Q Okay. You further acknowledged in here that
4 you knew you had a right to remain silent, and your
5 witness is Brandon Scott, correct?

6 A Yes, sir.

7 Q So, what you said a little while ago, you
8 told me it was Ray Powell, that's not true, you
9 told them what they wanted to hear, you told them
10 it was Marshall Miller then, didn't you?

11 A Yes, sir.

12 Q All right. So, the first time you talked to
13 Brandon Scott you gave a voluntary statement that
14 he witnessed, you lied?

15 A Yes. It was Marshall Miller's dope.

16 Q That was Marshall Miller's dope?

17 A Yes, it was.

18 Q Okay.

19 A It sure was. Like I said, I was scared that
20 night but it was Marshall Miller's dope.

21 Q Well, then the next time you meet with SLED,
22 the same way everybody else did, you sat down and
23 gave them statements, not everybody else, but the
24 people who have testified, you sat down with them,
25 with a SLED agent, I think you called her Connie,

MARTHA ELLIS - CROSS

1 Connie Sonnefeld, is that correct? You sat down
2 with her May the 14th of 2003, is that correct?

3 A That's right.

4 Q And you said at that point in time, you told
5 them about you had originally given a statement to
6 Brandon Scott and you had said Marshall was the one
7 who gave you that dope, just like that statement we
8 just read. Correct?

9 A That's right.

10 Q And you stated that you had named Marshall
11 Miller as your source of supply, when in reality
12 you were getting the meth from Ray Powell, so you
13 just got through telling SLED that that statement
14 was a lie, that you really got it from Ray Powell,
15 that's what you told SLED, isn't it?

16 A Yes, but like I said, that night I was
17 scared, I would have told them anything.

18 Q I'm not talking about what you would have
19 said then. I'm talking about on May 14th. You
20 told them you lied on that statement when you were
21 scared, you are now telling them that was really
22 Ray Powell's dope?

23 A All of it was Marshall Miller's dope.

24 Q All right. Well, then, why did you tell
25 Agent Sonnefeld that it was Ray Powell's dope in

MARTHA ELLIS - CROSS

1 your debriefing with her? Which time are you
2 lying, is the question?

3 A I'm not answering that.

4 Q Well, if you told Brandon Scott it was
5 Marshall Miller and you told Connie, excuse me, I
6 keep putting her back there, you told Connie that
7 you lied then and it was really Ray Powell's dope,
8 now you're going to tell us which one, which one of
9 those stories that you told, the one you told
10 Brandon Scott or the one you told Connie, which one
11 of them is true?

12 A It was Marshall Miller's dope.

13 Q Okay. Which of those two statements is true,
14 because they're contradictory statements, aren't
15 they?

16 A (No response).

17 Q Now, you talked to them a good bit about Mr.
18 Ray Powell, correct, talking about Connie here, you
19 told her?

20 A I didn't talk to them about it that much.

21 Q What?

22 A I didn't talk to them about -- what you're
23 saying, I talked to them a lot about Ray Powell?

24 Q You told them what Ray Powell was doing?

25 A I told them I had bought from Ray Powell.

MARTHA ELLIS - CROSS

1 Q Okay. And that after you were arrested,
2 that's back when Brandon Scott, he's not over there
3 today, when Brandon Scott caught you with the two
4 ounces, that you continued to deal with Ray Powell
5 for awhile, correct?

6 A Yes, sir.

7 Q And you said you ran into Marshall at
8 Godfrey's Store in Hodges, right?

9 A That's right.

10 Q At that point in time he confronted you and
11 he said, "Ray Powell tells me you're buying all
12 your dope from him." Correct?

13 A He told me that Ray said I wasn't paying for
14 any of my dope.

15 Q Okay, that you weren't paying for it. Was
16 that true?

17 A No.

18 Q Which part of it wasn't true, you weren't
19 paying for it or that you weren't getting it?

20 A He said I wasn't paying for it, and I was
21 paying for it.

22 Q So, you were getting your dope from Ray
23 Powell then?

24 A Yes, I have got dope from Ray Powell, I sure
25 have.

MARTHA ELLIS - CROSS

1 Q Have you ever seen Ray cook?

2 A No. I have never seen Marshall cook.

3 Q All right. When you first got arrested --
4 let me change, let me rephrase it. When you got
5 arrested on September 24th in this Operation
6 Crankdown you were presented with what is called an
7 indictment, correct?

8 A Yes, sir.

9 Q And at that point in time as you were sitting
10 there you were scared then, too, weren't you?

11 A Yes, I was scared. I'm being honest with
12 you, I'm still scared.

13 Q Okay. And you knew that you had been caught
14 doing something you weren't supposed to be doing?

15 A Yes.

16 Q And they take this indictment and held it up
17 to you, you had it, and they told you, "Martha
18 Ellis, you're looking at 25 to 30 years, minimum
19 sentence of 25 years, and on this you're going to
20 have to serve 85 percent of that, at least 20 years
21 in jail you knew that, didn't you?

22 A Yes, sir.

23 Q And that scared you, didn't it?

24 A Yes, it scared me.

25 Q And subsequently they were talking to you

MARTHA ELLIS - CROSS

1 about doing a 20 year sentence, of which you would
2 have to do 85 percent of a 20 year sentence, that
3 is what they were talking about for you, wasn't it?

4 A Yes, sir.

5 Q And then you met with Agent Connie Sonnefeld,
6 is that correct?

7 A Yes, sir.

8 Q And you told them what they wanted to hear.
9 You told them about Marshall Miller then, correct?

10 A I told them the truth.

11 Q Well, you told them about Marshall Miller
12 then, didn't you, as part of it?

13 A Yes.

14 Q And now you have signed a plea agreement,
15 correct?

16 A Yes, I have.

17 Q And that plea agreement provided you're going
18 to plead guilty to conspiracy, not more than a
19 thousand grams, but less than 28 grams. That's
20 what you're getting to plead to now, isn't it?

21 A I don't understand the question you're
22 saying.

23 Q I'll let you read it. I'll publish it and
24 let you read it with me. "The defendant Martha
25 Ellis agrees to plead guilty to lesser included

MARTHA ELLIS - CROSS

1 offense of trafficking in methamphetamine
2 conspiracy, excuse me, greater than 28 grams but
3 less than 100 grams, first offense, as codified in
4 S.C. Code Annotated Section 44-53-357, open paren,
5 C, close paren, open paren, two, close paren, open
6 paren A, close paren, which carries a sentence
7 ranging from seven to 25 years and a \$50,000 fine.
8 At sentencing the State will recommend a cap of ten
9 years," meaning that's the most you can get.

10 Correct?

11 A Right.

12 Q That's the deal you got now?

13 A That's right.

14 Q And under this you don't have to even serve
15 85 percent of that either, do you?

16 A I don't know.

17 Q Okay. And if you don't repeat the story the
18 way you gave it to them when you weren't under oath
19 here in the courtroom today they can come back and
20 hit you for the maximum sentence, the 85 percent of
21 25 to 30 years, you know that, don't you?

22 A Well, I just told the truth.

23 Q That's not my question.

24 A Yes, sir.

25 Q That is what's going to happen, but you are

MARTHA ELLIS - CROSS

1 sitting here telling this jury you weren't promised
2 anything by anybody to give them a statement and
3 come in here to court today, is that correct?

4 A (No response).

5 Q Is that correct?

6 A Yes, sir.

7 MR. VARNER: That's all the questions I have.

8 A A lot of this I don't understand, the way you
9 all put it, but --

10 Q Well, what is it you don't understand?

11 A That's fine, just let it go.

12 THE COURT: Mr. Wise, cross-examination.
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MARTHA ELLIS - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. WISE:

3 Q Miss Ellis, you don't know Billy Moore?

4 A No, sir.

5 Q Okay. And you have known Marshall Miller how
6 long?

7 A I'd say around fifteen years.

8 Q Fifteen years? Do you recall that little
9 statement that he had you sign?

10 A I think I put twenty on there.

11 Q Twenty years? That wasn't correct either,
12 was it?

13 A I think I put twenty but it was around, it
14 might be twenty years but I would say fifteen.

15 Q Did he put, did he tell you how many years to
16 put in there?

17 A No. I just wrote something down.

18 Q And you signed that because it was easier to
19 sign it and get rid of Marshall than argue with
20 him?

21 A There you go.

22 Q Is that correct?

23 A There you go. Like I said, I was stupid to
24 sign that.

25 Q Well, Marshall is kind of pushy at times,

MARTHA ELLIS - CROSS

1 too, isn't he?

2 A Marshall has got his own way.

3 Q And it's just easier to deal with him than to
4 argue with him?

5 A Yes, sir.

6 Q Okay. Now, you went out to Waterloo, you
7 said two or three times?

8 A What, sir?

9 Q You went to Waterloo two or three times?

10 A Yes, sir.

11 Q And you made a purchase from Marshall Miller
12 out in Waterloo?

13 A Yes, sir.

14 Q And you all would go into his bedroom?

15 A Yes, sir.

16 Q That is what you always did?

17 A Yes, sir.

18 Q He never sold it to you outside in the yard?

19 A No, Huh-uh (negative), no, sir.

20 Q In fact, wherever you went he always did the
21 transaction inside?

22 A Yes, sir.

23 Q All right. Now, do you recall going to the
24 shop in Cokesbury, let's say after the 4th of July
25 of 2002?

MARTHA ELLIS - CROSS

1 A I can't remember.

2 Q All right.

3 A That's been awhile. There has been a lot on
4 my mind.

5 Q That's all right. I was thinking July 4th,
6 the same year you were arrested on this conspiracy
7 charge?

8 A Uh-huh (affirmative).

9 Q Do you ever remember going there after July
10 of that year?

11 A I said he was in and out and moving stuff, I
12 can't remember.

13 MR. WISE: All right, thank you very much.

14 THE WITNESS: Sorry.

15 THE COURT: Any redirect examination, Mr.
16 Crout?

17 MR. CROUT: Yes, Your Honor.
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MARTHA ELLIS - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. CROUT:

3 Q Miss Ellis --

4 A Yes, sir.

5 Q -- do you recall the series of questions
6 relating to the plea agreement you signed?

7 A Yes, sir.

8 Q That Mr. Varner asked you, and do you recall
9 that I asked you about your meeting with SLED?

10 A Yes, sir.

11 Q With your lawyer?

12 A Yes, sir.

13 Q And you gave a statement about your
14 involvement.

15 A Yes, sir.

16 Q Were you promised anything when you gave that
17 statement?

18 A No, sir, I was promised nothing.

19 Q And that statement you gave to them is what
20 you're testifying to here today, correct?

21 A Yes, sir.

22 Q And you don't deny you were involved in this
23 ring, do you?

24 A No, I don't. I did my wrong, too.

25 Q You did your wrong?

MARTHA ELLIS - REDIRECT

- 1 A Yes, I did.
- 2 Q You are showing up here in court saying you
3 did, aren't you?
- 4 A Yes, sir.
- 5 Q You're going to plead guilty, aren't you?
- 6 A Yes, sir.
- 7 Q And we said we would recommend a lesser
8 sentence than you could get, didn't we?
- 9 A Yes, sir, you did.
- 10 Q All we said, we would recommend it?
- 11 A That's right, no promise.
- 12 Q No promise?
- 13 A Right. It's recommended, no promise.
- 14 Q You said you will sit here and tell the
15 truth, right?
- 16 A That is exactly what I did.
- 17 Q Is that what you're doing?
- 18 A Yes, sir.
- 19 Q Are you a friend of Marshall Miller?
- 20 A No, sir.
- 21 Q You were never a friend of him?
- 22 A No.
- 23 Q Are you afraid right now?
- 24 A No.
- 25 Q Have you ever testified in court before?

MARTHA ELLIS - REDIRECT

1 A No, sir, I have never been in court before.

2 MR. VARNER: Not responsive, how many times
3 she's testified. This is redirect.

4 MR. CROUT: Your Honor, her credibility has
5 been called in evidence, I'm surely allowed to have
6 her examined on what she's saying here today.

7 THE COURT: State your objection again, Mr.
8 Varner.

9 MR. VARNER: My objection, again, it's not
10 responsive to cross, how many times she has
11 testified or hadn't testified.

12 THE COURT: Overruled.

13 BY MR. CROUT:

14 Q And you know you're going to prison, don't
15 you?

16 A Yes, sir.

17 Q You deserve to go to prison, don't you?

18 A Yes, sir.

19 MR. VARNER: Objection to the leading.

20 THE COURT: Sustained. Don't lead your
21 witness, counsel.

22 MR. CROUT: Yes, sir.

23 BY MR. CROUT:

24 Q Miss Ellis --

25 A Yes, sir.

MARTHA ELLIS - REDIRECT

1 Q -- did you come to court when you were
2 supposed to?

3 A Yes, sir.

4 Q You came for your arraignment?

5 A Yes, sir.

6 Q You came here today?

7 A Yes, sir.

8 MR. CROUT: No further questions, Your Honor.

9 THE COURT: Mr. Varner

10 MR. VARNER: Just briefly.

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MARTHA ELLIS - RECROSS

RECROSS EXAMINATION

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QUESTIONS BY MR. VARNER:

Q This question about Marshall forcing people to sign anything, you signed that statement, nobody forced you to sign anything?

A Nobody said he forced me to sign it.

Q Okay. You even, being pushy, you even took, I believe, Tracy his girlfriend over to try to get somebody else to sign one?

A I told that.

Q Nobody had to promise you anything because you already knew what the deal was, you got it in writing, you don't need a promise, do you?

A I don't know.

Q Do you want me to rephrase that? Nobody promised you anything because --

A They didn't promise me anything the day he
was talking about, they didn't.

Q Nobody had to promise you anything, the rest of my question is, because you have already got a written signed deal?

A Yes, sir.

MR. VARNER: That's all the questions I have.

MR. WISE: Nothing further.

MR. CROUT: Nothing further from the State.

MARTHA ELLIS - RECROSS

1 THE COURT: Thank you. Come down, please,
2 madam.

3 (Witness excused).

4 THE COURT: Any objection to the witness
5 being excused?

6 MR. CROUT: None from the State, Your Honor.

7 MR. VARNER: No, sir.

8 MR. WISE: No objection.

9 THE COURT: You may stay with us if you wish
10 or you may leave the building if you wish.

11 Call your next witness, please.

12 MR. HOOD: Thank you, Your Honor. At this
13 time the State calls Ray Powell.

14 THE COURT: Place your left hand on the Bible
15 and raise your right hand. Madam Clerk will
16 administer the oath.

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MARTHA ELLIS - RECROSS

1 JAMES RAYFORD POWELL,
2 after being first duly sworn testified as follows:
3 THE CLERK: Have a seat and state your full
4 name for the record.

5 THE WITNESS: James Rayford Powell, Jr.

6 THE COURT: This witness is with you.

7 MR. HOOD: Thank you very much, Your Honor.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. HOOD:

10 Q Good morning, Mr. Powell?

11 A Good morning.

12 Q What do you go by?

13 A Ray.

14 Q Do you have a nickname?

15 A Little Ray.

16 Q Mr. Powell, Ray, were you indicted in this
17 case?

18 A Yes, I was.

19 Q Have you pled guilty?

20 A Yes, sir.

21 Q Have you been sentenced yet?

22 A No, sir.

23 Q Do you know when you will be sentenced?

24 A No, sir.

25 Q Do you know who will sentence you?

MARTHA ELLIS - RECROSS

- 1 A The judge.
- 2 Q As part of that plea agreement that you
- 3 signed, excuse me, as part of that plea did you
- 4 sign an agreement with the State?
- 5 A I signed --
- 6 Q Do you remember a plea agreement?
- 7 A What I would get.
- 8 Q As parties of that plea agreement did you
- 9 agree to testify in any subsequent trials that may
- 10 take place?
- 11 A Yes, sir.
- 12 Q Mr. Powell, are you here today under a
- 13 subpoena?
- 14 A Yes, sir.
- 15 Q Where are you from?
- 16 A Lowndesville.
- 17 Q Lowndesville?
- 18 Uh-huh (affirmative).
- 19 Q Where is that from here?
- 20 A Fourteen miles.
- 21 Q Is it towards another town?
- 22 A Yes, toward Anderson, up that way.
- 23 Q Where do you work?
- 24 A Nowhere right now.
- 25 Q What was the last job you held?

MARTHA ELLIS - RE CROSS

- 1 A I was cooking at a cafe in Lowndesville.
- 2 Q How long had you been working there?
- 3 A About a year and a half.
- 4 Q How many days a week were you working?
- 5 A Six to seven.
- 6 Q Are you married?
- 7 A Yes, sir.
- 8 Q Do you have any children?
- 9 A I've got three.
- 10 Q How old are your children?
- 11 A Twenty, thirteen and nine.
- 12 Q Did you go to high school?
- 13 A Yes, sir.
- 14 Q Where did you go to high school?
- 15 A Calhoun Falls.
- 16 Q Did you graduate?
- 17 A Yes, sir.
- 18 Q What kind of work experience have you had up
- 19 until you started working at the cafe?
- 20 A I worked at Electrolux, I worked at H. D.
- 21 Payne Company in Greenwood for seventeen years, I
- 22 worked for Crowder Construction.
- 23 Q Do you know a gentleman by the name of
- 24 Marshall Miller?
- 25 A Yes, I do.

MARTHA ELLIS - RECROSS

- 1 Q How long have you known Marshall Miller?
- 2 A About three years or so.
- 3 Q When do you think you met Marshall Miller?
- 4 A Back in '99, 2000, somewhere along there.
- 5 Q Let me show you what has been marked as
- 6 State's Exhibit Number 35, which is in evidence.
- 7 Do you recognize this?
- 8 A Yes, sir.
- 9 Q What do you you recognize that to be?
- 10 A That's Marshall's pictures.
- 11 Q Are both of them Mr. Miller?
- 12 A Yes, sir.
- 13 Q How did you meet Marshall Miller?
- 14 A Through a mutual friend.
- 15 Q Who is that?
- 16 A Darlene Ashley.
- 17 Q Where did you meet him?
- 18 A In Abbeville here.
- 19 Q Where was Mr. Miller living at the time you
- 20 met him?
- 21 A At that time he was staying with her out here
- 22 in a trailer.
- 23 Q And where was that?
- 24 A Between here and Calhoun Falls.
- 25 Q Did you start purchasing methamphetamine from
-

MARTHA ELLIS - RECROSS

1 Mr. Miller?

2 A Yes, sir.

3 Q When you first started purchasing how much
4 would you purchase?

5 A Eightball at a time.

6 Q Did that eventually increase?

7 A Yes, sir.

8 Q What did it increase to?

9 A It finally ended up being four to six ounces
10 a week.

11 Q Let's take it through kind of the process.
12 How long did you purchase an eightball from him?

13 A I don't know, four or five weeks or so, then
14 it moved up to an ounce, and --

15 Q How many times would you say you purchased an
16 eightball from him?

17 A Probably three or four months.

18 Q How many times a week?

19 A Once a week.

20 Q What did you move up to from that?

21 A Went to an ounce.

22 Q An ounce?

23 A Uh-huh (affirmative).

24 Q How many times do you think you purchased an
25 ounce from Marshall Miller?

MARTHA ELLIS - RE CROSS

- 1 A It wasn't long until it moved on up to four
2 ounces.
- 3 Q How much did an ounce cost?
- 4 A What he was charging me?
- 5 Q Uh-huh (affirmative)?
- 6 A When he first started it was fifteen-hundred,
7 then later on it dropped down to a thousand.
- 8 Q Okay. Do you know how many grams are in an
9 ounce?
- 10 A Twenty-eight.
- 11 Q And how many times do you think you purchased
12 an ounce from Marshall Miller, just one ounce?
- 13 A Whew, I don't know. Probably three or four
14 weeks.
- 15 Q Did you eventually move up from an ounce?
- 16 A Yes.
- 17 Q What was the next amount you purchased?
- 18 A Two ounces.
- 19 Q How much was two ounces?
- 20 A The same price.
- 21 Q How long do you think you purchased two
22 ounces from Marshall Miller?
- 23 A It wasn't but a month or so, then it moved.
- 24 Q Where did it move to next?
- 25 A Four, anywhere from four to six ounces a

MARTHA ELLIS - RECROSS

1 week.

2 Q Do you know how many grams are in four
3 ounces?

4 A I can't multiply that in my head.

5 Q How many grams are in an ounce?

6 A Twenty-eight.

7 Q And you were purchasing four ounces?

8 A Yes, sir.

9 Q How long did you purchase four ounces from
10 him?

11 A Up to about a year and a half.

12 Q How often were you making these purchases?

13 A Every week.

14 Q Did you move up to a greater amount than
15 that?

16 A Well, the most I have ever had on hand at
17 anytime was eight to twelve ounces.

18 Q How many times do you think you had eight to
19 twelve ounces on you?

20 A Once. That is when he went out of town.

21 Q From the time you met Marshall Miller, until
22 the time you stopped dealing with Marshall Miller
23 did you have another source of methamphetamine
24 besides Marshall Miller?

25 A No, sir.

MARTHA ELLIS - RECROSS

1 Q Do you remember Marshall living in a trailer
2 on Highway 252?

3 A Yes, sir.

4 Q Did you ever go there to purchase
5 methamphetamine?

6 A Yes, sir.

7 Q Approximately how many times?

8 A The whole time he was there.

9 Q Once a week?

10 A Yes, it was always once a week.

11 Q Was there a set day you went?

12 A Most of the time it was Friday, either
13 Thursday night or Friday.

14 Q Why did you go on Thursday or Friday?

15 A Most of the time it was other people's
16 paydays.

17 Q Did you have a set number of customers?

18 A Yes, sir.

19 Q And who were just some of your customers?

20 A Mott, David Cumming.

21 Q When you say Mott, who is Mott?

22 A Mott Ellis.

23 Q Okay, who else?

24 A David Cumming, Jeff Frye.

25 Q Were those your three main customers?

MARTHA ELLIS - RECROSS

- 1 A Yes, sir.
- 2 Q Did you have more than that?
- 3 A Yes, sir.
- 4 Q Who was buying the most from you?
- 5 A At one time it would have been David, him and
- 6 Mott run neck and neck.
- 7 Q Did you and Mr. Miller develop, for lack of a
- 8 better term, a friendship?
- 9 A Yes, sir.
- 10 Q Did you all get along?
- 11 A Yes, sir.
- 12 Q When you went to the trailer on Highway 252
- 13 where did these drug deals take place?
- 14 A In a bedroom.
- 15 Q Who's bedroom?
- 16 A Marshall's, the back bedroom of the trailer.
- 17 Q Did they always take place there?
- 18 A Yes, sir.
- 19 Q Did Mr. Miller move from there?
- 20 A Yes, sir.
- 21 Q Where did he move to?
- 22 A I'm trying to think. He lived in Waterloo,
- 23 in Hodges.
- 24 Q Where is Waterloo?
- 25 A That's out of Greenwood, Laurens County.

MARTHA ELLIS - RECROSS

1 Q did you go to Waterloo to purchase
2 methamphetamine?

3 A Yes, sir.

4 Q How many times do you think you went there?

5 A It wasn't many there.

6 Q Are you familiar with a shop in Cokesbury?

7 A Yes, sir.

8 Q How many times did you go to the shop in
9 Cokesbury?

10 A I don't know, two or three months.

11 Q Once a week?

12 A Yes.

13 Q What would you all do at the shop in
14 Cokesbury?

15 A That's where we purchased stuff at, meth
16 there.

17 Q When you were at the shop in Cokesbury --

18 A You see, when I was going to the shop there,
19 you see, I was almost out of the thing, so I wasn't
20 getting nothing but personal use.

21 Q So, your quantities had come down at that
22 time?

23 A Yes.

24 Q Is it possible to get rid of four ounces in a
25 week, Ray?

MARTHA ELLIS - RECROSS

1 A Yes, sir.

2 Q How easy it is to get rid of four ounces in a
3 week?

4 A Two phone calls.

5 Q Did you ever see Marshall manufacture
6 methamphetamine?

7 A Not all the steps all together but most of
8 them, yes.

9 Q Did you ever see him at the trailer on
10 Highway 252?

11 A See him there?

12 Q Manufacturing?

13 A I have seen him there but it wouldn't have
14 been what he called the cooking part of it, the
15 bringing back part.

16 Q Did Marshall eventually want to cook at your
17 house?

18 A Yes, sir, he cooked at my house.

19 Q Why did he want to cook at your house?

20 A Because it was secluded, off the road, out in
21 the middle of nowhere.

22 Q Did Marshall tell you this?

23 A Yes, sir.

24 Q Did you allow him to cook at your house?

25 A Yes, I did.

MARTHA ELLIS - RECROSS

1 Q On your property?

2 A Yes, sir.

3 Q A rough estimate, how many times did he cook
4 on your property, and when I say cook, I mean any
5 part of the process?

6 A Every week for up to a year, a little over a
7 year.

8 Q Did you become intimately familiar with the
9 cooking process?

10 A Familiar with? To tell you what goes in it,
11 I could tell you, but to tell you how, to put what
12 amount of what, I couldn't tell you.

13 Q Did you observe Mr. Miller in this process?

14 A Yes. I used to help him set things up.

15 Q Okay. If you would, in as much detail as you
16 can remember, explain the process to us and what
17 you saw Marshall Miller do, explain that process
18 and what you helped him with.

19 A You see, you have to, the first thing you do,
20 he come with an ammonia tank.

21 Q When you say ammonia tank, what are you
22 referring to?

23 A Anhydrous. It would be outside because you
24 couldn't take, then you would have to take your
25 pitchers, tea pitchers and set them on a table, if

MARTHA ELLIS - RECROSS

1 he hadn't drained his ether already, you had to
2 drain it out of the cans.

3 Q What is the ether?

4 A Ether starting fluid.

5 Q Okay. Take us through it step by step.

6 A Well, then you had to, you had to peel
7 batteries, take the lithium strips out of it.

8 Q What kind of batteries did Marshall use?

9 A Lithium batteries they buy, they come in a
10 blue and silver pack, I couldn't tell you what the
11 name was.

12 Q Okay. How do you get that strip out of the
13 battery?

14 A You have to take and pop the head off it and
15 take a pair of wire cutters and cut them, cut the
16 roll out of it and pull it out with a pair of
17 pliers.

18 Q So, at this time you have what ingredients?

19 A The first ingredient, you always have
20 ammonia.

21 Q And where do you put the ammonia?

22 A In the plastic jugs.

23 Q What else goes in the plastic jugs?

24 A Then he put the strips.

25 Q And what are you referring to when you refer

MARTHA ELLIS - RE CROSS

1 to strips?

2 A Lithium strips out of batteries.

3 Q What else went in the jugs?

4 A I don't know what went next, I don't know
5 whether the pills went next or the ether, one of
6 the two.

7 Q Okay. So, the next two things that went in,
8 and you're not sure in which order, was ether and
9 what?

10 A Either the pills or ether.

11 Q And where would he get ether?

12 A He drained it out of cans, starting fluid
13 cans.

14 Q And the pills, what do you mean when you say
15 pills?

16 A It was something like Sudafed, he would take
17 and put them in a coffee grinder and grind them up.

18 Q What color would the pills be?

19 A They have been red, they have been white and
20 I have seen blue.

21 Q And when you say coffee grinder, what is a
22 coffee grinder?

23 A It's a contraption you grind coffee with.

24 Q You mean like bean coffee?

25 A Yes.

MARTHA ELLIS - RECROSS

1 Q He put all this in the jug?

2 A Uh-huh (affirmative).

3 Q What would happen next?

4 A That's what he called the cooking process,
5 you have to wait three or four hours until it
6 cooked.

7 Q And what would you all do while you were
8 waiting?

9 A I was always most of the time in the yard
10 building fires or on watch.

11 Q Okay. What do you mean, building fires?

12 A I would always burn something to try to cover
13 the smell of the stuff that was going on.

14 Q And describe this smell to the jury.

15 A The ammonia smell would burn your eyes.

16 Q How strong was it?

17 A Strong enough you could smell it, you know, a
18 hundred yards away.

19 Q Well, how was he able to be so close to it if
20 it smelled so bad?

21 A He would always have a fan sitting, it would
22 be him, the stuff and the fan, it would be pulling
23 the fumes away from him.

24 Q And why were you burning things?

25 A To try to cover up the smell.

MARTHA ELLIS - RECROSS

1 Q And you said you were on watch?

2 A Yes, outside.

3 Q What were you watching for?

4 A Cars, anything.

5 Q Why were you watching for cars?

6 A Didn't want nobody to pull up.

7 Q And why didn't you want anybody to pull up?

8 A Because it's illegal.

9 Q You were actively participating?

10 A Yes, sir.

11 Q You knew what was going on?

12 A Yes, sir.

13 Q What happens after all the stuff goes in the
14 tea pitcher?

15 A That's when he gets the Mason jars and
16 filters it through coffee filters, pouring it back
17 into a Mason jar.

18 Q How does he do that?

19 A You take a Mason jar and coffee filter, stick
20 it over it and just pour it in there, it runs
21 through the filter.

22 Q And what happens?

23 A It's a clear substance that goes in the Mason
24 jars. All the pills and stuff on the inside, you
25 dispose of it.

MARTHA ELLIS - RECROSS

1 Q Okay. And what goes into the Mason jars?

2 A The clear liquid, what he's called is cooked.

3 Q What happens to that once it's inside the
4 Mason jar?

5 A Then the process involves bringing it back,
6 is what he called it. That is when you mix salt
7 and some kind of acid inside of a spray pump.

8 Q What do you mean by spray pump?

9 A A bug sprayer.

10 Q Like a garden sprayer?

11 A Yes, sir.

12 Q And what would he do with that?

13 A You shake it up and let it sit there, he
14 called it letting it get hot. What it done was
15 form a heat, you put it over in the jar with this
16 other stuff, it chemically reacted and that is
17 where he made the dope.

18 Q Did he spray it in there?

19 A You hold it over in there and pump it.

20 Q And you said it made the dope?

21 A Yes, sir.

22 Q Describe what that looks like.

23 A It looks like snowfall, like it was snowing.

24 Q Almost like frost?

25 A No, like it was snowing. The whole time, it

MARTHA ELLIS - RECROSS

1 was falling in the air. You do it until didn't
2 nothing else fall, then you have to pour it through
3 the coffee filters again to get the dope separated
4 from it.

5 Q What would he do with it at that time?

6 A It would be put on a mirror to dry it out.

7 Q At your residence, how close is the nearest
8 house to yours?

9 A Two-hundred yards, down at my mama's.

10 Q Would you describe your residence as
11 secluded?

12 A Yes.

13 Q Are there any stores around?

14 A No, sir.

15 Q What would he do next?

16 A Well, see, then after you get through all
17 that it's the clean-up process.

18 Q Tell us what happens in the clean-up process.

19 A The stuff that is left over you can make it
20 disappear with water.

21 Q How would you do that?

22 A Run a hose pipe on it until it dissolves.

23 The ether and stuff, after he done poured it out, I
24 would burn it.

25 Q What would you do with everything else?

MARTHA ELLIS - RECROSS

1 A The jars and everything, he would take it
2 with him, you see, all that would be gone with him.
3 The tea pitchers and stuff like that, most of them
4 got burnt.

5 Q What did you do with the batteries?

6 A The batteries, he always took them with him.

7 Q Was there always a fire when you were
8 manufacturing meth with Marshall?

9 A Three-fourths of the time, yes, sir.

10 Q Is there a fire during the process?

11 A When he starts on the inside, yes. On the
12 outside I've usually got a fire going on.

13 Q And is there a fire after the process?

14 A Yes, until I get the stuff burned up, yes.

15 Q How many times did you say this happened at
16 your house?

17 A Once a week, up to a year or so.

18 Q How much would come out of each cook?

19 A You see, that I wouldn't know because, you
20 see, most of the time he didn't bring it back
21 there. He would take it with him. He said you
22 could bring it back anytime.

23 Q Bringing back is, again? Explain that
24 process to the jury.

25 A That's the salt and the acid put into it to

MARTHA ELLIS - RECROSS

1 make the dope.

2 Q Would Marshall Miller ever bring anybody with
3 him when he would come over to your house to cook?

4 A One or two times he has.

5 Q Who would he bring?

6 A Jason, I can't remember what Jason's last
7 name was, the first time he ever come there. I
8 mean, Mott has been there but most of the time
9 that's it.

10 Q Did Jeff Frye ever come over there?

11 A Jeff Frye has been called afterwards to help
12 clean up.

13 Q What kind of vehicles did Mr. Miller drive?

14 A He drove a black Z71, he had a white
15 Chrysler, he had a motorcycle, a Harley Davidson
16 truck, he had a Grand Am. At one time he had a
17 Firebird or TransAm, one, I can't remember which
18 one it was.

19 Q Let me show you what has been marked as
20 State's Exhibit Number 22 in evidence. Do you
21 recognize this? Do you recognize any of that?

22 A Yes, sir.

23 Q Describe those batteries for us. Where have
24 you seen batteries like that before?

25 A Those are batteries that Marshall used to

MARTHA ELLIS - RECROSS

1 have.

2 Q And these pills?

3 A That's the pills that would be ground up.

4 Q Do those look like the pills you have seen
5 ground up before?

6 A Yes, sir.

7 Q Let me show you what has been marked as
8 State's Exhibit Number 13 which is in evidence.
9 Have you ever used anything like that?

10 A Yes, sir.

11 Q How often do you have to use that?

12 A Every time he brings it back.

13 Q Let me show you what has been marked as
14 State's Exhibit Number 32 in evidence. I'm going
15 to stand back here. Could you turn around just a
16 little bit? Do you know what this is down here in
17 the lefthand corner?

18 A 252.

19 Q Do you know what that is?

20 A That's my house.

21 Q Is that your place?

22 A Uh-huh (affirmative).

23 Q Do you know what this is?

24 A That's Cokesbury.

25 Q And the picture on the far right?

MARTHA ELLIS - RECROSS

1 A That's Waterloo.

2 Q Do you know Billy Moore?

3 A No, sir.

4 Q Have you ever met Billy Moore?

5 A Not personally met him, I have seen him while
6 I was in jail, but other than that, no.

7 Q Did Mr. Miller ever talk about Billy Moore?

8 A No, sir.

9 Q When did you stop dealing with Marshall
10 Miller, and when I say stop dealing, I mean stop
11 purchasing methamphetamine from him?

12 A Around the fall of -- I don't remember what
13 year it was.

14 Q Was it the same year you got arrested, or the
15 year before?

16 A It was, when I got arrested was in April, all
17 right, so it would have been before then.

18 Q Let me show you what has been marked as
19 State's Exhibit Number 31. Do you recognize any of
20 those items?

21 A Yes, sir.

22 Q What do those items look like?

23 A That right there is the jars, Mason jars.

24 Q What else?

25 A This right here is what he used to keep ether

MARTHA ELLIS - RECROSS

1 in, this right here is acid, salt, coffee filters.

2 Q Were all those products necessary for the
3 cooking process?

4 A Yes, sir.

5 Q That trailer on Highway 252, was there any
6 type surveillance equipment in it?

7 A There was cameras on the outside and he had
8 the monitor in his bedroom.

9 Q What about the house in Waterloo?

10 A Yes, sir, the same way.

11 Q What was the purpose of all that?

12 A He always wanted to see who was pulling up.

13 Q Have you ever seen State's Exhibit Number 21
14 before?

15 A I couldn't tell you, sir.

16 Q Did you ever see Marshall Miller with
17 packages or baggies, bags like this?

18 A Yes, sir, that size and on up. Most of his
19 bags were bigger.

20 Q Let me show you what has been marked as
21 State's Exhibit Number 11 in evidence. Did you
22 ever see something like that before?

23 A That's a coffee grinder.

24 Q What was that used for?

25 A That is what you grind the pills up with.

MARTHA ELLIS - RECROSS

1 Q Let me show you what has been marked as
2 State's Exhibit Number 8. Do you recognize items
3 like that?

4 A Yes, sir. That's coffee filters.

5 Q What is that blue thing?

6 A I don't know.

7 Q How did you meet Jeff Frye?

8 A Through, it would be my brother's son-in-law.

9 Q Did you distribute methamphetamine to Jeff
10 Frye?

11 A Yes, I did.

12 Q Where did you get that methamphetamine from?

13 A From Marshall.

14 Q Did Mr. Miller ever leave anhydrous ammonia
15 tanks on your property?

16 A Yes, sir.

17 Q When was that?

18 A Right before he quit cooking there it was
19 left. We used to hide them in the woods.

20 Q Why would you hide them?

21 A I don't know. I guess I had no reason for
22 ammonia to be there.

23 Q You weren't there doing heating and
24 air-conditioning work, were you?

25 A No, sir.

MARTHA ELLIS - RECROSS

1 Q Ray, give me an estimate on how many ounces
2 or whatever measurement you want to use of the
3 amount of methamphetamine you purchased from
4 Marshall Miller.

5 A Well, you can figure four ounces up to a year
6 and a half, a week.

7 Q Were you distributing the majority of this
8 methamphetamine?

9 A Yes, sir.

10 Q Were you using some of it?

11 A Yes, sir.

12 Q Would Marshall front it to you?

13 A Yes, sir.

14 Q What is fronting?

15 A Fronting is go ahead and getting it and
16 paying for it later.

17 Q Explain, if you were fronting meth to me,
18 what would I be expected to do?

19 A You got your meth and sold it, you were
20 expected to come pay me for it then before you get
21 any more.

22 Q So, you have to pay --

23 A Right, before you get any more.

24 Q Did you and Mr. Miller have a falling out?

25 A I wouldn't call it a falling out. We had a

MARTHA ELLIS - RECROSS

1 little disagreement, he went his way and I went
2 mine.

3 Q Did he ever ask you to sign sometime for him?

4 A Yes, sir.

5 MR. WISE: No objection.

6 MR. VARNER: No objection.

7 Q Ray, if you would, identify these two,
8 starting with this one right here first, do you
9 know what that is?

10 A Yes, sir.

11 Q Does it have your name on it?

12 A Yes, it does.

13 Q What is it, without reading it verbatim, what
14 does it essentially say?

15 A It's a paper that Marshall came by wanting
16 everybody that's ever got anything from him saying
17 that he has never sold any, you have never seen him
18 with dope, no amount of money or nothing.

19 Q Did you sign that?

20 A Yes, I did.

21 Q Why did you sign it?

22 A It was hassle free, I went ahead and signed
23 it.

24 Q What does that mean?

25 A Well, Marshall was one of a kind person, he

MARTHA ELLIS - RECROSS

1 would, you know, he would have stayed on you until
2 you signed it, so you sign them just to put him on
3 his way.

4 Q Whose signature is down there as the witness?

5 A Marshall Miller's.

6 Q Whose signature is that as the Notary Public?

7 A I have no earthly idea.

8 Q Was that signed in your presence?

9 A No, sir.

10 MR. HOOD: Your Honor, at this time we move
11 this in, the first document in as the next State's
12 exhibits and I believe that's without objection
13 from defense counsel.

14 MR. VARNER: No objection.

15 MR. WISE: No objection.

16 THE COURT: It's in evidence in the case.

17 (State's Exhibit Number 36 was marked and
18 received in evidence).

19 BY MR. HOOD:

20 Q Ray, did you get to choose what was in this
21 statement?

22 A No, sir.

23 Q Did you type it up?

24 A No, sir.

25 Q When it came to you did it have things filled

MARTHA ELLIS - RECROSS

1 in?

2 A What things?

3 Q Like your name.

4 A No, sir.

5 Q Number of years?

6 A No, sir. It was a blank piece of paper.

7 Q Do you recognize that document in your hand?

8 A Yes, sir.

9 Q What do you recognize that document to be?

10 A He called me and I met him in Abbeville and
11 he wrote this standing on the side of the road.

12 Q Let me go back to the first exhibit for just
13 a minute, I apologize. Referring to State's
14 Exhibit Number 36, which is in evidence, what's the
15 date on that?

16 A I don't know, I can't read my own writing.

17 Q Is it August of 2002?

18 A Yes.

19 Q And when -- scratch that. Referring to the
20 document in your hand, do you recognize that
21 document?

22 A Yes, sir.

23 Q What do you recognize that document to be?

24 A It's a thing he asked me to write standing on
25 the side of the road.

MARTHA ELLIS - RECROSS

1 Q What's the date on that?

2 A 8/16/03.

3 Q What does that say?

4 A It's basically the same thing the other one
5 says.

6 Q Who asked you to sign that?

7 A Marshall asked me to write that and sign
8 this.

9 Q Is that your name down there?

10 A Yes, sir.

11 Q Whose name is below yours?

12 A I have no earthly idea.

13 Q Do you recognize that signature?

14 A No, sir.

15 Q Was it signed in your presence?

16 A No, sir.

17 MR. CROUT:

18 MR. HOOD: At this time, Your Honor, we move
19 this item into evidence, I believe without
20 objection.

21 MR. VARNER: Without objection.

22 MR. WISE: No objection.

23 THE COURT: Without objection, it will be
24 marked and will be part of the evidence in the
25 case, Exhibit Number 37.

MARTHA ELLIS - RECROSS

1 (State's Exhibit Number 37 was
2 marked and received in evidence).

3 BY MR. HOOD:

4 Q Ray, do you have a prior record?

5 A No, sir.

6 Q Did Mr. Miller ever give you a list of
7 people's names?

8 A Yes, sir.

9 Q When was that?

10 A It was right before he got locked up.

11 Q What did he tell you to do with that list of
12 names?

13 A It was a list of names and some people on
14 there that he wanted me to get statements signed or
15 some people he wanted me to try to collect his
16 money from. He told me he would be back in touch
17 with me but after he got locked up he didn't get
18 back in touch.

19 Q Did you get those people to sign those
20 statements?

21 A I got two or three people to sign them.

22 Q Why were you getting people to sign stuff for
23 Mr. Miller?

24 A He just asked me to.

25 Q Going back to when you were talking about the

MARTHA ELLIS - RECROSS

1 manufacturing process, do you remember that line of
2 questioning?

3 A Yes.

4 Q You remember acid?

5 A Uh-huh (affirmative).

6 Q In the bringing it back?

7 A Yes, sir.

8 Q Is that right, am I in the right area?

9 A Yes, sir.

10 Q Where did he get this acid?

11 A I have no idea.

12 Q Did you ever go out and purchase things for
13 him?

14 A No, sir.

15 Q Did other people go out and purchase things
16 for him?

17 A He said so, yes, sir.

18 Q What did the acid look like?

19 A It was in a white jug. He mixed it with salt
20 to form some kind of heat, what he called heat.

21 Q Table salt?

22 A Table salt, rock salt, any kind of salt that
23 was inside that container, yes.

24 MR. HOOD: No further questions, Your Honor.

25 THE COURT: Mr. Varner, cross-examination,

MARTHA ELLIS - RECROSS

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RAY POWELL - CROSS

CROSS EXAMINATION

QUESTIONS BY MR. VARNER:

Q Mr. Powell, so that I understand and the jury understands, everybody calls this cooking. The truth of the matter is there is no fire involved in this cooking, cooking is kind of a slang term for the chemical process when you mix the chemicals together?

A Right.

Q As a matter of fact one of the things you have to be careful of is you don't get flames or fire near this, the stuff will blow?

A Right.

Q So, when you built your fires to mask or hide the odor you made sure that fire was way far away from the cooking process?

A Right.

Q All right, sir. Now, without any kind of promises or anything, what kind of plea agreement have you got?

A Have I pled, yes, sir.

Q Okay. And you have pled?

A Yes, sir.

Q Okay. What did you get?

A Three to ten.

RAY POWELL - CROSS

1 Q Well, you haven't been in front of a judge
2 and actually been sentenced?

3 A No, sir.

4 Q Okay. So, you're going to get as little as
5 three years. What's the State going to recommend
6 for you?

7 A Ten years.

8 Q Ten years? And that's to a lesser offense,
9 it's not trafficking over a thousand grams?

10 MR. HOOD: Your Honor --

11 Q Excuse me, you're from 28 to a hundred, is
12 that the range you're in?

13 A Yes.

14 Q That means you don't have to serve 85 percent
15 of that sentence either?

16 A Right.

17 Q All right. You know that everybody got
18 arrested here, got hauled in and I believe it was
19 September of 2002, correct, do you remember when
20 that happened, when everybody got arrested?

21 A Yes.

22 Q Is that correct?

23 A Yes, sir.

24 Q When you met with SLED about a month later,
25 in October of 2002 --

RAY POWELL - CROSS

1 A I don't remember the date, sir.

2 Q Was it about a month after Marshall and all
3 your friends got arrested?

4 A Yes, sir.

5 Q Okay. And when was it that you were actually
6 arrested?

7 A April.

8 Q Six months later?

9 A Uh-huh (affirmative).

10 THE COURT: Is that yes?

11 A Yes, sir.

12 Q After Marshall got arrested in September he
13 stayed in jail until June of the following year,
14 about nine months, correct?

15 A I think so.

16 Q Okay. Give or take a little bit. He was in
17 jail a long time before he got out on bond,
18 correct?

19 A Right.

20 Q Do you know of anybody else who had to stay
21 in jail without bond?

22 MR. HOOD: Objection, Your Honor.

23 THE COURT: Sustained.

24 Q You were given a bond?

25 A Yes, sir.

RAY POWELL - CROSS

1 Q What was your bond?

2 A 25,000.

3 Q \$25,000 bond, and how long did you stay in
4 jail?

5 A Overnight.

6 Q Overnight? Now, how much did you say you
7 were paying for an ounce of crystal meth?

8 A When I first started getting it, it was
9 fifteen to seventeen. Then it come down to a
10 thousand.

11 Q Came down to a thousand because you were
12 buying in bulk.

13 A Uh-huh (affirmative)

14 THE COURT: Is that yes?

15 A Yes, sir.

16 Q I'm a little curious. You've got the private
17 secluded location, you've got the anhydrous ammonia
18 tank at your place, and Marshall is over there,
19 according to you, every single week for over a
20 year, and you still have to buy the crystal meth
21 from him?

22 A Yes.

23 Q What were you getting out of the deal?

24 A What was I getting out of the deal?

25 Q Yes.

RAY POWELL - CROSS

1 A What little extra was made was for my doing,
2 there was no money involved.

3 Q So, you got to cook your own, then?

4 A No, I never cooked my own.

5 Q And you participated in this fifty something
6 times or better and you still are telling this jury
7 you don't know how to cook?

8 A To tell you what goes in it, yes, I could
9 tell you what goes in it. What amount of each goes
10 in it, no, I can't tell you.

11 Q Well, you did find out -- Marshall gave a
12 statement, too, correct?

13 A Uh-huh (affirmative).

14 Q Correct?

15 A Yes, sir.

16 Q And you weren't in the original fifteen, were
17 you?

18 A No, sir.

19 Q And after Marshall gave a statement, what's
20 the very next name that came up, who became number
21 sixteen? Do you want to read it to the jury?

22 A It's Ray Powell.

23 Q Ray Powell. So, after Marshall gives a
24 statement, now you're in the conspiracy, aren't
25 you?

RAY POWELL - CROSS

1 A Yes, sir.

2 Q Is it a fair statement you're not happy with
3 Marshall?

4 A Do what?

5 Q Is it a fair statement you're not happy with
6 Marshall?

7 A What do you mean I'm not happy with him?

8 Q You know he gave statements against you?

9 A Oh, that don't bother me.

10 Q That didn't bother you?

11 A No, sir.

12 Q You know that he said you were the
13 competition, at one point in time you were cooking
14 just as much if not more than him, he said that and
15 you knew it, didn't you?

16 A Did I know that, no, I have not read
17 Marshall's statement.

18 Q You didn't read his statement?

19 A No, sir, I did not.

20 Q You know Marshall is not here today, correct?

21 A Right.

22 Q I'm curious about a statement you made. Do
23 you know where Marshall is?

24 A Do I know where he is, no, sir.

25 Q Do you know what happened to Marshall?

RAY POWELL - CROSS

1 A When?

2 Q Now. You don't have a clue?

3 A No, sir.

4 Q Well, then, why did you make the statement,
5 talking about Marshall in the past tense, Marshall
6 was that kind of guy?

7 A What do you mean was that kind of guy?

8 Q That's what I want to know, why did you say,
9 when they asked you about how was Marshall, why did
10 he sign statements, and you said Marshall was that
11 kind of guy. Why did you talk about Marshall in
12 the past tense?

13 A What you mean, past tense? He was that kind
14 of guy.

15 Q He was?

16 A I don't know whether he is today or not, he's
17 not here, I have not seen him, I don't know if he
18 changed.

19 Q Do you normally talk about people in the past
20 tense, what they used to be?

21 A I usually don't talk about people at all.

22 Q That's all changed now that you have been
23 called by the State?

24 A No, sir.

25 MR. VARNER: That's all.

RAY POWELL - CROSS

1 THE COURT: Mr. Wise.

2 CROSS EXAMINATION

3 QUESTIONS BY MR. WISE:

4 Q Mr. Powell, how many times did you go by
5 Cokesbury?

6 A It wasn't many.

7 Q All right. And when was the last time you
8 were by Cokesbury?

9 A I have no idea.

10 Q Were you by Cokesbury anytime after June 1st,
11 2002?

12 A I don't know what the dates are. I was there
13 before he moved to where he moved to from there.

14 Q Where did he move to from there?

15 A I have no earthly idea, sir.

16 Q But he moved, how long before he got arrested
17 did he move from Cokesbury, I guess is really --

18 A I don't really know.

19 Q Was it a few days, or a few months?

20 A I don't know, really.

21 Q But sometime before he was arrested he had
22 moved from Cokesbury?

23 A Yes, sir.

24 Q And you hadn't been by there in a long time?

25 A No, sir.

RAY POWELL - CROSS

1 Q Okay. Now, you say you have got a relative's
2 house about 200 yards away from your house?

3 A Yes, sir.

4 Q Where is the closest non relative?

5 A It would be nextdoor to her, it would be a
6 little bit farther.

7 Q A little bit farther, so 300 yards?

8 A Yes, sir.

9 Q And Marshall liked to cook in secluded
10 places?

11 A Yes, sir.

12 Q And the problem was, you said this ammonia,
13 if you got close enough would just burn your eyes?

14 A Yes, sir.

15 Q And, so, the distinct odor you had coming
16 from this was a big ammonia smell?

17 A You burn, you throw a tire in there, you
18 couldn't do away with the smell but if somebody
19 rode by and seen you out there with a fire they
20 would think you were burning something.

21 Q But what smell you are smelling is an ammonia
22 smell?

23 A Well, the ammonia, and the pills, after it
24 went into it, it went into a different smell, I
25 don't know how to describe that smell to you.

RAY POWELL - CROSS

1 Q But something similar to ammonia, is that
2 correct?

3 A Yes, sir.

4 Q And Marshall's meth, when you picked it up
5 and smelled it, it smelled like ammonia?

6 A No, sir.

7 Q It wouldn't? Did it have any smell to it?

8 A When you first got through with it and
9 everything it had an ether, smelled like ether. If
10 you done it, you know, even if you done it, it even
11 tasted like ether.

12 Q But then after you sat around it for awhile
13 it didn't?

14 A Well, I ain't going to say it ever went away.

15 Q Okay. Now, you say he always took the
16 batteries with him?

17 A Yes, sir.

18 Q You mean the remnants of the batteries he
19 tore up?

20 A Yes, sir.

21 Q So, when he would cook at a site he would
22 clean that, all the trash up from that site?

23 A Most of the time the trash, what was there,
24 what I didn't burn, he took with him, he disposed
25 of it.

RAY POWELL - CROSS

1 Q And that would be the things that wouldn't
2 burn?

3 A Right.

4 Q So, it was important to keep, to clean up
5 stuff away from the site?

6 A Yes, sir.

7 Q Now, you say this is something that you have
8 seen Marshall with, or something similar?

9 A I ain't going to say it was that one.

10 Q Okay, but something similar to ziplock bags
11 like that?

12 A Yes.

13 Q You have known Marshall about how long?

14 A Since '99 to now.

15 Q When you signed this statement you said you
16 had known him how long? Where is that little
17 statement you signed?

18 MR. HOOD: Right up there on the table, Mr.
19 Wise.

20 Q You said you had known him about, I think
21 Marshall got you to put in here eight years?

22 A Yes, sir.

23 Q But you had only known him about three?

24 A That is what he had me put in there.

25 Q He asked you to put in eight years?

RAY POWELL - CROSS

1 A Yes.

2 Q It was easier to put it in there than argue
3 with him?

4 A Right.

5 Q And Billy Moore, the first time you saw him
6 was while you were in jail?

7 A Yes, sir.

8 Q You had never seen him before?

9 A No, sir, don't know him at all.

10 MR. WISE: All right, thank you.

11 THE COURT: Redirect.

12 MR. HOOD: Very briefly, Your Honor.

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RAY POWELL - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. HOOD:

Q Mr. Miller, excuse me, Mr. Powell, do you remember when you were approached by Special Agent Connie Sonnefeld of the South Carolina Law Enforcement Division?

A Do I remember when I was approached by her?

Q Yes.

A Uh-huh (affirmative).

Q At that time did they have an indictment in their hand for you?

A No, sir.

Q If I told you that was October 17th, 2002, would you disagree?

A No, sir.

Q Do you know the date all these other people, the original group was arrested?

A Sir?

Q Do you know the date all these other people in the original group were arrested?

A No.

Q If I told the indictment, I think we can all agree they were all arrested on September 24th, 2002. Does that sound right?

A Uh-huh (affirmative).

RAY POWELL - REDIRECT

1 Q So, you were approached after everybody else
2 was arrested?

3 A Yes, sir.

4 Q When Special Agent Sonnefeld came out to you
5 did she have an indictment in her hand?

6 A No, sir.

7 Q Did she have an arrest warrant in her hand?

8 A No, sir.

9 Q What did she say to you?

10 A She talked to me about what was going on and
11 I volunteered a plea, to talk to her.

12 Q The first time SLED ever approached you, and
13 Abbeville County ever approached you, did you
14 immediately cooperate with them?

15 A I have cooperated since the first.

16 Q Was there any hesitation?

17 A No, sir.

18 Q At that time, on October 17th, 2002, did you
19 know whether or not Marshall Miller had given any
20 statements to the police?

21 A No, sir.

22 Q Did you have any idea of what he had said or
23 what he hadn't said?

24 A No, sir.

25 Q Did Connie, did Special Agent Connie

RAY POWELL - REDIRECT

1 Sonnefeld tell you what Marshall Miller said?

2 A No, sir.

3 Q Did she say anything to the effect of what
4 anybody said about you?

5 A No, sir.

6 Q And did you immediately cooperate?

7 A Yes, I did.

8 Q Are you continuing to cooperate?

9 A Yes, I am.

10 Q When Special Agent Sonnefeld approached you
11 did she promise you anything?

12 A No, sir.

13 Q Did she tell you you would get a specific
14 sentence if you agreed to cooperate with them?

15 A No, sir.

16 Q What did she promise you on that day in
17 October of 2002?

18 A Nothing.

19 Q Were you subsequently indicted?

20 A I don't understand what you mean.

21 Q Were you subsequently arrested for these
22 charges?

23 A No, sir.

24 Q In April?

25 A Yes, sir.

RAY POWELL - REDIRECT

1 Q Did they come out and lock you up and take
2 you and have a bond setting?

3 A Yes, they did.

4 Q Have you pled guilty to these charges?

5 A Yes, I have.

6 Q Did you ever see Marshall purchase alkaline
7 batteries?

8 A Yes, sir.

9 Q What would he purchase those for?

10 A These was for --

11 MR. VARNER: Objection, this is not in
12 response to anything we brought up in our cross.

13 THE COURT: How is it proper redirect?

14 MR. HOOD: I withdraw it, Your Honor.

15 THE COURT: Very well.

16 MR. HOOD: Nothing further, Your Honor, thank
17 you.

18 THE COURT: Anything further, Mr. Varner?

19 MR. VARNER: Briefly.
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RAY POWELL - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. VARNER:

Q In October, after everybody else had been arrested, had you been caught with any drugs or anything?

A No, sir.

Q You still deny that Marshall was a competitor and you two had had a falling out at one stage?

A Me and Marshall has never been competitors.

Q Okay. When you gave a statement you knew Marshall was going to be out of business, didn't you, you were going to help put him out of business?

A No, sir.

MR. VARNER: That's all the questions I have.

MR. WISE: Nothing further.

THE COURT: Anything further?

MR. HOOD: No, sir.

THE COURT: Thank you very much. Come down, please, sir.

(Witness excused).

MR. HOOD: Your Honor, may Mr. Powell be excused at this time?

THE COURT: Any objection?

MR. WISE: No objection.

1 MR. VARNER: No objection.

2 THE COURT: Mr. Powell, you may stay with us
3 if you wish or you may leave the building.

4 Madam Forelady, ladies and gentlemen of the
5 jury, we will take a recess at this time. Please
6 do not talk about the case by, between and among
7 yourselves, and retire to the jury room. Everyone
8 else remain seated.

9 (The jury was excused from the courtroom).

10 THE COURT: Is there anything for the record
11 from the State before we recess?

12 MR. CROUT: Yes, Your Honor, there is one
13 matter. The State is intending on calling two more
14 witnesses. One of those witnesses is Special Agent
15 Chester Bragg, who made notes of his interview with
16 Marshall Miller and also received a handwritten
17 statement from Marshall Miller. I have discussed
18 this with Mr. Varner and we have been redacting
19 that statement, both of those documents, so they
20 can come in. I believe Mr. Varner may object to
21 one of them coming in. We are in the process of
22 getting that done and I just advise the Court that
23 we're doing that during this break in an effort to
24 make sure that when Special Agent Bragg takes the
25 stand, that we are all squared away on exactly what

1 he is or is not going to say, if you would at this
2 time, based upon this recess, give us time to wrap
3 that up, we would be very appreciative.

4 THE COURT: Thank you. Just let me know when
5 you need to go back into session.

6 MR. CROUT: Yes, sir.

7 MR. VARNER: Just so the record is clear, I
8 am objecting to either of the statements coming in,
9 I have to renew my objection under Jackson v. Deno
10 the same as before, but I understand the Court's
11 ruling, but I have a separate objection as to the
12 agent's notes, but I think we, during our break I
13 think we can work that out.

14 THE COURT: All right. The objection is
15 noted. Now, I think you have already made the
16 objection and it has been ruled upon.

17 MR. VARNER: Yes, sir, that is what I'm
18 saying, I'm not withdrawing that objection, that is
19 what I wanted to make clear on the record, that
20 objection stays, I'm not waiving it.

21 THE COURT: Very well. Mr. Wise, anything?

22 MR. WISE: No, sir.

23 THE COURT: Do you have anything other than
24 that for the record, Mr. Varner?

25 MR. VARNER: No, sir.

1 THE COURT: Mr. Wise, do you have anything
2 for the record?

3 MR. WISE: Nothing.

4 THE COURT: Very well. We stand in recess
5 momentarily.

6 (Recessed at 11:59 a.m.).

7 (Reconvened at 12:15 p.m.).

8 THE COURT: The record is open, State of
9 South Carolina versus Marshall Miller and others,
10 indictment 2002-GS-47-32. In this matter the
11 defendant Marshall Miller and defendant Billy Moore
12 are standing trial.

13 Is there anything from the State before the
14 jurors come in, please?

15 MR. CROUT: Nothing from the State.

16 THE COURT: Defendant Miller?

17 MR. VARNER: Nothing, Your Honor.

18 THE COURT: Defendant Moore?

19 MR. WISE: Nothing, Your Honor.

20 THE COURT: Thank you. Show the jury in,
21 please.

22 (The jury returned to the courtroom).

23 THE COURT: All the jurors are present, with
24 the foreperson and the alternates properly seated.

25 The matter lies with the State. Call your

1 next witness, please.

2 MR. CROUT: May it please the Court, Your
3 Honor, the state calls Miss Michelle Madden.

4 THE CLERK: Place your left hand on the Bible
5 and raise your right hand. The clerk will
6 administer the oath.

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MICHELLE MADDEN - DIRECT

1 TONYA MICHELLE MADDEN,
2 after being first duly sworn testified as follows:
3 THE CLERK: Have a seat and state your full
4 name for the record.

5 THE WITNESS: Tonya Michelle Madden.

6 THE COURT: All right, this witness is with
7 you.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. CROUT:

10 Q Miss Madden, how old are you?

11 A I'm 22 years old.

12 Q How far did you go in school?

13 A I went on into college, I went to Lander
14 University and Piedmont Tech.

15 Q Do you have any children?

16 A Yes, sir.

17 Q How many?

18 A One.

19 Q How old is he, or she?

20 A He. He's a boy, three.

21 Q Now, what facility are you currently housed
22 in?

23 A Leath in Greenwood.

24 Q And you were indicted in this case?

25 A Yes, sir.

MICHELLE MADDEN - DIRECT

1 Q And you pled guilty?

2 A Yes, sir.

3 Q Do you remember meeting with anybody from the
4 South Carolina Law Enforcement Division around July
5 of 2002?

6 A Yes, sir, I believe so.

7 Q Do you know who it is you met with?

8 A Do I know who it was?

9 Q Yes.

10 A I believe it was Connie and Chester.

11 Q And do you recognize Connie sitting here?

12 A Yes, sir.

13 Q And she's actually Special Agent Sonnefeld?

14 A I'm sorry.

15 Q That's okay. Some people refer to her as
16 Connie, I know she doesn't like that. How about
17 Chester, Special Agent Chester Bragg?

18 A Yes, sir.

19 Q Who was with you when you met with them?

20 A My son.

21 Q Was anybody else with you?

22 A No. No, sir.

23 Q Ma'am?

24 A I said no, sir.

25 Q Was your lawyer with you?

MICHELLE MADDEN - DIRECT

1 A No, sir.

2 Q How did you come in contact with them?

3 A I talked with Ware Shoals P.D. and they told
4 me they would get in touch with Officer King, I
5 think, out of Honea Path to get in touch with them.

6 Q Now, at the time you met with them had you
7 been charged, excuse me, had you been arrested in
8 this particular case?

9 A Yes, sir. I was, well, I was arrested for
10 distribution.

11 Q But for these charges?

12 A Oh, conspiracy?

13 Q Yes, ma'am.

14 A No, sir, I hadn't been arrested.

15 Q When were you arrested on these charges?

16 A It was September of '02, September of, it
17 was, I think it was September of '02. I know it
18 was September.

19 Q All right. Do you remember the particular
20 date?

21 A No.

22 Q Now, when you met with Agent Sonnefeld and
23 you met with Agent Bragg did they promise you
24 anything for telling about your involvement in this
25 case?

MICHELLE MADDEN - DIRECT

1 A I don't believe they made any promises.

2 Q Did they threaten you?

3 A No, sir.

4 Q Why did you give them this information?

5 A Well, I was, I was asking for assistance on
6 my possession charge, you know, and I was just
7 trying to see, you know, what I could do.

8 Q Did you tell them any lies when you gave them
9 this information?

10 A No, sir.

11 Q Now, Miss Madden, tell us when the first time
12 you used methamphetamine was.

13 A It was right after my son was born, I believe
14 it was in December of 2000, and I was with a
15 friend, we had left a bar and I was at a friend's
16 house and I was drunk at the time and I done it for
17 the first time.

18 Q And how old were you?

19 A I was, I think I was nineteen. It was right
20 before I turned twenty.

21 Q When did you meet Marshall Miller?

22 A It was that next year, I believe I had done
23 turned twenty and it was around March or April, it
24 was before the summer, I met him at a friend, my
25 stepbrother's wife, she lived right down the road

MICHELLE MADDEN - DIRECT

1 from me and I met him there.

2 Q And how old were you?

3 A Twenty.

4 Q And how old was he, do you recall?

5 A Thirty-nine, forty. I'm not real sure.

6 Q How did you and he begin a discussion about
7 methamphetamine?

8 A Well, I had tried some of his meth that my
9 friend had gave me in her bedroom.

10 Q Now, you say you had tried some of his meth.
11 He didn't give you that meth, did he?

12 A No, he didn't give it to me, my friend told
13 me that was his.

14 MR. VARNER: Objection.

15 THE COURT: Sustained.

16 Q So, you don't know for a fact that was his?

17 A No. He didn't give it to me directly.

18 Q All right. When is the first time that you
19 started receiving meth from Marshall Miller
20 directly?

21 A It was that summer, it was a few months after
22 I had met up with him. He was coming over to my
23 house every so often, about twice a month, maybe
24 once a week, every now and then he would drop in
25 and he would give me some to do in a little bag

MICHELLE MADDEN - DIRECT

1 after he left.

2 Q At that time did you have any feelings or
3 affections for him?

4 A Well, in a way, yes. We had talked on that
5 level.

6 Q Did you think you were his girlfriend?

7 A Well, at one point he had, me and him had
8 stayed gone for awhile and the girl that was living
9 with him at the time, she was pretty mad about it,
10 so I guess you could say yes, sir.

11 Q Now, when you say you had stayed gone for
12 awhile, what do you mean by that phrase?

13 A You know, he would go out of town and I went
14 and met with him in hotel rooms in different towns.

15 Q Did you ever get to a point where you had to
16 purchase methamphetamine from Marshall Miller?

17 A Yes, sir. It was, it was when I was working
18 in a club and we had both talked about how much
19 money you could make in clubs, especially strip
20 clubs, and I was purchasing from him pretty often
21 and making money off of what he was giving me.

22 Q Now, you said that you were working in a
23 club. Was that a strip club?

24 A Yes, sir.

25 Q And were you a stripper in that club?

MICHELLE MADDEN - DIRECT

1 A Yes, sir.

2 Q An exotic dancer, whatever?

3 A Yes, sir.

4 Q When you would get, during that time period
5 when you would get your methamphetamine from
6 Marshall Miller would you buy it from him at that
7 time or would he front it to you? Explain that
8 process to the jury.

9 A I bought it from him. I never would, I mean,
10 other than what he gave me to take home to do
11 before, which was just for my personal use, I never
12 sold. But when I did intend to sell I would buy, I
13 would not get fronted nothing because I didn't want
14 him to feel that I ever owed him, I wanted to pay
15 for what I received, and I would give him about a
16 hundred, two-hundred.

17 Q Now, how did you and he come to an agreement
18 that you could sell his methamphetamine?

19 A We just discussed it and we just discussed
20 the money that I could have made off it,
21 especially, like I said, especially in that club,
22 and it was just a discussion that we had had and
23 one day I come up, you know, I said, "Well, you
24 know, it would be, you know, it would be a good
25 idea, I think, make the money, it would be a good

MICHELLE MADDEN - DIRECT

1 little bit of money."

2 Q Now, who in the club were you selling his
3 meth to?

4 A Mostly the other dancers.

5 Q Did you ever sell meth to anybody else
6 besides those folks?

7 A Yes, sir.

8 Q Who else did you sell it to?

9 A I sold to some people in Ware Shoals.

10 Q Do you know who they are?

11 A Richie Hodges.

12 Q Is that the main one?

13 A Suzanna Grant.

14 Q And how often did you sell meth to them?

15 A Richie was on a regular basis, a few times a
16 week. Suzanna was not very often.

17 Q Was that methamphetamine you had gotten from
18 Marshall Miller?

19 A Yes, sir.

20 Q Now, the individuals in the club, how often
21 would you sell to them?

22 A Mostly when I worked, which was as much as I
23 could throughout the week, it was about two or
24 three days, at least, out of the week, not counting
25 the weekend, which I worked every weekend.

MICHELLE MADDEN - DIRECT

1 Q Would you ever sell it to any of the patrons
2 in the club?

3 A No. Actually they would be trying to sell it
4 to me, so I really wasn't.

5 Q All right. When you met Marshall Miller for
6 the first time do you recall where he was living?

7 A He was living on the highway going from Ware
8 Shoals to Honea Path.

9 Q Do you recall what the residence looked like?

10 A Yes.

11 Q Had you ever been to the residence?

12 A No, sir.

13 Q How do you recall what it looks like?

14 A Because we would ride by there, I would go by
15 there a lot, especially with friends that also were
16 acquaintances of Marshall's and they would tell me,
17 "Look, there's Marshall's house," and there would
18 be his vehicle, you know, sitting outside the
19 trailer.

20 Q When you say his vehicle, what vehicle are
21 you referring to?

22 A The purple TransAm.

23 Q Did you ever know him to drive any other
24 vehicles?

25 A Yes, sir.

MICHELLE MADDEN - DIRECT

1 Q What vehicles were those?

2 A A black 271, a Harley Davidson, a red Grand
3 Prix, and he had a Grand Am.

4 Q Did you go over to his house at Waterloo?

5 A On Isle of Palms?

6 Q Yes, ma'am.

7 A No, sir.

8 Q Why didn't you ever go there?

9 A Because Tracy did not like me.

10 Q And who is Tracy?

11 A His girlfriend.

12 Q But what is her whole name?

13 A Tracy Davis.

14 Q Yes, ma'am. So, you never purchased any meth
15 from Mr. Miller at any of his residences, is that
16 correct?

17 A Normally he would meet me somewhere, so, you
18 know --

19 Q Where would he meet you?

20 A Walmart in Anderson.

21 Q And how would you arrange these meetings?

22 A I would call him.

23 Q And as best you can estimate, when did that
24 arrangement or when did you start getting meth from
25 Marshall Miller?

MICHELLE MADDEN - DIRECT

1 A It was in the first of 2002, it was around
2 the first of the year.

3 Q And when did you stop getting methamphetamine
4 from Marshall Miller?

5 A Right after I was -- well, I had been getting
6 it, as far as selling, I stopped selling for him.

7 Q That's fine, not selling, just getting it
8 from him, how long from the time you met him that
9 first of 2002?

10 A It was a few months, it was a few months
11 before we were indicted.

12 Q Indicted or arrested?

13 A Will, when we were arrested for the
14 conspiracy charges.

15 Q How close to the time that you were arrested
16 did you get methamphetamine from Marshall Miller?

17 A Arrested for --

18 Q For the conspiracy, for this case.

19 A How soon before I was arrested?

20 Q No. Let me rephrase the question. When you
21 were arrested for this case --

22 A Uh-huh (affirmative).

23 Q -- How close to that time were you still
24 getting methamphetamine from Marshall Miller?

25 A It was about four months, that was probably

MICHELLE MADDEN - DIRECT

1 the last time, before we were arrested and come
2 here, come to jail and stayed. Are you meaning
3 when I was arrested and --

4 Q Right. We know you were arrested once.

5 A Right.

6 Q That is when you got in touch with --

7 A Right.

8 Q You got in touch with Agent Sonnefeld and
9 Agent Chester Bragg, but when you were arrested in
10 September for this case, how close to that date
11 did you stop getting methamphetamine from Marshall
12 Miller?

13 A It was in the summer time, right before we
14 were arrested. It was like July, August.

15 Q July or August?

16 A Yes.

17 Q Okay, that's fine. Now, during the time
18 period that you knew Marshall Miller how much
19 methamphetamine did you purchase from him, and just
20 estimate how much you think you may have purchased?

21 A Well, I would give him about \$200 and get
22 more than what I paid for, so it was about four or
23 five grams at a time.

24 Q Four or five grams at a time?

25 A Uh-huh (affirmative).

MICHELLE MADDEN - DIRECT

1 Q And how long did that -- excuse me, let me
2 rephrase the question. And the meth that he was,
3 and if you recall, I asked you how much you
4 purchased from him, how much over that was he just
5 giving you?

6 A Over, not counting that?

7 Q Right, not counting what you purchased.

8 A When I would purchase, he would give me that
9 to do whatever with. I would be paying him a
10 hundred or two-hundred at a time, which was mostly,
11 I give him about \$200, he would give me that much
12 back, I could do whatever I wanted with the meth, I
13 could sell it or I could keep some for myself or I
14 could just sell it all. So --

15 Q Now, the money that you made from selling
16 this meth, was that your money?

17 A Uh-huh (affirmative).

18 Q Did he just let you keep it?

19 A Well, yes, I would give him money when I
20 would meet with him, when he gave me the meth.

21 Q And that money you gave him, was that from
22 selling the meth he had given you before?

23 A Uh-huh (affirmative).

24 Q That's yes?

25 A Yes, sir.

MICHELLE MADDEN - DIRECT

1 Q Now, did Marshall ever tell you where the
2 meth was coming from?

3 A That he was making it.

4 Q Did you ever see him make it?

5 A I was never in the room when he was cooking
6 it but I was there when they were cooking.

7 Q And where was that?

8 A In Cokesbury.

9 Q At the shop in Cokesbury?

10 A Uh-huh (affirmative).

11 Q Did you ever buy any methamphetamine there?

12 A No, sir.

13 Q Did he give it to you when you were there?

14 A Yes, sir.

15 Q Tell us what you saw when you were at the
16 shop in Cokesbury.

17 A I would see people in and out, I would see a
18 lot of people over there. I would stay mostly in
19 the trailer when he was taking care of business in
20 the garage or in the shop.

21 Q And where was Tracy?

22 A I don't know.

23 Q She wasn't there, though, was she?

24 A No, sir.

25 Q Who were some of the folks that you saw

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1 coming and going?

2 A I would see Jeff Horne there, I would see, I
3 would see a bunch of the girls there, sometimes
4 people would come, like Kirston Grant, come over
5 there, drop in. But it was mostly Jeff Horne and
6 Ernest Covan.

7 Q And what exactly, you say you knew they were
8 making methamphetamine or cooking methamphetamine
9 at the shop on Cokesbury, how do you know that?

10 A How do I know that?

11 Q Yes. What were you seeing that gave you
12 indication that they were?

13 A Well, the smell, and I had cut pills for him
14 right before they cooked, too.

15 Q And when you say cut pills, what do you mean
16 by that?

17 A Just cut them out of the packs.

18 Q And what would they do with those pills, do
19 you know?

20 A They would use them to make methamphetamine.

21 Q Now, when you started using methamphetamine
22 what method did you use to get it into your system?

23 A When I first, I snorted like one time, as far
24 as the crank, after I started doing it right after
25 I met Marshall, I snorted it once, then I started

MICHELLE MADDEN - DIRECT

1 shooting it up.

2 Q Tell us how you learned to shoot it up.

3 A Well, Marshall had to shoot me up first
4 because I never knew how to do it, and I asked him
5 to do it, he didn't want to do it, but I told him I
6 would rather him do it, and he did it, and then I
7 kind of paid attention and started watching and I
8 learned.

9 Q Tell us the process that he went through to
10 teach you how to do that.

11 A You take the spoon, you put some meth in the
12 spoon, you put some water in the syringe, you put
13 it in there, you break it up with the back of the
14 syringe and it liquifies, you put a piece of cotton
15 in the spoon, you filter, with the needle you
16 filter through the cotton and draw it back into the
17 syringe.

18 Q The first time you shot it up who gave you
19 that spoon?

20 A Marshall.

21 Q Who gave you that syringe?

22 A Marshall.

23 Q Who gave you that piece of cotton?

24 A Marshall.

25 Q And who gave you the meth?

MICHELLE MADDEN - DIRECT

1 A Marshall.

2 Q Where were you at?

3 A In a hotel room in Anderson.

4 Q Was anybody else with you?

5 A Kirston Grant.

6 Q And from that date on how did you ingest your
7 methamphetamine?

8 A With a needle.

9 Q Who would give the needles?

10 A I had gotten a few -- well, I had gotten some
11 packs from Marshall but I was getting, I had a
12 friend I was getting them from, too.

13 Q When you say needle, you mean the needle or
14 the entire syringe?

15 A The syringe.

16 Q What did they look like, the ones Marshall
17 gave you?

18 A He had one-hundreds, usually would be
19 hundreds, then he got the individual packs.

20 Q Were they clear? What color were they?

21 A What color were the syringes?

22 Q Yes, ma'am.

23 A They were clear. They had the unit on them.

24 Q Did they have anything on them to protect the
25 needle?

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- 1 A The cap?
- 2 Q Yes. What color was the cap?
- 3 A Orange.
- 4 Q Now, your residence where you were living at
- 5 this time, where is that?
- 6 A At the time that I was, all this had
- 7 occurred?
- 8 Q Well, let me rephrase that question, I'm
- 9 sorry. Where were you living when you got
- 10 arrested --
- 11 A At my father's.
- 12 Q -- In this case?
- 13 A My father's house.
- 14 Q Where is that located?
- 15 A Morgan Road, Hodges.
- 16 Q And what is across the street from that
- 17 house?
- 18 A My daddy's brother's shop and my neighbor's
- 19 shop.
- 20 Q And do you know who rents that shop?
- 21 A Yes, sir.
- 22 Q Who is that?
- 23 A Billy Moore.
- 24 Q Do you know Billy Moore?
- 25 A Yes, sir.

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1 Q Is he in the courtroom today?

2 A Yes, sir.

3 Q Can you point him out?

4 A Right there.

5 Q Now, after you were arrested you contacted
6 Agent Sonnefeld and Mr. Brag again, didn't you?

7 A After I was arrested for conspiracy?

8 Q Yes, ma'am.

9 A I believe so, or they contacted me. We had
10 contact, though.

11 Q Okay. And you were required to take a drug
12 test, weren't you?

13 A Yes, sir.

14 Q Did you get an A?

15 A No, sir.

16 Q What did you get?

17 A An F.

18 Q Did you give them any other information?

19 A I don't remember.

20 Q Did you ever tell them about anything going
21 on at that shop across the street?

22 A I don't remember. I think so.

23 Q What do you think you told them?

24 MR. WISE: Your Honor, I'm going to object to
25 what she thinks she told them. She can only

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1 testify what she knows.

2 THE COURT: Sustained.

3 Q So, outside of failing the drug test, did you
4 have any other contact with Agent Sonnefeld or
5 Agent Bragg?

6 A I had seen them on several occasions, they
7 came to my dad's house and I had talked with them.

8 Q Now, you pled guilty in this case, didn't
9 you?

10 A Yes, sir.

11 Q Who was your lawyer?

12 A Randall Williams out of Greenwood.

13 Q And as part of that guilty plea you signed a
14 plea agreement, didn't you?

15 A Yes, sir.

16 Q And do you remember what you promised to do
17 in that plea agreement?

18 A Yes, sir.

19 Q And what was that?

20 A If required to testify, testify, and I was to
21 serve three years in the detention center.

22 Q Serve how many years?

23 A Three.

24 Q When do you think you're going to get out?

25 A I hope I get out on my max out date in

MICHELLE MADDEN - DIRECT

1 November.

2 Q Have you ever been in prison before?

3 A No, sir.

4 Q Who's taking care of your little boy?

5 A My grandmother.

6 Q How often do you get to see see him?

7 A Every weekend.

8 Q Now, do you remember the first time you met
9 me?

10 A Yes, sir.

11 Q Where were you then?

12 A At Leath.

13 Q Do you remember the first time you met Mr.
14 Hood?

15 A At Leath.

16 Q You have already indicated you met Agent
17 Sonnefeld and Agent Bragg?

18 A Yes, sir.

19 Q Has any of us asked you to tell any lies in
20 this case?

21 A No, sir.

22 MR. CROUT: Begging the Court's indulgence.

23 THE COURT: Take your time, counsel.

24 Q Now, Miss Madden, you had indicated that you
25 were at Cokesbury when methamphetamine was being

MICHELLE MADDEN - DIRECT

1 made?

2 A Yes, sir.

3 Q And you told us what you saw -- what did you
4 smell?

5 A Ether, starter fluid.

6 Q Now, you did some of Marshall Miller's meth,
7 right, you did a lot of his meth, actually, right?

8 A Yes, sir.

9 Q And what kind of taste did it have?

10 A An ether taste.

11 Q Did you ever see him also with ammonia?

12 A I don't know.

13 Q How about a big tank, did you ever see a big
14 tank, might look like one you fill up a balloon
15 with?

16 A Like a propane tank or helium tank, any kind
17 of tank?

18 Q You did see him with a big tank like that?

19 A I seen one.

20 Q Where did you see it?

21 A At the shop.

22 Q What color was it?

23 A I don't remember. Green, I believe.

24 Q Now, describe that smell to us, what do you
25 mean by you could smell the ether? Describe that

MICHELLE MADDEN - DIRECT

1 smell to us.

2 A It was just a strong, it was a very strong,
3 strong smell. It started smelling like a diesel
4 truck, just a strong, strong smell.

5 Q All right. Is the only time you smelled
6 that, when you were at the shop in Cokesbury?

7 A No, sir.

8 Q Did you ever smell that smell again?

9 A Yes, sir.

10 Q When did you smell it again?

11 A In Hodges.

12 Q When you say in Hodges, what do you mean?
13 Where were you when you smelled that?

14 A At my daddy's house.

15 Q Where at your daddy's house were you?

16 A On the front porch.

17 Q And where was the smell, as best you can
18 tell, where was the smell coming from?

19 A Across the road.

20 Q At the shop you described?

21 A Yes, sir.

22 Q Did you tell Agent Sonnefeld about that?

23 A Yes, sir.

24 Q Did you tell Agent Bragg about that?

25 A Yes, sir.

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1 Q Do you recall when that was?

2 A It was right before the end, before we were
3 arrested. It was about two months before we were
4 arrested, July, August.

5 Q From where you were standing could you tell
6 who was at the shop?

7 A I never seen nobody directly. That night, it
8 was at night, I just seen vehicles.

9 Q What vehicles did you see?

10 A I seen the red car, the red Grand Prix.

11 Q And whose red Grand Prix did you know that to
12 be?

13 A Marshall's.

14 Q What other cars did you see?

15 A The gray truck Billy drives sometime.

16 Q How did you describe it?

17 A Gray.

18 Q I'm sorry, I didn't know if you said gray or
19 green.

20 Just one last thing, Miss Madden, some
21 housekeeping matters. You have a prior record,
22 don't you?

23 A A prior record?

24 Q Yes.

25 A Of drug charges?

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1 Q No, ma'am, how about a shoplifting?

2 A Shoplifting?

3 Q I have it all right here, just tell us about
4 it.

5 A That would have been Clinton, that was with
6 somebody, I was with somebody that shoplifted and I
7 took her purse in the dressing room and it was
8 accessory. Basically they charged me, too, when
9 they pulled us.

10 Q I believe then you got arrested for
11 distribution?

12 A Right.

13 Q Then you got indicted in this case?

14 A Yes, sir.

15 Q You pled guilty?

16 A Yes, sir.

17 Q And what happened to those distribution
18 charges? Were they part of your guilty plea?

19 A It's all running concurrent.

20 Q All concurrent?

21 A Yes, sir.

22 Q But outside of that you have had no problems
23 with the law?

24 A No, sir.

25 Q All right. You have never testified in court

MICHELLE MADDEN - DIRECT

1 before?

2 A No, sir.

3 Q Do you ever want to again?

4 A Not really.

5 Q Do you want to go to prison again?

6 A No.

7 Q Tell the truth. That's all we're asking you
8 to do.

9 MR. CROUT: Thank you.

10 MR. VARNER: Your Honor, that is not a
11 question. I ask that it be stricken.

12 THE COURT: All right. Rephrase what you
13 just said. The objection is sustained.

14 BY MR. CROUT:

15 Q Miss Madden, has anybody asked you to do
16 anything other than tell the truth?

17 A No, sir.

18 MR. CROUT: Thank you. Your Honor, I have no
19 further questions. Miss Madden, if you would,
20 answer any questions Mr. Varner or Mr. Wise have.

21 THE COURT: The witness is with you on
22 cross-examination, Mr. Varner.

23

24

25

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CROSS EXAMINATION

QUESTIONS BY MR. VARNER:

Q You have told the whole truth here today?

A Yes, sir.

Q One of the things the prosecutor asked you, you hadn't had any other problems with the law. That's not true, is it? Let's start with that.

A As far as problems with the law, I have not had any, no, sir.

Q Okay. Well, you were convicted of distribution near a school zone, correct?

A Yes, sir.

Q And possession with intent to distribute, another charge, near a school zone?

A I have had one charge near a school zone. I have not been told of any other charge.

Q You got the trafficking charge?

A Yes, sir.

Q Which is this case?

A Yes, sir.

Q You got possession of drugs, PWID, possession with intent to distribute drugs near a school zone, that's a second charge?

A No, sir. I only got one charge with possession within a school zone. I have the papers

MICHELLE MADDEN - CROSS

1 on that.

2 Q Let's back up so we all understand. You have
3 only had two charges, this particular charge and
4 then a possession with intent to distribute near a
5 school zone?

6 A When I had the possession charge, they
7 charged me with possession, possession with intent
8 to distribute, possession with intent to distribute
9 within proximity of a school zone.

10 Q Okay. You had three charges there?

11 A At that time I did.

12 Q Okay. And then this one made another one?

13 A Conspiracy, yes, sir.

14 Q And basically your deal is you don't even get
15 any punishment for that, it's run concurrent, it
16 goes with it?

17 A They summed up the possession charges into
18 the proximity.

19 Q Okay. All right, let's back up here just a
20 little bit. You're twenty-three now?

21 A Twenty-two.

22 Q Twenty-two, and you were a stripper. Where
23 was that, what strip club were you at?

24 A Platinum Plus in Greenville.

25 Q In Greenville?

MICHELLE MADDEN - CROSS

1 A Yes, sir.

2 Q How long were you a stripper at Platinum
3 Plus?

4 A Off and on for about a year, year and a half.

5 Q Okay. And how old were you when you were
6 stripping at Platinum Plus?

7 A Twenty-one, twenty-two.

8 Q Twenty-one, twenty-two?

9 A Uh-huh (affirmative).

10 Q Somewhere in that neighborhood?

11 A Yes, sir.

12 Q Okay. How long have you been in jail now?

13 A Eight -- no, seven months, I believe.

14 Q Okay. I'm curious about your statement. You
15 went to them asking for assistance. By assistance,
16 you mean a reduction in your sentence, you needed
17 help, you needed your time cut, that's what
18 assistance means, isn't it?

19 A Yes, sir.

20 Q That's what you got?

21 A I'm not sure you would say that.

22 Q Well, did you know you were looking at ten
23 years on each one of those other charges? You knew
24 that, didn't you? Didn't you have a lawyer?

25 A Yes, sir.

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1 Q So, you were looking at thirty years before
2 this conspiracy charge even came up, weren't you?

3 A Yes, sir.

4 Q And you have been in jail seven month and you
5 hope to get out in November?

6 A Yes, sir.

7 Q Okay. So, you're going to do about sixteen
8 months?

9 A Eighteen.

10 Q Eighteen months, okay. Considering you
11 started out with thirty years on you and then this
12 charge, from fifty something years to eighteen
13 months, that's a lot of assistance, isn't it?

14 A I don't know, sir.

15 Q Well, if I owed you fifty something dollars
16 and decided to give you a dollar and eighty cents,
17 would you say that's a substantial difference?

18 A Of course.

19 Q Okay. So, if you're looking at fifty years
20 and you wound up getting eighteen months, that is
21 substantial assistance, isn't it?

22 A I don't know, sir.

23 Q You don't know, okay. Do you know Ray
24 Powell?

25 A I've heard of him.

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- 1 Q Have you ever seen him?
- 2 A I seen him like once in court.
- 3 Q Is it a fair statement Ray is about twice as
4 big as Marshall, Marshall is a little guy?
- 5 A Yes, sir.
- 6 Q Now, you do believe in the basic principle
7 you are responsible for what you do, correct?
- 8 A Yes, sir.
- 9 Q And did you first meet Marshall at the strip
10 club?
- 11 A No, sir.
- 12 Q Did he ever come to the strip club?
- 13 A No, sir.
- 14 Q Okay. And you would meet him at hotels, you
15 two would have sex, correct?
- 16 A Yes, sir.
- 17 Q And he would give you crystal meth?
- 18 A Yes, sir.
- 19 Q Okay. But even though he was giving you
20 crystal meth, I believe in your statement half an
21 eightball at a time, is that correct?
- 22 A Yes, sir.
- 23 Q So, he was giving you a half an eightball
24 every time you two had sex?
- 25 A Well, we didn't have sex every time.

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1 Q All you had to do was just be his friend or
2 be there?

3 A Yes, sir.

4 Q He would just give it to you?

5 A Yes, sir.

6 Q Okay. If he was giving it to you and you two
7 were having sex together, why did you start buying
8 it from him?

9 A Because I didn't want him to be able to say
10 that I was making money off of free meth that I was
11 getting from him, so I wanted to start giving him
12 something to be able to sell, you know.

13 Q Okay. And in regard to your relationship
14 with Marshall, you were talking about you are
15 responsible for what you do, and the prosecutor
16 asked you were you selling this meth for Marshall
17 and you said yes, correct?

18 A Yes, sir.

19 Q The truth of the matter is you're responsible
20 for what you do, you were selling the meth you were
21 given for you, you were doing it for yourself, to
22 make the money, weren't you?

23 A Yes, sir.

24 Q And you got to keep the money, didn't you?

25 A What I didn't give back to him to buy more

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1 with.

2 Q Well, you were buying more. How did you
3 separate your hundred dollar bills that you made at
4 the strip club from the hundred dollar bills you
5 made selling dope? You didn't, did you?

6 A They are all hundred dollar bills.

7 Q They are all hundred dollar bills. So, you
8 were giving him your strip club money for the dope
9 you were buying and you were keeping the profits
10 from the dope you were selling, for yourself, the
11 same difference, isn't it?

12 A You can look at it that way, yes, sir.

13 Q Well, one is just the same as the other,
14 isn't it, if you take a hundred dollar bill out of
15 your billfold, you can't tell one from the other,
16 can you?

17 A Right.

18 Q So, you're stripping, you've got these
19 hundred dollar bills and you're selling dope and
20 you're making money off that, and then you go buy
21 dope from Marshall with money?

22 A With money.

23 Q The Lord knows where that comes from. You
24 don't know where that money comes from that you
25 hand to Marshall, do you?

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1 A It's money.

2 Q It's money, that's right. So, you were
3 selling dope that Marshall gave you, you were
4 selling it for yourself to keep the money for
5 yourself, that's the whole point of it, isn't it?

6 A To profit, yes, sir.

7 Q Sure. I mean, you weren't at the strip club
8 because you enjoyed that either, you were there for
9 the money?

10 A Yes, sir.

11 Q Okay. So, you approached them the first time
12 when you were arrested, I believe, by another
13 agency or something, correct? In other words, when
14 you went and talked to SLED you came to them for
15 assistance, that was before everybody was even
16 arrested to begin with in September?

17 A Yes, sir.

18 Q Okay. And then you went back again after you
19 got arrested in September, you had to go back and
20 give them something more, you went back to them
21 again, didn't you?

22 A Yes, I spoke with them again.

23 Q Okay. So, if you went to them the first time
24 and told them the truth and told them everything
25 you knew, then why did you have to go back to them

MICHELLE MADDEN - CROSS

1 a second time, if you had already told them
2 everything that you knew and everything was true?

3 A I don't know, sir.

4 Q Would it be just to come up with more
5 information that you thought they wanted to hear,
6 whether it's true or not, to get extra assistance?

7 A Not really, sir.

8 Q Not really? Well, partly?

9 A I guess you could say that.

10 Q Okay. When you were with Marshall, your
11 statement, you said he kept dope and he kept it
12 wrapped in gray duct tape, is that correct?

13 A Do what, excuse me?

14 Q In your statement, the one I'm referring to,
15 the one October 2nd of 2002 with Agent Sonnefeld
16 and Agent Bragg, did you tell them that Marshall
17 would take out a container wrapped in gray duct
18 tape?

19 A Yes, sir, he had.

20 Q Was it like a prescription bottle that was
21 wrapped in gray duct tape?

22 A It was a bottle.

23 Q Okay. Well, it wasn't a little film
24 container?

25 A No, sir.

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1 Q When the cooking was going on -- hold on just
2 a minute. During this period of time were you
3 living with anybody other than your father?

4 A No, sir.

5 Q Okay. Who was your boyfriend?

6 A At the time? What time period?

7 Q Around February to mid March of 2002?

8 A I don't think I had a boyfriend.

9 Q Did you know a Mr. Cobb?

10 A Yes, sir.

11 Q Who is he?

12 A He was a friend that I had seen off and on.

13 Q When you say seen, do you mean it was
14 somebody you were having sex with?

15 A No, I never had sex with Benji Cobb.

16 Q Other than Marshall, who were your boyfriends
17 during this period of time?

18 A I had none.

19 Q You had none? Did you live with your dad
20 exclusively during that period of time?

21 A Yes, sir, that was my residence.

22 Q Okay. Did you stay, I'll change words --

23 A I didn't stay there.

24 Q Did you stay with another guy during that
25 period of time, a guy who was a dope dealer?

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1 A Actually when I had a trailer of my own
2 around December of the prior year Benji stayed with
3 me.

4 Q Who?

5 A Benji Cobb stayed with me.

6 Q We're back to Mr. Cobb?

7 A For about a week, two weeks.

8 Q And Cobb had customers, Vincent Creel,
9 another Creel, Benton, Jim Blackwood, a guy named
10 Tony and a man named Chicken Boy.

11 Now, what was it Mr. Cobb was doing, that you
12 stayed with, what were his customers?

13 A What were his customers?

14 Q Yes, what was he selling?

15 A He was selling dope, he was selling crank.

16 Q So, you're living with a dope dealer?

17 A No, he was living with me and then I kicked
18 him out.

19 Q Okay. All right, the dope dealer is living
20 with you but you still buy dope from Marshall even
21 though a dope dealer is living with you?

22 A Yes, sir.

23 Q All right. I don't have my documents in
24 front of me, but after you got arrested in
25 September of 2002 you knew very good and well at

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1 that point in time not only did you have those
2 three charges on you, you now were looking at
3 twenty-five to thirty years, the twenty-five being
4 a minimum sentence, you knew that, you had a
5 lawyer, didn't you?

6 A Twenty-five was the maximum, I thought.

7 Q Okay. Well, we will go with twenty-five, if
8 that's what you thought. And you knew that you
9 were going to have to serve 85 percent of that,
10 correct?

11 A Yes, sir.

12 Q Is it a fair statement you were scared?

13 A Of course I was scared.

14 Q And you were scared enough you sought them
15 out for assistance again, this is a second time?

16 A I spoke with them. I really didn't have to
17 seek them out but I spoke with them.

18 Q And you met with them, correct?

19 A Yes, sir.

20 Q And you gave them a statement?

21 A Yes, sir.

22 Q And it was not under oath or anything, was
23 it, at that time?

24 A No, sir.

25 Q Part of the deal you had was that you would

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1 have to come and truthfully testify, or repeat what
2 you said to them at trial, correct?

3 A Yes, sir.

4 Q And if they didn't, if you didn't, they
5 would, they could ask for the maximum sentence, the
6 twenty-five years with 85 percent of the time,
7 correct?

8 A Yes, sir.

9 Q But instead, what you pled to was greater
10 than ten grams but less than twenty-eight grams,
11 correct?

12 A Yes, sir.

13 Q And the State actually recommended three
14 years, and that's what you got?

15 A Yes, sir.

16 Q And under that classification you don't have
17 to serve 85 percent of that, you're going to be out
18 next November, correct?

19 A Yes, sir.

20 Q That agreement further provides if you don't
21 tell the truth, I don't want to phrase it
22 necessarily in legal terms, but the deal is off,
23 you could be subject to the whole time again,
24 correct?

25 A I don't know.

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1 Q Well, I'll read it to you. You can read with
2 me, ma'am. This is, I will let you identify this.
3 This is your plea agreement, is that correct?

4 A Yes, sir.

5 Q And in this you are the defendant, correct?

6 A Yes, sir.

7 Q "The failure of the defendant to be truthful
8 or to cooperate at any stage can cause the
9 obligations of the State of South Carolina in this
10 agreement to become null and void. Further it's
11 expressly agreed that if the obligations of the
12 State of this agreement become null and void due to
13 the lack of truthfulness or cooperation on the part
14 of the defendant the defendant understands that the
15 defendant will not be permitted to withdraw her
16 plea of guilty to the offense described above and
17 if the breach occurs after the defendant has been
18 sentenced the State may request that the Court,
19 which retains continuing jurisdiction of the
20 matter, re-sentence the defendant to a greater term
21 of incarceration and the State may argue for a
22 maximum sentence for the offenses to which the
23 defendant has pled guilty."

24 Correct?

25 A Yes, sir.

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1 Q And do you get to determine whether or not
2 you're telling the truth, am I the one who
3 determines whether or not you're telling the truth?

4 A No, sir, I don't assume.

5 Q What is your understandings of who makes that
6 decision?

7 A The judge.

8 Q The judge?

9 A Well --

10 Q Or the prosecutor, or the State, SLED?

11 A I don't know, sir.

12 Q Okay. If you don't know, that's fine.

13 MR. VARNER: Thank you, ma'am.

14 THE COURT: Mr. Wise.

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CROSS EXAMINATION

QUESTIONS BY MR. WISE:

Q Miss Madden, you saw Marshall Miller with a brown, a black zipper bag with some needles and stuff in it?

A Yes, sir.

Q I hand you -- was it reddish like this, or another color?

A It was --

Q I'll let you look at it closer. This is State's 21.

A I don't think it was that bag.

Q You don't think it was that bag? What about the needles and stuff, is that the type needles you were talking about?

A Yes, sir.

Q Okay. Have you ever seen a bag like State's 22?

A Yes.

Q Okay. But he kept a lot of zipper bags like that around?

A Yes.

Q And kept needles in them and kept some methamphetamine in them?

A Yes, sir.

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- 1 Q He kept some pills in them, correct?
- 2 A I'm not sure.
- 3 Q He kept some batteries in them?
- 4 A I'm not sure, sir.
- 5 Q Now, when was the last time you were out at
- 6 Cokesbury to see Marshall Miller?
- 7 A The last time?
- 8 Q Right, before September 24th.
- 9 A I'm not sure of the exact date, sir.
- 10 Q Approximately? I don't expect you to give me
- 11 an exact date. Approximately?
- 12 A It was, it was the summertime.
- 13 Q Summertime of 2002?
- 14 A Yes, sir.
- 15 Q Okay. Did you ever stop seeing Marshall
- 16 Miller up until the time you were arrested?
- 17 A Did I ever stop seeing him --
- 18 Q On a semi-regular basis, like weekly?
- 19 A Yes, I stopped seeing him.
- 20 Q When?
- 21 A A few times. Right after I got my
- 22 distribution charge I stopped, I didn't contact him
- 23 for awhile.
- 24 Q All right, we miscommunicated. Up until the
- 25 time you were arrested, September 24th --

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1 A No, I seen him on a regular basis.

2 Q Up until that time?

3 A Uh-huh (affirmative).

4 Q Okay. Did you ever get addicted to
5 methamphetamine?

6 A Yes, sir.

7 Q And therefore when you wouldn't have it for
8 awhile you would almost like taste it in your
9 mouth?

10 A When I wouldn't have it?

11 Q Yes.

12 A No, sir.

13 Q Would you go through any withdrawals?

14 A Not really. I would just want to do it.

15 Q So, you never got addicted, then, correct?

16 A I would get mad and angry and would have mood
17 swings when I couldn't have it, when I couldn't
18 find it and I wanted it.

19 Q Get mad, angry and have mood swings? Now,
20 you were present at the cooks at Cokesbury?

21 A Huh?

22 Q You said you were present when they did some
23 cooking at Cokesbury?

24 A I was present but I was in the trailer.

25 Q Did you ever smell ammonia?

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- 1 A Did I ever smell ammonia?
- 2 Q Right.
- 3 A Yes.
- 4 Q All right. And the ammonia was the prominent
- 5 smell that you smelled?
- 6 A Not really.
- 7 Q Well, he had to have a fan out there to carry
- 8 the ammonia smell out, didn't he?
- 9 A Uh-huh (affirmative).
- 10 Q So, if you were standing downwind from the
- 11 fan you would smell the ammonia?
- 12 A Yes, sir.
- 13 Q All right. When he heated -- when he used
- 14 the methamphetamine did he heat the spoon?
- 15 A When he used?
- 16 Q Right.
- 17 A When he was fixing to --
- 18 Q Right, shoot himself.
- 19 A No, he never heated the spoon.
- 20 Q You never saw him use any heat?
- 21 A No, sir.
- 22 Q All right. Now, you first got arrested on a
- 23 distribution charge, is that correct?
- 24 A Yes, sir.
- 25 Q And when was that?

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1 A It was in June of 2002, 2001.

2 Q January?

3 A June.

4 Q June, all right. So, sometime after you were
5 arrested on the distribution charge, is that when
6 you first met with Connie Sonnefeld?

7 A After that, after I was arrested?

8 Q On the distribution charge?

9 A Yes, that's the first time I ever met them.

10 Q You met with her, I believe on July 25th of
11 2002 for the first time?

12 A Yes, sir.

13 Q And you all had a long conversation?

14 A Yes, sir.

15 Q All right. And let me, let me back up to one
16 other thing first. You started seeing Marshall
17 Miller in March or April of 2001?

18 A Yes, sir.

19 Q All right. And where were you living at that
20 time?

21 A On Edgewood Drive in Ware Shoals.

22 Q Edgewood Drive in Ware Shoals?

23 A Yes.

24 Q Your parents live out on Morgan Road?

25 A My dad and stepmother.

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1 Q Excuse me, your father and your stepmother?

2 A Yes.

3 Q That was never really ever a permanent
4 residence for you?

5 A When I was -- it was permanent for me when I
6 was pregnant --

7 Q Right.

8 A -- And I had my son initially, that was where
9 I was staying.

10 Q Right. But then after that you lived in
11 various and sundry different places?

12 A Yes.

13 Q You would go back there on occasion?

14 A Yes, sir.

15 Q And I believe you said Marshall Miller
16 occasionally even picked you up occasionally on
17 Morgan Road?

18 A Yes, sir.

19 Q All right. And about how many times would he
20 pick you up on Morgan Road?

21 A I recall one time he picked me up.

22 Q You have known Billy Moore for a number of
23 years, since you were little, right?

24 A No, I don't remember him. I know him.

25 Q Right.

MICHELLE MADDEN - CROSS

1 A Yes, sir.

2 Q So, your parents live nextdoor?

3 A Right.

4 Q Now, did Marshall, when you went, when
5 Marshall would pick you up on Morgan Road he never
6 discussed Billy Moore?

7 A No, sir.

8 Q All right. He wouldn't say, "Oh, I see you
9 live nextdoor to Billy Moore, I didn't know that,"
10 anything like that?

11 A He told me Billy had worked on his vehicles.

12 Q But that was only in September of 2002,
13 correct?

14 A Yes.

15 Q Okay. When you were dating Marshall back in,
16 when, when did you stay on Morgan Road that
17 Marshall used to pick you up?

18 A It was about a year before we were indicted.

19 Q So, sometime in the fall of 2001?

20 A Yes, sir.

21 Q And that's when, when Marshall would come
22 pick you up on Morgan Road for a month or so, is
23 that how long you stayed there then?

24 A I stayed off and on, like I said, at my dad's
25 house a lot, but he picked me up, I remember one

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1 time he picked me up a couple months before the
2 indictment and he had stopped in the road.

3 Q Okay. Now, you knew the red car that you saw
4 over in front of Billy's shop in mid to late
5 September?

6 A Yes, sir.

7 Q All right. And you knew that was Marshall's
8 car?

9 A Yes, sir.

10 Q All right. Now, you first talked with Agent
11 Sonnefeld on the 25th of July, 2002, correct?

12 A Yes, sir.

13 Q All right. And she took a rather lengthy
14 statement from you?

15 A Yes, sir.

16 Q All right. A lot of detail about stuff,
17 right?

18 A Yes, sir.

19 Q At that time she did not tell you that you
20 were being indicted for twenty-five years mandatory
21 sentence, did she?

22 A No, sir.

23 Q All right. She forgot to tell you that?

24 A If she knew at that time she forgot.

25 Q But she did not sit down with you on the 25th

MICHELLE MADDEN - CROSS

1 of July and say, "We're investigating you for
2 something that can put you in jail for twenty-five
3 years," did she?

4 A No, she didn't.

5 Q Okay. She said, "You've got these
6 distribution charges and you need to help
7 yourself"?

8 A Right, yes, sir.

9 Q Right. And you said basically, "How can I
10 help myself?"

11 A Well, I approached her, she didn't approach
12 me.

13 Q Well, how did you know to approach her?

14 A I went through the police department.

15 Q Which police department?

16 A Ware Shoals and Honea Path.

17 Q And who did you contact up there?

18 A Mickey Bolen.

19 Q So, Mickey Bolen -- was your distribution
20 charge out of Ware Shoals?

21 A Yes, sir.

22 Q So, Mickey Bolen was in charge of that?

23 A He was Assistant Chief.

24 Q You basically went to Mickey Bolen and said,
25 "How I can help myself?"

MICHELLE MADDEN - CROSS

1 A I said, "Who I can get in touch with,
2 please?"

3 Q Is that more accurate?

4 A Yes, sir.

5 Q And they sent Connie Sonnefeld to come talk
6 to you?

7 A Yes, sir.

8 Q At that time you thought you were getting out
9 of or helping yourself get out of a distribution
10 charge?

11 A Yes, sir.

12 Q Right? You didn't know you were walking into
13 a twenty-five year charge, did you?

14 A No, sir.

15 Q Okay. And then after you got arrested you
16 got a lawyer?

17 A Uh-huh (affirmative), yes, sir.

18 Q Was that right away, pretty quick?

19 A For the distribution?

20 Q Excuse me, for the --

21 A Conspiracy?

22 Q -- conspiracy?

23 A Yes, I got a lawyer right away.

24 Q And you got a lawyer -- on what day did you
25 first have a lawyer?

MICHELLE MADDEN - CROSS

1 A For the conspiracy?

2 Q Right.

3 A I got a lawyer right after.

4 Q You got appointed one right away?

5 A Yes, they appointed me one.

6 Q So, when you met with Connie Sonnefeld on
7 October 2nd, 2002, you had a lawyer?

8 A Yes, sir.

9 Q And had you talked to him?

10 A Yes, sir.

11 Q All right. And he had told you, "You're in a
12 world of hurt," words to that effect, didn't he?

13 A Yes, sir.

14 Q "That you're looking at a mandatory
15 twenty-five years"?

16 A Well, he didn't say. He was actually very
17 positive about it.

18 Q He said, "We hope we can help you out,"
19 correct?

20 A Yes, sir.

21 Q And he was positive about it because he said,
22 "If you cooperate we can probably get you a better
23 deal"?

24 A Well, that, too, but yes, sir.

25 Q Okay. Basically he said, "Look, you need to

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1 go talk to them and we'll see if we can get you a
2 better deal," right?

3 A Yes, sir.

4 Q All right. So, you went back and talked to
5 them on the 2nd of October, 2002, right?

6 A Yes, sir.

7 Q That conversation was not recorded?

8 A No, sir.

9 Q All right. And you didn't know what they
10 wanted to talk to you about or whatever information
11 you could give, did you?

12 A No, sir.

13 Q In that conversation they basically started
14 asking you about seeing Marshall Miller across the
15 street, didn't they, right?

16 A I really don't remember the whole thing, but
17 it was a question that was asked, yes, sir.

18 Q Right. They were asking you, they said,
19 "What do you know about Marshall Miller being
20 across the street at Billy Moore's garage," right?

21 A Yes, sir.

22 Q And, so, you figured they wanted some
23 information about across the street, right?

24 A Yes, sir.

25 Q Okay. And you figured if you had information

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1 it would help, didn't you?

2 A Well, I didn't, I mean, I really didn't have.

3 Q But if you had any information you would
4 figure it would help, wouldn't it?

5 A Of course it probably would.

6 Q And they came up to you and basically said,
7 "Did you notice any smell from over there?"

8 A No. I brought that to their attention.

9 Q You brought that to their attention?

10 A Because I told them, yes, sir.

11 Q Okay. And the night you say you had this
12 smell over there, it wasn't ammonia, was it?

13 A No. It was ether.

14 Q It wasn't ammonia. And the night you had
15 that smell over there did you ever go over there?

16 A No, sir.

17 Q Did you see Marshall Miller's truck over
18 there?

19 A Yes, sir.

20 Q And you had been dating Marshall Miller?

21 A At that time?

22 Q Uh-huh (affirmative).

23 A No, I wasn't dating him.

24 Q Well, you said you dated him --

25 A I had seen him off and on.

MICHELLE MADDEN - CROSS

1 Q Up until shortly before you were arrested?

2 A Yes, sir.

3 Q Before the 24th of September, when was the
4 last time you saw him?

5 A Like two months before.

6 Q Two months before?

7 A Or a month. Before the indictment, is that
8 when you're asking me?

9 Q The 24th of September is when you were
10 arrested.

11 A It was a few months before the indictment.

12 Q So, you hadn't seen Marshall Miller for July,
13 August, since July 24th?

14 A I don't know the exact date.

15 Q Well, two months before is the 24th of July,
16 that's why I ask.

17 A Okay. Well, it was around that day. Like I
18 say, I don't really remember exactly, no.

19 Q So, for two months you hadn't seen Marshall
20 Miller to get any dope from him?

21 A No, sir, I hadn't.

22 Q But when you saw his truck over there you
23 didn't go over there and try to get any dope from
24 him?

25 A No, sir, I didn't.

MICHELLE MADDEN - CROSS

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MR. WISE: Thank you.

THE COURT: Anything on redirect?

MR. HOOD: Yes, Your Honor.

MICHELLE MADDEN - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. CROUT:

Q I believe Mr. Varner had asked you about your relationship with an individual by the name of, was it Benji Cobb?

A Yes, sir.

Q Did you ever go anywhere with Benji Cobb?

A Yes, sir.

Q You rode in his car?

A Yes, sir.

Q Was there ever a time when you and Benji Cobb ran out of gas in that car?

A Yes, sir.

Q Tell the jury what happened.

MR. WISE: Your Honor, I object. I don't see where that is in reply to anything brought out in cross.

MR. CROUT: You brought up her relationship with Benji Cobb.

MR. WISE: Okay, that's correct, I apologize.

THE COURT: Very well.

BY MR. CROUT:

Q Please tell us what happened.

A We ran out of gas, I don't remember the name of the road exactly, I'm not familiar with those

MICHELLE MADDEN - REDIRECT

1 roads, it was one of the roads coming from
2 Abbeville, I believe. But anyway, it was a
3 two-lane road, it was a stretch of, a big field
4 right here, we were trucking down the road and we
5 run out of gas, and we pull into the field and I'm
6 really upset because I didn't understand why we
7 were going without gas, and the gas hand didn't
8 work, the gas hand didn't work, he was supposed to
9 be such a smart boy, I didn't understand why he
10 hadn't filled the gas tank up. We pulled into the
11 field and he wanted me to call somebody and get
12 some gas. So --

13 Q Who did you call?

14 A I called Marshall.

15 Q What did he do?

16 A He brought us some gas.

17 Q Did he and Benji have any words?

18 A Yes, sir.

19 Q What were they?

20 A Well, Benji asked him if he could ever do
21 anything for him, to let him know.

22 Q And what did Marshall say to him?

23 A He said, "No, that's all right, man."

24 Q Now, did Marshall -- well, we already know,
25 you have already testified that you think Marshall

MICHELLE MADDEN - REDIRECT

1 made dope. What about Benji, did he make any dope?

2 A No, sir.

3 Q Did he sell any dope?

4 A Yes, sir.

5 Q Did you ever use his dope?

6 A Do what?

7 Q Did you ever use any of Benji's dope or meth?

8 A Yes, sir.

9 Q Did you ever use any of Marshall's meth?

10 A Yes, sir.

11 Q Do you have any opinion over which one gave
12 the greater effect?

13 A Marshall's.

14 Q And what effect was that?

15 A It was a longer high, you could use less of
16 Marshall's and stay up longer, whereas you would
17 have to use more of Benji's. It was better.

18 Q During that time that Marshall came to bring
19 you all gas did he and Benji have words about whose
20 dope was better?

21 A Yes, sir.

22 Q And what were they?

23 A He pulled it out of a Pringles can and said,
24 "This is real dope."

25 Q Who is he?

MICHELLE MADDEN - REDIRECT

1 A Marshall.

2 Q Who did he show that to?

3 A Benji.

4 Q Now, that smell that you smelled coming from
5 Billy Moore's shop -- excuse me, met me rephrase
6 that. Do you recall, and you have testified to it
7 in some detail, your first meeting with SLED?

8 A Yes.

9 Q Do you recall that meeting?

10 A Yes, sir.

11 Q You recall when it happened?

12 A Yes, sir.

13 Q At the time you gave that statement did
14 anybody give you a phone number or anything to get
15 back in touch with them?

16 A Yes, sir, I believe so.

17 Q Do you think it was one of the SLED agents?

18 A It was someone to get in touch with, yes,
19 sir.

20 Q And what was that for, why did they give you
21 their phone number?

22 A I guess if I had any more questions about
23 anything or whatever we had talked about I could
24 call them.

25 Q At the time you gave that statement had you

MICHELLE MADDEN - REDIRECT

1 smelled that smell coming from Billy Moore's shop?

2 A At the time that I seen them the first time
3 and gave a statement the first time?

4 Q Yes, ma'am.

5 A No, sir.

6 Q So, you got that information later?

7 A Yes, sir.

8 Q And then you gave it to them?

9 A Yes, sir.

10 Q Now, you indicated you never really went
11 through any withdrawals, right?

12 A Not physical withdrawals..

13 Q What's the longest, then, from the time you
14 really started using meth, what's the longest you
15 went without it?

16 A Probably about two or three weeks.

17 Q And what is the, what would be the average
18 amount of time that you would use it, what would be
19 the average intervals when you would use it?

20 A Two or three times a week on average.

21 Q And why did you go without it for that two or
22 three week period that you discussed?

23 A There was some reason, family, I had a
24 miscarriage at one time and I didn't, I was not
25 around it, it was a bad circumstance and I wasn't,

MICHELLE MADDEN - REDIRECT

1 I was really sick throughout that pregnancy and
2 miscarriage, so I didn't use.

3 Q So, you really were just getting it, and let
4 me rephrse that, when you wanted meth you could
5 generally get it?

6 A Yes, sir.

7 Q So, when you went to prison, is that when you
8 really stopped using it?

9 A Yes, sir.

10 Q Now, I believe Mr. Wise showed you a bag
11 maybe was like one Marshall Miller would carry
12 around. Did you ever see him carry bags around
13 with him like that?

14 A Yes, sir.

15 Q Were any of them larger than this?

16 A Yes, sir.

17 Q Any smaller?

18 A I don't know about smaller.

19 Q How many bags would he have?

20 A About two or three.

21 Q And what would be in those bags?

22 A Money, meth.

23 Q Did he ever have any weapons?

24 A No, not that I seen.

25 Q Would he keep his money and his meth in the

MICHELLE MADDEN - REDIRECT

1 same bag?

2 A No, sir.

3 Q How much methamphetamine did you ever see,
4 what is the most methamphetamine you have ever seen
5 him have at any one time?

6 A I don't -- it wasn't weighed out but it was a
7 ziplock bag full and a Pringles can.

8 Q When you say -- demonstrate for us, if you
9 can, the size of the ziplock bag.

10 A It was one of the big ones.

11 Q And how wide was it?

12 A It was wide, and it was, the Pringles can, it
13 filled it up basically.

14 Q It was a bag of meth that filled up a
15 Pringles can?

16 A It was rolled up and stuck in the top.

17 Q What other places would he store his
18 methamphetamine?

19 A He had it in a medicine bottle, like bottles,
20 medicine bottles, big medicine bottles.

21 Q How big were they?

22 A He had big ones and then he had some small
23 ones.

24 Q And what did the methamphetamine look like in
25 those bottles?

MICHELLE MADDEN - REDIRECT

1 A It was brown.

2 Q Now, you indicated that you had pled guilty
3 in this case?

4 A Yes, sir.

5 Q Are you guilty, are you guilty of what you
6 pled guilty to doing?

7 A Yes, sir.

8 Q And you're not telling us you didn't do that,
9 are you?

10 MR. VARNER: Objection, he's leading here.

11 THE COURT: Sustained. Rephrase the
12 question.

13 MR. CROUT: Yes, Your Honor, I'll move on.

14 BY MR. CROUT:

15 Q Now, you have had meetings with your lawyer,
16 or have you had meetings with your lawyer about
17 this case?

18 A Since --

19 Q Throughout the duration of this case.

20 A Yes, sir, I have met with my lawyer.

21 Q You met with other law enforcement officials?

22 A Yes, sir.

23 Q Besides SLED?

24 A Other law enforcement officials?

25 Q Yes, ma'am.

MICHELLE MADDEN - REDIRECT

1 A No, sir.

2 Q Well, put it this way. On the date you were
3 arrested for the distribution you weren't arrested
4 by SLED on that date?

5 A No, sir.

6 Q And you have also talked to agents of SLED,
7 is that correct?

8 A Yes, sir.

9 Q And you have met with me and Mr. Hood,
10 correct?

11 A Yes, sir.

12 Q And your lawyer indicated, I believe in your
13 testimony, that it would benefit you to cooperate?

14 A Yes, sir.

15 Q Did your lawyer tell you that to cooperate
16 meant to tell a lie?

17 A No, to tell the truth.

18 Q Has anybody asked you to tell a lie?

19 A No, sir.

20 Q And are you telling lies today?

21 A No, sir.

22 MR. CROUT: No further questions, Your Honor.

23 THE COURT: Mr. Varner.

24 MR. VARNER: Just briefly.

25

MICHELLE MADDEN - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. VARNER:

Q You're familiar with the crystal meth trade, so to speak, you lived with a dealer, right?

A Right.

Q You know what cut is?

A Yes, sir.

Q Okay. Stuff that people mix with crystal meth?

A Yes, sir.

Q I think baby laxative, B12?

A Yes, sir.

Q Vitablend and stuff?

A Yes.

Q When you just look at a box of Pringles or whatever, without trying it, you don't know if that's cut or what that is, you can't tell by looking at it, can you?

A No, sir.

Q Okay. And talking about the smell, so to speak, I believe you said your uncle had a shop across the street, too?

A My uncle has a body shop behind his house but it's not across the street, it's down the road.

Q So, they're mechanics, they work on things,

MICHELLE MADDEN - RECROSS

1 right?

2 A Yes, sir.

3 Q So, you have smelled ether?

4 A Yes, sir.

5 Q So, do you find it unusual you would smell
6 starting fluid near a body shop or somebody that
7 works on go-carts?

8 A That strong it's unusual, yes, sir.

9 Q All right. And the last question to you was
10 did anybody tell you to lie, you said no.

11 A Yes, sir.

12 Q Do you know how to lie on your own?

13 A Of course, everyone does.

14 Q So, nobody would have to tell you, would
15 they?

16 A No, sir.

17 MR. VARNER: That's all the questions I have.

18 THE COURT: Mr. Wise.

19 MR. WISE: Just a couple brief questions.

20

21

22

23

24

25

MICHELLE MADDEN - RECROSS

RECROSS EXAMINATION

2 | QUESTIONS BY MR. WISE:

3 Q You were sitting on your front porch that
4 night you said you smelled this smell?

5 A Yes, sir.

6 Q And you never went down to the shop?

7 A No, sir.

8 Q To see if that is where it was coming from?

9 A No sir.

10 Q You just, whether it was coming from there or
11 behind you or up the street the other way, you
12 really wouldn't know?

13 A I just smelled it on my front porch.

14 Q And where it was coming from, you really
15 don't know?

16 A Yes, sir.

17 Q Is that correct?

18 A Yes, sir.

19 Q So, you never investigated to try to find
20 out?

21 A I never, no, sir, I didn't go walking around
22 the block.

23 Q So, if it was in the woods -- there is some
24 woods behind you?

25 A Yes, sir, there is woods.

MICHELLE MADDEN - RECROSS

1 Q If it was in the woods behind you, you
2 wouldn't know it?

3 A I just smelled it.

4 Q It's hard to tell what direction it was
5 coming from when you are talking about a smell?

6 A Yes, sir.

7 MR. WISE: All right, thank you.

8 THE COURT: Anything further?

9 MR. CROUT: Nothing further from the State,
10 Your Honor.

11 THE COURT: Thank you. Come down, please,
12 watch your step, please, madam.

13 THE WITNESS: Okay.

14 (Witness excused).

15 THE COURT: Any objection to this witness
16 being excused?

17 MR. HOOD: No objection from the State, Your
18 Honor.

19 MR. VARNER: None, Your Honor.

20 MR. WISE: No, Your Honor.

21 THE COURT: Thank you very much, officers,
22 thank you kindly.

23 Ladies and gentlemen, we will take a luncheon
24 recess at this time. Please do not discuss the
25 case by, between and among yourselves nor with any

1 other person. Do not permit anyone to discuss the
2 case with you. If any one does attempt to discuss
3 the case with you tell them immediately that you
4 are a juror and you may not discuss the case with
5 them. If anyone persists in trying to discuss the
6 case with you after you identify yourself as a
7 juror that would be improper, illegal and wrong and
8 you should use every measure or means to get the
9 identity of such person or persons and report it to
10 one of the bailiffs or the court clerk who sits
11 directly in front of the Court when you return.
12 You don't need to talk to anybody about it other
13 than one of the officials, and the Court will then
14 take the matter up and investigate it.

15 If there were to be any newspaper or radio or
16 television coverage or any media coverage of any
17 nature, as soon as you realize what you are
18 hearing, seeing or reading has to do with this case
19 you will immediately disregard it and disabuse
20 yourselves of it completely and ignore it
21 absolutely because what you have to do and what you
22 are on your oath to do is decide this case based
23 upon the evidence that's presented during the
24 course of the trial.

25 We will take a luncheon recess, we will be

1 back at 3:15. Everybody else remain seated, the
2 jurors will be back at 3:15.

3 (The jury was excused from the courtroom).

4 THE COURT: Is there anything from the State
5 before we close for lunch?

6 MR. HOOD: Nothing, Your Honor.

7 MR. VARNER: Nothing, Your Honor.

8 MR. WISE: Nothing, Your Honor.

9 THE COURT: We are in recess until 3:15.

10 (Recessed at 1:55 p.m.).

11 (Reconvened at 3:20 p.m.).

12 THE COURT: The record is open. State of
13 South Carolina versus Marshall Miller and others,
14 in indictment 2002-GS-47-32, in which Marshall
15 Miller and Billy Moore are the defendants in this
16 trial.

17 Is there anything for the record from the
18 State before the jurors come in, please?

19 MR. CROUT: Nothing from the State, Your
20 Honor.

21 THE COURT: From the defendant Miller?

22 MR. VARNER: Yes. I understand the next
23 witness is going to be Chester Bragg, Your Honor,
24 we have been informed before by the State they
25 intend to put up SLED Special Agent Chester Bragg.

1 They intend to introduce the written statement of
2 Marshall Miller. I do object to that on the
3 Jackson v. Deno ground.

4 As the Court previously heard, we have gone
5 through several redactions they made, and based on
6 the assumption those redactions are the same ones I
7 looked at right before they are put in evidence, I
8 think all of us have at least agreed on what the
9 redactions should be, subject to my objection.

10 It is my understanding further that the State
11 will intend to introduce the written notes of the
12 agent, which I strenuously objected, that is
13 nothing more, nothing less than typed out testimony
14 of a witness, and I cannot conceive under any
15 grounds under which typed, you know, testimony, for
16 lack of a better term, could be introduced. I
17 think if we're going to go ahead and address it
18 rather than send the jury out, it is better to
19 cover it now, Your Honor.

20 THE COURT: Why doesn't the Court go ahead
21 and inquire of the State, if these are notes that
22 are taken by the officer, how would they not be
23 properly introduced through his testimony and even
24 read by him or the information contained in the
25 notes stated by him if it's admissible?

1 MR. VARNER: We're not talking about Marshall
2 Miller's handwritten notes.

3 THE COURT: You're talking about the agent's?

4 MR. VARNER: The agent's notes he made on the
5 debriefing.

6 THE COURT: We're on the same subject matter
7 and that is the notes taken by the witness.

8 MR. VARNER: Correct, sir.

9 THE COURT: Why is it necessary to introduce,
10 if you assume correctly that there be a motion to
11 introduce the notes, why are the notes a proper
12 item for exhibit rather than his testimony? It's
13 assumed that's the ground for the objection.

14 MR. VARNER: Yes, sir.

15 MR. CROUT: Your Honor, the main reason is
16 that the notes basically are what the officer
17 recollects as having been said to him as for as a
18 series of actions or activities that Marshall
19 Miller in essence confessed to, and that being the
20 case, it would seem that those notes would be
21 admissible for the purpose of demonstrating a
22 series of things that the officer may not be able
23 to recall specifically in detail when he's
24 testifying.

25 THE COURT: He will be allowed to use the

1 notes while he's testifying and refer to them as
2 past memory recorded.

3 MR. CROUT: Yes, sir.

4 THE COURT: That's acceptable but the Court
5 grants the motion that the notes will not be
6 introduced as an exhibit.

7 MR. CROUT: Yes, sir.

8 THE COURT: He can use them and he can be
9 questioned, "Don't you have notes," whatever you
10 want to do about that.

11 MR. CROUT: And I would agree, sir, it is
12 kind of a difficult situation.

13 MR. VARNER: Thank you.

14 MR. CROUT: Because it's kind of a cross
15 between the report and a confession verbatim, so I
16 think that would solve the problem.

17 THE COURT: Well, it would be an oral
18 confession to the officer.

19 MR. CROUT: Yes, sir.

20 THE COURT: He can say what the defendant
21 told him.

22 MR. CROUT: Yes, sir.

23 THE COURT: Anything further, Mr. Varner?

24 MR. VARNER: Nothing further, Your Honor.

25 THE COURT: Now, we have already covered the

1 Jackson v. Deno matter concerning his handwritten
2 notes, have we not?

3 MR. VARNER: That's correct, Your Honor.

4 THE COURT: All right. I believe the record
5 is fairly replete with everybody speaking to that
6 that had an interest in it. Is that your
7 recollection?

8 MR. CROUT: Yes, sir, that is mine, too, and
9 I think that as far as, and I just make sure we're
10 squared away on that, I don't think Mr. Varner is
11 challenging the issue of the voluntariness of the
12 statement outside of the purported promise or
13 promise was believed. What I mean by that, and we
14 talked about this earlier, the hearing kind of
15 being bifurcated, outside of that I don't think Mr.
16 Varner is making any other allegations as to
17 voluntariness, is that correct?

18 MR. VARNER: Your Honor, I have nothing
19 additional to say than what I have already said
20 before in your previous ruling, and I have told the
21 State in closing arguments I don't intend to argue
22 he was beaten, whipped or drugged or anything like
23 that.

24 MR. CROUT: Yes, sir, that was just the
25 agreement we had, and I just say that because that

1 way it will help us to move along in questioning.

2 THE COURT: All right. We have already made
3 the record as to the handwritten document, whatever
4 it is, the Court has not read it, and the Court has
5 ruled upon your objection with regard to the law
6 enforcement officer's notes taken about an
7 interview.

8 MR. VARNER: Correct, Your Honor.

9 THE COURT: What was said. Mr. Wise, do you
10 have anything before the jurors come in?

11 MR. WISE: I have nothing.

12 THE COURT: Anyone from any quarter, anything
13 before the jury comes in?

14 MR. CROUT: Nothing from the State, Your
15 Honor.

16 THE COURT: Show them in, Mr. Busby, please.

17 (The jury returned to the courtroom).

18 THE COURT: All the jurors are present, with
19 the foreperson and the alternate properly seated.
20 The matter lies with the State. Call your next
21 witness, please.

22 MR. CROUT: My it please the Court, the State
23 calls Special Agent Chester Bragg.

24 THE COURT: Come up, please, sir, and be
25 sworn.

CHESTER BRAGG - DIRECT

1 CHESTER BRAGG,
2 after being first duly sworn testified as follows:

3 THE CLERK: Have a seat and state your full
4 name for the record.

5 THE WITNESS: Chester Bragg.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. CROUT:

8 Q Special Agent Bragg, where are you employed?

9 A State Law Enforcement Division.

10 Q And how long have you been working there?

11 A Approximately five years and nine months.

12 Q And how far did you go in school?

13 A I received a degree in criminal justice, I
14 went to the University of Alabama.

15 Q And what special law enforcement training
16 have you had?

17 A I have attended the South Carolina Criminal
18 Justice Academy, which is an eight week basic law
19 enforcement course, I have received additional
20 advanced narcotics training, also at the South
21 Carolina Criminal Justice Academy, and I have also
22 received additional advanced narcotics training at
23 the Institute of Police Technology and Management
24 in Jacksonville, Florida.

25 Q And have you worked at any other law

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1 enforcement agencies during your career?

2 A Yes. Prior to coming to SLED I worked at the
3 Greenville City Police Department for approximately
4 six years, and two years prior to that I worked at
5 the Greer Police Department.

6 Q Now, what was your role in this, in the
7 Crankdown investigation in this conspiracy case?

8 A I was the co-agent assigned to the case along
9 with Agent Sonnefeld.

10 Q And what were some of the things you did
11 during your investigation?

12 A We would do witness interviews, undercover
13 drug purchases and just compiled all the notes from
14 the investigation.

15 Q And you have been in court this week. Did
16 you interview some of those folks that have
17 testified?

18 A Yes, sir, I did.

19 Q And did Agent Sonnefeld interview some of
20 them?

21 A Yes, she did.

22 Q And did you interview some of them together?

23 A Yes, we did.

24 Q At what places would you interview these
25 folks?

CHESTER BRAGG - DIRECT

1 A At the Laurens City Police Department and the
2 Abbeville Law Enforcement Center and the Abbeville
3 narcotics office and also at a hotel in Greenwood
4 County.

5 Q Now, were you involved in Marshall Miller's
6 arrest on September 24th?

7 A Yes, sir.

8 Q And what year was that?

9 A 2002.

10 Q Were you present when he was actually
11 arrested?

12 A Yes, sir.

13 Q Did you physically take him into custody?

14 A No, sir, I didn't.

15 Q Tell us what happened when he was arrested,
16 tell us what you observed and what you took part in
17 when he was arrested.

18 A On that date in question we were looking for
19 several subjects involved in this investigation,
20 and over the radio myself and the people that were
21 with me, we heard that some other agents were, had
22 seen Marshall Miller, and we proceeded to that
23 area, and once we had gotten there we were advised,
24 I was advised that Marshall Miller had fled the
25 scene.

CHESTER BRAGG - DIRECT

1 MR. VARNER: Objection.

2 Q Agent Bragg --

3 MR. VARNER: Hearsay, what somebody else told
4 him, Your Honor.

5 THE COURT: All right, sustained.

6 A When we got there --

7 Q If you would, just tell us what you did and
8 what you said, just don't testify about anything
9 somebody told you, all right?

10 A Okay. When I got there Marshall Miller was
11 not there to be seen, and we had called the SLED
12 bloodhounds, we set up a perimeter in the area that
13 he was last seen, and we had called SLED
14 bloodhounds and the helicopter in an effort to
15 search for Mr. Miller, and when the bloodhounds got
16 there they, the bloodhound agents, the ones that's
17 in control of the dogs, they got the dogs out of
18 the vehicle that they brought them in and they
19 proceeded to do whatever they do when they start
20 searching for anyone. They put the dogs on the
21 trail and immediately after they put the dogs on
22 what they thought was Marshall Miller's trail the
23 dogs went a short distance from the shop that was
24 on Morgan Road and I saw one of the agents point to
25 an area over up under some trees in some bushes and

CHESTER BRAGG - DIRECT

1 immediately started screaming, "Put your hands up,
2 put your hands up, let me see your hands."

3 Q And is that when you saw Marshall Miller?

4 A Yes, sir.

5 Q I would like for you to look at what has
6 previously been marked as State's Exhibit
7 Number 17 -- can everybody see this -- and ask you
8 if you can identify this picture?

9 A That is the shop on Morgan Road.

10 Q Is that where Marshall Miller was arrested?

11 A Yes, sir.

12 Q After he was taken away what did you do then?

13 A I, along with other agents from SLED and
14 local law enforcement, there was some vehicles
15 there on the property and we seized those vehicles.

16 Q And was one of those vehicles, to the best of
17 your knowledge, driven by Marshall Miller?

18 A I didn't see him drive them there.

19 Q And what about a trailer, was there a trailer
20 there?

21 A Yes, there was.

22 Q And describe that trailer for us.

23 A It was a black and silver trailer, enclosed
24 trailer that you can put items inside.

25 Q Now, did you have an opportunity to look

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1 around that trailer or above the trailer, below it?

2 A Yes, sir, we did. While we were still there
3 another officer from the Honea Path Police
4 Department had brought to my attention that there
5 was an item on top of the trailer and both he and I
6 got a ladder and climbed up and we saw, it was a
7 bag on top of the trailer.

8 Q All right. And I would like you to direct
9 your attention to what has been marked as State's
10 Exhibit Number 5, and ask if you could identify
11 this photograph?

12 A That's the bag that was on top of the
13 trailer.

14 Q And does that photograph fairly and
15 accurately reflect where the bag was when you saw
16 it?

17 A Yes, sir.

18 Q And in fact was that photograph taken before
19 the bag was moved?

20 A Yes, it was.

21 Q Did you seize any items from that bag?

22 A Yes, sir. I seized the whole bag and
23 everything that was contained inside of it.

24 Q Now, you said you had seized that green bag.
25 Did you open it and look in it?

CHESTER BRAGG - DIRECT

1 A Yes, sir, we did.

2 Q Could you describe what was in that bag?

3 A There was some powder, an off white powder
4 substance, and I believe it was some syringes in
5 there, along with some pills.

6 Q Now, the powder substance, what did you do
7 with that?

8 A I turned it over to the SLED lab for
9 analysis.

10 Q Before turning it over what did you do with
11 it?

12 A I put it in a SLED Best Kit so you could tell
13 if it was tampered with.

14 Q Can you identify that item that you're
15 holding right there?

16 A It's just a Best Kit that I turned in on
17 September 25th, 2002.

18 Q And did you fill out that Best Kit, the
19 information on that Best Kit?

20 A Yes, sir, I did.

21 Q And does it have an identifying number on it?

22 A Yes, sir, it does.

23 Q And do you recall that as being the number
24 that was on the kit?

25 A Yes, sir.

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1 MR. CROUT: Your Honor, at this time I move
2 those items in evidence with the accompanying
3 documentation that satisfies Rule 6 of the South
4 Carolina Rules of Criminal Procedure.

5 THE COURT: How says the defendant Miller?

6 MR. VARNER: I would like to see the
7 documents.

8 MR. VARNER: For the Court's record, I have
9 reviewed the other documentation. I have no
10 objection to the introduction of the first four
11 pages, and the substance that's --

12 THE COURT: What says the defendant Moore?

13 MR. WISE: No objection, Your Honor.

14 THE COURT: Very well.

15 MR. CROUT: Your Honor, that is with the
16 stipulation, I think, that the documentation does
17 satisfy the Rule 6 requirements.

18 MR. VARNER: That's correct, Your Honor, I
19 have reviewed the said documents.

20 THE COURT: Do you agree, Mr. Wise?

21 MR. WISE: That's correct.

22 THE COURT: Very well, have the witness
23 identify those other papers.

24 MR. CROUT: Yes.

25 BY MR. CROUT:

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1 Q Now, Special Agent Bragg, I'm handing you a
2 document and I would ask if you can identify that
3 document?

4 A This is a SLED forensic report.

5 Q Have you seen one of those before?

6 A Yes, sir.

7 Q Is that a laboratory report for these drugs
8 we have right here?

9 A Yes, sir, it is.

10 Q And what is the result of that laboratory
11 report?

12 Q For the drugs?

13 A All of them.

14 Q Yes, if you would, just list the laboratory,
15 what the laboratory report says.

16 A Item one, methamphetamine, 10.39 grams. Item
17 two, powder substance --

18 THE COURT: Wait a minute. Was it
19 anticipated he would read about all the items, or
20 just the item that is in that Best Kit that he has
21 in his hand?

22 MR. VARNER: Your Honor --

23 MR. CROUT: To clarify that, Your Honor, the
24 Best Kit contains several different items.

25 THE COURT: Does it have a lab number on it?

CHESTER BRAGG - DIRECT

1 MR. CROUT: Yes, sir.

2 THE COURT: And can he just read that lab
3 number?

4 MR. CROUT: Yes.

5 BY MR. CROUT:

6 Q Special Agent Bragg, would you read the lab
7 number off that report, please?

8 A SLED lab number L02-11482.

9 Q And would you read the lab number off of
10 this, of this evidence bag?

11 A L02-11482.

12 Q Do those two numbers in fact correspond with
13 each other?

14 A Yes, sir.

15 MR. CROUT: Any objection to him reading the
16 results?

17 MR. WISE: No objection.

18 MR. VARNER: Your Honor, we will so stipulate
19 the results indicated, methamphetamine, and I did
20 not do the math but he will just do the math on it,
21 or the jury can do it, I have no problem with that.

22 MR. CROUT: The accompanying documentation,
23 Your Honor, is for evidentiary purposes to
24 establish that that item is what it is, so we could
25 move it in without him identifying each item.

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1 THE COURT: Very well, it will be admitted as
2 part of the, as part of the evidence in the case.
3 Exhibit 38.

4 (State's Exhibit Number 38 was marked
5 and received in evidence).

6 MR. CROUT: And let the record reflect that
7 item 38 is the drugs, are the drugs, lab number
8 L02-11482, with one, two, three, four, five
9 accompanying pages of documentation.

10 BY MR. CROUT:

11 Q Special Agent Bragg, I would like you to take
12 a look at this green bag and tell me if you can
13 identify it?

14 A This appears to be the green bag that was
15 found on top of the trailer.

16 MR. CROUT: Your Honor, I would move that in
17 as State's next exhibit.

18 MR. VARNER: No objection.

19 MR. WISE: No objection.

20 THE COURT: Without objection, it will be
21 marked as evidence in the case.

22 (State's Exhibit Number 39 was
23 marked and received in evidence).

24 THE COURT: All right, sir.

25 BY MR. CROUT:

CHESTER BRAGG - DIRECT

1 Q Agent Bragg, you had indicated you had found
2 some items in that bag. Do you recall what those
3 items were?

4 A In the green bag?

5 Q Yes, sir.

6 A Powdered substance, some pills, and I believe
7 some syringes.

8 Q Can you identify that item, sir?

9 A These are syringes.

10 Q Are those the syringes that you found in that
11 container?

12 A Yes, sir, they appear to be.

13 Q And how do you know that?

14 A The same lab number.

15 MR. CROUT: Your Honor, at this time I move
16 this in as State's next exhibit.

17 MR. VARNER: Can I see it?

18 MR. CROUT: Yes.

19 THE COURT: What says the defendant Miller?

20 MR. WISE: What is that item?

21 MR. VARNER: Without objection, Your Honor.

22 THE COURT: Mr. Wise?

23 MR. WISE: No objection. Your Honor, it
24 might be better if he showed all the documents and
25 ask him if he can identify them.

CHESTER BRAGG - DIRECT

1 MR. CROUT: I have no problem doing it that
2 way.

3 THE COURT: Any objection, Mr. Varner?

4 MR. VARNER: As long as I can look at them
5 real quick, Your Honor, so we can speed it up.

6 THE COURT: Why don't you come up here and
7 look at them.

8 MR. VARNER: Your Honor, let the record
9 reflect I have reviewed 19 proposed exhibits and I
10 will so stipulate that Agent Bragg will identify
11 them as a group, they can be numbered separately, I
12 have no objection to their introduction, Your
13 Honor.

14 THE COURT: Mr. Wise?

15 MR. WISE: No objection, Your Honor.

16 THE COURT: Very well. Question the witness.
17 For the record, they will be numbered separately.

18 MR. CROUT: Yes.

19 THE COURT: Once he identifies these, this
20 will be a little bit of work for our court
21 reporter, but once he identifies them let's hand
22 them to the court reporter so he can make his note
23 accordingly as to what the witness says the item
24 is.

25 MR. CROUT: Yes, sir.

CHESTER BRAGG - DIRECT

1 BY MR. CROUT:

2 Q Special Agent Bragg, I would like to hand you
3 an item and ask you if you can identify that item?

4 MR. WISE: Your Honor, I mean, he can just,
5 we stipulate those were items that that were found
6 in the green bag, we so stipulated.

7 THE COURT: Well, the problem is, if you
8 cross-examine about any particular item it's going
9 to have to have a number.

10 MR. WISE: If we just number them, just let
11 him number them and we, if we want to cross-examine
12 about them, we --

13 THE COURT: The difficulty is the court
14 reporter has to have some identification of what is
15 being numbered.

16 MR. WISE: Okay, then, all right.

17 THE COURT: And if you don't know what it is,
18 if the witness can't identify it, it's an
19 unidentifiable object, that's fine.

20 THE WITNESS: I can't tell exactly what it is
21 from all the fingerprint dust but it appears to be
22 a scale, I believe.

23 BY MR. CROUT:

24 Q Was that one of the items you seized during
25 the arrest of Marshall Miller?

CHESTER BRAGG - DIRECT

1 A Yes, sir, the same lab number.

2 MR. CROUT: Move it be introduced as State's
3 next exhibit.

4 MR. WISE: No objection, Your Honor.

5 MR. VARNER: No objection.

6 (State's Exhibit Number 40 was
7 marked and received ine vidence).

8 THE COURT: Exhibit 40.

9 BY MR. CROUT:

10 Q Can you identify that exhibit, that item?

11 A This is a Tylenol bottle.

12 Q Was that one of the items you seized from the
13 truck?

14 A Yes, sir, the same lab number.

15 MR. CROUT: Move it in as State's next
16 exhibit.

17 (State's Exhibit Number 41 was
18 marked and received in evidence).

19 MR. WISE: Excuse me, the Tylenol bottle is
20 Number 41?

21 THE WITNESS: I believe so, yes, sir.

22 BY MR. CROUT:

23 Q You had looked at these before?

24 A Yes, sir.

25 Q What are those?

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1 A Syringes.

2 Q And did you seize those from the truck?

3 A Yes, sir, they have the same lab number also.

4 THE COURT: Approach.

5 (Unrecorded bench conference).

6 THE COURT: The record will reflect there was
7 an off the record conference briefly held between
8 all counsel and the Court and it was agreed that as
9 the witness is questioned about the contents of the
10 bag that appears in the picture he has identified,
11 as they are presented to him, as he identifies them
12 they will come into evidence unless there is an
13 objection from one of the defendants. We will not
14 slow down.

15 MR. WISE: That's correct.

16 MR. VARNER: Correct.

17 THE COURT: All right.

18 (State's Exhibits 42 through 58
19 were marked).

20 BY MR. CROUT:

21 Q Special Agent Bragg, I apologize, I misspoke
22 a moment ago, I said that you had retrieved it from
23 the truck. I meant that you had retrieved it from
24 the green bag. And I believe it's item 42, is that
25 one of the items that you retrieved?

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1 A Yes, sir, it is.

2 THE COURT: Ask him what 42 is.

3 A The syringes, the same lab number.

4 THE COURT: Okay. It's in.

5 (State's Exhibit Number 42

6 was received in evidence).

7 BY MR. CROUT:

8 Q This next item, can you identify it?

9 A A plastic capsule with an orange top, bearing
10 the same lab number.

11 THE COURT: Exhibit Number?

12 MR. CROUT: Moved in as State's Exhibit 58.

13 THE COURT: Right.

14 (State's Exhibit Number 58

15 was received in evidence).

16 BY MR. CROUT:

17 Q This next item?

18 A Just a plastic sandwich bag.

19 MR. CROUT: It's moved in as State's Exhibit
20 43.

21 THE COURT: All right.

22 (State's Exhibit Number 43

23 was received in evidence).

24 BY MR. CROUT:

25 Q Can you identify these?

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1 A Alcohol swabs.

2 Q And were they in the green bag?

3 A Yes, sir.

4 MR. CROUT: Moved in as State's Exhibit
5 Number 44.

6 THE COURT: Yes, sir.

7 (State's Exhibit Number 44
8 was received in evidence).

9 BY MR. COURT:

10 Q And this item, can you identify what it is?

11 A It appears to be -- I don't know exactly what
12 it is. It was in the bag.

13 Q It was the bag?

14 A Yes.

15 MR. CROUT: Moved in as State's Exhibit 45.

16 THE COURT: Number 45.

17 (State's Exhibit Number 45
18 was received in evidence).

19 BY MR. CROUT:

20 Q Can you identify that item?

21 A A small spoon that was found in the bag also.

22 MR. CROUT: Moved in as State's Exhibit
23 Number 46.

24 THE COURT: All right.

25 (State's Exhibit Number 46

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1 was received in evidence).

2 BY MR. CROUT:

3 Q What about this item?

4 A A plastic cup, small plastic cup that was
5 found in the bag also.

6 MR. CROUT: Moved in as State's Exhibit
7 Number 47.

8 THE COURT: All right.
9 (State's Exhibit Number 47
10 was received in evidence).

11 BY MR. CROUT: This next item?

12 A Several plastic baggies.

13 Q That was in the green bag?

14 A Yes, sir.

15 MR. CROUT: Moved in as State's Exhibit
16 Number 48.

17 THE COURT: All right.
18 (State's Exhibit Number 48
19 was received in evidence).

20 BY MR. CROUT:

21 Q Can you identify this item?

22 A This is a business card for Lazy Days Outdoor
23 Furnishing.

24 MR. CROUT: Moved in as State's Exhibit
25 Number 49.

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1 THE COURT: All right.

2 (State's Exhibit Number 49

3 was received in evidence).

4 BY MR. CROUT:

5 Q This next item?

6 A A plastic bag, appears to have some residue
7 in it.

8 Q And can you identify that as coming from the
9 green bag?

10 A Yes, sir.

11 MR. CROUT: Moved in as State's Exhibit
12 Number 50.

13 THE COURT: All right.

14 (State's Exhibit Number 50

15 was received in evidence).

16 BY MR. CROUT:

17 Q This next item, can you identify that?

18 A It looks like a medicine bottle that is
19 wrapped in black electrical tape, that was in the
20 bag also.

21 MR. CROUT: Moved in as State's Exhibit
22 Number 52.

23 THE COURT: Number 52.

24 (State's Exhibit Number 52

25 was received in evidence).

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1 BY MR. CROUT:

2 Q This next item?

3 A A plastic bag that was found in the green bag
4 also.

5 MR. CROUT: Moved in as State's Exhibit
6 Number 51.

7 THE COURT: Okay.

8 (State's Exhibit Number 51
9 was received in evidence).

10 BY MR. CROUT:

11 Q This next item?

12 A A plastic bag that appears to have some
13 residue in it, that was found in the bag, the green
14 bag.

15 MR. CROUT: Moved in as State's Exhibit
16 Number 53.

17 THE COURT: Okay.

18 (State's Exhibit Number 53
19 was received in evidence).

20 BY MR. CROUT:

21 Q This next set of items, can you identify
22 those?

23 A A plastic bag, looks like a couple plastic
24 bags that appear to have some residue in it, a long
25 plastic tube with a cap, and a small spoon.

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1 Q Were those items found in the plastic bag?

2 A Yes, sir, in the green bag.

3 Q Excuse me, in the green bag.

4 MR. CROUT: Moved in as State's Exhibit
5 Number 54.

6 THE COURT: Yes, sir.

7 (State's Exhibit Number 54
8 was received in evidence).

9 BY MR. CROUT:

10 Q This next item, can you identify that?

11 A A plastic capsule with an orange top.

12 Q Did that come from the green bag?

13 A Yes, sir.

14 MR. CROUT: Moved in as State's Exhibit
15 Number 55.

16 THE COURT: All right.

17 (State's Exhibit Number 55
18 was received in evidence).

19 BY MR. CROUT:

20 Q This next item, can you identify it?

21 A It appears to be a room key to Hampton Inn
22 Hotel. That was found in the green bag also.

23 MR. CROUT: Moved in as State's Exhibit
24 Number 56.

25 THE COURT: Yes, sir.

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1 (State's Exhibit Number 56
2 was received in evidence).

3 BY MR. COURT:

4 Q And then this next item, can you identify it?

5 A It appears to be four Band-Aids, I believe
6 it's Band-Aids.

7 Q And were these found in the green bag?

8 A Yes, sir.

9 MR. CROUT: Moved in as State's Exhibit
10 Number 57.

11 THE COURT: Exhibit 57.

12 (State's Exhibit Number 57
13 was received in evidence).

14 BY MR. CROUT:

15 Q Now, as you were identifying those items, Mr.
16 Bragg, they had a black, a black film or kind of a
17 black powder on them. What is that from?

18 A That is fingerprint powder.

19 Q But they weren't like that when you found
20 them, is that correct?

21 A That's correct.

22 Q Now, in relation to the shop, where was that
23 green bag located?

24 A The trailer was backed up to the front of the
25 shop, probably a couple feet from the wall of the

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1 shop, and the bag was on top of the trailer,
2 towards the rear of the trailer.

3 Q Once again if I could direct your attention
4 one more time to the picture of the bag in part B
5 of this diagram. If everyone can see, is that the
6 roof of the shop, where I'm pointing at?

7 A Yes, sir.

8 Q Is that the roof of the trailer?

9 A Yes, sir.

10 Q Did the doors kind of open up into the shop,
11 or how did the doors open?

12 A Folded, the door of the, the door of the
13 trailer folded down.

14 Q Now, you also searched a vehicle that day, is
15 that correct?

16 A Yes, sir.

17 Q What vehicle did you search?

18 A There was a Chevrolet pickup truck there,
19 black in color, with a silver tool box on the back
20 of it.

21 Q Did you ever look in the silver tool box?

22 A Yes, sir, I did.

23 Q What was in there?

24 A Several items, along with a long tank.

25 Q And was that tank photographed?

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1 A Yes, sir, it was.

2 Q Is that the same thing that Agent Sonnefeld
3 testified about earlier?

4 A Yes, sir.

5 MR. CROUT: Your Honor, once against in an
6 effort to move along quickly, if we can just --

7 THE COURT: Are all those documents, written
8 documents you have, Mr. Varner?

9 MR. VARNER: Yes, sir, they came out of this
10 pouch they just handed to me, I wanted to read
11 them.

12 THE COURT: Okay. Madam Forelady, ladies and
13 gentlemen, why don't you all go to the jury room.
14 Do not discuss this case among yourselves, relax
15 back there just a few minutes, please.

16 (The jury was excused from the courtroom).

17 THE COURT: The record will close.

18 (Recessed at 4:00 p.m.).

19 (Reconvened at 4:10 p.m.).

20 MR. VARNER: Your Honor, can we go back on
21 the record?

22 THE COURT: Yes, sir, the record is open.
23 Mr. Varner.

24 MR. VARNER: Your Honor, I have one, looks
25 like a statement of Tracy Davis, in which she

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1 indicates in there, there is a reference, in the
2 middle of the page it says, "I had moved in with
3 him. A year and a half after we had been living
4 together he went to prison for two years." I
5 object to that, that's highly prejudicial.

6 THE COURT: Somebody coughed.

7 MR. VARNER: I will read it again. "A year
8 and a half after we had been living together he
9 went to prison for two years," referring to
10 Marshall.

11 MR. WISE: Why don't we just leave Tracy
12 Davis' statement out? It doesn't add anything to
13 it.

14 THE COURT: How says the State?

15 MR. CROUT: We'll agree to that, Your Honor.

16 THE COURT: Redacting that portion.

17 MR. CROUT: I just realized Tracy Davis is on
18 the witness list.

19 MR. WISE: We're not going to use her.

20 THE COURT: Whatever the State wishes to do.

21 MR. WISE: I will tell you now we're not
22 going to use her.

23 MR. CROUT: We'll leave it out, then.

24 MR. WISE: I haven't said, that is a
25 suggestion, I hadn't even read it close enough,

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1 there may be something in there I want, who knows.

2 MR. CROUT: Your Honor, are we off the
3 record?

4 THE COURT: Yes, sir. The record is closed.
5 (Brief recess).

6 THE COURT: Open the record, please. Mr.
7 Varner?

8 MR. VARNER: Yes, sir.

9 THE COURT: The record is open to you.

10 MR. VARNER: All right, sir. Your Honor,
11 there is an envelope here from B.J.'s Wholesale
12 Club, it is addressed to 118 Camelot Drive in
13 Anderson, S.C. If this is going to be introduced,
14 I would request permission of the Court to open it
15 or that it be sealed so the jury cannot open it,
16 one of the two ways.

17 THE COURT: What says the State, to open it
18 or not?

19 MR. CROUT: Your Honor, the state has no
20 opinion one way or the other.

21 MR. HOOD: We thought about opening it but we
22 thought it was a federal offense or something.

23 THE COURT: You didn't want to tamper with
24 it.

25 MR. VARNER: It is a federal offense, I don't

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1 want to open someone else's mail.

2 MR. WISE: It looks like a mass mailing.

3 MR. VARNER: It would suit me to seal it and
4 instruct the jury not to open it, leave it at that.

5 MR. CROUT: That was our intention of however
6 we would introduce it.

7 THE COURT: Is it a first class, is it first
8 class mail?

9 MR. VARNER: Yes, sir. Well, it says PRS, I
10 assume that is presorted, standard U.S. mail paid,
11 card center. I will let the Court look at it.
12 Will you hand him that?

13 MR. HOOD: Sure, here you are.

14 THE COURT: Seal it, it will remain closed.
15 That was the condition in which it was found, not
16 opened?

17 MR. HOOD: Yes, sir. For the record, we did
18 not want to open it, for obvious reasons.

19 THE COURT: That was proper. Close the
20 record again, please.

21 (Brief recess).

22 THE COURT: What is in that?

23 MR. CROUT: Your Honor, 65 statements and one
24 receipt -- excuse me. It's 65 pages of
25 documentation, some of which are statements, some

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1 of which are blank forms that were not yet filled
2 out, along with a receipt, which makes it 66 pieces
3 of paper, or 66 documents.

4 THE COURT: Okay.

5 MR. VARNER: Your Honor, for the record, on
6 behalf of the defendant Miller I have had an
7 opportunity to review the documents contained in
8 the white box held by the prosecution, and if we
9 can move it in the same manner we did the other, if
10 he wants to do them individually, just let the
11 agent look in the box and say yes, those are the
12 articles were in the car and introduce them in the
13 same fashion, I have no objection to it.

14 THE COURT: Okay. Here again it is the
15 Court's preference that each item have a number.

16 MR. VARNER: Yes, sir.

17 THE COURT: In the event --

18 MR. VARNER: Yes, sir. I'm saying do it in
19 the same fashion as the others.

20 THE COURT: All right. Mr. Wise, do you want
21 to speak to the record?

22 MR. WISE: I have looked at whatever I want
23 to look at, I'm fine.

24 MR. VARNER: Pre-mark them and let him go
25 through the statement matters.

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1 THE COURT: Do we need to do anything else
2 before we ask the jury back in?

3 MR. CROUT: No, sir. This is the last set of
4 evidence that we have, like as for as any kind of
5 crime scene evidence, are these items here.

6 THE COURT: Ask them back in, Mr. Busby.
7 (State's Exhibits 60 through 70
8 were marked).

9 THE COURT: Anything from the State for the
10 record before we show the jury in?

11 MR. CROUT: Nothing from the State.

12 MR. WISE: No, sir.

13 THE COURT: Mr. Varner, do you want to say
14 anything for the record before we show the jury in?

15 MR. VARNER: No, sir.

16 THE COURT: All right, show them in, Mr.
17 Busby.

18 (The jury returned to the courtroom).

19 THE COURT: All right, all the jurors are
20 present, with the forelady and the alternates
21 properly seated, and the witness is with you, Mr.
22 Crout, on continued direct examination.

23 MR. CROUT: Yes, Your Honor.

24 BY MR. CROUT:

25 Q Special Agent Bragg, you also searched that

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1 Z71 truck, is that correct?

2 A Yes, sir.

3 Q And did you retrieve any items out of that
4 truck?

5 A Yes, sir.

6 Q And did you turn those items in for testing?

7 A Yes, sir.

8 Q For testing?

9 A The paperwork that I seized out of the truck,
10 no, I didn't.

11 Q All right. And I would like to show you what
12 has been marked as State's Exhibit Number 60 and
13 ask if you can identify that?

14 A This is the black pouch that was seized out
15 of the black Z71 pickup truck, with assorted
16 paperwork inside of it.

17 Q Now, could you just describe what most of
18 that paperwork is?

19 A A lot of them are statements and invoices.

20 Q And who is the invoice from?

21 A C. C. Dickson.

22 MR. CROUT: Your Honor, I would now move this
23 in as State's Number 60.

24 THE COURT: It was stated while the jurors
25 were not here and, counsel, if you don't recall, I

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1 have it written down, but if you recall, go ahead
2 and say how many, what kind of papers are in there
3 and how many pieces of paper there are in there.

4 MR. CROUT: Yes, Your Honor. At this time
5 the State moves in State's Exhibit Number 60. Let
6 the record reflect that it contains 66 documents,
7 65 of which are statements from individuals, one of
8 which is a receipt from C. C. Dickson.

9 THE COURT: I believe you said, sir, some of
10 the statements are blank?

11 MR. CROUT: Yes, that is correct, Your Honor,
12 some of the statements are forms that have not yet
13 been completed.

14 THE COURT: Very well, 66 pieces of paper in
15 a leather like zipper holder.

16 (State's Exhibit Number 60
17 was received in evidence).

18 BY MR. CROUT:

19 Q Agent Bragg, I show you what has been marked
20 as State's Exhibit Number 64 and ask you if you can
21 identify that as an item you retrieved from the
22 truck?

23 A Yes, sir, this is a rental agreement from
24 Hartwell Mini-Warehouse in Hartwell, Georgia.

25 Q What are the names on that rental agreement?

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1 A At the bottom it says Kathy Crump and Gerald
2 Herring, it looks like.

3 THE COURT: Here again we have an ongoing
4 agreement that if any of the defendants object to
5 any of these parcels of evidence, pieces of
6 evidence you will object.

7 MR. WISE: That's correct.

8 MR. VARNER: Yes, sir.

9 THE COURT: Otherwise it's coming in.

10 MR. CROUT: Your Honor, the State would move
11 this in as its next exhibit.

12 (State's Exhibit Number 64
13 was received in evidence).

14 BY MR. CROUT:

15 Q Special Agent Bragg, I show you what has been
16 marked as State's Exhibit Number 63. Can you
17 identify that as an item you retrieved from the
18 truck?

19 A Yes. These are insulin syringes, white in
20 color, with an orange tip.

21 MR. CROUT: Moved in as State's Exhibit
22 Number 63.

23 THE COURT: All right.

24 (State's Exhibit Number 63
25 was received in evidence).

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1 BY MR. CROUT:

2 Q Special Agent Bragg, can you identify what
3 has been marked as State's Exhibit Number 65?

4 A Yes. This is a plastic bag containing
5 several other plastic bags.

6 Q And this was found in the truck?

7 A Yes, sir.

8 MR. CROUT: Moved in as State's Exhibit
9 Number 65.

10 (State's Exhibit Number 65
11 was received in evidence).

12 BY MR. CROUT:

13 Q Special Agent Bragg, can you identify this
14 item?

15 A Yes. This is a memo note pad that was found
16 in the truck also.

17 MR. CROUT: Moved in as State's Exhibit
18 Number 62.

19 (State's Exhibit Number 62
20 was received in evidence).

21 BY MR. CROUT:

22 Q And this next memo note book?

23 A It's another memo note pad that was found in
24 the truck.

25 MR. CROUT: Let the record reflect that both

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1 of the items, item number 61 and item number 62
2 contain pages with information written on those
3 pages.

4 (State's Exhibit Number 61
5 was received in evidence).

6 BY MR. CROUT:

7 Q I show you what has been marked as State's
8 Exhibit 67. Can you identify that item?

9 A Yes, this is an envelope from B.J.'s
10 Wholesale Club, addressed to a Tracy Miller.

11 MR. CROUT: Moved in as State's Exhibit
12 Number 67.

13 (State's Exhibit Number 67
14 was received in evidence).

15 THE COURT: The Court instructs the jury not
16 to open that envelope from B. J.'s Wholesale Club.
17 It is received into evidence in the condition in
18 which it was seized. It was in that condition when
19 it was seized, that's the condition it will stay
20 in.

21 Continue.

22 BY MR. CROUT:

23 Q State's Exhibit Number 69, can you identify
24 that item as coming from the truck?

25 A Yes, sir. This is a piece of paper with

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1 Lieutenant Frank O'Neil's cell phone number and I
2 believe there was a pager number.

3 MR. CROUT: Moved in as State's Exhibit
4 Number 69.

5 (State's Exhibit Number 69
6 was received in evidence).

7 BY MR. CROUT:

8 Q State's Exhibit Number 68, can you identify
9 that item?

10 A Another piece of paper with a name and date
11 on it, it was found in the truck also.

12 MR. CROUT: Moved in as State's Exhibit
13 Number 68.

14 (State's Exhibit Number 68
15 was received in evidence).

16 BY MR. CROUT:

17 Q This next item, can you identify that?

18 A This is the registration for a Chevrolet
19 two-door, it's registered to a Tracy L. Davis, 517
20 Bell Road in Donalds, South Carolina.

21 Q Was that item found in the truck?

22 A Yes, sir.

23 MR. CROUT: Moved in as State's Exhibit
24 Number 70.

25 (State's Exhibit Number 70

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1 was received in evidence).

2 BY MR. CROUT:

3 Q And this last item, can you identify it?

4 A This is a receipt for starter fluid that was
5 found in the truck, from Advance Auto Parts.

6 Q And what does the entry referring to the
7 starter fluid, what does it say particularly?

8 A What do you mean?

9 Q If you could just read it?

10 A It has a name on here Marshall Miller of 118
11 C-A-M, Anderson, South Carolina.

12 Q And then directing your attention to the
13 starting fluid, that particular entry, where on
14 this does that appear, just working your way down
15 the page, I want to make sure you can particularly
16 identify it?

17 A It says starting fluid, and below it it has
18 the price.

19 Q And what is the date on that receipt?

20 A 9/12/2002.

21 MR. CROUT: Moved in as State's Exhibit 66.

22 MR. WISE: What number was that last one?

23 MR. CROUT: Number 66.

24 (State's Exhibit Number 66 was
25 marked and received in evidence).

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1 BY MR. CROUT:

2 Q Now, that black, I believe you said truck,
3 the black pickup truck, what did you do with that
4 truck?

5 A It was seized and initially transferred to
6 the Greenwood County Sheriff's Department impound
7 lot, I believe it was.

8 Q Now, subsequent to, excuse me, subsequent to,
9 subsequent to Mr. Miller's arrest you had the
10 opportunity to interview him, is that correct?

11 A That's correct.

12 Q When was the first time you met Mr. Miller
13 for purposes of interviewing him?

14 A I believe it was in February. I can't
15 remember the exact date.

16 Q Where were you located?

17 A In Laurens, South Carolina, at the Laurens
18 Police Department, Laurens City Police Department.

19 Q And was Special Agent Sonnefeld there as
20 well?

21 A Yes, sir.

22 Q And how long did that interview last?

23 A It lasted approximately a couple hours.

24 Q And subsequent to that time did you ever have
25 another opportunity to meet with Mr. Miller?

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1 A Yes, on two other occasions.

2 Q On the second occasion where did that meeting
3 take place?

4 A That took place at a hotel in Greenwood,
5 South Carolina.

6 Q And how did he get to the hotel?

7 A At the time he was incarcerated at Abbeville
8 Jail and I would go and pick him up and transport
9 him to the hotel in Greenwood.

10 Q And why did you transport him to the hotel to
11 interview him?

12 A Because he was concerned about people seeing
13 him talking to the police around Abbeville, so he
14 wanted to speak in private, so to speak.

15 Q And then on the third occasion how did that
16 interview take place?

17 A The same way, I would go to Abbeville Jail,
18 pick him up and transport him to a hotel in
19 Greenwood.

20 Q And would Agent Sonnefeld be there when you
21 conducted the interview?

22 A Yes, sir.

23 Q Do you recall during the time period that you
24 were interviewing him what information he provided
25 to you?

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1 A Not off the top of my head but I did make a
2 report of it.

3 Q Have you had a chance to look at that report,
4 would that help refresh your memory?

5 A Yes, sir.

6 Q If you could, just review this briefly.

7 A This is the report that I did.

8 Q And did Marshall Miller ever tell he made
9 methamphetamine?

10 A Yes, sir, he did.

11 Q Did he ever tell you he was involved in the
12 methamphetamine business?

13 A Yes, sir, he did.

14 Q On how many occasions did he tell you that?

15 A I can't remember.

16 Q Did he say it every time you met with him?

17 A Excuse me?

18 Q Did he say it every time you met with him?

19 A Oh, yes, sir, he did.

20 Q Did he ever tell you about how much meth he
21 made?

22 A I can't remember if he gave me an exact
23 amount, or approximate amount.

24 Q Did he tell you who he made it with?

25 A Yes, sir, he did.

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1 Q Who were some of the people he said he made
2 it with?

3 A A man named Jason, and Ray Powell.

4 Q Did he say who he sold it to?

5 A Yes, sir.

6 Q Who were some of those people?

7 A Ray Powell -- I can't remember all the names
8 he told me.

9 THE COURT: He can use the notes.

10 MR. CROUT: You don't mind if he testifies
11 from his notes?

12 THE COURT: It's his present memory recorded
13 in the past, he can have the notes.

14 MR. CROUT: I understand that. I just wasn't
15 sure he would be allowed to testify from them.

16 THE COURT: As far as that refreshes his
17 memory, that's fair play.

18 MR. VARNER: I want to be sure everybody
19 understands, not for him to start reading from
20 that, but he can use it to refresh his
21 recollection.

22 THE COURT: That's correct.

23 BY MR. CROUT:

24 Q If you could, Special Agent Bragg, if you
25 could, looking through your report, could you

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1 summarize the information that's in there?

2 A Not without reading the whole report again.

3 Q All right. Let me ask you this. Suffice to
4 say Mr. Miller admitted to you he was a meth maker,
5 correct?

6 A Yes, sir.

7 Q He admitted to you that he sold meth,
8 correct?

9 A Yes, sir.

10 Q During any of your meetings with him did he
11 give you any type of information, a letter or
12 anything of that nature for you to look at or
13 review?

14 A Yes, sir. On one occasion when I went to
15 pick him up at the Abbeville Jail to transport him
16 to the hotel in Greenwood he presented to me a
17 handwritten statement that he had done himself and
18 he gave it to me.

19 Q And if I showed you a copy of that statement
20 could you identify it?

21 A Yes, sir.

22 MR. CROUT: Let the record reflect I'm
23 handing Special Agent Bragg a copy of the original
24 that I believe the parties agree to be used as
25 evidence.

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1 THE COURT: Is it moved into evidence?

2 MR. HOOD: It will be once he identifies it,
3 sir, but what I was letting the record reflect was
4 that we had already agreed that we would use the
5 copy for testimony purposes and for evidentiary
6 purposes once it's moved in.

7 MR. WISE: That's correct.

8 MR. VARNER: That's correct, Your Honor.
9 Subject to my previous objection.

10 THE COURT: It's a copy of the original.

11 BY MR. CROUT:

12 Q Now, Special Agent Bragg, if you would, I
13 know this may be somewhat tedious but there is no
14 other way to get this information to the jury but
15 to publish it. If you could, would you identify
16 that for us?

17 A This is a copy of the statement that Marshall
18 Miller gave to me on one of the occasions when I
19 picked him up for the purpose of interviewing him.

20 Q And did he give you that statement when you
21 got to the hotel, when you were still at the jail?

22 A He gave it to me after I had picked him up at
23 the jail and he had gotten into my vehicle, he
24 handed it to me.

25 MR. CROUT: Your Honor, I move that in as

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1 State's next exhibit.

2 THE COURT: How says the defendant Miller?

3 MR. VARNER: Subject to my previous
4 objection, Your Honor.

5 MR. WISE: No objection from defendant Moore.
6 We will waive the reading, the jury can read it, if
7 the State wants to.

8 THE COURT: That's up to counsel. However,
9 there is no objection, the previous objection was
10 overruled, it's coming in as Exhibit Number next.

11 (State's Exhibit Number 71 was
12 marked and received in evidence).

13 MR. CROUT: Your Honor, at this time I
14 request permission to publish this document to the
15 jury.

16 THE COURT: Granted.

17 BY MR. CROUT:

18 Q Special Agent Bragg, if you could, would you
19 read what Mr. Miller wrote for you during your
20 interview process.

21 A "A few days and me and Tracy went by Julie
22 Prince's house. She had a little bit of meth so
23 she sold me a half gram for \$50. Then she left me
24 and Tracy at her house and she went and got some
25 more from Sandra Lockridge. When she got back she

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1 sold me a half of an eightball of meth for \$140.
2 Me and Tracy then left. Julie was selling meth for
3 Sandra for quite a while. After about a month went
4 by trying different dope from all kinds of people,
5 I tried crack. I got it at the apartments,
6 Shamrock Apartments, Honea Path. I only bought \$80
7 worth, got it from a black guy who lived there.
8 Tried it a few times. Didn't care for it. So, I
9 looked up Chuck Hand, a guy I worked with at Davis
10 Electric. He lived in Greer. Started going to his
11 house buying an eightball two times a week for
12 \$300. Done this for a month, then started getting
13 quarter ounce two to three times a week. Paid \$550
14 a quarter ounce. Chuck always had to leave to go
15 get it except for a few times he already had it.
16 This went on for two to three months. Then the guy
17 got busted, they said. All I know is the guy had a
18 junkyard in Greer.

19 Never went with Chuck to his trailer. Then
20 I," excuse me, "Then I met Tammy Quarrells and Rick
21 Wren. told them I was looking for a connection for
22 meth. They said they might have someone, so I said
23 let me know. After about a week or two Tammy
24 called to say Rick knowed someone who had some
25 killer dope and he was at their house right then

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1 and he had a gram for sale for \$100. I asked if it
2 was worth a," blank. "Tammy and Rick said that you
3 couldn't do a whole quarter of it, so I said get it
4 for me, and I went to get it. It was 10:00 or
5 11:00 p.m. when I got it. It was killer dope, so I
6 asked Tammy and Rick to see if it was a continuous
7 supply or not. They said yes, it was but I had to
8 go through them to get it because that's the way
9 J-Bird wanted to do it. I agreed to do it this
10 way. I started out buying one eightball at \$280,
11 plus I had to give Tammy and Rick a shot of dope
12 apiece, which was about a half gram. I done this
13 for about one week. I seen J-Bird probably three
14 times that week. After that first week I started
15 getting quarter ounce for a week or two at \$500,
16 plus give Tammy and Rick a half gram for use in
17 their house to meet him at. I didn't have his
18 number at first, I had to call Tammy and Rick and
19 they would call him for me and set it up for us to
20 meet at their house in Honea Path. Then I moved up
21 to a half ounce two times a week. I paid \$850 for
22 half ounce. This went on for about one month, then
23 J-Bird started trusting me more, so he cut Tammy
24 and Rick out and started meeting elsewhere. I
25 started going to his house in Piedmont, South

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1 Carolina to cop dope. This went on for about a
2 month or two. I was getting half ounce at a time.
3 I was paying \$800 then, he dropped \$50 on the
4 price. When I went to J-Bird's we would always go
5 up under the house to do our dealing and then I
6 would leave. I worked out a deal to trade him a
7 '58 truck for one ounce of meth. We did this deal.
8 After about another couple weeks or so J-Bird, or
9 Jason, introduced me to Dennis, a good friend of
10 his, he was selling meth, too, but Dennis was into
11 everything, pot, ecstasy, pills, meth, he was young,
12 so was Jason, twenty-one or twenty-three. Jason
13 told me if I couldn't get him, then call Dennis, so
14 I did a couple times, we met at a store on Highway
15 25. I rode down the road with Dennis and got one
16 ounce of meth from him. I paid \$1,600 for it. I
17 told Jason I didn't like to deal with Dennis and
18 wouldn't anymore, so I started back dealing with
19 Jason again. After about a month or two I went to
20 Jason and I met a guy there named David Meadows.
21 He was supposed to be a cook, Jason said. Me and
22 Jason had become good friends by this time so he
23 started telling me stuff like about David and
24 Jason's wife's uncle was cooking, that was where
25 all my dope had been coming from, but that he,

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1 Jason, was cooking now and he would give me a
2 quarter ounce of meth for every six boxes of
3 Pseudoephedrine pills I bought him. So, I did this
4 a few times," excuse me," then he changed his mind
5 about that deal. Every now and then I would go to
6 his trailer and he would be gone cooking and David
7 Meadows' car would be around back of the trailer.
8 The lab was real close to the trailer, it was an
9 old trailer on an old man's land. Greenville
10 County found this lab but couldn't prove it was
11 Jason's and David's lab.

12 Jason bought a brand new four-wheeler to go
13 back and forth to his lab and take supplies. He
14 got his tank of anhydrous from Piedmont Welding
15 Supply, Greenville, South Carolina. Then David
16 Meadows went to jail, Jason got worried and needed
17 a friend and someone he could trust to make meth
18 with, so --"

19 Q If you would, Agent Bragg, I believe, this
20 may have been a slip, you said Jason got married
21 and needed a friend?

22 A I said worried.

23 Q You said worried?

24 A Yes.

25 Q Go right ahead.

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1 A "Jason got worried and needed a friend and
2 someone he could trust to make meth with, so he
3 called me and asked me if I would help him out. I
4 said yes. So, he met me at the Hot Spot on Highway
5 25 and I followed him to his land, he had just
6 bought or made a downpayment on it, not for from
7 the Hot Spot, still in Greenville County. Come to
8 find out he didn't want to show me how to make meth
9 and he didn't want me to learn either. He was
10 under the impression that if I helped him, then I
11 could never tell on him because I would be
12 admitting guilty also. This was his strategy. He
13 told me at this time that he would kill me if I
14 ever said a word to anyone about anything. He also
15 went on to tell me his uncle and a guy named Fast
16 Eddie would have me killed if I ever talked on
17 them. So I started helping him cook. At first --"
18 Start that sentence over. "So I started helping
19 him cook. At first he would give me an eightball
20 or a quarter ounce, depending on how much he made
21 at a time. Most of the time he made four ounces of
22 meth to six ounces of meth at a time. He would
23 cook two a week, the average to start, the average
24 to start with, and he would spend the rest of the
25 week getting supplies up to cook with. He would go

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1 by his mother-in-law's house to pick up cooks,
2 pills in a baggie and already crushed, and
3 batteries. Jason had a guy at the Auto Zone in
4 Pelzer and Belton that would have him five cases of
5 ether a week. Every Wednesday, Friday it would
6 come in. After about a one to two months Jason got
7 paranoid about David Meadows trying to set him up
8 so he went to find another place to cook, so David
9 know where his land was. So I took him to Lisa
10 Pace's house in Abbeville County to look at a place
11 to cook meth at. He liked it, so we took his stuff
12 there to cook with. At this time I was still just
13 a helper. I confronted Lisa and asked her if we
14 could use the shed out back to cook meth in. She
15 agreed to let us, so we started cooking at Lisa's.
16 We would give her an eightball or \$200 every time
17 we cooked at her shed. We cooked there for six to
18 eight months. I was just a helper. Then we moved
19 to Jason's trailer on Highway 25 and cooked a few
20 times, four or five times. Then we went on to
21 Little Ray's house and me and Jason and Ray cooked
22 three to four times, and Ray and Jason didn't like
23 each other, so this was a chance to get away from
24 Jason. So I did, and me and Ray became partners,
25 became partners a few cooks later. Me and Ray

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1 cooked together and apart for over a one year or so
2 and he was still helping up until I got busted, in
3 one way or another."

4 This page has Ray Powell's name at the top
5 and it reads, "I first met Little Ray in early
6 1998. I had went to Ray's house to see Bobby Joe
7 Gilmer. I had went there to get some dope from
8 Bobby Joe. It wasn't long after that I went to
9 jail. The next time I seen Ray Powell was at
10 Darlene Gilmer's trailer in Abbeville on Dill Road.
11 I sold him an eightball of meth for \$280. Well, I
12 didn't, Darlene did to start with. This was in
13 early part of 2001. He was working for H. D. Payne
14 in Greenwood at this time. I stayed with Darlene
15 Gilmer for a week or two. In this time Little Ray
16 came to Darlene's trailer probably three or four
17 times to get eightballs. Then I moved back home on
18 Highway 252 and Little Ray called me and I went to
19 his house to take him dope, eightball, on three or
20 four different occasions. I would go into his
21 house to the kitchen table, me and Ray and his wife
22 Michelle would sit down and do some dope together.
23 Me and Ray would shoot it up in a needle and
24 Michelle would put it in a capsule and swallow
25 hers. Then he would pay me and I would leave.

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1 This went on for a couple weeks. Then I told him I
2 was thinking about quitting and he said why. I
3 told him because I didn't have no place to cook at
4 anymore. He told me to come outside and look at
5 this trailer he had beside his house. He told me I
6 could cook in it if I wanted to. I told him I had
7 another person that cook, I just helped him. He
8 said that was fine, bring him and we could cook
9 there at his house. So, we went around there and
10 looked at it. We, Ray and I. He told me he would
11 do whatever I needed him to do, knock out walls or
12 whatever. So, I told him I would have to talk to
13 Jason and bring him over and we would go from
14 there. So, I talked to Jason and later that week I
15 told Jason, I took Jason to Little Ray's to look at
16 the trailer for a cook site. Jason agreed it was a
17 good place. Me and Jason and Ray sat down and
18 talked it over, where he would get paid for us
19 cooking there, he would get eightball of pure dope
20 or \$200 cash but he had to help us, like get us
21 stuff, water, power, et cetera, be a goffer, in
22 other words. He agreed and was happy. This meant
23 the dope wouldn't stop now and he could watch and
24 learn how to cook himself. The first time we
25 cooked there we used the wood shop, it was snowing

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1 and ice, and that was where the heat was but Jason
2 and Ray didn't get along too good. Ray said he was
3 a smart A, and Jason always ran around with a .45
4 caliber in his hand and pocket all the time, and
5 that scared Little Ray. So, after a month or two
6 Ray told me I could stay but he didn't want Jason
7 to cook there anymore, so me and Ray made up a
8 story about the law know about his house being a
9 cook site and we had to quit cooking. I told Jason
10 that SLED was watching me and I had to quit for
11 awhile and I didn't want him to get caught up in my
12 trap so he needed to quit coming around for a
13 while, so he did. Now know I had to find a way to
14 get a tank of anhydrous, so me and Ernest and Jeff
15 Horne got a plan together, I found it and Ernest
16 and Jeff went to get it in Anderson. I paid for
17 it, three tanks, it was \$1,200 or \$1,400. I paid
18 Ernest half ounce of meth plus \$300. He was to
19 take care of Jeff for me. I meet them in Anderson
20 and got it, got one tank from them. They took the
21 other two and put them in a building on Highway
22 252. I took the other tank to Ray's house. He put
23 it up under his trailer to start with. At this
24 time me and Ray had already used up one tank
25 cooking together. Me and Ray became partners one

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1 week after me and Jason split up. My and Ray's
2 deal was I would furnish the tank and pills and
3 batteries and he would furnish the ether and place
4 and some pills if possible and salt and kerosene.
5 We would cook together and bring it back together
6 and I will not sell no dope except to Tina and
7 whatever I wanted for myself, the rest I would sell
8 to him for \$1,000 an ounce of pure meth, I would
9 only cook whatever he said he needed, I would give
10 him all my people. This would make us partners
11 fifty/fifty. Michelle, his wife, would help also.
12 She would wash up the pitchers and clean up the
13 mess for me and Ray and help put up stuff till next
14 time. Roger Powell would watch out for us and keep
15 people away until Ray was ready for them. He would
16 give him a half gram to watch. I would park around
17 back and no one would know I was there, Ray said.
18 At this point I felt like I worked for Ray, he
19 decided how much dope was to make and how often we
20 cook, and tell even where we cooked at. So, I just
21 came over when he said to. He had all my customers
22 at that point, which was David Cumming, Darren
23 Ginn, Mike Edwards, Tina Stevenson sometimes, GiGi
24 Williamson, Rick Wren. These were my people and I
25 told them to go to Little Ray's from now on, that

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1 he was handling my business from now on."

2 The next page has cook sites and it reads,
3 "Jason S., land in Greenville County. Jason S.,
4 trailer in Laurens County. Jason S., mother's
5 house in Laurens or Greenville County. Marshall's
6 trailer on Highway 252, Abbeville County. Lisa
7 Pace, house in Abbeville County. Ray Powell's
8 trailer at his house in Abbeville County.
9 Marshall's lake house, Laurens County. Marshall's
10 shop, Greenwood County. Tony Howard's in Laurens
11 County. Ernest Covan, trailer, Greenwood County.
12 Pasture behind Ernest Covan trailer in Greenwood
13 County. Shed behind Ernest Covan trailer in
14 Greenwood, County. Trailer behind Patrick Wilson
15 house, Laurens County. Paul Shockley house in
16 Georgia. Gene Saylor's house in Georgia. Jeff
17 Frye, pasture behind his trailer, Abbeville County.
18 At the pond behind Ray Powell's house and camper,
19 Abbeville County. Paul Shockley. Little Tommy,
20 lab in Laurens County, in an old house place,
21 Laurens County. Jason S. father-in-law's trailer
22 in Laurens County. Empty tanks. Ernest Covan,
23 back road behind his trailer, that's what he told
24 me. Paul Shockley's trailer. I took them there so
25 he could have them refilled. Me and Ray Powell,

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1 Ernest Covan, Jeff Frye, wife Summer, Darlene
2 Gilmer, Darren Ginn, had a pill popping party at
3 Ray's one night outside in front of the house. Ray
4 started letting Jeff Frye and Skunk come over to
5 clean up his lab after we cooked and after he
6 cooked alone. I came up one night, Ray and
7 Michelle and Roger was in the wood shop bringing
8 back a cook that they had cooked." I can't tell
9 what that word is.

10 MR. VARNER: Earlier.

11 THE COURT: Is that what it is, Mr. Varner?

12 Q I believe it's earlier.

13 MR. VARNER: Earlier.

14 A "Jeff Frye and Skunk went to Little Ray's and
15 got a tank that Ray called them and told them to
16 come and get. They was trying to get it,
17 anhydrous, out of it so they could cook also. Two
18 pitchers blowed up on me and I got burned. Ray and
19 Rick Wren finished cooking it because I couldn't.
20 A pitcher blowed up on me and I had to go to the
21 hospital. Ray finished the cooking and took me
22 when he got through.

23 Me and Ernest and Ray cooked at Jeff Frye's
24 in a pasture behind his trailer. Ray would borrow
25 Jeff's GT 3000 to get supplies for them to cook

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1 with. He would steal my and Ernest's anhydrous so
2 he could cook while I was not there, and go to
3 Jeff's and bring it back, and give Jeff the jars to
4 clean. Ray's owes me \$17,000 for cash loans and
5 dope over a one and a half year. Ray bought a
6 Camaro, tractor, camper, truck, building, welding
7 generator and torches, wood working shop tools,
8 four-wheelers, two, escort tools, gun, Toyota
9 truck. Me and Ray went to repossess a 30 foot
10 camper for a dope debt, I was told. We left Ernest
11 Covan and Jeff Frye at Ray's while we left to go
12 get it. We got it, come to find out Ray didn't
13 even know the man, we had just stole it. I got the
14 papers on it packed up somewhere at home. The
15 camper is now at his dad's or father-in-law. The
16 pond behind Ray's house, he told me that they was a
17 couple of bodies there. I didn't and don't believe
18 him but that's what he said to me. Ray would bring
19 me 150 gallon of gas, 55 gallons kerosene, oil,
20 ether, antifreeze, car cleaner, WD40, window
21 cleaner twice a week. He would steal it from H. D.
22 Payne in Greenwood. He would even take me there at
23 night and load the truck up with anything I wanted
24 or needed. Ray would even ask me to --"

25 MR. VARNER: You can skip that word.

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1 A -- Blank, "Michelle his wife while he played
2 on the computer. I did this two times while he was
3 at work. Ray got advances from me to pay his son's
4 college tuition, \$5,000, so he said. I also bought
5 his well pump for him, \$300. I gave him \$2,000 to
6 buy Camaro, 400 to buy 280ZX, blue, I paid a
7 speeding ticket in Iva for him, \$80, I gave him
8 \$3,000 on a --" what is that word?

9 Q I can't read it. It looks like, if you can
10 just spell the way it's written, sir?

11 A "D-e-l-b-u-i-s, tractor and a-s-s-c. Me and
12 Ray broke into a house in Abbeville County. Ray
13 said he knowed them and they owed him money and
14 wouldn't pay. Found out later that that was a lie
15 also. David Cumming went to Little Ray's wired but
16 when he went he gave Ray a note at the door and
17 told him he was wired, not to say nothing. Ray has
18 a girlfriend in Calhoun Falls named Beth. She see
19 a deputy that works for Abbeville. He tells her
20 everything and she tells Ray. She also likes me,
21 too. She would talk to me also. When Ray come to
22 my shop he would get her to meet us in Hodges so he
23 could go off with her before he went home. R. J.
24 Powell would deliver dope for Ray to Martha Ellis.
25 He would also watch out for us while we cooked and

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1 go get stuff for us, including breakfast from the
2 store. He has also bought pills and batteries for
3 me and Ray. So has Michelle. Jeff Horne and
4 Sandra Hughes bought pills, popped pills and got
5 ether and batteries for me. Jeff would also get
6 them for himself, too. He will cook at Sandra in
7 the basement with red phosphorous and methylene.
8 He almost burned up their house one time. That's
9 what Steve Hodges told me and Tammy Stewart and
10 Jeff told me. Me and Jeff cooked at Sandra's one
11 time in the basement. Sandra also helped us.
12 Julie came over later and cleaned the jars from
13 our, Jeff, Sandra and me cook. Ernest and me and
14 Sandra and Jeff cooked at my shop in Cokesbury
15 seven or eight times. Sandra and Jeff even took
16 the jars home to scrape them clean. Me and Tina
17 and Tony cooked at Tony's trailer in Hickory Tavern
18 one time together. Tracy went and got pills for
19 Jason/me a few times when he first started, she B
20 so much I told her to quit and she did. She has
21 went and bought pitchers and filters and salt. She
22 has never seen me cook. Yes, she does dope but she
23 don't sell dope. She went to get statements for me
24 signed. She went to Julie's a lot but that was
25 because we raised Allie, Julie's youngest child,

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1 since she was three months old. She was at the
2 house when SLED arrested Tracy."

3 Q I believe in the left-hand column there is
4 some information. Can you just read that for us?

5 A "In 2000, late, just gave her list, she just
6 got what I told her to."

7 Q Do you need any water? There is some right
8 there.

9 A "Julie Prince would go to drugstore in Ware
10 Shoals and get pills. She would write a check for
11 them on her daddy's name. Steve Hodges would get a
12 bunch of pills in --" I believe that's Florida.

13 Q Yes.

14 A "And bring back and trade them to me for
15 dope. I meet Steve through Ernest and Jeff Horne.
16 He would buy dope from me and help me and Jeff and
17 Ernest cook at Jeff and Sandra's and at my shop.
18 Sandra Hughes would watch for me and Jeff and
19 Ernest while we cooked. She even wanted me to move
20 in with her and Jeff Horne in Hodges. I hid my
21 truck there and stayed there a few nights and we
22 cooked there. I finally left when she got me to
23 sleep with her one night. I couldn't do that, so I
24 left. She got mad at me for that. Ray Powell is
25 how I know Tina and Sammy got busted the last time.

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1 He was the one that got me the roll-back deal so I
2 could prove it to her. Gene Saylor and Ernest and
3 me cooked in pasture behind Ernest Covan's trailer.
4 Tracy and Kathy Crump was at Ernest's house while
5 we done this. They left and went and bought drop
6 cords for us so we could have power. The landlord
7 caught us on his land so we left. He didn't catch
8 us doing anything wrong, so we left. Ernest stayed
9 home and was burning pitchers and pill boxes."

10 Q There is also some information in the
11 left-hand corner there, if you would read that for
12 us.

13 A "They didn't know," that word is cut out, I
14 can't see it, "they didn't know," blank, was
15 cooking, blank, they knowed was, blank, called them
16 to go pick up power cords for me. And other stuff.
17 When we left the next day he came to my shop at
18 about 5:00 p.m. and said he had been in jail for
19 trespassing. I didn't believe him.

20 Ronnie Suttles. I deal with him about ten
21 times, he will get a quarter ounce, \$500, to half
22 ounce, \$900. He got an ounce, three, \$1,700. I
23 would go to his house in Anderson and I meet him
24 and Jammie Day at Ware Shoals Drag Strip once or
25 twice. Ronnie got locked up on a bench warrant. I

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1 went his bond, \$1,044. He still owes me for that.
2 He got busted later on, he's in jail now. We deal
3 together for a month or six weeks. Jammie Day, we
4 deal together three or four times before he went to
5 jail, eightball \$280, to a quarter ounce \$525. He
6 also got busted and is in jail.

7 Sandra Lockridge, I meet her at Lisa Pace's
8 house, she was on the run from SLED at the time.
9 She was interesting and needed a friend, so I
10 helped her. I gave her money to hide her out for
11 awhile. That's how I meet MeMaw, Denise Haggen.
12 Denise wanted to try my dope and if she liked it
13 she wanted me to cook for her. She tried it but
14 she didn't like it because it didn't smoke clean
15 and she is a smoker and her old man is, too. I
16 think his name is Tony, I'm not sure. This was
17 about the time she burned her antique shop. Well,
18 had it burned. A guy named Tony did it for her,
19 \$400, they moved out the good stuff and replaced it
20 with junk to collect more money off of insurance
21 policy. This is how she got her money to start
22 dealing dope big time. I know about the arson
23 because me and Sandra Lockridge was at a trailer on
24 or near Lake Secession. This Tony guy was raising
25 hell because she didn't, she hadn't paid him yet.

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1 This is what Sandra told me and I was in the next
2 room and heard him talking about he wanted his
3 money. Denise tried to get Sandra to cook for her,
4 she said she would, so Denise started buying
5 glassware and having it sent to Teresa Pace's house
6 where Sandra was staying at the time. I also sent
7 Sandra to Airzona, I bought her a bus ticket and
8 gave her \$500 to leave on. I took her to
9 Greenville. She left, I talked to her two or three
10 times out there. The next thing I know she was in
11 Atlanta, Georgia at the bus depot and I went to get
12 her. She then stayed with me and Tracy on Highway
13 252 for awhile. She went pack to Lisa's shortly
14 after she got caught. She had had a friend who
15 would tip her off from time to time, he was a SLED
16 officer. He and her went to college together. He
17 would call her and he would e-mail her. I know, I
18 have readed --

19 MR. VARNER: Read.

20 A "-- Tracy knows them, the e-mails before.
21 I'll give you this information. Gene Saylor.
22 Meet him through Bonnie Saylor. When Bonnie came
23 to jail Gene called me and started coming to me and
24 buying dope. At first eightball for \$280. He done
25 this for two weeks. He came about five times in

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1 two weeks, then he got a quarter ounce for \$525.
2 He done this about four times. Then he started
3 coming to the shop just to hang out and was
4 bringing a lot of stolen stuff, riding mowers and
5 guns, and I told him not to bring that S anymore so
6 he started wanting to help Ernest and me and Paul
7 cook. A few times. So, he lived in Georgia, so I
8 told him to get the pills and I would make a deal
9 with him, help find me a place in Georgia to move
10 my shop to and I would help him out, I would help
11 him pay off his probation in Georgia. If he got
12 everything to cook with and help me I would give
13 him an ounce of meth free to pay off his probation,
14 so he did and I gave it to him but he didn't pay it
15 off. He smoked up the dope, he also stole a bunch
16 of jewelry that belonged to my daughter and mother
17 and Tracy and me, took it to the pawn shop in
18 Calhoun, Georgia, I had the receipt from it, also
19 he was with me at Ernest Covan's cooking. He
20 became a cook. After this he went on his own
21 cooking. I seen his girlfriend a few times after
22 that. She, Kathy Crump, said that he told her he
23 stole my jewelry and where a lot of it was. She
24 had some of it, his daughter and mother has a lot
25 of it. By this time I had already moved a lot of

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1 my shop to storage buildings in Georgia in Kathy
2 Crump's name. When I got arrested I didn't trust
3 her because of Gene Saylor's, so I called and told
4 them to move it to another building and put it in
5 Roger Rowland's name so she couldn't get to it.
6 They done this but Roger went to jail and Gene
7 Saylor's, Kathy Crump and Elaine Driver and Brad
8 went over there and cleaned it out. I know they
9 done it because the lady that runs the place said
10 that Kathy tried to get the deposit back but they
11 wouldn't give it to her because it wasn't swept
12 out. Also Elaine Driver sent Darlene Gilmer to me
13 the other day to ask if I wanted my stuff back from
14 the storage building, that she was there when it
15 was cleaned out, with them and they took it to
16 Gene's and Kathy's son Brad. Gene and Kathy both
17 helped me cook and they took some red
18 phosphorus," can't spell that word, "Crystals
19 and gave it to Bonnie Saylor's so she could give it
20 to Joel Sexton to cook with, and Joel Sexton got
21 busted in Abbeville. Joel had half a pound of red
22 and iodine crystals, was charged with manufacturing
23 meth, two counts. He only got three years
24 nonviolent. He got caught with lab and chemicals
25 and dope. Gene is a major player now. Also he is

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1 on probation for conspiracy. Kathy is also, thief
2 ring, cooks.

3 Bonnie Saylors. She would bring me dope from
4 time to time. Just some to do mostly at first,
5 then maybe once or twice she might have brought me
6 an eightball or two at 300 or 250. Her and Julie
7 was good friends and me and Bonnie became good
8 friends. She got dope from me three or four times,
9 quarter ounce \$525. She got ripped off one time by
10 Julie Prince, so I gave her another one. Jason
11 Davis and Julie ripped her off again, so I wouldn't
12 deal with her for a long time. Then she started
13 coming to the shop with Gene Saylors and paying me
14 the money she owed me so I was selling to her and
15 Gene. They came to the shop probably six times to
16 get very little dope, one gram to four grams at a
17 time. MeMaw is Denise Haggan in Due West. That is
18 who Tina Stevenson was with in Oklahoma when she
19 got busted. Supposedly it was her dope, not
20 Tina's.

21 Mexican connection, et cetera, major. David
22 Cumming. The girl that was with him in Georgia,
23 Connie Williams, is Joel Sexton's girlfriend. They
24 got busted with pills and meth and pot and gun.
25 Joel Sexton is a cook and he says that David

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1 Cumming and Connie Williams and Gene Saylor used
2 to bring him thousands of pills. He also said that
3 David Cumming got his dope from Ray Powell.
4 Patrick Wilson and Shane Wilson. I meet them
5 through Lisa Pace. Lisa deal with them. I didn't.
6 After Lisa died I got to know them better. We
7 became good friends. Me and Ernest and Patrick
8 cooked together a few times at the trailer behind
9 their house on Telephone Exchange Road. Then me
10 and Patrick cooked a couple of times. Then me and
11 Patrick and Paul Shockley did a few times. I would
12 give Patrick an eightball of pure meth for doing
13 this there and his help. I was told that he is
14 cooking on his own now. He knows how. Patrick
15 also came to my shop and helped me out some, so did
16 Paul Shockley. He helped a lot. Paul Shockley is
17 who went with Martha Ellis to get David Cumming to
18 sign a statement for me. Tracy gave them a ride
19 but she didn't get out of the car. I was in
20 Georgia. At this time Paul called me and told me
21 David said F me, he wouldn't sign, he wouldn't sign
22 nothing for me. I said okay, I'll see him when I
23 get back from Georgia. The next day Paul and two
24 other guys went to Tracy's at the lake and told her
25 I said they could use the car, the New Yorker, so

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1 she let them use it. The next day Paul Shockley
2 and two guys I didn't know pulled up in Georgia at
3 the motel I was at about dinner time in a red truck
4 with Borden on the door of it. They came in and we
5 talked a while. Paul said I took care of your boy
6 last night. I asked who. He said David. I asked
7 what did he mean by took care of him. He said he
8 burned his house up. I went off on him. He said
9 that when he left it was ablaze. I said you dumb
10 A, you have F'd me up now. He said don't worry
11 about it. He bought an eightball for \$280 and
12 left. It was about two weeks later I found out he
13 had borrowed my car to go to David's in. I went
14 off on him about that stupid S but he was, he has
15 helped me cook, he has also helped another guy,
16 Chuck Hand. He has some kin to him that cook, he
17 let me cook in his lab twice. They call him little
18 Tommy. His dad owns a junkyard near Paul's old
19 house on Cook Road. Jason S. and Preacher and his
20 brother-in-law would go to a place in Fountain Inn
21 and steal anhydrous. Paul was going to take
22 Ernest's tanks there to fill them up for us. Don't
23 know the name of the place but I know where it is.
24 Jason S. and Denise went to North Carolina and got
25 two tanks of anhydrous. That is what they are

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1 cooking with now. Ernest Covan brought Chad Covan
2 to me to buy dope a few times. He bought an
3 eightball at a time, \$280. He done the seven or
4 eight times but Dawn, his wife, knows someone who
5 worked at the hospital and could get pills, so they
6 started getting pills for me and Ray. This went on
7 for about three to four months, I guess. We would
8 trade dope for pills and sometimes money, too.
9 This is how I found out about B.J.'s Wholesale
10 Club. They told me about it. Then they got in
11 debt of \$1,100, I haven't seen them since. Jeff
12 Horne and Debbie Clamp was coming to the shop and
13 getting dope, a gram for \$80, seven or eight times.
14 Debbie Clamp worked for the courthouse in Abbeville
15 County. Preacher. I meet him through Jason at his
16 house on Highway 25 about one and a half years ago.
17 He is a cook, he lives with Jason and helps him
18 cook. He works on Jason's cars and does odds and
19 ends for him. He has also helped me and Jason cook
20 at my shop in Cokesbury two or three times. He is
21 a ex-biker dude. He is also on probation for
22 conspiracy. I think in Greenville. Where you see
23 Jason, you see preacher. He also went with Jason
24 to steal anhydrous in Fountain Inn.
25 Sandra Hughes. Meet her through Julie Prince

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1 and Douglas Williamson in '97 or about then. She
2 would buy a little bit of dope to do her and
3 Donnie, her husband, and Julie and Douglas.
4 One-half eightball for \$140. Done this a few
5 times. She would get Julie or Douglas to get it
6 from me, she wouldn't. This went on for about two
7 to three months, then she left Donnie, and her and
8 Tommy Kerr moved in together. Then Tommy brought
9 her to me and she started dealing with me, nothing
10 big, just some to do. Then I went to jail --"

11 Q No, just skip that sentence. And keep
12 reading.

13 A Starts at when?

14 Q Yes, sir.

15 A "When I got out I seen her again. I started
16 dealing with her again. She was working at the
17 Little General in Honea Path. I went there to play
18 poker machines. I had fronted her an eightball of
19 met for \$280. I done this for a few weeks. Then
20 she started getting quarter ounce of meth for \$525
21 on front. She was selling to Lisa Pace and Julie
22 Prince and Donnie Hughes. She was also selling to
23 David Cumming. That's where I meet David, was in
24 Honea Path playing poker machine. It wasn't long
25 after that I started selling to David myself.

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1 Sandra introduced me to Lisa Pace over at Donnie's
2 one night in Honea Path. Sandra would get me
3 needles from Rita Dean. Sandra would get behind on
4 her dope debt and would sell Rita Dean BC Powders
5 to make up the money. Her and Julie both would do
6 this. I also meet a guy named Cat Daddy through
7 Sandra. He was a meth dealer that played poker
8 machines. I deal with Sandra and Donnie Hughes for
9 about six to seven months, then stopped because she
10 got in debt to me. Sandra also claim Ashley on her
11 taxes and didn't give Tracy her money for doing it.
12 That's another reason I stopped messing with her.
13 She and Julie was getting their stuff through Tina
14 and Jeff Horne for a long time because I wouldn't
15 sell to Sandra or Julie because they both owed me
16 too much money. The only reason Tracy even fooled
17 with Julie was because of Ashley. I started back
18 fooling with Sandra about five months before I got
19 busted. I only fooled with her for about one and a
20 half months. She got in debt again, so I said F
21 it, so she went to shooting OC's with Jeff Horne.
22 Michelle Madden. I meet her through Tony Quarles
23 and his girlfriend Shelley. I took Tony home one
24 day and she was there. I let her borrow \$350 to
25 pay her rent because she was going to get kicked

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1 out and she had a little boy so I gave her the rent
2 money. I came back later that night and talked
3 with her and Tony and Shelley. We done some dope
4 together and that was all. The next time I seen
5 her she called me and wanted me to come by her
6 apartment, so I did late one night. It was
7 raining. They was some other guy there and Roxanne
8 Richie was there with Michelle. We talked and we
9 all done dope together. I'm not sure but I think
10 Roxanne or that guy, one had some different dope
11 and they done it instead of mine. Then I left.
12 Michelle started calling me for awhile. I wouldn't
13 sell her no dope because she was young at that time
14 but we would go to motels together. Me and her and
15 Kirsten went to the Super Eight in Anderson. Me
16 and her and Suzanna went to the Days Inn in
17 Anderson, me and her and Roxanne went to Princeton.
18 Her and Jammie came to my trailer in Cokesbury. I
19 meet her and Richie Wright at Princeton Motel. I
20 meet her and Tammy Quarles at Princeton and at the
21 Econo Lodge in Greenwood. I have also went to her
22 trailer in Waterloo but Jammie Prince was there.
23 She and I never meet alone in hotels, we always had
24 company and I never give her any dope to sell or
25 leave with at no motel. I only did dope with her

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1 at this time, I gave her a half gram once at my
2 shop outside in the yard. I gave her a gram once
3 in Walmart parking lot Anderson. She got her dope
4 from Benji Cobb. He lived with her, and and he got
5 his dope from MeMaw, Denise Haggan. Michelle has
6 also went with him to cop dope from MeMaw.
7 Michelle is scared of MeMaw. She came to me
8 Michelle's trailer and showed out and scared
9 Michelle. She was driving a black Mustang at this
10 time. I took Michille and Benji gas one day, they
11 ran out of gas in a Cadillac in Due West. That's
12 the only time I have ever seen Benji Cobb. The
13 last time I seen Michelle was about two weeks
14 before I got locked up. She called me at 1:30 a.m.
15 and asked me to meet her at Thomas Quarles, at
16 Walt's Store. I did. Me and her went off and F'd.
17 I took her back to some house in Shoals Junction
18 two hours later. She wanted me to come back and
19 get her that day to go with her to Greer and hide
20 out at Tony and Shelley's, and I wouldn't do it.
21 So I never heard from her again.

22 B.C. Minyard. I meet her through David
23 Cumming. He went off with her a few times. Her
24 and David would go buy pills for me and Joel
25 Sexton. We went to the beach together for a

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1 weekend and took her little girl, too. We done
2 some dope but I sold none to her at anytime. I
3 didn't have a whole lot of money at the time we
4 went to the beach because I couldn't go home and
5 get no extra money without Tracy knowing it. She
6 has also been to Ray Powell's with me. As a matter
7 of fact I left her at Ray's and didn't go back and
8 get her. Ray had to take her home the next day.
9 They became friends and me and B.C. went to a
10 couple of motels together for sex. I seen her
11 later on, she was living with Sleepy Wright in
12 Craytonville." I guess that is how you pronounce
13 it. He is a drug dealer and motorcycle thief. I
14 haven't seen her since except at Georgia in the
15 poker house where I played poker machines. Her and
16 her boyfriend Tommy went over there to see a meth
17 dealer in Belton.

18 Inez. I meet her through Mike, a guy that
19 worked at the poker house in Georgia. She deals
20 meth, she used to be a stripper at Platinum Plus in
21 Greenville. She hooked me up with a guy and I
22 bought a tank from him. I paid \$2,500 for it, a
23 guy lived in Greer somewhere. Jason. Bobcat, H.
24 D. Springer, Nova drag car, eight to ten cars in
25 yard and at father-in-law's, white Camaro, three

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1 four-wheelers, one bass boat, one trailer, guns.
2 Ray's assets. Truck, camper, trailer, two
3 four-wheelers, Camaro, tractor, guns, welding rig,
4 pull behind, building, metal, wood working shop,
5 tools. Me, one poker house in Georgia, video poker
6 in a trailer. Mother, one poker house in Georgia.
7 People that has helped me cook and knows how to
8 cook meth. Jason S., Ray P., Covan E., Paul S.,
9 Chuck H., Paul, Jeff H., Rick W., Tina S., Tony H.,
10 Sandra H., Martha E., Michelle P., Gene S., Kathy
11 C., Roger P., Sandra L., Preacher, Tommy Q. Toyota
12 Tocomo \$16,000, TransAm \$27,000, 271 truck \$18,000,
13 Tina's bond \$16,000, Tina's lawyer \$10,000,
14 Martha's bond \$5,000, Martha's lawyer \$8,000,
15 Darlene's fine \$500, Jeff Horne's bond \$1,000,
16 Lisa's funnel \$6,000, Jason's bond \$2,000. Bought
17 Paul camper \$500, Julie's kid's Christmas \$800,
18 Lisa's kids' Christmas \$1,000, Ronnie Suttles
19 \$1,044, total \$114,844. Tina Stevenson, 280ZX
20 blue, blue S-10 truck or Toyota. Angie, white
21 Corvette. Tony, Mustang. David Cumming, blue
22 Chevy truck HD Sportster, blue Mazda 626, white
23 Camaro. Julie Prince, green Chevy Camaro, Burgundy
24 Chevy, yellow Cadillac. Sandra Hughes, yellow
25 Cadillac, blue and white Chevy truck. John O's

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1 blue Chevy. Jeff Horne, gold Plymouth, John O's
2 blue Chevy, Chip's brown Nissan truck. Michelle
3 Madden, red Camaro, white Chevy Celebrity, Benji's
4 black or blue Cadillac. Tony Howard, Mustang,
5 280ZX. Ray Powell, burgandy Ford truck, white
6 truck, blue truck, blue Blazer, Camaro, green H.D.
7 Payne truck. Mike Edwards, TransAm. Chuck Ware,
8 red Chevy truck. Gene Saylor, silver Dodge truck,
9 burgandy car. Kathy Crump, black Jeep wagon.
10 Ernest Covan, Jeep, white Mustang. Martha Ellis,
11 white Corvette, black truck, white 4-Runner.

12 Things I will give you. Ray Powell, partner
13 and cook. Jason S. and Preacher, major cook. Will
14 Vinson and McMaw, Mexican connection, Denise
15 Haggan. Frank Provan, major cook twenty years.
16 Marvin, major cook twenty years. Conspiracy to
17 commit murder on police officer. A. J. Welch, Ware
18 Shoals Police Chief, dirty. Brandon Scott
19 possible. Poker house in Georgia. Poker house in
20 Georgia. Two insurance fraud, workman's comp
21 claims. Will give everything I know about people
22 on my warrant, including me. Will get and give
23 information on arson in Due West antique shop,
24 McMaw. Give the information on David Cumming's
25 arson. List of cooks and cook sites I know of. A

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1 theft ring in Georgia and South Carolina. Deputy
2 Sheriff Abbeville leaks information to Ray.
3 Prescription fraud, list of doctors they go to.
4 Names of two OC dealers, big dealers. Save you a
5 trial. I want a bond and any condition you want to
6 put on it so I can finish my, so I can finish my
7 trailer, plus I want to start my time at Clinton
8 City or Anderson City for safety reasons. I will
9 do, someone will do for me. Plus be fair about the
10 time I get. If I deliver all of this I should get
11 very little time."

12 Q Now, if you would, briefly going down that
13 list, could you describe the markings on the left
14 side of that list?

15 A Some of them have a star hand drawn next to
16 it, a number. And some have a check mark and one
17 has a star and a check mark beside it.

18 Q And going, then, to the very bottom of the
19 that page, does the star indicate anything?

20 A He says what the stars beside it, will do,
21 but the check mark, someone will do for me.

22 Q All right. Going on to the next page,
23 please.

24 A "Lies in motion of discovery. Angie Baker
25 Hill statement, Ashley Bannister statement, Sammy

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1 McNeil's statement, Michelle Madden statement,
2 Benji Cobb statement, Ray Powell statement, Julie
3 Prince statement, Jason Davis statement, Chip's
4 statement, Suzanna Grant statement. Things I want
5 to be given to me and Kim. Statements from truck,
6 titles from truck, CD's from truck, amp from truck,
7 CD player from truck."

8 Q I believe that's pontoon?

9 A "Pontoon cover from truck, personal items
10 from truck, fishing rods."

11 Q Agent Bragg, I appreciate you doing that. I
12 know that's time consuming but there is no other
13 way to get that evidence in.

14 Now, the information that he provided in this
15 letter, is it substantially the same information in
16 your report?

17 A Yes, sir. Not all of it is included in my
18 report, though.

19 Q Does this contain more than what is in your
20 report?

21 A Yes, it does.

22 Q Now, when he gave you this letter did you
23 promise him anything or did you do anything to make
24 him give you this letter?

25 A No, sir, I didn't. As a matter of fact, I

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1 was surprised when he gave it to me, because I
2 didn't say anything about him writing a statement.

3 Q And in fact you would have no authority to
4 make any kind of deal with him, is that true?

5 A That's correct.

6 Q And did you make him aware of his Miranda
7 rights?

8 A Yes, sir, I did.

9 Q And what did you tell him?

10 A I advised him of his rights in that he did
11 not have to speak with us.

12 Q Do you have a series of I guess statements or
13 a statement that you make to the individual?

14 A Yes, sir. It's on a form that we read to
15 them and if they agree with it they will sign it,
16 if they understand it they will sign it, and if
17 they want to waive their right and talk with us
18 they will sign that also.

19 Q And once again, I know you told us when
20 during your meetings that he gave you this
21 statement. How long was it after he was arrested
22 that he gave you this statement, do you recall?

23 A Well, he was arrested on September 24th,
24 2002, and I picked him up for the purpose of
25 interviewing him three times, and I think it was

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1 the second time that I had picked him up to
2 interview him. I can't remember that date right
3 offhand.

4 Q And during that interview process did he
5 appear to be relaxed?

6 A Yes, sir.

7 Q Did you let him smoke?

8 A Yes, sir. We also fed him, too.

9 Q You also did what?

10 A Fed him, too, fed him also.

11 MR. CROUT: Your Honor, I have no further
12 questions for this witness. Please answer any
13 questions that Mr. Varner or Mr. Wise have.

14 THE COURT: Anybody want to take a short
15 recess?

16 (No response).

17 THE COURT: Mr. Varner, cross-examination.

18 MR. VARNER: Your Honor, in view of the late
19 hour, I anticipate this will take at least an hour,
20 I don't know how long the Court is going to run but
21 I would need a recess because I did make some
22 plans, hopefully we would be finished, I do need to
23 make a phone call if we need to keep running.

24 THE COURT: Ladies and gentlemen, don't
25 discuss the case by, between and among yourselves.

1 Retire just briefly to the jury room, let us take
2 up a scheduling matter.

3 (The jury was excused from the courtroom).

4 THE COURT: What additional witnesses, if
5 any, does the State intend to call?

6 MR. HOOD: Your Honor, we have no more
7 witnesses. Special Agent Bragg is our last
8 witness.

9 THE COURT: Well, it's probably best, in view
10 of the hour, that we press ahead and try to get the
11 State's case rested at this point.

12 MR. WISE: Your Honor, we're going to be
13 close to 7:00 o'clock.

14 THE COURT: You think so?

15 MR. WISE: I think so.

16 THE COURT: Do you have questions of him?

17 MR. WISE: I've got some questions of him.
18 It doesn't have to do with the statement,
19 obviously, but it has to do with some of the stuff
20 that was done at the scene.

21 MR. VARNER: I don't think it can be done. I
22 don't want to quit, that's the truth of the matter,
23 because it's an inopportune time, I thought. To be
24 honest with you, I had made some plans because I
25 thought for sure I would be through by 5:30 because

1 I anticipated the State being through by lunch or
2 shortly thereafter, I knew Mr. Bragg was going to
3 take some time, because I have to go through in
4 detail some things he brought out and it's probably
5 going to take me a full hour, in all honesty, and
6 that's going to put us here until 7:00 o'clock or
7 later at the rate we're going and I just don't, I
8 hate to wear everybody out.

9 THE COURT: Hold on just a minute. The
10 record is open. It is unusual for us to break but
11 that's what we will do because of this. It appears
12 very probable that questions that are asked on
13 cross-examination will give rise to additional
14 redirect of untold time, which may cause even more
15 recross, so the problems are that we have a large
16 venire coming in at 10:00 on Monday and we are
17 starting an involved case next week with that
18 venire and the Court intends to qualify that venire
19 on Monday starting at 10:00 o'clock and then
20 release them and start this case at 2:30, and it
21 looks like now we might be 3:00 o'clock, I don't
22 know. Anyway, it would appear now if this witness
23 is going to take the time you think, and giving you
24 some leeway to do other things at the end of the
25 State's case, such as motions and otherwise, before

1 we get into -- you say you're not going to present
2 any defense on Mr. Miller's behalf?

3 MR. VARNER: I don't want to commit myself,
4 Your Honor, on that.

5 THE COURT: Well, I don't expect you to.
6 Depending on what you do, we know that there is
7 going to be a defense, at least we anticipate some
8 defense on behalf of Mr. Moore?

9 MR. WISE: Right.

10 THE COURT: It looks like we are going to go
11 to the jury on Wednesday. Tuesday?

12 MR. WISE: Tuesday afternoon.

13 THE COURT: Tuesday, so there is no need to
14 hurry at this point, let's just break and come back
15 and it just looks like regardless of anything that
16 the Court can do, the trial next week won't start
17 before Wednesday, and we will just have to take
18 Monday and Tuesday and try to conclude this case.
19 We can get it to the jury by Tuesday evening,
20 Tuesday afternoon sometime, then they can take as
21 long as they need. And certainly they're
22 exhausted, so is there any objection to our taking
23 a break and granting Mr. Varner's motion? How says
24 the State?

25 MR. WISE: No, sir.

1 MR. CROUT: None from the State, Your Honor.

2 THE COURT: All right. Show the jury in.

3 MR. WISE: Come back maybe at 2:30 or 3:00
4 o'clock?

5 THE COURT: I'm hoping 2:30 but, you see,
6 I've got 200.

7 MR. WISE: We'll be here at 2:30. If we get
8 started, fine, if not, we will wait.

9 THE COURT: I want at least an hour for
10 lunch. If I take 45 minutes it just doesn't work.

11 MR. WISE: All right.

12 THE COURT: We'll shoot for 2:30.

13 (The jury returned to the courtroom).

14 THE COURT: Madam Forelady, and ladies and
15 gentlemen of the jury, we have conferenced and
16 because of a lot of things, we will share with you
17 this, that you already know, first, Mr. Witness,
18 you are under a direct order of the Court that you
19 are not to speak to anyone under any circumstances
20 about anything having to do with this case. Now,
21 the Court is not oblivious that you are an agent
22 and a co-agent involved in this case but we are
23 breaking your testimony at a very unusual time, and
24 you are under a direct order not to talk with
25 anybody about it, not to answer any questions about

1 it, not to talk about any questions you have been
2 asked or answers you have given or things you have
3 said in your testimony, and not to say anything
4 about any questions that you anticipate you could
5 be asked or answers that you might give to those
6 questions that you anticipate. You may not discuss
7 this case with the State's attorneys, with your
8 co-workers, with any law enforcement agency or any
9 person, even a relative or friend. It is as if we
10 are not taking a break. Do you understand?

11 THE WITNESS: Yes, sir.

12 THE COURT: Thank you, sir. Watch your step
13 and come down.

14 We are going to break now. The reason is
15 somewhat convoluted, Madam Forelady and ladies and
16 gentlemen. On Monday at 10:00 we have a large
17 venire that you already are aware of. It's going
18 to take a good little while to qualify that venire.
19 We are not going to be able, of course, to start
20 that case because we're going to ask you to come
21 back at 2:30 on Monday. We're going to do
22 everything we can to qualify that venire and be
23 ready to continue this witness' testimony on
24 cross-examination. Your responsibility and duties
25 are to try to remember everything that's gone on

1 during the direct examination of not only this
2 witness, but the direct and cross of every other
3 witness whom you have heard during the course of
4 the trial. Although we're going to take a break
5 now on Saturday afternoon at close to a quarter of
6 6:00 by the time you leave the jury room, and to
7 understand that we have worked as hard as we can,
8 in fact, we have probably overworked you to try and
9 get the State's case finished, but we just didn't
10 anticipate it would take this long. Some cases
11 take a lot longer than this. We generally try
12 cases in our state in a great deal faster, a great
13 deal faster fashion than other states. You may be
14 familiar with some trials in our sister state of
15 California, for instance, where the newspaper
16 reports that they are in the fourth month of trial.
17 Well, we don't do that to our citizens here.

18 It is very unusual for us to start on
19 Tuesday, and that has caused a problem for us but
20 we all enjoyed a very important holiday on Monday
21 and I'm sure that we look forward to it next year,
22 but we didn't start until Tuesday, so it's causing
23 a little bit of a delay. It doesn't look like we
24 would have finished this trial on today anyway. We
25 might have possibly been able to do it, if we had

1 gotten started on Monday we might have been able to
2 do it.

3 Now, Madam Forelady and ladies and gentlemen,
4 do not discuss this case with anybody under any
5 circumstances at anytime. The Court appreciates
6 the curiosity that your friends, relatives, loved
7 ones, neighbors and other people are going to show
8 in your duties and responsibilities that you are
9 discharging as a juror. They are going to question
10 you about it. You may not tell them anything about
11 this case, not even the kind of case it is or
12 anything about it. You may not discuss it in any
13 fashion. You may not talk with anybody nor respond
14 to any questions. If anybody asks you any
15 questions your responsibility is to tell that
16 person or persons that you are a juror and you may
17 not talk with them and you are not permitted to
18 talk with them.

19 If anyone persists in trying to talk with you
20 after you make them aware you are juror that would
21 be highly improper, wrong and illegal and you would
22 please make every effort to identify that person or
23 persons and report it to one of the bailiffs or to
24 the court clerk who sits right here in front of the
25 Court as soon as you return. You needn't share

1 that information with anybody at all but let us
2 know that that occurred. We'll investigate it and
3 deal with it.

4 Were there to be any media coverage of this
5 trial, such as newspaper, television or radio, as
6 soon as you realize what you are seeing, hearing or
7 reading has to do with this trial it is your
8 responsibility to immediately disregard it and
9 disabuse yourself of it completely and put it out
10 of your mind because you must decide this case only
11 and exclusively upon the evidence that's presented
12 during the course of this trial and on nothing else
13 whatsoever.

14 We will recess now and expect you to be back
15 on Monday at 2:30. If anyone needs anything from
16 the Clerk of Court, I know, Madam Clerk, that you
17 are working alone, but if you need anything for
18 your employer for Monday, for reporting on Monday,
19 than Madam Clerk will be happy to give it to you
20 downstairs in her office. If you will just go
21 there she will give you an official document that
22 you can turn in to your employer that you have to
23 return at 2:30 on Monday, and we also expected, or
24 discussed an expectation that we will have this
25 case to you on Tuesday afternoon and not any later

1 than that. You will have this case Tuesday, if not
2 before lunch, immediately after lunch. We will
3 have argument, the attorneys will come before you
4 in final summation, sometimes called sum up or
5 final argument, the Court will charge you, that
6 will probably happen on Tuesday, and we may be able
7 to give this case to you before lunch, it's
8 possible. It's possible. We will do it as quickly
9 as possible, because keep in mind that we have
10 another 200 people that are going to come back in
11 and be qualified to try another case. Remember
12 that we qualified the venire as a whole and then we
13 asked them about the individual case that we're
14 trying. So, once they are qualified on Monday in
15 general and the venire is qualified and the Court
16 finds that those people who have been questioned or
17 qualified are qualified jurors, we are going to ask
18 them to leave and come back, and by that time we
19 should have a pretty good idea of when we will need
20 for them to come back. When they come back we will
21 qualify them for the trial that they are about to
22 hear and we will ask special questions of them just
23 as you were asked special questions, do you know
24 any of the potential witnesses, you remember all
25 that we went through, pretty lengthy. So, we have

1 to do that with the other 200 people that are
2 coming in with the other trial. We expect that
3 trial to run into the following week, although we
4 will try to move it along as quickly as possible.

5 The end result, summation, upshot of
6 everything is you are excused with those direct
7 orders not to discuss or allow anyone to discuss
8 the case with you and not to consider anything that
9 you see, hear or read, and be back in the jury room
10 Monday at 2:30. Thank you all very much. You are
11 excused. Everyone else remain seated.

12 (The jury was excused from the courtroom).

13 THE COURT: Anything for the record from the
14 State before we close this until Monday at 2:30 or
15 approximately that hour?

16 MR. HOOD: No, sir.

17 THE COURT: Thank you.

18 MR. VARNER: Nothing further, Your Honor.

19 THE COURT: Mr. Wise?

20 MR. WISE: No, sir.

21 THE COURT: If there is nothing from any
22 quarter, at this time the record is closed and we
23 are in recess in this matter until Monday at
24 approximately 2:30 or as soon as we can reconvene.

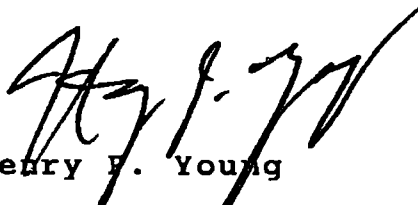
25 (Recessed at 5:44 p.m.).

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I, the undersigned Henry P. Young, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case in the Circuit Court for Abbeville County, South Carolina, on the 24th day of January, 2004.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 8, 2005


Henry P. Young
Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
CASE NO. 2002-GS-47-32

COUNTY OF ABBEVILLE

STATE OF SOUTH CAROLINA,)

-vs-)

MARSHALL MILLER and)
BILLY MOORE,)

Defendants.)

B E F O R E:

HONORABLE WYATT T. SAUNDERS, JR.

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

JOHN K. CROUT, Esquire
ROBERT E. HOOD, Esquire
Attorneys for the State

KIM R. VARNER, Esquire
Attorney for the Defendant Marshall Miller

C. RAUCH WISE, Esquire
Attorney for the Defendant Billy Moore

Henry P. Young
Court Reporter

VOLUME VI of VIII

JANUARY 28, 2004

1 (Reconvened at 3:00 p.m., January 28, 2004).

2 THE COURT: The record is open. This is
3 indictment number 2002-GS-47-32, the State of South
4 Carolina versus Marshall Miller and others. The
5 defendants at this trial are Marshall Miller and
6 Billy Moore.

7 Is there anything from the State before the
8 jurors are shown in, please?

9 MR. CROUT: Nothing from the State, Your
10 Honor.

11 THE COURT: From the defendant Miller?

12 MR. VARNER: Nothing, Your Honor.

13 THE COURT: From the defendant Moore?

14 MR. WISE: Nothing, Your Honor.

15 THE COURT: Agent Bragg, if you will just
16 come on up, please, sir. Show the jury, in please,
17 Mr. Busby.

18 (The jury returned to the courtroom).

19 THE COURT: All the jurors are present and
20 the foreman and the alternates are both seated in
21 their places. Mr. Witness, if you would raise your
22 right hand, please.

23

24

25

CHESTER BRAGG - CROSS

1 CHESTER BRAGG,
2 being first duly sworn testified as follows:

3 THE COURT: Thank you. Mr. Witness, have you
4 talked to anybody either about the testimony that
5 you have given or that you expect to give or any
6 questions you have been asked or any questions you
7 expect you may be asked at all at anytime from when
8 we recessed before and you were instructed, until
9 now?

10 THE WITNESS: No, sir, I haven't.

11 THE COURT: Very well, thank you. This
12 witness is with you, Mr. Varner, on
13 cross-examination.

14 MR. VARNER: May it please the Court.

15 THE COURT: Mr. Varner.

16 CROSS EXAMINATION

17 QUESTIONS BY MR. VARNER:

18 Q Agent Bragg, I know it's been several days
19 but you started out testifying about, I believe,
20 the shop that Mr. Moore over here owns, and can you
21 describe a little bit about that shop? At the
22 front of it there was a trailer, a big, like a
23 go-cart trailer, whatever it was, a big enclosed
24 trailer backed up blocking part of it, is that
25 correct?

CHESTER BRAGG - CROSS

1 A That's correct.

2 Q And on the other side there was was a, I
3 believe a Z71 pickup truck?

4 A Yes, sir.

5 Q Now, was that backed in also?

6 A Yes, sir, it was.

7 Q And the shop itself, I'm going to ask, if you
8 will, look at this photograph here. Is that the
9 shop we're talking about?

10 A Bring it a little closer. Yes.

11 Q That is the shop?

12 A Yes, sir.

13 Q All right. Now, is this the front of it? In
14 other words, these two doors here, so the jury can
15 see, that door slides open or opens up and the
16 other doors open?

17 THE COURT: The jurors at the very end may
18 not be able to see.

19 Q He's indicating he can, Your Honor.

20 THE COURT: All right.

21 A Say that again please.

22 Q Do these doors slide back or open inward or
23 outward or what?

24 A I'm not exactly sure how the doors open.

25 Q Okay. Are there side doors to this building

CHESTER BRAGG - CROSS

1 or any back doors?

2 A I believe there is a back door.

3 Q Are you sure?

4 A I believe there is a back door.

5 Q Okay. In other words, you're not sure, it's
6 just your best recollection?

7 A My best recollection, yes.

8 Q And what time was it you got there that day
9 on the 24th of September of 2002?

10 A I'm not sure of the exact time but according
11 to my report that I wrote I believe Agent Sonnefeld
12 and her group got there around 11:30 a.m.

13 Q Okay. And were you there with the initial
14 group that came up?

15 A Agent Sonnefeld, we were divided into two
16 groups, Agent Sonnefeld had her group, they were
17 over across the street at Michelle Madden's house
18 looking for her, and my group was elsewhere looking
19 for someone else, I can't remember exactly who we
20 were looking for at the time.

21 Q Okay. So, in other words, Agent Sonnefeld
22 really wasn't going to the shop, she was across the
23 street at Miss Madden's house looking for her?

24 A According to her, yes, sir.

25 Q They apparently just got some information

CHESTER BRAGG - CROSS

1 that Mr. Miller, they saw his truck or a truck they
2 thought it was, and they got some information Mr.
3 Miller might be across the street?

4 A Yes, sir.

5 Q Okay. And do you know how many cars they
6 were driving at the time they went to Miss Madden's
7 house?

8 A No, sir, I don't.

9 Q Do you know if the cars were marked or not?

10 A There may have been at least one marked car,
11 I'm not sure.

12 Q Okay. Do you have any idea how many cars
13 pulled up there initially?

14 A No, sir.

15 Q All right. And where Mr. Miller was found,
16 he was in the back area of the shop, the yard area,
17 is that correct?

18 A That's correct.

19 Q Now, how far was he from the back door of the
20 building?

21 A I would say approximately twenty yards.

22 Q Okay. So, he was about twenty yards away?

23 A Yes, sir.

24 Q And I believe he was kind of laying on the
25 ground next to a tree?

CHESTER BRAGG - CROSS

- 1 A Yes, sir.
- 2 Q Is that correct?
- 3 A Yes, sir.
- 4 Q All right. And when you heard somebody
- 5 saying don't move, don't move, that's when you
- 6 looked over and saw Mr. Miller, is that correct?
- 7 A That's correct.
- 8 Q Now, the trailer itself, the big enclosed
- 9 trailer, do you know who the registered owner of
- 10 that trailer was?
- 11 A I can't remember who it was.
- 12 Q All right. Now, you introduced, I believe it
- 13 was Saturday, 30, I think from number 40 to
- 14 whatever number we're at now, 30 some odd new
- 15 exhibits, correct?
- 16 A Approximately, I guess, yes, sir.
- 17 Q And a lot of them, and just to use a
- 18 representative example, I'm referring to State's
- 19 Exhibit 48 and State's Exhibit 41, at the time you
- 20 took possession of these articles they didn't look
- 21 like this, did they?
- 22 A That's correct.
- 23 Q And all the black, they have all been dusted
- 24 for fingerprints?
- 25 A Correct.

CHESTER BRAGG - CROSS

1 Q And not only in the first group of exhibits,
2 but in the additional 30 something exhibits you
3 still have not found one single fingerprint of
4 Marshall Miller indicating he was using this,
5 touching this or had anything to do with it, not
6 one fingerprint, have you?

7 A I believe that's correct, yes, sir.

8 Q Now, you also stated when you did Mr.
9 Miller's interviews he had requested that they not
10 be done at the Abbeville Jail, that's where he was
11 housed awaiting bond until about June of the next
12 year, is that correct?

13 A That's correct.

14 Q And he expressed to you he was afraid, didn't
15 he?

16 A Yes, sir.

17 Q And not only did you meet him one time at
18 Laurens, but then you met with him also at motel
19 rooms?

20 A That's correct.

21 Q And part of that was for his protection?

22 A That's correct.

23 Q And to maintain privacy and security, so to
24 speak, how many times did you meet him at motel
25 rooms?

CHESTER BRAGG - CROSS

1 A I believe twice.

2 Q Okay. Of the times you talked to Mr. Miller,
3 could you give me your best estimate, how many
4 hours did you talk to Mr. Miller?

5 A The initial meeting in Laurens was
6 approximately two hours or so. The final two
7 meetings, approximately four hours, maybe five.

8 Q Okay. So, four to five hours that you, Mr.
9 Miller and Agent Sonnefeld spent talking about this
10 case, so to speak?

11 A Yes, sir.

12 Q And you were taking notes simultaneously with
13 him talking to you, correct?

14 A Correct.

15 Q And Agent Sonnefeld was doing the same thing,
16 is that correct?

17 A I don't believe she was taking notes but she
18 was there present.

19 Q All right. And at some time during this
20 process, and that is what I want to know for the
21 jury, when was it he gave you this, I don't know, I
22 think it's about a 36 page handwritten document?

23 A I believe it was the second time I picked him
24 up at the Abbeville Jail, I went in the main door
25 to go inside to get him and when we, when I got in

CHESTER BRAGG - CROSS

1 there he came from the back or out of one of the
2 cells and he handed me the statement.

3 Q Okay. Besides the nineteen people who were
4 indicted on this case, just best estimate, how many
5 other people have you talked to? Has it been more
6 than fifty, more than seventy, more than a hundred
7 people?

8 A I don't think it's been that many.

9 Q How many would you say?

10 A Other than the nineteen, just guessing,
11 probably ten.

12 Q Okay. About ten other people, give or take.
13 And of the nineteen defendants who were all
14 indicted in this, Marshall Miller is the only one
15 who not only gave you an oral statement or was
16 debriefed, but also gave you a written summary of
17 what went on. He's the only person that did that,
18 isn't he?

19 A That gave a written statement?

20 Q Yes, sir, a handwritten statement.

21 A Yes, sir, he is the only one that did.

22 Q Is it a fair statement he not only
23 cooperated, he gave the most cooperation, because
24 not only did he tell you over five or six hours or
25 however many hours it was, but he also gave you

CHESTER BRAGG - CROSS

1 about a thirty something page handwritten
2 documentation?

3 A I mean, I don't know how you judge the most
4 cooperation but he did give a handwritten
5 statement.

6 Q Okay. And nobody else did that whatsoever,
7 did they?

8 A Not to my recollection, no, sir.

9 Q All right, sir. I'm going to hand you this
10 statement, for identification it's State's Exhibit
11 Number 71, for you to review. You have previously
12 identified that. That's the handwritten statement
13 Marshall Miller gave you, correct?

14 A A copy of it, yes, sir.

15 Q All right. One other thing, and this will
16 come out in a few moments but we will cover it
17 right now, one of the things Marshall had told you
18 about both orally and in his written statement was
19 that he had a lot of stuff in a utility area or
20 storage down in Georgia, correct?

21 A Correct.

22 Q And didn't he give you information a lot of
23 that was like flooring and building materials and
24 such?

25 A I can't remember exactly what he said it was.

CHESTER BRAGG - CROSS

1 Q Okay. Well, as part of that statement he
2 told you that that stuff got stolen?

3 A I believe he did say it was stolen.

4 Q Okay. And one of the things he told you was
5 that building was in the name of a young lady by
6 the name of Kathy Crump, correct?

7 A Correct.

8 Q And as a matter of fact that in fact verifies
9 that, that document you handed up or the State gave
10 in, showing there is a storage building in the name
11 of Kathy Crump, so you know that to be true,
12 correct?

13 A Yes, sir.

14 Q And he also told you that people involved in
15 this situation, people who testified, had gone in
16 there and stolen all of his stuff, they took it?

17 A I believe that's correct, yes, sir.

18 Q And they did this while he was awaiting bond
19 in jail in Abbeville County?

20 A Yes, sir.

21 Q And he also told you he had information from
22 people he knew where the stuff was here in
23 Abbeville County, he knew whose houses they were
24 at, where all his stuff he owned was, didn't he?

25 A I believe he did.

CHESTER BRAGG - CROSS

1 Q Okay. And you spoke with Investigator
2 Sherman Payne down in Georgia about this, where a
3 report was filed, didn't you, or did you?

4 A I don't remember anyone by that name.

5 Q Do you remember talking to an investigator
6 down in Georgia?

7 A I remember meeting with some Georgia Bureau
8 of Investigation agents in reference to the items
9 we found in the woods.

10 Q Okay. How about in regard to stuff missing
11 from his utility building or whatever name you want
12 to call.

13 A I don't remember meeting with anyone with
14 reference to that.

15 Q Do you deny you even heard the name Sherman
16 Payne, Investigator Sherman Payne?

17 A I don't remember the name Sherman Payne.

18 Q Well, let me back up, then, just a little
19 bit. Are you aware of any assistance that was
20 given to Georgia to find out about Marshall's stuff
21 being stolen by other people involved in this
22 quote, quote, conspiracy?

23 A Say that question one more time, please.

24 Q Are you aware of any cooperation that was
25 given to Georgia in investigating this theft at

CHESTER BRAGG - CROSS

1 those buildings down there?

2 A I don't remember.

3 Q Okay. Well, isn't it a fact if some of these
4 witnesses had turned out to be stealing from
5 Marshall, that would have affected your case and
6 the credibility of your witnesses, wouldn't it?

7 A Now, that I can't answer, I don't know, you
8 don't know how it would affect the case.

9 Q You don't know? How long have you been a
10 SLED agent?

11 A Five years.

12 Q And if one of your witnesses against a person
13 was charged with stealing that person's stuff while
14 they were in jail, you don't think that would
15 affect that witness' credibility?

16 A It probably would, yes, sir.

17 Q Okay. All right, let's go to Marshall's
18 statement, if you will. I ask you to go to the
19 third page. Marshall referred to a person by the
20 name of Jason, Jason F., could be S possibly, a big
21 drug dealer, a big cook. Who is Jason S.?

22 A I don't believe I know who Jason S. is.

23 Q SLED has been investigating this case how
24 long?

25 A Since 2002.

CHESTER BRAGG - CROSS

1 Q Okay. And SLED got, to use the phrase, a
2 running start, local authorities had been
3 investigating it since November of '99, correct?

4 A I believe that's correct, yes, sir.

5 Q And here we are in January of 2004 and you
6 still don't know who Jason S. is?

7 A To the best of my knowledge, no, sir.

8 Q You would agree, according to the way
9 Marshall wrote it out, this Jason S. was a big time
10 cook, big supplier?

11 A Yes, sir.

12 Q What investigation did you do to determine
13 who Jason S. was?

14 A It's hard to find out who a person is with no
15 last name.

16 Q Well, did you ask Mr. Miller how do you find
17 this person, how do you locate this person? What
18 did you do, I mean, you're telling me why it's hard
19 to do, tell me what you did do to determine who
20 Jason S. was.

21 A I can't remember anything that we did to find
22 out who Jason S. is because of the lack of
23 information.

24 Q All right. And he referred to a man by the
25 name of J-Bird as a big cook. Who's J-Bird?

CHESTER BRAGG - CROSS

1 A I don't know who J-Bird is either. J-Bird,
2 according to this, it looks like J-Bird could be
3 Jason.

4 Q Now we have Jason's name and an alias he goes
5 by, and you know which section of the state he
6 lives in, don't you?

7 A Who?

8 Q J-Bird, Jason. Marshall told you where he
9 was going to get this stuff, didn't he?

10 A I don't see where he mentioned that. He
11 probably did.

12 Q Well, he told you, page one, two, three,
13 let's go to the top of page four, just a little
14 information about Jason. You did understand these
15 were people that lived over near Greer, is that
16 correct, that's where he started out going?

17 A Yes, sir.

18 Q Or do you remember?

19 A Yes, sir.

20 Q All right. He tells you that Jason bought a
21 brand new four-wheeler to go back and forth to his
22 lab and take supplies. Did you check with any of
23 the four-wheeler dealers there to find out if there
24 was a Jason, a Jason S. who had bought a
25 four-wheeler during that period of time?

CHESTER BRAGG - CROSS

- 1 A I did not, no, sir.
- 2 Q Do you know of anybody who did?
- 3 A No, sir.
- 4 Q He also told you that Jason was buying
5 anhydrous ammonia from Piedmont Welding Supply in
6 Greenville. Do you know of anybody who checked
7 with them to see who Jason was or had someone with
8 a name close to that around that period of time
9 that bought anhydrous ammonia?
- 10 A No, sir.
- 11 Q And he indicated, or in his statement, I'm
12 about the fourth line down, "Jason got worried and
13 needed a friend and someone he could trust to make
14 meth with, so he called me and asked if I would
15 help him out and I said yes."
- 16 This is a person, according to Marshall, who
17 got the whole thing started, isn't it?
- 18 A Yes, sir, according to the statement, yes,
19 sir.
- 20 Q He also tells you, and I will ask you to go
21 to the next stage, he tells you that he and Ray
22 became partners a few weeks later, that's Ray
23 Powell, isn't it, or Little Ray, the same person,
24 isn't it?
- 25 A Yes, sir.

CHESTER BRAGG - CROSS

1 Q And he goes on to tell you that Ray, Ray
2 Powell or Little Ray, whatever name he goes by, and
3 Marshall were partners, they were cooking together,
4 right?

5 A That's correct.

6 Q What investigation did you do about that?

7 A In reference to what exactly?

8 Q Well, at the time this was written and time
9 this was told Ray wasn't even part of this
10 conspiracy, Ray wasn't part of the fifteen, was he?

11 A That's correct.

12 Q Ray was, I believe, number eighteen out of
13 nineteen people, excuse me, number sixteen out of
14 nineteen people. He was in that last group added
15 on, correct?

16 A That's correct.

17 Q But do you remember the sentence that Ray his
18 partner got, do you remember that?

19 A I don't remember the exact sentence, no, sir.

20 Q Okay. What's your best recollection?

21 A I can't recall right now.

22 Q All right. My next page, and yours may be
23 different than the way my booklet was done but I'm
24 going to ask you to find the page that says Jason
25 and guns. I will let you look at mine in the order

CHESTER BRAGG - CROSS

1 I've got it. I think mine came out differently
2 than yours.

3 There we go. It was your understanding,
4 because you got to talk to Marshall for hours about
5 this, this was what he gave you as a list of assets
6 that Jason had bought?

7 A Correct.

8 Q With the proceeds of drug money, correct?

9 A Correct.

10 Q And he told you that Jason had bought a
11 Bobcat, is that correct?

12 A That's correct.

13 Q And a Bobcat, you understood that, that's not
14 the animal, it was a dig thing?

15 A Correct.

16 Q Did you check with any dealers to see if a
17 Bobcat had been purchased?

18 A I didn't, no, sir.

19 Q Okay. And H. D. Springer, you know that is a
20 Harley Davidson, Springer?

21 A That, I didn't know.

22 Q Okay. Well, anybody at SLED know what an H.
23 D. Springer is?

24 A I can't testify as to what people at SLED
25 knows.

CHESTER BRAGG - CROSS

1 Q Okay. Well, did anybody check with Harley
2 Davidson dealers or with the Department of Motor
3 Vehicles to see if a Jason or Jason S. living in
4 that area had registered a Harley?

5 A I did not, no, sir.

6 Q He told you he had a Nova drag car. Did
7 anybody check with the Greer drag strip or Ware
8 Shoals drag strip or anything?

9 A I didn't.

10 Q A white Camaro, three four-wheelers, a bass
11 boat, a trailer, and he also had some guns.

12 Did you check any registrations with the
13 Department of Motor Vehicles or the Department of
14 Natural Resources to find anybody by that name in
15 that area?

16 A No, sir.

17 Q In regard to Ray, he indicated Ray owned a
18 truck, camper, trailer, two four-wheelers, Camaro,
19 tractor, guns, a welding rig that you pull behind,
20 he had a metal building and wood working shop
21 tools.

22 Did you do anything to ascertain how Ray, who
23 didn't make any money, had to pay for his drugs,
24 how he managed to acquire all those things or did
25 you even check to see if he had those things?

CHESTER BRAGG - CROSS

1 A I didn't, myself, I didn't.

2 Q Okay. And he told you he had information on
3 a poker house in Georgia. Is that correct?

4 A Yes, sir, according to this statement.

5 Q As a matter of fact, he gave you all the
6 details and in fact that poker house was raided and
7 that gambling ring was broken up in Georgia, wasn't
8 it?

9 A That, I don't remember.

10 Q Okay. He also indicated he had information
11 on a different poker house in Georgia, didn't he?

12 A Is that in the statement?

13 Q That's at the end of this one poker house in
14 Georgia and then down there below, and it shows me,
15 and it looks like another person's name that he can
16 get to help, a poker house in Georgia, a different
17 one?

18 A Yes, sir.

19 Q Okay. Let's pick back up so you and I can
20 stay on the same page, one, two, three, four, five,
21 let's go to page, well, it's going to be, mine says
22 page six, it's referred to as people, and I'm going
23 to read it phonetically, "People that has helped me
24 cook and knows how to cook meth." Do you see that
25 list? To help you identify it, this is what the

CHESTER BRAGG - CROSS

1 page looks like, it has a list of, looks like
2 nineteen or twenty people's names.

3 A Okay.

4 Q All right. This indicates, we have already
5 covered Jason S., and the next one, who is the
6 number two cook he lists?

7 A Ray P.

8 Q You know that to be Ray Powell, correct?

9 A Correct.

10 Q And then Covan, E., Ernest Covan?

11 A I believe so, yes, sir.

12 Q Paul S., do you know who Paul S. is?

13 A I know a Paul S.

14 Q Who is Paul S.?

15 A I believe his last name is Shockley.

16 Q Okay. And did you check out to verify those
17 names, if those people were in fact cooking?

18 A I know the name Paul Shockley came up. I
19 don't believe we confirmed if he was a cook or not.

20 Q Okay. Chuck H., do you know who that is?

21 A I believe that's Chuck Hand.

22 Q How do you know who that is?

23 A It's mentioned in the statement.

24 Q Okay. And Paul, last name unknown there.

25 Jeff N., do you know who Jeff N. is?

CHESTER BRAGG - CROSS

- 1 A Jeff N., no.
- 2 Q If I can look at your exhibit for just a
3 minute. The next one is a Rick W. Do you know who
4 that is?
- 5 A I'm not sure.
- 6 Q Okay. Tina S., you know that to be Tina
7 Stevenson, correct?
- 8 A Correct.
- 9 Q Tony H., that's Tony Howard, correct?
- 10 A Yes, sir.
- 11 Q Sandra H., that's Sandra Hughes?
- 12 A I believe so, yes, sir.
- 13 Q Martha E., that would be Martha Ellis that
14 testified, I believe on Saturday?
- 15 A Correct.
- 16 Q Michelle P., who is that?
- 17 A That, I don't know.
- 18 Q Okay. Is this Michelle Madden, does she have
19 other aliases, other names people might know her
20 by?
- 21 A She does, I believe, but I can't remember
22 what it is.
- 23 Q Okay. Gene S., that's Gene Saylor, isn't
24 it?
- 25 A Correct.

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1 Q That's the guy down in Georgia?

2 A Correct.

3 Q Gene Saylors, he's the one whose wife Bonnie
4 testified, correct?

5 A That's correct.

6 Q And I believe Bonnie testified that Gene was
7 mad at Marshall because Marshall was seeing Gene's
8 woman?

9 A Who said that, again?

10 Q Bonnie, his wife.

11 A I believe she did, yes, sir.

12 Q Okay. And Gene is the one, he wasn't charged
13 with anything, right?

14 A I believe that's correct, yes, sir.

15 Q What did you do to verify whether or not
16 Marshall gave you correct information that Gene
17 Saylors was in fact a crystal meth cook, how do you
18 follow up and investigate that, or are you aware of
19 anybody following up and investigating that, and if
20 so, how?

21 A Follow up and investigating what?

22 Q Whether or not Gene Saylors was a crystal
23 meth cook. What did you do when Marshall told you
24 that? Besides type it on a piece of paper, what
25 did you do?

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1 A I can't remember exactly what we did in
2 reference to that.

3 Q Well, we know the State brought him up here
4 as a witness to give this jury full information, to
5 give this jury the truth, correct?

6 A That's correct.

7 Q And you did nothing to find out if he's a
8 crystal meth cook. That's right, too, isn't it?

9 A I can't remember what we did in reference to
10 that information.

11 Q Kathy C., who would that be? Would that be
12 Kathy Crump?

13 A Correct.

14 Q You even got documents with her name on it,
15 as a matter of fact, you can go to that storage
16 building, you can get her address, telephone number
17 and what other pertinent information you needed on
18 her, you know who she is and where she lived,
19 right?

20 A We had her identified, yes, sir.

21 Q What did you do to find out whether or not
22 she was involved in this or cooking meth?
23 Nothing, right?

24 A I can't remember what we did in reference to
25 her either.

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1 Q Roger P., do you know who that is?

2 A No, sir.

3 Q Sandra L., that's Sandra Lockridge, I believe
4 is the way you pronounce it?

5 A I believe that's correct, yes, sir.

6 Q And Preacher, did you ever ascertain who
7 Preacher was?

8 A I don't believe we did, no.

9 Q And Tammy Q., that would be Tammy Quarles,
10 correct?

11 A I believe that's correct.

12 Q Well, let me ask you this. Do you know who
13 it was who made the decisions who got charged or
14 who didn't get charged or who got investigated or
15 didn't bother to get investigated? Who made those
16 decisions?

17 A In reference to the people getting charged, I
18 would assume it would be the Attorney General's
19 office.

20 Q Okay. They base that information on the
21 information that you and Agent Sonnefeld give them
22 initially, correct?

23 A I believe that's correct.

24 Q So the jury kind of understands this, the
25 Attorney General's office ultimately makes the

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1 final decision but the SLED agents are the ones who
2 gather the evidence, so to speak, or gather the
3 information and present it, correct?

4 A That's correct.

5 Q And if there is no information gathered they
6 can't make a decision on any of these other people,
7 can they?

8 A That's correct. If there is no evidence, I
9 assume they won't charge them either, or indict
10 them either.

11 Q All right. The next page I'm going to, the
12 next page I'm going to ask you about may be in a
13 different order than mine, it starts off with
14 Toyota Tacoma at the top of it.

15 A I've got it.

16 Q Have you got that page?

17 A Yes.

18 Q And that was your understanding of money that
19 Marshall had spent or had given to other people to
20 spend, for lack of a better term, correct?

21 A That was my understanding, yes, sir.

22 Q The \$16,000 Toyota Tacoma, whose truck is
23 that?

24 A I do not know.

25 Q Do you think this mean intimidating guy who

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1 forces people to sign things is just going around
2 giving away \$16,000 Toyota Tacomas? Is that what
3 you believe?

4 MR. CROUT: Objection, Your Honor, calls for
5 conjecture on the part of the witness.

6 THE COURT: Sustained.

7 Q Using your investigative skills and the fact
8 this was in there, what you may call a confession
9 or statement of facts, you knew this to be drug
10 related information, a \$16,000 Toyota Tacoma,
11 right?

12 A According to the statement, yes.

13 Q To the best of your investigating skills, you
14 knew if somebody in this deal got a Toyota Tacoma
15 and didn't have to pay for it that would be
16 significant to your investigation, wouldn't it?

17 A Probably would be, yes.

18 Q Who got the Toyota Tacoma, then?

19 A I do not know.

20 Q And now that Marshall is in jail, excuse me,
21 if Marshall goes to jail as a result of, or is
22 convicted, do you know whether or not they are
23 going to have to pay that back? Do you know?

24 A Do I know who is going to pay it back?

25 Q Whoever got it. We're all guessing right

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1 now.

2 A Well, I guess, I don't know if they have to
3 pay it back or not.

4 Q Do you think a \$16,000 debt getting written
5 off would have a bearing open a person's
6 credibility, why they would say something?

7 MR. CROUT: Objection again, Your Honor.

8 MR. VARNER: I'll rephrase the question.

9 Q If I put a witness up on the stand and you
10 knew I gave him \$16,000 before they got on the
11 stand, that would affect the way you listen to
12 them, would it?

13 A It probably would.

14 Q A TransAm, I believe that was the vehicle
15 that was wrecked down in Anderson County, it's gone
16 now, is that correct?

17 A I believe that's correct, yes, sir.

18 Q And the Z71 truck, SLED has that truck,
19 that's the one that was at Mr. Moore's shop, is
20 that correct?

21 A Yes, sir.

22 Q Okay. And Tina's bond, \$16,000. That would
23 be Tina Stevenson?

24 A I believe so, yes, sir.

25 Q Tina's lawyer, \$10,000. Correct?

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1 A Correct.

2 Q Martha's bond 5,000, Martha's lawyer \$8,000.
3 Correct?

4 A Correct.

5 Q And then it's got Darlene. Is that Darlene
6 Gilmer, is that who we're talking about?

7 A I believe it is, yes, sir.

8 Q He paid a \$500 fine, is that correct?

9 A Yes, sir.

10 Q And Jeff Horne's bond, \$1,000?

11 A That's correct.

12 Q This is the same Marshall Miller, who is out
13 intimidating, threatening and making people sign
14 statements, giving all this money away?

15 MR. CROUT: Objection once again, Your Honor.

16 THE COURT: Sustained.

17 Q Did you hear the testimony -- well, let me
18 just ask you. Based on your dealings with him, did
19 you find him to be threatening or intimidating in
20 any way, shape or form?

21 A Of course he's not going to threaten or
22 intimidate me.

23 Q Well, were you told that in the other
24 statements?

25 A Was I told that he was --

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1 Q Yes, that they were afraid of Marshall?

2 A Some people did say that they were afraid of
3 him, yes.

4 Q Okay. But apparently they weren't too
5 afraid, that they would take his money?

6 A I mean, you can call it hush money.

7 Q Well, you could do that. We have been
8 talking about fronting drugs all the time,
9 fronting, that's a fancy term for loaning people
10 money or loaning them drugs until they sell them
11 and pay them back, that's what it boils down to,
12 isn't it?

13 A Yes, sir.

14 Q And you found out, according to the State's
15 version, Marshall did that all the time, he gave
16 people drugs, they would pay him back later?

17 A Correct.

18 Q Call it fronting, loan, the same term, isn't
19 it?

20 A Correct.

21 Q Lisa's funeral, \$6,000. Well, if Lisa was
22 already dead, that certainly wasn't hush money, was
23 it?

24 A I believe you might call that sympathy money.

25 Q Sympathy money? This intimidating,

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1 threatening crank cook has got a heart?

2 A For the funeral, for what happened to Lisa.

3 Q Well, in the course of your investigation you
4 found out he not only paid for the funeral, he paid
5 for her family to fly back here from both Colorado
6 and California, didn't he?

7 A That, I don't remember.

8 Q You don't remember that?

9 A No, sir.

10 Q Well, do you deny that, or if you don't know,
11 do you remember something about that?

12 A No, sir.

13 Q Okay. Jason's bond, \$2,000. Bought Paul
14 camper, \$500. Julie's kids' Christmas. Who is
15 Julie?

16 A Julie Prince.

17 Q Okay. And he gave her \$800 or spent \$800 on
18 her kids' Christmas, correct?

19 A Yes, sir.

20 Q And Lisa's kids' Christmas, a thousand
21 dollars.

22 A Yes, sir.

23 Q Correct?

24 A Yes, sir.

25 Q And you got tons of statements where when

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1 Marshall got arrested a bunch of these people owed
2 him money, too. Correct?

3 A I believe that's correct, yes.

4 Q As a matter of fact, Marshall's own statement
5 said at the time he got arrested Ray Powell owed
6 him \$17,000?

7 A Correct.

8 Q It's a fair statement as long as he was
9 loaning them dope and buying them stuff they were
10 all his friends, weren't they?

11 MR. CROUT: Objection.

12 THE COURT: Sustained.

13 Q Were they Marshall's friends?

14 A I don't know.

15 Q You don't know? Well, if you use the State's
16 term, they were all in this conspiracy together,
17 weren't they?

18 A Now, that appears to be correct.

19 Q Okay. Once they get arrested, do you think
20 they're Marshall's friends now?

21 A I believe it's every man and woman for
22 himself now.

23 Q You believe what?

24 A I believe it's every man and woman for
25 himself now.

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1 Q I'm sorry, I didn't understand you, you
2 believe what?

3 A It's every man or woman for themselves now.

4 Q Okay. So, they are going to take care of
5 themselves now, et cetera?

6 MR. CROUT: Objection.

7 THE COURT: Sustained.

8 MR. VARNER: Your Honor, I was just
9 rephrasing what he said.

10 THE COURT: There was the response, so et
11 cetera is what was sustained.

12 BY MR. VARNER:

13 Q Is what you're saying, everybody is going to
14 take care of themselves now, is that what you just
15 said, or words to that effect?

16 A Yes, sir.

17 Q Let's go to the next page, where it says Ray
18 Powell at the top.

19 A Close to the beginning, or the end?

20 Q Up at the top of the page. It says Ray
21 Powell at the top. You go through -- my order is
22 different than your order.

23 A I've got it.

24 Q Okay. And he goes through, I believe he met
25 Ray, according to this statement, in the early part

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1 of 2001, correct?

2 A He said he met Little Ray in early 1998.

3 Q Excuse me, that's right, but he started
4 dealing with him in the early part of 2001. That's
5 about the one, two, three, four, five, six, seventh
6 line down.

7 A It says he worked for H. D. Payne in 2001.

8 Q And he tells you about Ray's wife Michelle,
9 correct?

10 A In the statement here?

11 Q Yes, sir. Go down about another five or six
12 lines, "Me and Ray and his wife Michelle would sit
13 down and do some dope together."

14 A Okay.

15 Q And he goes through to tell you, without
16 getting specific, that Little Ray's wife
17 participated in it, she washed the jars or whatever
18 and they cooked at her house some fifty something
19 times over a year's period of time?

20 A Yes, sir.

21 Q Michelle Powell, was she part of this
22 indictment?

23 A No, sir.

24 Q And according to Marshall's statement, in the
25 beginning he just helped Ray out, and that's about

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1 one, two, three, four, five, six, seven, about
2 eight lines down from where we were just talking
3 about Michelle.

4 A Yes, I see it.

5 Q And he tells you on the next page that when
6 he got an anhydrous ammonia tank he took it over to
7 Ray's house, Ray had a tank at his house at all
8 points in time, and that's the third line from the
9 last on that next page.

10 A Okay.

11 Q "I took the other tank to Ray's house." And
12 Ray did in fact confirm that, didn't he?

13 A In his testimony?

14 Q Yes.

15 A I can't remember if he did or not. I'm not
16 saying he didn't.

17 Q All right. Let's go to the next page, going
18 from the bottom, one, two, three, four, five, six,
19 seventh, about the eighth line up from the bottom.
20 And Marshall stated at this point, "I felt like I
21 worked for Ray"?

22 A Correct.

23 Q And you were aware as this, quote, quote,
24 story progressed, that Ray and Marshall had some
25 kind of falling out, they were no longer buddies or

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1 partners there for a period of time, were they?

2 A He fell out with Ray or --

3 Q Or Ray fell out with him. They quit being
4 partners there for a while? If you don't know, you
5 can say you don't know.

6 A I don't remember that part.

7 Q All right. The next page I've got is what is
8 called cook sites. Do you have that page?

9 A Yes.

10 Q This is the information Marshall gave you
11 about where crystal meth was being cooked,
12 different locations, is that correct?

13 A That's correct.

14 Q He went to Jason S.'s land in Greenville and
15 a trailer in Laurens County and his mother's house
16 in Laurens or Greenville County, correct?

17 A Correct.

18 Q And obviously you didn't go out and dig up
19 burn sites or anything because you didn't even know
20 where that was, did you?

21 A That's correct.

22 Q And then he talks about his trailer on 252.
23 Did you go out there and take any samples or
24 pictures or anything of any burn sites or cooking
25 areas on 252?

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1 A I don't believe we did, no, sir.

2 Q Well, is one of the reasons you didn't do
3 that is because that, you knew to be true, that he
4 was cooking at 252?

5 A According to this statement, yes.

6 Q Okay. Well, if you don't investigate things
7 how do you ascertain if somebody is telling the
8 truth or not telling you the truth, if you don't
9 investigate it? How do you know?

10 A I guess you won't know.

11 Q Guess what?

12 A I guess you won't know the truth if you
13 don't.

14 Q You guess you don't want to know the truth?

15 A I guess you don't know the truth if you
16 don't.

17 Q You don't know the truth if you don't
18 investigate it, okay. And he states Lisa Pace's
19 house in Abbeville County. Do you know who Lisa
20 Pace is?

21 A I remember the name.

22 Q Well, have you gone out to her house or know
23 of anybody that went out to her house?

24 A No, sir.

25 Q Has she ever been charged as a co-conspirator

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1 here?

2 A She wasn't indicted, no.

3 Q Okay. And at Ray Powell's trailer, at his
4 house in Abbeville County. Ray confirmed that,
5 didn't he?

6 A Yes, he did.

7 Q Ray also stated Marshall took all the stuff
8 with him, there wasn't anything left in the fires,
9 is that correct?

10 A Yes, that's correct.

11 Q Well, did you go out and check his burn site
12 there at his farm or his trailer to see if Ray was
13 telling you the truth, or if Marshall was telling
14 you the truth?

15 A No, sir, to my knowledge, we didn't.

16 Q Using your own standard as you just said a
17 few minutes ago, if you wanted to know the truth
18 you would have. Correct?

19 A I don't believe that's how I meant it.

20 Q Well, that's what you said, isn't it?

21 A That's what I said, yes.

22 Q And if you don't want to know the truth you
23 don't check it out. How else would you interpret
24 that, other than the way I did, how did you mean
25 it?

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1 A If it's not checked out, then you won't know
2 it's the truth. You won't know if they are telling
3 the truth.

4 Q Okay. All right. Tony Howard's in Laurens
5 County. You know who Tony Howard Howard is, don't
6 you?

7 A Yes.

8 Q Did you go out there to look and see if there
9 were any burn sites there?

10 A No, sir, we didn't.

11 Q Mason jars, any of that stuff?

12 A We didn't check for those things, no.

13 Q Ernest Covan's trailer in Greenwood County.
14 Did you go check to see if Ernest had been cooking?

15 A Yes, sir, we did go there.

16 Q Okay. Did you take any pictures or anything?

17 A I don't believe we did.

18 Q Did you do any analysis of any soil or burns
19 or anything like that?

20 A Not to my knowledge, no.

21 Q The pasture behind Ernest Covan's trailer in
22 Greenwood County, not only at his trailer, but
23 behind his trailer, and at the shed behind Ernest
24 Covan's trailer. What investigation did you do on
25 that?

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1 A Somebody did go behind his trailer, in his
2 woods.

3 Q And did what?

4 A Nothing was found.

5 Q Okay. Do you know who Patrick Wilson is?

6 A No, sir.

7 Q He gave you information that crystal meth was
8 being cooked at a trailer behind Patrick Wilson's
9 house in Laurens County. Did you even know where
10 Patrick Wilson even lives in Laurens County, did
11 you find out?

12 A No, sir, I don't.

13 Q And at Paul Shockley's house in Laurens
14 County. Do you know where Paul Shockley lives?

15 A We did go to his trailer, yes.

16 Q Okay. And other than talked to Paul
17 Shockley, what else did you do?

18 A Nothing else was done, to my knowledge.

19 Q And at Gene Saylor's house in Georgia, you
20 certainly know where Gene lives, don't you?

21 A I didn't go to Gene's, I don't remember going
22 to Gene's house but I believe someone did go to
23 Gene's house.

24 Q Well, did you go down to Georgia where that
25 site was where that bag of stuff was found close to

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1 his house, did you go down there?

2 A Yes, sir.

3 Q So, you were close to Gene's house and you
4 had come all the way from where to get to a short
5 distance from Gene's house?

6 A South Carolina.

7 Q From where in South Carolina?

8 A Abbeville.

9 Q Okay. How long did it take you to get there?

10 A I guess about an hour, I'm not sure.

11 Q Okay. Can you tell me why you didn't drive
12 the extra, I don't know, two minutes, five minutes,
13 eight minutes, to go to Gene's house to check it
14 out?

15 A I can't remember why we didn't go there.

16 Q Do you even know what Gene's house looks
17 like, have you ever seen it?

18 A As I stated, I didn't photo Gene's house.

19 Q Okay. The pasture behind Jeff Frye's trailer
20 in Abbeville. Do you know what was done to
21 investigate that?

22 A We did go to Jeff's house but I don't
23 remember anyone going in the pasture.

24 Q At the pond behind Ray Powell's house and a
25 camper in Abbeville County. Did you do any kind of

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1 fingerprint analysis or anything at Ray Powell's
2 trailer?

3 A Not to my knowledge, no.

4 Q And then it's got out on the side, Paul
5 Shockley, Little Tommy lab in Laurens County and
6 old home place in Laurens County and also at
7 Jason's father's house.

8 A fair statement, you don't even know what
9 that is, is that correct?

10 A Don't know what it is, no.

11 Q Okay. Marshall gave you at least nineteen
12 different locations where crystal meth was being
13 cooked at, is that correct, at least nineteen on
14 that one page alone?

15 A That appears to be correct, yes.

16 Q Did anybody else involved in this give you
17 information that even approached nineteen cooks,
18 different cook sites, anybody that you're aware of?

19 A I don't believe so, no.

20 Q He also told you that you could find empty
21 tanks, Ernest Covan's back road behind his trailer,
22 according to what Ernest told him, and at Paul
23 Shockley's trailer, "I took them there so he could
24 have them refilled." Did you go look for those
25 empty tanks?

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1 A Behind Paul Shockley's trailer, no, sir.

2 Q Okay. He told you on the next page, I'm on
3 the second paragraph, I'll read it to you, "Ray,"
4 meaning Ray Powell, "started letting Jeff Frye and
5 Skunk come over and clean up his lab after he
6 cooked, after we cooked and after he cooked alone,"
7 meaning Ray Powell was cooking on his own at that
8 stage. Correct?

9 A According to the statement, yes.

10 Q Let's go to the next page, the third
11 paragraph. "Me and Ray went to repossess a thirty
12 foot camper for a dope debt, I was told. We left
13 Ernest Covan's and Jeff Frye's, we left Ernest
14 Covan and Jeff Frye at Ray's while we left to go
15 get it. We got it. Come to find out Ray didn't
16 even know the person. We had just, we had just
17 stole it. I got the papers on it packed up
18 somewhere at home. The camper is now at his dad's
19 or father's place."

20 Did you go find that thirty foot camper?

21 A No, sir, we did not find it.

22 Q Did you check any stolen reports to see if
23 anyone had reported a thirty foot camper stolen?

24 A No, sir, I don't believe we did.

25 Q Okay. So, Marshall Miller is telling you not

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1 only is Ray Powell a partner and cooking on his
2 own, Ray is also a thief that suckered Marshall in,
3 used him as a patsy to go get, quote quote, a debt
4 that turned out just to be a lie, that's what
5 Marshall told you?

6 A According to the statement that's what he's
7 saying.

8 Q Did it concern you that Marshall might be
9 being played for a patsy in this whole thing?

10 A No, sir, it did not concern me.

11 Q You knew Marshall was giving away money and
12 giving away dope and that Ray allegedly owed him
13 \$17,000, you knew that, didn't you?

14 A Yes, sir.

15 Q And you knew that Marshall, he was actually
16 from Anderson County, Marshall had only been up in
17 this area and knew some of these people for a short
18 period, for a couple years, is that correct?

19 A He is from Anderson, yes, that's correct.

20 Q Okay. And you knew that Ray Powell has been
21 here forever and a day?

22 A That, I don't know.

23 Q Well, do you know how long Ray Powell has
24 lived here in Abbeville County?

25 A No, sir, I don't.

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1 Q Well, if several people are telling stories,
2 doesn't it concern you what their opportunity for
3 maybe getting together and telling it one
4 particular way, there might be a motive for that?

5 A I'm sure that there's a motive for everything
6 that people do.

7 Q Okay. And the fact that Marshall was kind of
8 the new guy on the block compared to Ray, would it
9 concern you that all these statements now are not
10 going against Ray, they're going against Marshall,
11 there might be a motive for that, that he might be
12 being played for the patsy here? Did that concern
13 you?

14 A I don't know if they are playing him for a
15 patsy.

16 Q Okay. Well, if this trailer had in fact been
17 stolen, wouldn't that have indicated to you that
18 Marshall was telling you the truth in this
19 statement and you needed to investigate further?

20 A It would have indicated that he was telling
21 the truth on that, yes.

22 Q And at SLED you guys have a computer right
23 there in front of you, don't you?

24 A We have computers, yes.

25 Q What, now?

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1 A We do have computers, yes.

2 Q Okay. And you can punch up stolen vehicle or
3 camper reports right at your desk?

4 A Not at my desk but we have the ability.

5 Q Well, two desks over, whatever, it's in the
6 same office?

7 A No, sir.

8 Q Okay, it's not in the same office. You can
9 make a phone call or go do it, right?

10 A Yes, sir.

11 Q All right. And he told you, we're going to
12 skip two paragraphs, "Ray would bring me 150
13 gallons of gas, 55 gallons of kerosene, oil," looks
14 like other, looks like, "antifreeze, carburetor
15 cleaner, WD40, window cleaner twice a week. He
16 would steal it all from H. D. Payne in Greenwood."

17 Now, you did ascertain that Ray Powell did
18 work for H. D. Payne, didn't you?

19 A I didn't, no.

20 Q Okay. Well, did he work for H. D. Payne?

21 A That, I don't know. I wasn't the only agent
22 on this case.

23 Q Okay. Have you reviewed this file?

24 A Yes, sir.

25 Q Have you looked at this file?

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1 A Yes.

2 Q Okay. Do you know of anybody that checked
3 with H. D. Payne to see if they had stuff missing,
4 stuff Marshall had told you was missing?

5 A No, sir.

6 Q Would it have concerned you that Ray Powell
7 was not only an alleged crystal meth cook and
8 admitted junkie and a reported thief, would that
9 have a bearing on his credibility?

10 A Yes, sir.

11 Q Okay. Well, just take this whole group
12 together. We've got a stripper trading sex for
13 drugs, we've got thieves, we've got drug dealers.
14 Isn't it a fair statement these are not the kind of
15 people you would put a lot of faith in, are they?
16 Let me rephrse that. You wouldn't base the most
17 important decisions in your life based on what
18 these people told you, would you?

19 A I wouldn't, no.

20 Q He also told you that he, Ray, this is the
21 last of that page, "Got advances from me to pay his
22 son's college tuition, \$5,000." He told you that,
23 didn't he?

24 A In the statement, yes.

25 Q Did you check to see if Ray Powell had a son

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1 in college?

2 A I didn't, no.

3 Q Well, did anybody check to see if \$5,000 cash
4 had been paid on his son's behalf?

5 A I don't believe so.

6 Q I take you down two more paragraphs. It
7 says, "Ray has a girlfriend in Calhoun Falls named
8 Beth." Did you check that out to find out who Beth
9 was?

10 A I believe Ray told us he had a girlfriend.

11 Q Beth, Beth who?

12 A That, I don't know. I can't remember the
13 last name.

14 Q Well, Marshall alleges in there she sees a
15 deputy that works for Abbeville, he tells her
16 everything and she tells Ray. You've got
17 information that you've got a leak in this case.
18 What did you do to investigate that? Did you talk
19 to Beth?

20 A Abbeville County may have investigated that.

21 Q They may have? Wait a minute. Do agencies
22 investigate themselves, or when an agency like a
23 police department has a problem who do they call in
24 to investigate? They call SLED, don't they?

25 A Well, if they have internal affairs their

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1 internal affairs can investigate it.

2 Q Isn't it standard procedure if there is a
3 question about the truthfulness of an agency they
4 call in independent investigators, they call SLED
5 in to investigate that, don't they?

6 A They would, they probably would, yes, sir.

7 Q And who do you work for?

8 A SLED.

9 Q And you have information in here that Ray
10 Powell has got inside help, he's got somebody in
11 Abbeville County that's giving him information and
12 he's got dirt on them, too, they are at his beck
13 and call now, aren't they?

14 A But I wouldn't do that investigation myself.

15 Q Well, who did you refer it to to do the
16 investigation on them?

17 A We have a section that would investigate that
18 and I don't know if they were advised of it or not.

19 Q Well, if you were the one that knew about it,
20 who did you advise? Did you advise that agency to
21 investigate this?

22 A I didn't, no, sir.

23 Q Don't you think, based on your investigation
24 in this case, that if a police officer was somehow
25 involved in this that's critical information, that

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1 is very significant, that a police officer might be
2 involved in this, isn't it?

3 A Yes, it is.

4 Q He goes down to the next paragraph and he
5 told you that R. J., Ray Powell, would deliver
6 dope, excuse me, R. J. Powell, Ray's father, you do
7 know R. J. Powell to be Little Ray's father,
8 correct?

9 A Yes, sir.

10 Q That he would deliver dope for Ray to Martha
11 Ellis, correct?

12 A That's what it says here, yes.

13 Q And that's in fact exactly what Martha Ellis
14 confirms, she got her dope from Ray. Let me help
15 you a little bit, I'll withdraw that question.
16 Martha Ellis initially gave a statement saying this
17 was Marshall's dope when she got caught with those
18 two ounces, didn't she?

19 A Yes, sir.

20 Q She later said, "I was lying, that really
21 didn't come from Marshall, it really came from
22 Ray"?

23 A That's correct.

24 Q And when she gave the statement to SLED she
25 again said that dope came from Ray, correct?

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1 A That's correct.

2 Q But when she got on the witness stand, then
3 she said it came from Marshall this time?

4 A That's correct.

5 Q What investigation did you do of Little Ray's
6 father R. J. Powell?

7 A None, to my knowledge.

8 Q None. Was he charged?

9 A No, sir.

10 Q And it said, referring to R. J. Powell, Ray's
11 father, "He would also watch out for us while we
12 cooked and get stuff for us, including breakfast
13 from the store. He's also bought pills and
14 batteries for me and Ray. So has Michelle."

15 Did you go go check out his B.J.'s buying
16 card or Sam's card or Bi-Lo card to see if he had
17 been buying lithium batteries?

18 A I don't believe we did, no, sir.

19 Q You did check out Marshall's and his turned
20 out to be alkaline batteries, not lithium
21 batteries, right?

22 A We did check his card, his account, yes.

23 Q All right. Let's go over another two pages.
24 It says Julie Prince up at the top of it.

25 A I've got it.

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1 Q Second paragraph, it says, "Steve Hodges
2 would get a bunch of pills in Florida and bring
3 back and trade them to me for dope. I would meet
4 Steve through Ernest and Jeff Horne, he would buy
5 dope from me and help me and Jeff and Ernest cook
6 at Jeff and Sandra's and at my shop." Did you talk
7 to Steve Hodges?

8 A I believe we did.

9 Q Did he confirm that story, or deny that
10 story?

11 A I can't remember his exact statement.

12 Q Well, based on your investigation, was Ernest
13 a cook also, Ernest Covan?

14 A Yes.

15 Q You think he was, okay. Let's go down to
16 the, one, two, three, fourth paragraph. "Ray
17 Powell is how I knowed," I'm reading it
18 phonetically, "Tina and Sammy got busted the last
19 time. He was the one that got me the roll-back
20 deal so I could prove it to her."

21 You know what he's talking about there, don't
22 you?

23 A Yes, sir.

24 Q That's where Tina and her boyfriend Sammy
25 were out driving around in Laurens County and they

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1 got pulled over, didn't they, or got arrested,
2 maybe in Abbeville County, is that correct?

3 A That's correct.

4 Q And had more drugs on them this time also,
5 didn't they?

6 A I believe they did.

7 Q Okay. Do you remember whether or not Brandon
8 Scott was involved in that one?

9 A I believe he was.

10 Q Okay. And after that, that's when Tina
11 agreed she would get wired up and everything, she
12 would go meet with Marshall and buy dope from
13 Marshall, that's what that was about, wasn't it?

14 A Yes, you're right.

15 Q And she later came back and told you,
16 "Marshall knew I got arrested that night, he had
17 the wrecker bill where my car was towed to Laurens
18 County Police Department"?

19 A That's correct.

20 Q So, you knew right then and there somebody
21 had information on the inside, didn't they? Didn't
22 they?

23 A Not necessarily on the inside of the
24 Sheriff's office.

25 Q Okay.

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1 A The wrecker driver, I believe she said the
2 wrecker driver gave him the information.

3 Q Okay. Is that what Ray told you, Ray said he
4 got it from the wrecker driver?

5 A No, Tina told us that.

6 Q Tina told you that? Well, how would Tina
7 know where Marshall got his information from?

8 MR. CROUT: Objection.

9 THE COURT: Sustained.

10 Q Tina has not a clue where Marshall got his
11 information unless she was with him, would she?

12 MR. CROUT: Objection.

13 THE COURT: Sustained.

14 Q Tina told you that. What was the basis of
15 Tina, quote, quote, knowing that? What did she
16 tell you about that?

17 THE COURT: Now, one question at a time.

18 A I believe someone else told her. Who told
19 her, I do not know.

20 Q So, we have a he said, she said. What did
21 you do to check it out, to find out if there was a
22 police officer leaking information?

23 A That was never confirmed.

24 Q I didn't ask you if you confirmed it. I said
25 what did you do to check that story out, because

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1 this is the second time it's come up in Marshall's
2 statement alone?

3 A Nothing, nothing to my knowledge.

4 Q Okay. And when Tina was wired up and
5 everything, this was done the same way that Julie
6 Prince was when the controlled buy was done, wasn't
7 it?

8 A That's correct. Except with Julie it was an
9 undercover SLED agent.

10 Q Okay. So the jury understands, when an
11 undercover buy is being made, whether with an agent
12 or a confidential informant, before they go meet
13 this person they're searched, correct?

14 A Correct.

15 Q And they're given money that's marked or the
16 serial numbers are written down, things of that
17 nature?

18 A Correct.

19 Q And that person is wired with a microphone so
20 you can hear everything that they say or hear what
21 other people say to them. Correct?

22 A Correct.

23 Q And they're kept under constant surveillance
24 so they can't stop somewhere and pick something up
25 or drop something off, you keep them under constant

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1 surveillance all the time?

2 A Correct.

3 Q You also video tape them?

4 A If possible.

5 Q And you know that Tina went to try to, quote,
6 quote, get Marshall, correct?

7 A It never did get that far. She made the
8 phone call and he never would come to the phone.

9 Q Okay. Well, this is a man, according to your
10 statements, who was selling dope and loaning dope
11 left and right. How many people are you aware of
12 you tried to get to buy dope from Marshall?

13 A Say that again, please.

14 Q How many people did you try to get to buy
15 dope from Marshall?

16 A I don't know the exact amount.

17 Q Best guess?

18 A Just guessing, maybe five.

19 Q And out of five, how many of them purchased
20 dope from Marshall?

21 A None.

22 Q None. But the other people who testified
23 here, they got caught selling dope, some of them
24 several times, particularly Tina Stevenson, she
25 didn't get caught once, twice, she got caught

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1 several times, didn't she?

2 A Correct.

3 Q All right. He tells you down in the bottom
4 of the last paragraph, "Gene Saylor and Ernest and
5 me cooked in the pasture behind Ernest Covan's
6 trailer. Tracy and Kathy Crump was at Ernest's
7 house while we done this."

8 What did you do to investigate that? Did you
9 talk to any of their neighbors?

10 A I don't believe we did.

11 Q Okay. Let's skip over another two pages.
12 Going down about the fourth or fifth line from the
13 end, and to help you, you can look at it, he's
14 talking about an antique shop getting burned up at
15 the, up at the top of the page, I believe that is
16 the one everybody knows as MeMaw?

17 A Yes.

18 Q What is MeMaw's name?

19 A Denise Haggen, I believe.

20 Q Denise Haggen. He is also referring to
21 Sandra. And that would -- who is Sandra?

22 A Where are you on the page?

23 Q About the middle of the page. Let's just
24 kind of read it. "Denise tried to get Sandra to
25 cook for her and she would go cook for her, she

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1 said she would, so Denise started buying glassware
2 and having it sent to Lisa's, Lisa Pace's house
3 where Sandra was staying at the time. I also sent
4 Sandra to Airzona, I bought her a bus ticket and
5 gave her \$500 to leave on. I took her to
6 Greenville, S.C and she left. I talked to her two
7 or three times out there. Next thing I knowed she
8 was in Atlanta at the bus depot and I went to get
9 her. She then stayed with me and Tracy on Highway
10 252 for awhile, and she went back to Lisa's and
11 shortly after she got caught. She had a friend who
12 would tip her off from time to time, he was a SLED
13 officer, he and her went to college together. He
14 would call her and he would e-mail her, I know, I
15 have readed," and I'm reading it phonetically,
16 r-e-a-d-e-d, the e-mails before. I will give you
17 this information."

18 So, he tells you that there is also a SLED
19 officer who is sending e-mails and went to college
20 with one of these people. Correct?

21 A Correct.

22 Q Do you know of any investigation that was
23 done on that to determine where she went to college
24 and was there somebody working for SLED who went to
25 college with her?

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1 A No, sir. She didn't give me the information,
2 either.

3 Q Well, you know who the people she is talking
4 with are, don't you, other than the SLED officer?

5 A Correct.

6 Q So, you knew how to get started checking
7 that, you knew how to find out where this woman
8 graduated from college, or went to college?

9 A Correct.

10 Q And you certainly know where all the SLED
11 agents went to school?

12 A Yes, sir.

13 Q Did you do any checking, comparisons?

14 A No, sir.

15 Q So the jury understands, SLED has the
16 ability, if they see someone's computer, they have
17 the ability to bring back all the information
18 that's been on that computer?

19 A I don't know exactly how it works but we do
20 have some capabilities like that, yes.

21 Q Okay. Well, did you seize any of these
22 people's computers to look at their e-mails to see
23 if somebody from SLED had been sending them
24 e-mails?

25 A We did not seize any computers, no.

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1 Q Go to the next page, Gene Saylor. "Not only
2 does he talk about the drug dealing, but he starts
3 talking about that Gene Saylor was bringing a lot
4 of stolen stuff, riding mowers and guns, I told him
5 not to bring that S anymore."

6 Did you check to see if Gene Saylor had any
7 stolen stuff at his trailer or his house?

8 A No, sir.

9 Q You have got down here, this is about
10 two-thirds of the way down, "He also," referring to
11 Gene Saylor, "He also stole a bunch of jewelry
12 that belonged to my daughter and mother and Tracy
13 and me."

14 Did you do anything to check that out?

15 A We did not determine that, no.

16 Q "And he said that Gene Saylor took it to a
17 pawn shop in Comer, Georgia," or Conyers, Georgia,
18 I believe that's Comer, Georgia, "I have the
19 receipt from it. Also he was with me at Ernest
20 Covan's cooking. He became a cook after this and
21 he went on his own cooking."

22 So, Marshall told you in there that Gene
23 Saylor ripped him and his family off, stole their
24 jewelry and he had a receipt from the pawn shop
25 where Gene took it. Correct?

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1 A Yes. He did not give me the receipt.

2 Q Well, did you check any -- how many pawnshops
3 are in Comer, Georgia.

4 A I have no idea.

5 Q Do you have any idea how big of town Comer,
6 Georgia is?

7 A No idea.

8 Q So, if there had been one pawn shop in Comer,
9 Georgia, it would have only been one place to
10 check, correct?

11 A That's correct.

12 Q If there were five you might have had to make
13 five phone calls, correct?

14 A Yes.

15 Q And so on, but we don't know. This is where
16 we sort of started at the beginning, but he tells
17 you that Gene Saylors, Kathy Crump and Elaine
18 Driver and Brad went over there and cleaned it out,
19 he's referring to his shed down in Georgia,
20 correct?

21 A Yes, sir.

22 Q And he says down at the bottom, "Gene is a
23 major player now, cooking and into theft rings,"
24 correct, is that what he told you?

25 A Where is that at?

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1 Q Down at the very bottom, next to the last
2 line.

3 A Yes.

4 Q "Gene is a major player now"?

5 A Yes.

6 Q And he ends it with, "Kathy B also, theft
7 ring and cooks," is that correct?

8 A Yes.

9 Q I'm going to ask you to skip over about three
10 or four more pages to where you have got one that's
11 a half a page. It look like this. There we go.
12 Let's back up, let's back up one page, go down to
13 the bottom. Start over about six lines from the
14 bottom, it says the next day. Do you see where I
15 am?

16 A Yes.

17 Q "The next day Paul Shockley and two guys I
18 don't know pulled up in Georgia at the motel, it
19 was, it was at about dinnertime, in a red truck
20 with Borden on the door of it. They came in and we
21 talked awhile. Then Paul, referring to Paul
22 Shockley, said I took care of your boy last night.
23 I asked who, he said David. I asked what did he
24 mean by took care of him. He said that he burned
25 his house up. I went off on him. He said that

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1 when he left it, it was ablaze. And I said you
2 dumb A, you have F'd me up now."

3 That's what Marshall was saying, only he used
4 the words, correct?

5 A Correct.

6 Q He told you in that statement that these
7 three people came down to Georgia and they told him
8 they had burned David Cumming's home. Correct?

9 A Correct.

10 Q He also told you that these guys had gone by
11 his house and gotten his girlfriend Tracy to loan
12 them his car. They had told her some cockamania
13 story about Marshall said it was okay to use his
14 car that night. Correct?

15 A Correct.

16 Q And Marshall was mad at them because he was
17 like, "You have F'd me up now." He's mad about the
18 situation, isn't he?

19 A According to this, yes.

20 Q And Marshall's concern was because his
21 vehicle was the one there, that David, yes, that
22 David Cumming would think that Marshall either
23 burned his house or had it burned. That is the
24 logical conclusion to that, isn't it?

25 A What?

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1 Q That's the logical conclusion or inference
2 there, isn't it?

3 A It appears to be, yes.

4 Q So, if David Cumming's house had been burned
5 and he thought Marshall had something to do with
6 it, do you think that would not motivate his
7 testimony in front of this jury the other day?

8 A We talked with David Cumming in reference to
9 that and I don't believe he said that Marshall did
10 it.

11 Q Okay. Well, did you find out who these guys
12 were that did burn it?

13 A No, sir.

14 Q So, right now David Cumming's arson is just
15 an open case, correct?

16 A To the best of my knowledge. I don't believe
17 he even made a report on it.

18 Q But you know it happened?

19 A There was some soot on the side of his house,
20 yes.

21 Q Now, he goes on to the end of this telling
22 you, we're on the same page, I'm not going to spend
23 that much time on it, but this is the page I'm
24 looking at here.

25 A Yes. I believe I've got it.

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1 Q He goes on to tell you a whole list of
2 people, the jury will be able to read it later, he
3 tells you even what kind of vehicles they drive in
4 case you want to find them or locate them, correct?

5 A Yes, he did give a description of vehicles on
6 here.

7 Q Okay. And on the next page, mine says,
8 "Things I will give you." Do you have that page?

9 A Yes.

10 Q He said he will give you, and he's got a
11 little star out beside it, a star indicates
12 Marshall will do it, a check indicates, "Someone
13 will do it for me." In other words, he is going to
14 need help getting some of this done, correct?

15 A Correct.

16 Q I tells you he'll give you Ray Powell, his
17 partner, a partner and a cook, correct?

18 A Correct.

19 Q And you have got Ray Powell now, correct?

20 A Correct.

21 Q He will give you, this is what he will do,
22 Jason S. and Preacher who are major cooks.
23 Correct?

24 A Correct.

25 Q He indicates he will give you, he will also

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1 have somebody to help him give you Will Vincent and
2 MeMaw, who is Denise Haggan, concerning a Mexico
3 connection. Correct?

4 A That's correct.

5 Q Just so the jury understands, MeMaw, she's
6 part of the next Grand Jury cases that are going to
7 be tried here, right?

8 A I don't believe it's in reference to this
9 case here.

10 Q I didn't ask you what it was in reference to.

11 A I don't know when it's going to be tried or
12 where.

13 Q Okay. There is a Grand Jury indictment,
14 statewide Grand Jury indictment on MeMaw and her,
15 quote, close quote, gangs, correct?

16 A Correct.

17 Q That's already been done and everything, it's
18 just waiting to go for trial?

19 A I don't believe Marshall had anything to do
20 with this, though.

21 Q Well, Marshall in the statement told you he
22 had information on, quote, quote, MeMaw, didn't he?

23 A Yes, according to this, yes.

24 Q And in that regard he told you about her
25 having her antique shop burned, didn't he?

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1 A That's correct.

2 Q He also told you that to get information
3 about her or her friend, that I believe there was a
4 police officer in Ware Shoals his wife was trying
5 to get him killed?

6 A I believe that's correct.

7 Q And that he could get you wired testimony
8 where this woman was trying to solicit somebody to
9 murder a police officer to get his workman's comp
10 money, he told you that, didn't he?

11 A Yes.

12 Q Well, tell me this. What investigation did
13 you do about a potential murder for hire case?

14 A Well, for that to be done Marshall would have
15 had to be out of jail, and he was in jail at the
16 time.

17 Q I didn't ask you how to do it. I asked you
18 what did you do?

19 A Because Marshall was in jail, nothing was
20 done.

21 Q Okay. Well, how many police officers -- was
22 it Ware Shoals, is that the police department?

23 A I believe it is, yes.

24 Q How many police officers at Ware Shoals?

25 A I don't know.

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1 Q Do you think there's 450 of them?

2 A No, sir.

3 Q Probably less than ten?

4 A Probably.

5 Q Did you talk to any of them to find out if
6 they were having domestic problems or might be
7 going through a divorce?

8 A No, sir.

9 Q Did you check with any of them to see if any
10 of them had a large insurance policy or were they
11 in financial trouble or anything?

12 A Not to my knowledge, no.

13 Q Did you check with any of them to find out if
14 their spouses know Denise Haggen or Marshall Miller
15 or any of these people?

16 A No, sir.

17 Q So, other than Marshall telling you this, is
18 it a fair statement you did nothing?

19 A That's correct.

20 Q He told you that he would have someone help
21 him deliver to you Frank Provan, P-r-o-v-a-n, who
22 has been a major cook for twenty years. Correct?

23 A According to this, yes.

24 Q And he told you that he would have someone
25 help him give you Marvin, last name unknown, who

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1 has been a major cook for about twenty years.

2 A That's correct.

3 Q And the next one he said he could do,
4 conspiracy to commit murder on a police officer,
5 that is the one we just talked about, isn't it?

6 A Correct.

7 Q He said he had information, he could get you
8 other people to prove this, that A. J. Welch, who
9 was or is the Ware Shoals Police Chief, that he was
10 dirty. Do you see that?

11 A Yes.

12 Q Possibly some information on Brandon Scott
13 even?

14 A Correct.

15 Q Correct?

16 A Yes.

17 Q You did the same investigation on that as you
18 did the murder on the police officer, is that a
19 fair statement, nothing?

20 A To the best of my knowledge, yes.

21 Q Okay. He told you about a poker house in
22 Georgia that he could do and another poker house in
23 Georgia he could get someone else to help you get.
24 Correct?

25 A Correct.

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1 Q Number twelve, this is what he will do, "Will
2 give you everything I know about the people on my
3 warrant, including me." Correct?

4 A Correct.

5 Q He also will get and give information on
6 arson in Due West antique shop, MeMaw.
7 Correct? He would give you the information on
8 David Cumming's arson case?

9 A Yes.

10 Q "A list of cooks and cook sites I know of,"
11 he listed that already, didn't he?

12 A Yes.

13 Q A theft ring in Georgia and in South
14 Carolina. Correct?

15 A Correct.

16 Q In fact, Marshall was telling you about
17 somewhere in this area, according to him, there is
18 literally an underground pawn shop on this guy's
19 farm where you go in under a barn or something and
20 he's got tons of stolen stuff. Do you recall that
21 conversation?

22 A No, sir, I don't.

23 Q Okay. "Deputy sheriff in Abbeville County
24 that leaks information to Ray," being Ray Powell.
25 That's what we talked about previously, isn't it?

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1 A Yes.

2 Q "Prescription fraud, list of doctors they go
3 to." He told you he could do that?

4 A Yes.

5 Q He told you he could give you the names of
6 two OC dealers, big dealers, correct?

7 A Yes.

8 Q So the jury understands, OC, that's
9 Oxycontin, or Oxycodone, whatever proper name it
10 uses?

11 A Yes.

12 Q And, "Save you a trial," correct?

13 A Yes.

14 Q And he told you in there he didn't, he wanted
15 to start his time at Clinton City or Anderson City
16 for safety reasons?

17 A That's correct.

18 Q You don't have any question Marshall was
19 concerned about his safety?

20 A He appeared to be, yes.

21 MR. VARNER: That's all I have.

22 THE COURT: Mr. Wise, cross-examination.
23
24
25

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CROSS EXAMINATION

QUESTIONS BY MR. WISE:

1
2
3 Q You got there about 11:30, you say, in the
4 morning?

5 A No, sir, I didn't. According to my report,
6 that's when I believe Agent Sonnefeld and her group
7 got there.

8 Q What time did you get there?

9 A I don't that know exactly. Probably, I don't
10 know, maybe 30 minutes later.

11 Q All right. Somewhere around noon?

12 A Approximately, yes.

13 Q All right. Billy Moore wasn't out at the
14 garage when you got there?

15 A I didn't know him at the time and I don't
16 remember seeing him when I got there.

17 Q Okay. I believe it was sometime later when
18 he got there?

19 A I don't know.

20 Q Did you request permission from him to search
21 the garage?

22 A No, sir.

23 Q Did you search the garage?

24 A No, sir.

25 Q Did anyone, did you see any SLED agents

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1 search the garage?

2 A I don't remember any SLED agents searching,
3 no.

4 Q Did you -- how long was it after you got
5 there that they found Marshall Miller?

6 A I'm thinking it was at least an hour, maybe
7 an hour and a half.

8 Q Somewhere around 1:30, 2:00 o'clock?

9 A Approximately.

10 Q Well, 1:00 to 1:30?

11 A Approximately.

12 Q Okay. When do you recall Billy Moore coming
13 over there?

14 A I don't, I mean, I don't remember seeing him.

15 Q Okay. Well, who took the pictures?

16 A Which pictures?

17 Q Well, State's Exhibit 17.

18 A I don't know who took those pictures.

19 Q Did you take them?

20 A I didn't, no.

21 Q Did you have a camera?

22 A I didn't, no.

23 Q Did somebody with SLED have a camera?

24 A Maybe, but I don't recall any SLED agents
25 taking pictures.

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1 Q You don't recall what?

2 A There may be but I don't recall any SLED
3 agents taking pictures.

4 Q Do you know who this is right here in these
5 bottom two pictures, whose hands those are?

6 A No, sir.

7 Q All right. You looked through the statements
8 Marshall had signed, didn't you?

9 A I didn't look through them.

10 Q I mean, you have had them, where is that, the
11 ones in State's Exhibit 16?

12 A Yes.

13 Q All right. Do you know if Tommy Stewart is
14 in here at all?

15 A I can't remember who all's name is in there.

16 Q Okay. Now, when you got there this area
17 wasn't roped off?

18 A No, sir.

19 Q It never was roped off that day?

20 A I don't believe it was, no.

21 Q Okay. In fact I believe there was some
22 people other than SLED agents coming in and out of
23 the garage on occasions?

24 A Other than SLED agents? There were other
25 people there other than SLED agents.

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1 Q Do you remember a Jimmy Madden being there,
2 who lived up the road a short distance?

3 A I didn't know any of them.

4 Q Okay. But there was some people who were not
5 SLED agents in and out of the garage, correct?

6 A They were there, yes.

7 Q And SLED wasn't treating this as a crime
8 scene?

9 A As a crime scene, no.

10 Q Because if you treat it as a crime scene you
11 would have had to cordon it off with tape and all
12 and check who goes in and out?

13 A Correct.

14 Q All right. And therefore SLED didn't treat
15 this as any sort of meth lab, did it?

16 A No.

17 Q Now, the stuff on top of the trailer wasn't
18 found until very late in the day, was it?

19 A It was later on that afternoon, yes.

20 Q And in fact you all were getting ready to
21 haul the trailer off when someone said, "What's
22 that on top?"

23 A Yes.

24 Q I believe the person said that was a non SLED
25 agent name Jimmy Madden, or do you remember?

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1 A I don't know who initially found it. I know
2 that Chief King of Honea Path Police Department
3 came to me and told me there was an item on top of
4 the trailer.

5 Q But you don't know who told him?

6 A No.

7 Q And that was after you all had been there
8 three hours?

9 A At least a couple hours.

10 Q A couple hours at least. It was after they
11 found Marshall Miller?

12 A Correct.

13 Q And after he had been taken off?

14 A I believe so.

15 Q So, that would have been after -- well after
16 2:00 o'clock?

17 A I believe so.

18 Q All right. So, some two and a half hours
19 later is when it was found?

20 A Approximately.

21 Q All right. And you don't know who --

22 A Those pictures you asked me about, I believe
23 someone with the Greenwood Sheriff's office took
24 those pictures.

25 Q What about State's Exhibit 5, do you know who

CHESTER BRAGG - CROSS

1 took -- well, it's 5 and 16, who took those?

2 A A deputy with the Laurens Sheriff's office, I
3 believe.

4 Q A deputy with Laurens Sheriff's Department?

5 A Yes.

6 Q He had a camera there?

7 A Yes.

8 Q Okay. And again you don't know whose hands
9 those are there?

10 A I believe that's Agent Sligh, Steven Sligh.

11 THE COURT: The last question referring to
12 what exhibit?

13 MR. WISE: Exhibit 17, the bottom left
14 picture.

15 Q Did you talk to Billy Moore at all that day?

16 A No, sir.

17 Q I believe you talked to his wife a couple
18 days later?

19 A Yes, sir.

20 Q Did you talk to a Chip Heatherly that day, or
21 James Heatherly?

22 A I didn't, no.

23 Q All right.

24 MR. WISE: Okay, thank you very much.

25 THE COURT: Will there be redirect?

CHESTER BRAGG - CROSS

1 MR. HOOD: Yes, Your Honor.

2 THE COURT: All right, ladies and gentlemen,
3 Madam Forelady and members of the jury, we will
4 take a short recess. Please do not discuss the
5 case by, between and among yourselves, and retire
6 to the jury room, and before do so you will
7 overhear the Court's instructions to the witness.

8 Mr. Witness, you may not discuss your
9 testimony with anyone at anytime under any
10 circumstances. You may not discuss the case at
11 all, you may not discuss any questions you have
12 been asked or answers you have given or questions
13 you expect you could be asked or answers you could
14 give to those anticipated questions. But you are
15 expected to relax as well. Do you understand?

16 THE WITNESS: Yes, sir.

17 THE COURT: Thank you very much. Come down,
18 please.

19 Ladies and gentlemen, again do not discuss
20 the case by, between and among yourselves. We will
21 take a short recess. Retire to the jury room.

22 (The jury was excused from the courtroom).

23 THE COURT: Is there anything from the State
24 for the record before we take a recess?

25 MR. CROUT: Nothing from the State, Your

1 Honor. Thank you.

2 THE COURT: Anything from the defendant
3 Miller?

4 MR. VARNER: Nothing, Your Honor.

5 THE COURT: From the defendant Moore?

6 MR. WISE: Nothing, Your Honor.

7 THE COURT: Thank you. We will stand in
8 recess.

9 (Recessed at 4:39 p.m.).

10 (Reconvened at 4:50 p.m.).

11 THE COURT: The record is open. Indictment
12 2002-GS-47-32, the State of South Carolina versus
13 Marshall Miller and others, in which Marshall
14 Miller and Billy Moore are defendants in the trial
15 at bar.

16 Is there anything from the State before the
17 jurors come in?

18 MR. CROUT: Nothing from the State, Your
19 Honor.

20 THE COURT: From the defendant Miller?

21 MR. VARNER: Nothing, Your Honor.

22 THE COURT: Defendant Moore?

23 MR. WISE: Nothing, Your Honor.

24 THE COURT: Show the jury in. Well, let me
25 get my witness.

1 Show the jury in, Mr. Busby, please.

2 (The jury returned to the courtroom).

3 THE COURT: All the jurors are present, with
4 the foreman and the alternates properly seated.

5 Mr. Witness, you have been sworn and you
6 remain under oath to tell the truth. Do you
7 understand?

8 THE WITNESS: Yes, sir.

9 THE COURT: Thank you. This witness is with
10 you, Mr. Crout.

11 MR. CROUT: May it please the Court.

12 THE COURT: Mr. Crout.

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CHESTER BRAGG - REDIRECT

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. CROUT:

3 Q Special Agent Bragg, the investigation in
4 this case, I believe you testified involved, or
5 excuse me, involved an interview process?

6 A Interview process?

7 Q Yes. Excuse me, let me rephrase that. You
8 were present when your co-case agent Miss Sonnefeld
9 testified, correct?

10 A Yes.

11 Q And you heard her testimony regarding the
12 interview process?

13 A Yes.

14 Q Now, in investigating drug cases is it easy
15 to determine initially where the drug transactions
16 are taking place?

17 A If they can tell us exactly. It's easy that
18 way.

19 Q Then explain that process, when you say if
20 they can tell us where it happens, can you explain
21 that process?

22 A Are you talking about between the person we
23 are interviewing and the person they dealt with?

24 Q Yes, just that one initially, if you can tell
25 us about that?

CHESTER BRAGG - REDIRECT

1 A I mean, if they can tell us where they made a
2 hand to hand purchase to whomever, if they can say
3 it was at a certain address on a certain street in
4 a certain county, then, yes, it is easy that way to
5 tell where it happened.

6 Q And would you, based upon that information,
7 perhaps conduct a controlled buy of drugs?

8 A If they can make a purchase from that person,
9 yes.

10 Q And you wouldn't always arrest that person
11 after that controlled buy, is that correct?

12 A That's correct.

13 Q And why wouldn't you do that?

14 A Because the case would still be ongoing,
15 ongoing investigation.

16 Q Do you base the case on interviews solely, or
17 do you base it solely on interviews?

18 A No, sir.

19 Q Do you base it solely on controlled purchases
20 of drugs?

21 A Not solely, no, sir.

22 Q Now, I believe you testified that you had
23 five years of experience with SLED?

24 A With SLED, yes, sir.

25 Q And in that time period you have investigated

CHESTER BRAGG - REDIRECT

1 drug cases, correct?

2 A That's correct.

3 Q And generally the drug transactions don't
4 take place in the open, is that correct?

5 A That's correct.

6 Q And would it be safe to say there is a
7 certain amount of secrecy with these transactions?

8 A Yes, sir, it's safe to say.

9 Q And would it also be safe to say that a lot
10 of information in these transactions come from
11 people who are involved?

12 A That's correct.

13 Q And would it be safe to say in this case --

14 MR. VARNER: Your Honor, I have been tolerant
15 but I object to the leading. We're now just
16 summarizing and the agent agrees.

17 MR. CROUT: Your Honor, I'll rephrase the
18 question. I was just doing it to move the
19 questioning along.

20 THE COURT: Rephrase the question.

21 BY MR. CROUT:

22 Q In this case did you gather information from
23 other people who were involved in these
24 transactions?

25 A Yes, we did.

CHESTER BRAGG - REDIRECT

- 1 Q And were those individuals indicted?
- 2 A Yes sir.
- 3 Q But all of them weren't indicted?
- 4 A Not all of them, no.
- 5 Q And you received information on Ray Powell,
- 6 correct?
- 7 A Correct.
- 8 Q And Ray Powell was indicted?
- 9 A Correct.
- 10 Q And do you know if he's pled guilty?
- 11 A I believe he has.
- 12 Q And is he awaiting sentencing? Do you know
- 13 what his status is?
- 14 A I believe he's awaiting sentencing.
- 15 Q And do you use every piece of information
- 16 that you gather in these interviews?
- 17 A Not every piece, no. Some is not pertinent.
- 18 Q And is every piece of information you receive
- 19 true?
- 20 A No, sir.
- 21 Q What do you do to try to determine what's
- 22 true and what's not true?
- 23 A We will try and corroborate what they tell us
- 24 to see if they are telling us the truth or not.
- 25 Q Now, do you remember when you took a

CHESTER BRAGG - REDIRECT

1 statement, or when a statement was taken from Ray
2 Powell?

3 A I didn't conduct that interview. I was
4 present.

5 Q But you know that one was taken, correct?

6 A Correct.

7 Q All right. Now, I believe that you were
8 questioned extensively on what is State's Exhibit
9 Number 71. I would like to ask you a few
10 questions.

11 THE COURT: That's for identification only, I
12 believe.

13 MR. CROUT: No, Your Honor, this one is the
14 letter which is actually in evidence.

15 THE COURT: All right.

16 BY MR. CROUT:

17 Q Now, if you would turn to the very last page,
18 and I believe at the top of that page it's entitled
19 lies in motion for discovery?

20 A Motion for discovery, yes.

21 Q Could you read out what lies it appears Mr.
22 Miller is referring to or where those lies are
23 coming from? Let me rephrase that. Could you read
24 out where it is Mr. Miller is referring to those
25 lies coming from?

CHESTER BRAGG - REDIRECT

1 A I can't tell by this.

2 Q Well, if you could, look at item number one
3 and read that, it says, "Lies in motion of
4 discovery," just read item number one.

5 A Angie Baker Hill statement.

6 Q And then next to that, excuse me, right after
7 that?

8 A Ashley Bannister statement.

9 Q After that?

10 A Sammy McNeil statement.

11 Q Just work your way down, for speed's sake.

12 A Michelle Madden statement, Benji Cobb
13 statement, Ray Powell statement, Julie Prince
14 statement, Jason Davis statement, Chip statement,
15 Suzanna Grant statement.

16 Q Now, in this case Ashley Bannister has pled
17 guilty, is that correct?

18 A Yes.

19 Q And Sammy McNeil pled guilty and I believe
20 testified here?

21 A Yes.

22 Q Michelle Madden pled guilty and testified
23 here?

24 A Yes.

25 Q All right. Ray Powell has pled guilty,

CHESTER BRAGG - REDIRECT

1 correct, and testified here?

2 A Correct.

3 Q I believe Julie Prince pled guilty and
4 testified here?

5 A Correct.

6 Q And also Jason Davis, did he plead guilty?

7 A Yes, sir.

8 Q Did he testify here?

9 A Yes, sir.

10 Q So, at the time that Mr. Miller gave you this
11 unsolicited statement he had that information
12 already, is that correct?

13 A I believe he had, yes.

14 Q And at the time he gave you that unsolicited
15 statement he was already indicted and already
16 charged?

17 A Correct.

18 Q Now, of all the things that he said he would
19 do, and I'm referring to the statement right above
20 that, excuse me, the page right in front of that
21 page, of all the things he said that he was going
22 to do, one of the things was give you an individual
23 by the name of Jason S. Is that correct?

24 A Yes.

25 Q And throughout this handwritten statement he

CHESTER BRAGG - REDIRECT

1 refers to him as Jason S.?

2 A Yes.

3 Q Now, he admitted to having a lot of dealings
4 with Jason S., is that correct?

5 A Yes.

6 Q And you also made a handwritten, or you also
7 took handwritten notes from your interviews with
8 Mr. Miller?

9 A Yes.

10 Q I would like for you to, if you could, take a
11 look at that. Just flip through it and refresh
12 your memory as to Jason S. as he appears in that
13 statement.

14 A Jason, also known as J-Bird, no last name.

15 Q I believe that interview was sixteen, was
16 that sixteen pages, if you need to look at it?

17 A Yes, sir.

18 Q And he never referred to him there as
19 anything other than Jason S.?

20 A That's correct.

21 Q And do you remember the series of questioning
22 about, I believe Lisa Pace, do you recall that
23 questioning?

24 A Yes, sir.

25 Q And you indicated why she was not indicted,

CHESTER BRAGG - REDIRECT

1 or you indicated she was not indicted?

2 A Yes, that's correct.

3 Q And why is that?

4 A I believe she's deceased.

5 Q Now, he indicated in his handwritten
6 statement, and if you need to look at it, I just
7 have one other question out of this statement, he
8 indicated a total of the amount of money he spent,
9 if you will look where Mr. Varner was going through
10 all of that money that he spent.

11 A Okay.

12 Q How much money did he say he had spent?

13 A \$114,844.

14 Q And in that handwritten statement does he
15 ever refer to any job that he has, that 33 page
16 statement, do you recall?

17 A I don't believe he did.

18 Q And then if you would also --

19 A I think he referred to he used to work at an
20 electrical type place, I think.

21 Q All right, thank you. Then also if you will
22 just refresh your memory as to your typed report.
23 Did he ever refer to any job there?

24 A I don't see anything.

25 Q Now, when you are conducting this

CHESTER BRAGG - REDIRECT

1 investigative process, you and Agent Sonnefeld, do
2 you have to make a determination of when that
3 investigation process has to stop?

4 A Do we make a determination?

5 Q Yes, at some point do you decide to follow a
6 lead or not follow a lead?

7 A Yes.

8 Q And why is that?

9 A To corroborate what a person has told us, to
10 see if they are telling the truth, or to see if we
11 can determine they're telling the truth.

12 Q And you interviewed Marshall Miller for two
13 hours when he was in jail and the first hotel
14 interview, how long did you interview him?

15 A Approximately four or five hours the second
16 and third time.

17 Q And let me make sure I'm clear on that. Both
18 times were three or four hours, or combined it was
19 three or four hours?

20 A Both times was four or five hours.

21 Q Okay. Combined?

22 A Four or five hours the second time, four or
23 five hours the third time.

24 Q Okay, thank you. And he gave you a lot of
25 unsolicited information in his second statement,

CHESTER BRAGG - REDIRECT

1 written statement?

2 A Yes, sir.

3 Q And he gave you less information in his oral
4 statement to you?

5 A That's correct.

6 Q I believe that written statement was 33
7 pages?

8 A I believe it was, yes, sir.

9 Q So, if we assume, then, that there were three
10 lengthy interviews, a 33 page written statement and
11 then a 16 page report that you did?

12 A Yes.

13 Q He never said, "I'm not guilty of conspiring
14 to traffic in more than a hundred grams of meth,"
15 did he"?

16 A He never did that, no, sir.

17 Q And he never gave you any other indication
18 that he wasn't guilty of that crime, did he?

19 A That's correct.

20 Q And in fact information he gave you on other
21 people turned out to be true?

22 A Correct.

23 Q And information he gave you on some other
24 people turned out not to be true?

25 A Correct.

CHESTER BRAGG - REDIRECT

1 Q And the information that you received on him
2 came from people who testified here in court this
3 week, or last week?

4 A That's correct.

5 Q One other question. Of all the people you
6 interviewed in this case, including Marshall
7 Miller, who knew more information about everybody
8 else?

9 A Marshall Miller.

10 MR. CROUT: No further questions.

11 THE COURT: Mr. Varner, recross examination.
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CHESTER BRAGG - RECROSS

RECROSS EXAMINATION

1
2 QUESTIONS BY MR. VARNER:

3 Q You don't know what information people have
4 or don't have, you just know who told the most
5 information, don't you?

6 A That's correct.

7 Q Okay. So, we're back to Marshall told you
8 more about what was going on, not only with these
9 people, but with other things that anybody did,
10 than anybody, didn't he?

11 A He did give us a lot of information, yes, in
12 his statements.

13 Q He was asking you about, this is what other
14 people tell you, you know, that is how you
15 corroborate things. So, do you subscribe to the
16 theory if you say something often enough or long
17 enough that makes it true?

18 A No, sir.

19 Q That just could mean a lot of people are
20 telling the same lie, couldn't it?

21 A It could be true also.

22 Q Okay. And -- we'll stop there for a second.
23 You said Marshall only made one reference to a job,
24 right?

25 A That I can remember, yes.

CHESTER BRAGG - RECROSS

1 Q Okay. Well, Ray Powell's statement made
2 reference to a couple jobs Marshall had, didn't it,
3 he knew him from working at two different places,
4 or one of the other people told you about where
5 Marshall used to work, he has worked two different
6 places you know of, hasn't he?

7 A I just remember the one, Davis Electrical.

8 Q Marshall didn't make a reference to an
9 inheritance, either, did he?

10 A No, sir.

11 Q Okay. And if he had started telling you
12 about a job he had, that would have nothing to do
13 with this case, would it?

14 A It may have.

15 Q It may have? All right. Now, you made the
16 statement that in your notes Marshall didn't
17 mention J-Bird and Jason as the same person,
18 correct?

19 A Say that again.

20 Q When you were being asked about those
21 typewritten notes there was no mention of J-Bird
22 and Jason being the same person, correct?

23 A I don't believe I said that.

24 Q Okay. All right, did Marshall tell you in
25 his notes that J-Bird and Jason are the same

CHESTER BRAGG - RECROSS

1 person, that is just a nickname for Jason?

2 A The way it was written, I believe it said
3 Jason or J-Bird.

4 Q Okay. And you took that to mean however he's
5 known, either Jason or J-Bird?

6 A It could mean it's the same person or could
7 mean two people. The way he's got it written, you
8 can't really tell.

9 Q Well, you're the investigator. Did you ask?

10 A I don't believe I did.

11 Q And the question was about Marshall gave you
12 more information in that written statement than he
13 gave you in the interviews, is that what you told
14 this jury?

15 A In his written statement was more
16 information, yes.

17 Q Okay. How long did it take you to read that
18 statement? Did it take you thirty minutes?

19 A The other day it took me approximately thirty
20 minutes, yes, sir.

21 Q That's thirty minutes worth of information in
22 that written statement, he gave you twelve hours of
23 information orally on top of that statement, didn't
24 he?

25 A Approximately.

CHESTER BRAGG - RECROSS

1 Q So, he gave you twenty-four times as much
2 information orally, a half hour compared to
3 twenty-four, or excuse me, compared to twelve
4 hours?

5 A Yes.

6 Q Okay. You said Marshall gave you statements
7 that weren't true, such as what?

8 A He stated that Tracy Davis wasn't involved in
9 selling or being around drugs.

10 Q You don't know that?

11 A She was around drugs.

12 Q Did you see her?

13 A On the videotape, yes, sir.

14 Q Okay. Sitting in a car while a woman got out
15 of the car and sat in a truck?

16 A I believe one time she got out of the vehicle
17 but they were in the same car together.

18 Q Well, that's just what I said, she gave a
19 girl a ride to a Stop and Go or whatever that was,
20 the girl went inside, Tracy got out for a minute,
21 talked to the guy in the truck for, I don't know,
22 six seconds, four seconds, three seconds, got back
23 in her car. That's part of, that makes you a
24 co-conspirator?

25 A She was around the drugs.

CHESTER BRAGG - RECROSS

1 Q Okay. Well, so was Ray Powell's wife, at
2 least fifty times, every single week for a whole
3 year she was around drugs, she didn't just take
4 somebody for a ride to the store and go, she was
5 there while they were cooking it, wasn't she?

6 A Well, this we were able to confirm.

7 Q Answer my question. Ray Powell himself told
8 you that, you just heard him tell you that the
9 other day, didn't he?

10 A I believe he did, yes.

11 Q So, if you're around the cook and it's cooked
12 at your house fifty times a year, but if you give
13 somebody a ride one isn't a conspirator, one is an
14 innocent person, just a bystander, according to the
15 way you read this case?

16 A What's the question?

17 Q Isn't that right?

18 A What's the question?

19 Q The question is, Tracy's involved in drugs
20 because she gave somebody a ride and they did a
21 drug deal in a separate car, correct?

22 A She's involved because we could confirm that.

23 Q Okay. Well, did you not -- what more
24 confirmation do you have to have than a man getting
25 up here and putting his hand on the Bible, swearing

CHESTER BRAGG - RECROSS

1 to tell the whole truth and nothing but the truth,
2 so help him God, and telling everybody, all these
3 people that he was cooking 52 times a year, every
4 single week for a year, what more confirmation do
5 you have?

6 A Well, him swearing the other day was after
7 the fact, after they had been indicted.

8 Q Okay. Well, have you gone back and gotten a
9 warrant, taken any effort since then or do you now
10 admit you made a big mistake?

11 A I'm sorry, say that again.

12 MR. CROUT: Objection to the form of the
13 question, Your Honor.

14 THE COURT: Sustained.

15 Q Did you make a mistake not indicting her?

16 MR. CROUT: Objection to the form of the
17 question.

18 THE COURT: Sustained.

19 Q Did you indict her?

20 A She wasn't indicted, no.

21 Q Was she involved in drugs?

22 A According to his testimony, yes.

23 Q Okay. So, according to his testimony, so you
24 don't believe everything Ray says?

25 A I mean, she may be indicted later on.

CHESTER BRAGG - RECROSS

1 Q All right. So, according to your read, he
2 didn't tell the truth about Tracy. What other lies
3 did Marshall tell you in his statement?

4 A I can't remember right offhand.

5 Q Well, how would you know, if you didn't
6 investigate them? You wouldn't, would you? Would
7 you?

8 A I guess not.

9 MR. VARNER: That's all the questions I have.

10 THE COURT: Mr. Wise?

11 MR. WISE: Just a couple questions.
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CHESTER BRABB - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. WISE:

Q I just want to call your attention to some notes you made, page 32 of this, just refresh your memory on items, I believe two and three. You found a Marlboro zip bag in Marshall Miller's car, or truck?

A Say that again.

Q A Marlboro bag?

A Right here?

Q Right. Is that correct?

A Yes.

Q Okay. And you also found directions for a radio in his truck, a Sony radio?

A Yes, sir.

Q Okay, Thank you.

MR. WISE: That's all.

THE COURT: Redirect examination?

MR. CROUT: Briefly, Your Honor.

CHESTER BRAGG - REDIRECT

REDIRECT EXAMINATION

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QUESTIONS BY MR. CROUT:

Q Special Agent Bragg, Tracy Davis pled guilty in this case, correct?

A Correct.

Q The information you had on her was just more than being present at that videotaped buy, is that correct?

A That's correct.

Q There is more than one person that said she was present when Marshall Miller dealt drugs?

A I believe that's correct, too.

Q Now, you don't know how long it took Marshall Miller to write this, do you?

A That's correct, I do not know.

Q It could have taken him four hours, five hours?

A Correct.

MR. CROUT: No further questions.

THE COURT: Anything further, Mr. Varner?

MR. VARNER: Nothing further.

THE COURT: Mr. Wise?

MR. WISE: Nothing further.

THE COURT: Thank you, sir. Come down.

(Witness excused).

1 THE COURT: Does the State have additional
2 witnesses?

3 MR. CROUT: None from the State, Your Honor.

4 THE COURT: Is that the State's case in
5 chief?

6 MR. CROUT: Yes, Your Honor -- one moment,
7 please. Your Honor, we would briefly like to make
8 a determination if all the evidence is in, I
9 believe it is, but to be on the safe side I believe
10 we would like to confirm that before we rest.

11 THE COURT: All right. We will not rest the
12 State's case now but we will release the jury while
13 a marshaling of the evidence and identification is
14 carried out by all the parties.

15 Madam Forelady and ladies and gentlemen of
16 the jury, we will recess for the evening at this
17 time. You have heard these instructions but it's
18 necessary that you be given them at every time when
19 we recess for the evening.

20 Do not discuss this case by, between and
21 among yourselves and do not discuss this case with
22 any person at all under any circumstances and do
23 not allow anyone to discuss the case with you.
24 If anyone attempts to discuss the case with you
25 it's your responsibility to tell that person or

1 persons that you are a juror and you are not
2 permitted to discuss the case with them at all. If
3 after having been alerted that you are a juror
4 anyone continues to question you or wants to talk
5 with you about this case that would be highly
6 improper, wrong and illegal and you should use
7 every means available to you to identify any such
8 person or persons and report that to one of the
9 court bailiffs or to the court clerk who sits right
10 here in front of the Court as soon as you come in.
11 You don't have to share that, in fact you should
12 not share it with any other person and it will be
13 properly investigated and acted upon.

14 If there were to be any media coverage of the
15 trial such as newspaper, television or radio please
16 ignore it completely and absolutely as soon as you
17 realize what you are seeing, hearing or reading has
18 to do with this trial. Completely disabuse your
19 mind of anything that you may see, hear or read
20 because you are under your oath to decide this case
21 only and exclusively upon the evidence that is
22 revealed to you during the course of this trial.

23 The Court again understands very well how
24 much people are interested and curious, that's
25 natural human reaction, and you will be asked in

1 all probability again, if you haven't already been
2 asked, you will be asked what the case is about and
3 what it is that you are trying, and you are under
4 your oath not to reveal to anyone what this case is
5 about or allow anyone to talk with you about this
6 case.

7 Now, again the Court reminds you that after
8 the verdict has been rendered you may discuss the
9 case or you may refuse to discuss the case as you
10 will, that is your right, but until the verdict is
11 rendered you may not, you shall not and you are
12 directed, directly ordered not to discuss the case
13 with anybody under any circumstances at all.

14 Thank you very much. We will start the case
15 in the morning at 10:00. There may be some of you
16 who live in remote areas, the Court is not familiar
17 with any one of you, and there may be the
18 possibility of dangerous areas on the road early in
19 the morning, some of you may have to get out early
20 and do other things before you come, so we're going
21 to start at 10:00 rather than 9:30 but we expect to
22 work until about the same time or even later,
23 hopefully things will be completely clear tomorrow.
24 We may end early, the Court is very much like you,
25 other than some knowledge about what witnesses may

1 be called, the Court is under no apprehension as to
2 what reply, if any, may be presented by the State
3 or what evidence may be presented by any defendant,
4 if any. No defendant has to present any evidence
5 because the defendant, as you know, is presumed
6 guilty until the State presents evidence to your
7 satisfaction that that person is guilty beyond any
8 reasonable doubt.

9 Did I misspeak?

10 MR. VARNER: Yes, sir, you said the defendant
11 is presumed guilty.

12 THE COURT: My lawyer has advised me of that
13 and he immediately did. Any defendant charged with
14 a crime is presumed to be innocent until the State
15 bears its burden to prove that person's guilt
16 beyond a reasonable doubt. The Court did just a
17 moment ago misspeak, I'm somewhat embarrassed by
18 doing so, please disregard that misinformation, it
19 was not intentional, it was in a hurry to try to
20 get you out of here as soon as possible. Every
21 person is presumed innocent until proven guilty
22 beyond a reasonable doubt.

23 Again, do not discuss the case by, between
24 and among yourselves or with anybody else, don't
25 look, hear or see anything that has to do anything

1 with the case, be back in the jury room at 10:00
2 o'clock. Thank you, you're excused. Everybody
3 else remain seated.

4 (The jury was excused from the courtroom).

5 THE COURT: The Court apologizes for the
6 misstatement to the jury. As the information goes,
7 the night is freezing fast, I was trying to get
8 these jurors out of here and on their way because
9 some of them have some distance, so it is thought
10 that the curative instructions and the correction,
11 to the embarrassment of this judge, that the
12 misstatement was absolutely corrected. Do you
13 agree, does the State agree that the misstatement
14 was corrected sufficiently?

15 MR. HOOD: Yes, sir, Your Honor.

16 THE COURT: Do you agree, Mr. Varner?

17 MR. VARNER: Your Honor, I would ask when you
18 start to give them the final charge, that you do
19 re-emphasize that one point, because I'm a little
20 concerned.

21 THE COURT: It will be emphasized throughout
22 the charge.

23 MR. VARNER: I'm a little concerned somebody
24 might say that was kind of a Freudulent slip in
25 this case, and I was listening, I picked up, I

1 think --

2 THE COURT: The Court saw that you were
3 paying attention and wanted to say something and
4 Mr. Fisher did, of course, bring my attention to
5 it. The Court apologizes but it is thought and the
6 record will show that it was made clear that it was
7 a slip of the tongue, so to speak, and it was
8 because the Court was in a hurry.

9 MR. VARNER: I understand, Your Honor.

10 THE COURT: At this point are you satisfied
11 with the curative remarks?

12 MR. VARNER: At this point, yes, I am.

13 THE COURT: Very well. Mr. Wise, are you
14 satisfied?

15 MR. WISE: I have to confess I didn't hear
16 you say it, I wasn't paying attention.

17 MR. HOOD: I didn't either, Your Honor.

18 THE COURT: Well, I was not aware of it but
19 it was, it was in haste. Now, for the record, is
20 there anything from the State before we close the
21 record?

22 MR. HOOD: Yes, sir, Your Honor, I want to
23 ensure, this is just a standard practice I have, my
24 records show that we have items number 1 through
25 item number 71, and the only items that are not in

1 evidence are number 2, number 25, number 26 and
2 number 29. I just want to confirm that before we
3 close.

4 MR. VARNER: Numbers are not in?

5 MR. HOOD: 2, 25, 26 and 29.

6 MR. VARNER: Not in evidence.

7 MR. WISE: Number 3, they were introduced for
8 identification only, they weren't introduced, I
9 don't know if anybody identified them later.

10 MR. HOOD: It is the State's recollection
11 item number three was introduced in evidence either
12 by Brandon Scott or, I know when Agent Sonnefeld
13 testified we marked them for identification only,
14 my record shows they were moved in, that is why we
15 go through this process, to make sure.

16 THE COURT: The Court does not remember. The
17 court reporter's notes will control, and if
18 necessary, the State will be allowed to recall any
19 witness and move such evidence in, such item into
20 evidence if it wishes.

21 MR. HOOD: Thank you, Your Honor.

22 THE COURT: All right. Now, with that
23 exception, is there any other thing for the record
24 from the State?

25 MR. HOOD: No, sir, Your Honor.

1 THE COURT: Very well. Mr. Varner, do you
2 have anything you want to put on the record?

3 MR. VARNER: Your Honor, the final
4 resolution, is three in or out?

5 THE COURT: The court reporter's record
6 controls and the State will be given an opportunity
7 to put that piece of evidence, pieces of evidence,
8 as the case may be, into evidence, I believe it's
9 some photographs.

10 MR. HOOD: Yes, sir, it's a photographic
11 board.

12 THE COURT: With several photographs on it.

13 MR. HOOD: Yes, sir with, seven pictures.

14 MR. VARNER: In the interest of saving time I
15 will so stipulate they can move it into evidence
16 without recalling a witness.

17 THE COURT: How says defendant Moore?

18 MR. WISE: Fine with me.

19 THE COURT: Okay. Number 3 is in evidence by
20 agreement and stipulation of the parties.

21 THE COURT: Anything further, Mr. Varner?

22 MR. VARNER: Nothing.

23 THE COURT: Anything further, Mr. Wise?

24 MR. WISE: Your Honor, if the State rests, I
25 do have a motion.

1 THE COURT: The State has not rested.

2 MR. WISE: They have not rested, okay.

3 THE COURT: They have not rested. Let's be
4 here at 9:30 so that we can take up motions.

5 MR. WISE: Very good.

6 THE COURT: To some extent, because the State
7 may in fact rest, they may not, the Court is not
8 anticipating one way or the other.

9 MR. HOOD: That was my next thing, if we
10 could come back early and handle motions before the
11 jury comes in, that handles our concerns, too, Your
12 Honor.

13 THE COURT: Yes, sir. Anybody have anything
14 further for the record?

15 MR. HOOD: No, sir, Your Honor.

16 MR. VARNER: No, sir.

17 THE COURT: The record is closed. We are in
18 recess until 9:30.

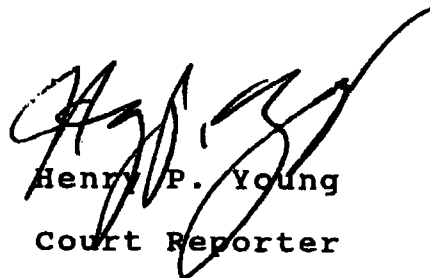
19 (Recessed at 5:37 p.m.).
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I, the undersigned Henry P. Young, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case in the Circuit Court for Abbeville County, South Carolina, on the 28th day of January, 2004.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 8, 2005



Henry P. Young
Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
CASE NO. 2002-GS-47-32

COUNTY OF ABBEVILLE

STATE OF SOUTH CAROLINA,)

-vs-)

MARSHALL MILLER and)
BILLY MOORE,)

Defendants.)

B E F O R E:

HONORABLE WYATT T. SAUNDERS, JR.

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

JOHN K. CROUT, Esquire
ROBERT E. HOOD, Esquire
Attorneys for the State

KIM R. VARNER, Esquire
Attorney for the Defendant Marshall Miller

C. RAUCH WISE, Esquire
Attorney for the Defendant Billy Moore

Henry P. Young
Court Reporter

VOLUME VII of VIII

JANUARY 29, 2004

1
2 (Reconvened at 10:02 a.m.).

3 THE COURT: The report is open,

4 THE COURT: The record is open, State of
5 South Carolina versus Marshall Miller and others,
6 indictment 2002-GS-47-32. In this matter the
7 defendant Marshall Miller and defendant Billy Moore
8 are standing trial.

9 Is there anything from the State before the
10 jurors come in, please?

11 MR. CROUT: Nothing from the State, Your
12 Honor.

13 THE COURT: Anything from the defendant
14 Miller?

15 MR. VARNER: No, sir, Your Honor.

16 THE COURT: Anything from the defendant
17 Moore?

18 MR. WISE: No, Your Honor.

19 THE COURT: The Court has a report that the
20 second juror, juror number two, Jessica Jenson --

21 MR. WISE: What is that juror's name?

22 THE CLERK: Jenson.

23 THE COURT: Jessica Jenson called in early
24 this morning and we had a conference, and she does
25

1 not have a doctor's statement, and upon request by
2 the Court the Clerk called Miss Jenson and she is
3 going to come and she said she would be here about
4 10:30. The Court proposes to have the jurors out
5 and let them go out and about the area, go out in
6 the sunshine, go get some coffee, whatever they
7 want to do, and be back by 10:30 or 10:35 so that
8 we can get started.

9 Is there any objection to that from the
10 State?

11 MR. HOOD: No objection, Your Honor.

12 THE COURT: From defendant Miller?

13 MR. VARNER: None, Your Honor.

14 THE COURT: Mr. Moore?

15 MR. WISE: None, Your Honor.

16 THE COURT: Ask the jury in, Mr. Busby,
17 please.

18 (The jury returned to the courtroom).

19 THE COURT: Ladies and gentlemen, we have a
20 reason for a short delay and rather than keep you
21 in the jury room, we are going to release you for
22 thirty minutes, between now and 10:35. So, do not
23 talk about the case by, between and among
24 yourselves nor allow anyone to discuss the case
25 with you. If anyone tries to discuss the case with

1 you, alert them that you are a juror and you may
2 not discuss the case with them.

3 If anyone persists in attempting to discuss
4 the case with you after you alert them and tell
5 them you are a juror that would be highly improper
6 and wrong and illegal and you should use every
7 means to discover who that is or who those people
8 are and report that to one of the bailiffs or the
9 court clerk who sits before the Court as soon as
10 you return, without sharing that with anyone else,
11 that would be investigated and dealt with. If
12 there were to be any media coverage such as radio,
13 television or newspaper disabuse yourself of what
14 you hear, see or read as soon as you realize it
15 concerns this trial. You are on your oath to
16 decide this case only and exclusively upon the
17 evidence presented in this courtroom during the
18 course of the trial.

19 Now, it's the intention of the Court that you
20 be able to be at your leisure, you can stay in the
21 jury room if you wish but you can walk around the
22 square in the sunshine, it is rather comfortable
23 outside now, you can get a cup of coffee somewhere,
24 you can be relaxed. You can either stay in the
25 jury room or go outside, one or the other, but we

1 will be in recess in this case until 10:35, almost
2 exactly thirty minutes.

3 Everybody remain seated, the jurors are
4 excused, if you want to go, whichever you wish.

5 (The jury was excused from the courtroom).

6 THE COURT: All right, we'll have motions.
7 Are there any motions from the defendant Miller?

8 MR. VARNER: I think we're going to let Mr.
9 Wise go first, mine should be short.

10 THE COURT: Moving from defendant Moore, Mr.
11 Wise, you're recognized.

12 MR. WISE: Your Honor, I would move for
13 directed verdict in this case at this time on the
14 ground taking the evidence in a light most
15 favorable to the State there is no substantial
16 evidence to which any reasonable juror could come
17 to the conclusion that Mr. Moore is guilty of this
18 conspiracy. It seems to me that the theory of this
19 case from the government's standpoint is that this
20 is what is called a wheel conspiracy, with Marshall
21 Miller or Ray Powell being at the center of the
22 conspiracy and different people out dealing with
23 each other out in the spokes.

24 The problem with the theory as it applies to
25 Billy Moore is the fact that to be a single

1 conspiracy there must be a connection on what is,
2 what most courts refer to as the rim. In other
3 words, there has to be a connection between all the
4 participants on the outside to have a single
5 conspiracy, otherwise you have a bunch of
6 individual conspirators consisting of the spokes
7 only.

8 There has simply been no showing that Billy
9 Moore is involved in the rim on this case.
10 Virtually every witness who has testified did not
11 even know Billy Moore or heard his name. The
12 witnesses who did testify had no knowledge of Billy
13 Moore being involved in any conspiracy with
14 Marshall Miller and the others. It is not
15 sufficient to prove this rim of the conspiracy.
16 The government must prove a possible conspiracy
17 between Billy Moore and Marshall Miller. It is
18 necessary for them to prove that there is a
19 conspiracy among the other joint conspirators, that
20 they all knew what this was about and they all
21 participated in it and that they all looked forward
22 to the benefit of this joint conspiracy.

23 The case that I would refer the Court to is
24 first of all State vs. Gunn, which is a South
25 Carolina Supreme Court case which cites a federal

1 case of United States versus Kinney, which
2 describes a wheel conspiracy. In Gunn the Court
3 noted first of all it's improper to apply an
4 inference upon an inference to get to the end
5 result of conspiracy.

6 Secondly, they said that basically where
7 there is other reasonable explanations as to why
8 people are together, you have got to do more than
9 just show they were together. You've got to show
10 they were together for purposes of this conspiracy.
11 I can go down the list of witnesses in this case,
12 most of whom, the vast majority of whom quite
13 frankly testified they did not even know Billy
14 Moore, and therefore he could not be part of the
15 conspiracy. They even testified they had never
16 heard Marshall Miller even mention his name, which
17 means that he could not be part of the conspiracy.

18 Even assuming for the moment, assuming for
19 the moment that there is some connection with Billy
20 Moore and Marshall Miller, there is certainly no
21 showing that Billy Moore has participated in a
22 conspiracy of more than 100 grams, which brings us
23 to the case, Courts of Appeals case of State versus
24 Gosnell, which basically held that proof of a
25 conspiracy of less than an amount alleged in the

1 conspiracy is not sufficient to convict someone of,
2 which the conspiracy alleges a certain amount
3 involved, in this case 100 grams of
4 methamphetamine, there was some testimony about one
5 sale, alleged sale from Billy Moore to a Tommy
6 Stewart of one gram, and that's it, that's all the
7 dealing that they have in the record against Billy
8 Moore, there is simply no credible evidence of any
9 substantial value of any involvement beyond that.

10 Even if we were to carry, imply an inference
11 upon an inference and conclude that, well, Billy
12 Moore is somehow connected with the drugs found on
13 the trailer at his garage, those drugs only total
14 55 grams, and so we still don't get close to a
15 hundred grams, and there is simply no connection
16 between anyone else who says that Billy Moore was
17 involved in this conspiracy, and therefore I think
18 we're entitled to a directed verdict.

19 THE COURT: Thank you, Mr. Wise. How says
20 the State?

21 MR. HOOD: Your Honor, taking the evidence in
22 a light most favorable to the State and remembering
23 that the question here is not the weight of the
24 evidence, but the existence of the evidence, I
25 believe the evidence that is in the record at this

1 time is that Billy Moore was with Marshall Miller
2 on the day they were arrested, Billy Moore was
3 using methamphetamine with Marshall Miller on the
4 day they were arrested, and a third co-conspirator
5 Ernest Covan, who was also present, who stated they
6 had all used methamphetamine. There was almost two
7 ounces of methamphetamine found at Billy Moore's
8 shop, along with an anhydrous ammonia tank, along
9 with pills for manufacturing, along with batteries
10 for manufacturing, along with a burn in the back
11 yard, which the testimony in the record now is that
12 those are lithium strips inside that burn twenty
13 feet from Mr. Moore's shop. That, coupled with the
14 fact that the State's witness testified that two
15 weeks before they were arrested she smelled the
16 same smell she had smelled at Marshall Miller's
17 place, the smell of methamphetamine cooking coming
18 from the direction of Billy Moore's shop or
19 somewhere in that area and saw Mr. Miller's car
20 present, coupled with the fact that Martha Ellis
21 testified that the night before they were all
22 arrested she received methamphetamine from Marshall
23 Miller at Billy Moore's shop, he gave it to her,
24 coupled with the fact of Tommy Stewart.

25 Tommy Stewart says that he knows Jeff Horne,

1 he's met Jeff Horne. Jeff Horne is an indicted
2 co-conspirator in this case and he met Billy Moore
3 at Jeff Horne's and Sandra Jo Hughs' house, both
4 indicted co-conspirators and they were both over
5 there getting methamphetamine, which was Marshall
6 Miller's methamphetamine, they have both been to
7 Marshall Miller's shop, Jeff Horne and Tommy
8 Stewart, and purchased methamphetamine from
9 Marshall at that time and he said he purchased the
10 same exact kind of methamphetamine, that gave the
11 same taste and the same sensation from Billy Moore
12 at Billy Moore's shop on Morgan Road with Marshall
13 Miller present.

14 As to State versus Gosnell, Your Honor,
15 that's a State Grand Jury case code named Operation
16 Q brought out of Greenville County and, Your Honor,
17 this 100 gram issue, and I think the law is very
18 clear, and Gosnell in fact clears it up if anyone
19 was ever concerned about it, a hundred grams
20 doesn't have to be placed on each and every single
21 person in the conspiracy. One-hundred grams only
22 has to be placed on the conspiracy as a whole, and
23 Gosnell clearly sets it out. The issue in Gosnell
24 is do you get a lesser included charge, do you get
25 trafficking 28 to a hundred or trafficking ten to

1 28, and the Court said no, and the reason the Court
2 said no is because the judge in Gosnell gave the
3 lesser included charge and the appeals court said
4 no, that's improper because if you believe someone
5 was in the conspiracy, then in that case, as in
6 this case, there is substantial evidence that more
7 than a hundred grams of methamphetamine was
8 distributed, sold, manufactured inside this
9 conspiracy.

10 So, the issue as to a hundred grams, it
11 doesn't have to be placed on Billy Moore or
12 Marshall Miller or any of the other seventeen
13 defendants indicted in this case, it must be placed
14 on the conspiracy as a whole. The testimony of
15 Ernest Covan alone is that he received over one
16 pound of methamphetamine from Marshall Miller. The
17 testimony of Ray Powell which was corroborated by
18 Marshall Miller's own confession is that they
19 cooked over fifty times at Ray Powell's house. He
20 said he was receiving four ounces a week, do the
21 math, in my head that's 208 ounces a year, there's
22 28 grams in an ounce, that is 5,824 grams, that's
23 five kilos of methamphetamine. I don't think the
24 hundred grams is even an issue in this case and
25 that is why the hundred grams goes to the

1 conspiracy, I don't have to place it on Billy Moore
2 at all. The law says a slight connection is
3 sufficient to establish someone's connection to a
4 conspiracy, and the law goes further, which we
5 don't even have, but the law goes so far as to say
6 that the uncorroborated testimony of a
7 co-conspirator, uncorroborated co-conspirator is
8 enough to connect someone to the conspiracy. We
9 have greater evidence than that in this case, that
10 is why I think in this case, based on the fact the
11 evidence must be taken in a light most favorable to
12 the State and it's not to the weight of the
13 evidence, it goes to the existence of the evidence,
14 and because those are the standards, and I believe
15 the proper standard, as my co-counsel reminded me
16 earlier, if there is a scintilla of evidence that
17 this was committed, then that is enough to go
18 forward past a directed verdict.

19 That is all we have at this time, Your Honor.

20 THE COURT: Thank you, Mr. Hood. Mr. Wise,
21 any response?

22 MR. WISE: Just briefly, Your Honor. First
23 of all I don't believe there was any testimony by
24 Mott Ellis that she made any purchase at Billy
25 Moore's shop. In fact, I think the testimony from

1 Mott Ellis was she did not know Billy Moore,
2 period, hadn't seen him, hadn't heard of him, never
3 heard Marshall Miller mention him. There is not in
4 the testimony from Mott Ellis she made a purchase
5 there.

6 Secondly, there was no evidence from Michelle
7 Madden that Billy Moore was at the shop that night,
8 none whatsoever. That is what I mean by piling an
9 inference upon an inference. From the fact she
10 smelled this aroma in the air you have an inference
11 it came from Billy Moore's shop and then you have
12 an inference, since it was at Billy Moore's shop,
13 that Billy Moore was there. She never went over
14 there to see. Billy Moore's car, no testimony
15 about his car being there, he walks to that shop,
16 he lives across the street from it. So, there is
17 no showing thereof, that is what I call piling
18 inference upon an inference.

19 What I would like to say, in Gunn the South
20 Carolina supreme court quoted with approval United
21 States versus Kinney, which was discussed as the
22 concept of a wheel conspiracy. In that case the
23 Court said this. "Each defendant knew or had
24 reason to know of the scope of the conspiracy and
25 that each defendant knew, each defendant had reason

1 to believe that their own benefits were dependent
2 on the success of the entire venture."

3 That certainly does not apply to Billy Moore
4 in this case. Each defendant in this case
5 certainly did not know of Billy Moore, there is no
6 evidence Billy Moore knew of the scope of the
7 conspiracy, and certainly nothing in this case to
8 indicate that Billy Moore knew or had reason to
9 believe that his own benefits would depend upon the
10 success of the entire venture.

11 Granted, when you have testimony of Ernest
12 Covan who was going to buy the anhydrous ammonia,
13 when you've got the testimony of Ray Powell who was
14 helping make the stuff, obviously those
15 conspirators are so interdependent that they knew
16 each, the success of the conspiracy was dependent
17 upon each others' activities. There has simply
18 been no showing by my count of the witnesses that
19 testified, one, two, three, four, five, six, seven
20 of the, quote, conspirators did not know Billy
21 Moore, not that they knew him but didn't know he
22 was involved, did not know and had not heard the
23 name. There has just been no showing that he was
24 interrelated with this group in such a manner it
25 would be sufficient to go to the jury.

1 THE COURT: Thank you, Mr. Wise. Anything
2 further in response?

3 MR. HOOD: No, sir, Your Honor.

4 THE COURT: The Court finds that there is
5 some evidence to show that Billy Moore is a part or
6 was a part of the conspiracy. The Court is not
7 concerned with what evidence may exist but whether
8 any evidence exists to connect Mr. Moore with the
9 charge set out in the indictment. The motion for
10 directed verdict is denied.

11 Mr. Varner?

12 MR. VARNER: For purposes of the record I
13 would correspondingly make a motion for directed
14 verdict, and to be honest, I would waive any
15 argument at this time. I wanted to put on the
16 record I think the evidence in that respect speaks
17 for itself and I don't believe we can differ at
18 this point in time as to Mr. Miller's alleged
19 involvement. They haven't caught him, it's not on
20 video, there was no drugs caught on him, no guns or
21 drugs stashed with money, there is no evidence to
22 show he was involved in this.

23 THE COURT: Mr. Hood?

24 MR. HOOD: Nothing, Your Honor.

25 THE COURT: The motion is denied. The Court

1 finds there is some evidence upon which the jury
2 could find that Mr. Miller is involved or was
3 involved in a conspiracy as set out in the
4 indictment.

5 Anything further from any quarter?

6 MR. HOOD: No, sir, Your Honor.

7 THE COURT: We're going to rest at ease,
8 please, momentarily.

9 (Recessed at 10:21 a.m.).

10 (Resumed at 10:49 a.m.).

11 THE COURT: Thank you. We're coming into
12 session in indictment 2002-GS-47-32, the State of
13 South Carolina versus Marshall Miller and others.
14 In this matter the defendant Marshall Miller and
15 the defendant Billy Moore are at trial.

16 Anything from the State before the jurors are
17 shown in?

18 MR. HOOD: No, sir, Your Honor.

19 THE COURT: From the defendant Miller?

20 MR. VARNER: No, sir, Your Honor.

21 THE COURT: The defendant Moore?

22 MR. WISE: No, Your Honor.

23 THE COURT: Now, if the State is prepared to
24 rest, as we discussed in chambers on yesterday, you
25 will say that in front of the jury so they are

1 alert and aware of where we are and then we'll pass
2 over to the defendant Miller and you will place on
3 the record whatever you wish, and the Court will
4 instruct accordingly and then will turn to the
5 defendant Moore.

6 Is everybody on the same page?

7 MR. WISE: Okay.

8 MR. VARNER: Yes, sir.

9 MR. HOOD: Yes, sir.

10 THE COURT: Show the jury in, please, Mr.
11 Busby.

12 (The jury returned to the courtroom).

13 THE COURT: All the jurors are present, with
14 the forelady and alternates properly seated.

15 The matters lies with the State. Mr. Hood,
16 call your next witness, please.

17 MR. HOOD: Thank you very much, Your Honor.
18 May it please the Court, the State at this time
19 rests. We reserve the right to recall, or to call
20 reply witnesses as necessary.

21 THE COURT: Very well. Thank you, sir. We
22 turn to the defendant Miller. Mr. Varner?

23 MR. VARNER: May it please the Court, Your
24 Honor, the defendant rests.

25 THE COURT: Very well. Thank you.

1 We turn to defendant Moore?

2 MR. WISE: We would like to call James
3 Heatherly. Get him out of the back.

4 THE COURT: Mr. Busby, would you walk back
5 there and ask Mr. Heatherly to come in, please.

6 (Unrecorded bench conference).

7 THE COURT: Mr. Heatherly, just come on down,
8 please, come around to your right. Place your left
9 hand on the Bible right here and raise your right
10 hand. The clerk will administer the oath.

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JAMES HEATHERLY - DIRECT

1 JAMES GREGORY HEATHERLY,
2 after being first duly sworn testified as follows:

3 THE CLERK: Have a seat and state your full
4 name for the record.

5 THE WITNESS: My name is James Gregory
6 Heatherly.

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. WISE:

9 Q Mr. Heatherly, how old are you?

10 A Thirty-eight.

11 Q And where do you live?

12 A Ware Shoals.

13 Q Are you employed?

14 A I'm on disability.

15 Q What are you on disability from?

16 A Four-wheeler accident.

17 Q You had a four-wheeler accident?

18 A Yes, sir.

19 Q How long have you been in Ware Shoals?

20 A About four years.

21 Q All right. And I believe your mother is here
22 in the courtroom?

23 A Sir?

24 Q That's your mother back there in the
25 courtroom?

JAMES HEATHERLY - DIRECT

1 A Yes, sir.

2 Q How long have you know Billy Moore?

3 A Three, three and a half years.

4 Q You have known him about three, three and a
5 half years?

6 A Yes.

7 Q How did you first meet him?

8 A A friend of mine introduced me to him, went
9 go-cart racing, I started helping him out.

10 Q And what do you do with Billy Moore?

11 A Just work on go-carts and help him around the
12 yard, anything he wants done.

13 Q And is that over at his shop on Morgan Road?

14 A Shop, house.

15 Q Okay. And do you help him out in the go-cart
16 area?

17 A Sir?

18 Q Do you help him out with his go-carts?

19 A Yes, sir.

20 Q Let me ask you a question -- where are the
21 saran wrap?

22 I want to hand you what has been marked as
23 State's Exhibit something, I don't see a mark on
24 it. Here we go. State's Exhibit 19. Is that
25 something that's found in a go-cart shop?

JAMES HEATHERLY - DIRECT

1 A Yes, sir.

2 Q And what do you use that for?

3 A You heat the tires up and prep them up,
4 soften them, you wrap the tires and it keeps them
5 soft, keep the prep in it.

6 Q Do you all use this regularly in the shop?

7 A Yes, sir.

8 Q All right. I hand you State's Exhibit 18. I
9 ask you if you have seen that in Billy's shop?

10 A Yes, sir.

11 Q Would do you use that for?

12 A Your rods, the lighter stuff in the metal,
13 weigh all your rods and pistons, valves, rings.

14 Q All right. Now, do you use that or does
15 Billy use it?

16 A He's teaching me how, at times how to do a
17 motor, he will show me how to get better
18 performance out of them.

19 Q Okay. When do you all go racing?

20 A We race Fridays, Saturdays, Sundays,
21 sometimes just race Friday and Saturday, if we
22 ain't tore them up the day before.

23 Q In late, excuse me, not late, in September of
24 2002 did you have occasion to meet Marshall Miller?

25 A Yes, sir.

JAMES HEATHERLY - DIRECT

1 Q How did you meet Marshall Miller?

2 A A friend of mine went to help him move a
3 washer and dryer down to Greenwood and so I loaded
4 it up and moved it down there for him and that's
5 how I met him.

6 Q In the conversation with Marshall Miller did
7 he discuss anything about an automobile?

8 A Yes, sir. He had a hood up on a car and he
9 wanted to know if I knew anything about them. I
10 said I knew a friend that's got good mechanical
11 experience, I carried him down there to meet him.

12 Q Who did you, what friend were you talking
13 about?

14 A Billy Moore.

15 Q All right. About when was that in relation
16 to when the police came by the garage on the 24th
17 of September?

18 A Seven to nine days.

19 Q Okay. Who carried Billy Moore, then, over to
20 Marshall Miller's the first time?

21 A I did.

22 Q You did?

23 A Yes, sir.

24 Q All right. And after Marshall Miller got
25 back to the garage did he see the go-carts?

JAMES HEATHERLY - DIRECT

- 1 A Yes, sir.
- 2 Q Did he make any inquiry about the go-carts?
- 3 A Yes, he was interested in them, he liked
- 4 them.
- 5 Q All right. Did you all discuss going racing?
- 6 A Yes.
- 7 Q Did you go racing with Marshall Miller?
- 8 A Yes, sir.
- 9 Q And when was that?
- 10 A That last weekend before they come and got
- 11 him.
- 12 Q Did Marshall Miller bring something for you
- 13 all to carry the go-carts in?
- 14 A He brought a trailer, enclosed.
- 15 Q Can you describe that trailer for us?
- 16 A A black, I think it was a featherlight
- 17 enclosed trailer with a let-down back door to drive
- 18 on.
- 19 Q Was it an impressive looking trailer?
- 20 A Sir?
- 21 Q Was it a very impressive looking trailer?
- 22 A Oh, it was like going to NASCAR, very nice.
- 23 Q How nice was it on the inside?
- 24 A You could haul a regular race car in it.
- 25 Q Did it have any equipment on the inside?

JAMES HEATHERLY - DIRECT

1 A It had lights, an air unit, we had to unload
2 a couple, about five or six things of car paint.

3 Q And did it have air-conditioning?

4 A Yes, sir.

5 Q Are trailers like that common or uncommon at
6 go-cart races?

7 A It's very common, we just, unfortunately we
8 didn't have one.

9 Q Had you all ever gone racing with anything
10 like that before?

11 A No, sir.

12 Q Let's move foreward to the 23rd of September.
13 Were you over at Billy Moore's garage that day, the
14 day before the raid took place?

15 A Yes, sir.

16 Q All right. And how long had you been there,
17 what time, do you remember what time you got there
18 that day?

19 A No, sir. We work eight days a week and still
20 ain't ready when we get to the track.

21 Q All right. Did Marshall Miller come by on
22 the 23rd, the day before the raid took place?

23 A He come by and checked on the car.

24 Q Okay. Did he have his truck there?

25 A He drove his truck over to check on the car

JAMES HEATHERLY - DIRECT

1 but then he left.

2 Q All right. Was he there later that night?

3 A He come late that night, too.

4 Q All right. Who all was there during the
5 evening?

6 A Me and Billy and his son Tyler.

7 Q All right. And what about, was Jeff Horne
8 there?

9 A I went home later that evening and I come
10 back later that night and he went over and helped
11 me out, helped us get tools and stuff.

12 Q What about Ernest Covan?

13 A He was with the Miller guy.

14 Q He was with Marshall Miller?

15 A Yes.

16 Q All right. Do you know Jimmy Madden?

17 A Yes, sir.

18 Q Did he come by for awhile that evening?

19 A Yes, sir.

20 Q And who is Jimmy Madden?

21 A That's Billy's uncle.

22 Q Where does he live?

23 A Just right up above the shop.

24 Q Okay. In the morning, early morning hours of
25 the 24th did Billy leave the shop area?

JAMES HEATHERLY - DIRECT

- 1 A Yes, sir.
- 2 Q About what time?
- 3 A About the time for his, I don't know, 6:30 or
- 4 7:00, time for his wife to get ready and get up and
- 5 go to work, he went over there to make sure she was
- 6 up, ate breakfast and stuff.
- 7 Q And who did that leave at the shop?
- 8 A That left Miller and the other guy.
- 9 Q Ernest Covan?
- 10 A Yes, sir.
- 11 Q What happened to Jeff Horne?
- 12 A He wanted to go home to see his kid off to
- 13 school and I went to the house, got me something to
- 14 eat, cleaned myself up, you know.
- 15 Q When you got back to the garage was Billy
- 16 Moore there?
- 17 A No, sir.
- 18 Q Okay. Tell us what happened later that
- 19 morning. Did you observe something across the
- 20 street?
- 21 A Well, I was sitting there and I was sorting
- 22 tools and I seen some cars come by, they turned in
- 23 across the road, and I had forgotten Billy wasn't
- 24 over there, I hollered, "Mr. Moore," I said, "They
- 25 are over there to pick up Michelle," and that

JAMES HEATHERLY - DIRECT

1 Miller guy come out, looked out, he run back in
2 there and went like that and made a gesture, I
3 didn't know what they was talking about, they went
4 back in the back, come back out, he had a bag, he
5 walked up on the ramp and he jumped up and threwed
6 it up on top of the trailer.

7 Q All right.

8 A And then disappeared.

9 Q Did the bag he came out with look similar to
10 this which is State's Exhibit 39?

11 A Yes, sir.

12 Q Okay. And you saw him do what with it?

13 A He jumped up and put it up on top of the back
14 of the featherlight trailer.

15 Q Then what did he do?

16 A He just walked by me casually and just
17 disappeared.

18 Q And then what did you do?

19 A Continued with what he asked me to do, sort
20 tools.

21 Q What happened, did anybody come over to the
22 garage?

23 A Yes, sir.

24 Q And who came over there?

25 A A whole bunch of police officers.

JAMES HEATHERLY - DIRECT

1 Q And who was in the garage with you when they
2 got there?

3 A They was, they was in there, after they
4 questioned me, asked who I was, there wasn't nobody
5 there.

6 Q All right. And what did you do then?

7 A I told them where Mr. Moore was at and walked
8 them over there and got Mr. Moore.

9 Q Okay. And where did you stand during all
10 this, where did the police tell you to go?

11 A Across the road and sit on the bank.

12 Q All right. Did you do that?

13 A Yes, sir.

14 Q And was there a good place to sit?

15 A No, sir.

16 Q Why not?

17 A Fire-ant after fire-ant hill.

18 Q What happened when you sat in the fire-ants?

19 A I got eat up.

20 Q And what did you do then?

21 A I stand up and they tell me to sit back down.

22 Q What did you do?

23 A Sat back down.

24 Q All right. Did you stay there a long time?

25 A As long as they wanted me to.

JAMES HEATHERLY - DIRECT

1 Q Now, on the evening before did you ever see
2 Ernest Covan and Marshall Miller use any drugs
3 there?

4 A No, sir.

5 Q Did you ever know any drugs were there?

6 A No, sir.

7 Q Did you all have a fire out back of the
8 garage on a regular basis?

9 A I have fires everywhere, they call me the
10 firebug, I burn leaves, limbs, clean the shop out,
11 burn the trash up.

12 Q And where would you burn the trash?

13 A Wherever it wouldn't be a hazard to catch
14 anything else on fire.

15 Q Where in relation to the garage would it be?

16 A I usually burn down towards the bottom end,
17 behind, they've got an old wrecked Pinto back
18 there, I burn back there behind there where they
19 put it.

20 Q Now, how often did you come by, how often did
21 you come by Billy Moore's garage?

22 A I practically lived over there with him.

23 Q Were you there every day?

24 A Yes, sir.

25 Q Did you ever see any methamphetamine being

JAMES HEATHERLY - DIRECT

1 made there?

2 A No, sir.

3 Q Did you ever see any illegals drugs there?

4 A No, sir.

5 MR. WISE: Thank you. Answer any questions
6 the State may have.

7 THE COURT: Mr. Crout?

8 MR. CROUT: Thank you, Your Honor.

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JAMES HEATHERLY - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. CROUT:

3 Q Mr. Heatherly, your disability, is it
4 physical or mental, how would you describe your
5 disability?

6 A It's mentally.

7 Q Now, are you friends with Marshall Miller?

8 A No, sir.

9 Q How about Billy Moore?

10 A Yes, real good friends.

11 Q And when you say real good friends, how would
12 you describe that?

13 A He's like family to me.

14 Q Just like your family?

15 A Like a brother.

16 Q Like a brother? Now, I believe you indicated
17 you spent a great deal of time at Billy Moore's
18 shop. Is that correct?

19 A Yes, sir.

20 Q Did you ever spend a great deal of time at
21 any other places?

22 A No, sir.

23 Q Where would you go in the evening?

24 A In the what?

25 Q In the evenings where would you go?

JAMES HEATHERLY - CROSS

1 A I stayed over there at his house working on
2 go-carts and messing around the yard, raking
3 leaves.

4 Q I mean, did you live with him or spend the
5 night with him?

6 A I stayed over there a good bit, I had an
7 apartment in Ware Shoals but I stayed over there a
8 good bit.

9 Q Then what about when you were at the shop at
10 lunchtime, would you all eat lunch at the shop?
11 How would you --

12 A His wife would bring us something to eat.

13 Q She would bring you something to eat?

14 A Yes, sir.

15 Q And I think it would be a fair statement to
16 say you know a lot about Billy Moore, correct?

17 A Yes, sir.

18 Q But I think it would probably also be a fair
19 statement to say you don't know every single thing
20 about Billy Moore, do you?

21 A Not in three and a half years I can't know
22 everything without, I mean, he's like family to me,
23 he took care of me.

24 Q I understand, but the point is, we can't
25 really know every single thing about somebody, can

JAMES HEATHERLY - CROSS

- 1 we?
- 2 A Nobody can.
- 3 Q Okay. Now, this automobile that you took
- 4 Billy Moore to get Marshall Miller with, could you
- 5 describe that automobile?
- 6 A The one he was supposed to work on?
- 7 Q I believe you had indicated that you took
- 8 Billy Moore to meet Marshall Miller to look at an
- 9 automobile. That automobile.
- 10 A It was a red Pontiac.
- 11 Q And these scales that Mr. Wise had shown you,
- 12 you would agree that you can use them for more than
- 13 just weighing engine parts, is that correct?
- 14 A I imagine so, sir.
- 15 Q As a matter of fact you could weigh just
- 16 about anything with them, correct?
- 17 A I imagine so.
- 18 Q And this Saran wrap, while you could use it
- 19 to prep the tires for a go-cart, you can use it for
- 20 a lot of other things, too, you would agree with
- 21 that, is that correct?
- 22 A We used them for go-cart tires.
- 23 Q I understand but you would agree you could
- 24 use it for other stuff, a lot of people use it for
- 25 sandwiches, don't they?

JAMES HEATHERLY - CROSS

1 A Yes.

2 Q And that trailer that Mr. Wise was asking you
3 about, would you agree that you could use it for
4 more than carrying go-carts, correct?

5 A Yes, sir.

6 Q Now, what kind of, you had stated that
7 Marshall Miller had driven his truck over there,
8 what kind of truck was he driving? Could you
9 describe that for us?

10 A The black, don't know if Z71 or Silverado
11 pickup truck.

12 Q And had you seen him driving that truck
13 before?

14 A The time we worked on his vehicles, he come
15 over there approximately three to four times to
16 check on the vehicles.

17 Q Were you aware that he had an anhydrous
18 ammonia tank in the tool chest that day?

19 A No, sir.

20 Q You didn't know anything about that?

21 A I didn't know anything about it.

22 Q Now, I believe you have already addressed
23 this a little bit. Outside of hanging out at Billy
24 Moore's shop, did you do anything else for
25 entertainment?

JAMES HEATHERLY - CROSS

1 A No, that was it, racing, that was my, that
2 was just something to do, I spent my time right
3 there.

4 Q Is that kind of your passion or hobby?

5 A Yes, sir.

6 Q And you had indicated, I think, that Billy
7 was kind of training you about how to work on
8 go-carts, or were you training him, how was that
9 process working?

10 A He was wanting me, me and his son to work
11 together to be a team, so he was training me on it.

12 Q Now, in any of your mechanical training have
13 you had the chance to work with batteries?

14 A No, sir.

15 Q You hadn't done any kind of work with
16 batteries?

17 A I don't use them.

18 Q You don't use them?

19 A Not on go-carts, nothing like that.

20 Q So, you're not aware that a lot of batteries
21 have warnings that say don't place them in a fire,
22 is that correct?

23 A Yes, sir.

24 Q I didn't hear your answer?

25 A Repeat again.

JAMES HEATHERLY - CROSS

1 Q You're not aware that a lot of batteries on
2 the packaging have warnings that say do not dispose
3 of by fire, do not place them in a fire?

4 A I hadn't placed none in no fire.

5 Q You never placed any batteries in a fire?

6 A No, sir.

7 Q So, it would be strange to you if battery
8 parts were found in a fire by your shop?

9 A Yes, because when I burn, I burn leaves,
10 trash, stuff that's burnable and disposable, I
11 don't know nothing about no batteries.

12 Q So, you weren't aware that was going on at
13 your shop, were you?

14 A No, sir.

15 Q So, if you weren't aware that that's going on
16 at your shop, it's possible that you might not be
17 aware of other things taking place at your shop,
18 correct?

19 A That's correct, but I was there most of the
20 time, you know, it was open, I was there working on
21 go-carts and stuff.

22 Q And let me rephrase that. When I say your
23 shop, I meant Billy Moore's shop. Did you
24 understand that, I misspoke then and said your
25 shop, but what I'm saying is it's possible there

JAMES HEATHERLY - CROSS

1 were other things that went on at Billy Moore's
2 shop that you didn't know about, correct?

3 A I imagine so.

4 Q Now, you haven't been present for the
5 evidence that was presented in this case against
6 Billy Moore this week. Is that fair to say?

7 A Yes, sir.

8 Q And, so, you don't really know what the State
9 has shown or not shown as it relates to Billy
10 Moore. Is that safe to say?

11 A Can you say it better so I can understand
12 what you're talking about?

13 Q You weren't in the court this week while this
14 case was being presented, were you, Mr. Heatherly?

15 A No, sir.

16 Q So, you really don't know what the evidence
17 in this case is, is that correct?

18 A No, sir.

19 Q But you would agree that if this jury
20 determines that there is enough evidence --

21 MR. WISE: Your Honor, objection, I don't
22 think that's a proper question.

23 THE COURT: Sustained. Rephrase the
24 question.

25 Q Mr. Moore, you would agree that if, excuse

JAMES HEATHERLY - CROSS

1 me, Mr. Heatherly, you would agree that if Mr.
2 Moore is guilty he should be found guilty?

3 MR. WISE: Your Honor, objection, I think
4 that's speculation.

5 THE COURT: Sustained. Rephrase the
6 question, please, sir.

7 MR. CROUT: Yes.

8 QUESTIONS BY MR. CROUT:

9 Q Is your testimony here, then, today that Mr.
10 Moore didn't do any of these things he's accused
11 of?

12 A He's innocent.

13 Q What was that answer?

14 A He's innocent.

15 Q Your testimony is he's innocent?

16 A Yes, sir.

17 Q And why is he innocent?

18 A Because I was with him most of the time the
19 shop was open and I never seen anything like what
20 you're describing.

21 Q And that's essentially what you told Mr.
22 Wise, correct?

23 A Yes, sir.

24 Q When did you make a determination that Mr.
25 Moore was like a brother to you?

JAMES HEATHERLY - CROSS

1 A When he took me in and started helping me
2 out and let me join the team and treated me like
3 family, fed me, his wife would go over there and
4 clean my apartment up so I pass inspection, just
5 looked after me.

6 Q If he were to go to jail who is going to do
7 those things for you?

8 A I don't know.

9 MR. CROUT: Your Honor, I have no further
10 questions.

11 THE COURT: Mr. Varner?
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JAMES HEATHERLY - CROSS

1 CROSS EXAMINATION

2 QUESTIONS BY MR. VARNER:

3 Q Mr. Weatherly, isn't it a fair statement
4 basically go-carts are your life, is that fair?

5 A Yes, sir.

6 Q Okay. And how far did you go in school, sir?

7 A The twelfth grade.

8 Q The twelfth grade, all right. And in regard
9 to this shop, you filled out and gave information
10 to the police about what went on that day, correct?

11 A What I saw, yes, sir.

12 Q Okay. Do you read and write well?

13 A I'm a slow reader but I can write.

14 Q Okay. And what do you know that shop as? Is
15 that Billy Moore's shop, or is that Jimmy Ray
16 Madden's shop?

17 A Jimmy Ray Madden's.

18 Q Okay. And Jimmy Ray Madden, who is he?

19 A That's Billy's uncle.

20 Q Okay. And where does he live? Does he live
21 nextdoor to Billy?

22 A Up the road to the right of it.

23 Q Okay. And do you know how this guy is
24 related to Michelle Madden?

25 A That's his brother -- are you talking about

JAMES HEATHERLY - CROSS

1 Mr. Madden?

2 Q Yes.

3 A If I ain't mistaken, that's Ray's
4 daughter-in-law, his brother, whatever.

5 Q Is that his brother's daughter, that would be
6 her uncle, then?

7 A Yes, sir.

8 Q Okay. All right, when the police came in
9 that day they got you to give a statement, so to
10 speak, correct?

11 A Yes, sir.

12 Q And they wrote the statement for you?

13 A Yes, sir.

14 Q Okay. Would you use phrases such as, "At
15 that time I observed multiple police officers
16 across the street," is that the way you talk, or is
17 that the way the police officer talks?

18 A That's the way they talk.

19 Q Okay. And when they got to talking to you
20 isn't it a fair statement what they wanted to hear
21 about, they wanted to hear about Marshall Miller,
22 that's what they were keying in on, "Tell me about
23 Marshall Miller"?

24 A They asked me whose vehicle it was, I told
25 them we were working on it for a guy, I described

JAMES HEATHERLY - CROSS

1 him.

2 Q Was it your understanding, based on what you
3 heard and the way you were talking, that Marshall
4 Miller was the focus, that is what they wanted?

5 A The person that owned the vehicle.

6 Q Okay. As you go out the back door of the
7 shop, you said you burn near the Pinto. As I walk
8 out the back door of the shop which way would I go
9 to get to where you burn?

10 A Take a right and go around behind it and go
11 down to where it's flat and a place down there
12 where I burn trash away from the shop.

13 Q All right. If you were standing at the back
14 door of the shop could you see where the fire was
15 burning, or would the Pinto block your view?

16 A The Pinto and the tree would block it.

17 Q Okay. And when the police first got there
18 what time of day do you think it was, just your
19 best guess?

20 A I'm not really sure, sir.

21 Q Okay. How long were they there before --
22 well, let me back up. Did you see them when they
23 found Marshall Miller?

24 A I seen them the whole time they was there.

25 Q You what?

JAMES HEATHERLY - CROSS

1 A I seen them the whole time they was there.

2 Q Did you see them when they found Marshall
3 Miller?

4 A When they come around the side of the
5 building with him.

6 Q So, you don't know where Marshall was back
7 behind the shop or anything?

8 A No, sir.

9 Q Okay. Was the fire going at that time?

10 A No, there ain't no fire going.

11 Q When was the last time you had had a fire
12 there?

13 A I burn about every two or three days, get a
14 pile of leaves raked up or get trash piled up.

15 Q Okay. Prior to the day everybody got
16 arrested had you burned the day before, or had it
17 been a couple days before that?

18 A Several days, probably, before.

19 Q Okay. And how many times had you seen
20 Marshall Miller over at that shop?

21 A Probably maybe four times checking on his
22 vehicles.

23 Q Over how long a period of time?

24 A Between seven and nine days.

25 Q Okay. Was that the first time you had ever

JAMES HEATHERLY - CROSS

1 seen Marshall Miller?

2 A When I met him down there, when I carried
3 that washer and dryer for a friend, that was the
4 the first time I met him.

5 Q That was about seven to nine days before
6 everybody got arrested?

7 A Yes.

8 Q You knew him as the little guy, is that
9 correct, that is who you are referring to, Marshall
10 is little guy?

11 A I don't know what they, I helped work on his
12 car, I don't know really what he go by.

13 Q When you said a little while ago, "I was
14 telling them about the little guy," were you
15 talking about Marshall Miller, is he the one you
16 called little guy?

17 A Compared to --

18 Q Compared to everybody else there.

19 A Yes, sir.

20 Q Okay. And did you view Marshall to be a nice
21 guy who was letting you, letting all of you use his
22 trailer and he was interested in what you were
23 doing?

24 A He was offering us like an opportunity like
25 NASCAR, we get one chance to go big time.

JAMES HEATHERLY - CROSS

1 Q Okay.

2 A Wouldn't have to pile up on the back of a
3 truck.

4 MR. VARNER: No further questions.

5 THE COURT: Redirect?

6 MR. WISE: Just a few.

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JAMES HEATHERLY - REDIRECT

REDIRECT EXAMINATION

QUESTIONS BY MR. WISE:

Q Did the police talk to you several days after this incident?

A Yes, sir.

Q And where did they talk to you?

A Two investigators talked to me.

Q Where were they when they talked to you?

A At my neighbor's behind me.

Q Who is that neighbor?

A Sarah Webb.

Q Who is Sarah Webb?

A She's a retired police officers, 25 years.

Q You went to her house to talk to them?

A Yes, sir.

Q And did you sign that statement?

A Yes, sir.

Q And did you tell them basically what you testified to today about seeing the stuff on the trailer?

A Yes, sir.

MR. WISE: Thank you.

THE COURT: Anything further on recross, Mr. Crout?

MR. CROUT: Briefly, Your Honor.

JAMES HEATHERLY - RECROSS

RECROSS EXAMINATION

QUESTIONS BY MR. CROUT:

Q When you were at Billy Moore's shop did you all ever stay at the shop all night?

A I stayed over there a good bit and work on, he would give me something to do, I like put bodies on or something. Like I say, when you work eight days a week you still ain't ready for race time.

Q I understand that but sometimes did you work all the way through the night.

MR. VARNER: I object. This was not brought up, where he stayed all night or didn't stay all night, on my cross. They have already had a chance, it's not responsive.

MR. CROUT: Your Honor, I'll withdraw that question.

Q Now, I believe you did, however, give some information regarding Marshall Miller bringing cars to the shop, is that correct?

A He would bring cars to have them worked on.

Q When he would pay Billy Moore where would he pay him?

MR. VARNER: Objection, Your Honor, again not responsive.

MR. CROUT: Your Honor, it is responsive to

JAMES HEATHERLY - RECROSS

1 the fact that he did on redirect testify about
2 Marshall Miller bringing cars to the shop, I'm just
3 asking him how he paid for them when he paid for
4 the services.

5 THE COURT: Overruled.

6 MR. VARNER: Your Honor, I didn't ask about
7 Marshall Miller bringing cars to the shop and
8 neither did he. He only asked that one question.

9 THE COURT: But the objection is overruled
10 because of the response the witness made during
11 cross.

12 MR. CROUT: Thank you Your Honor.

13 BY MR. CROUT:

14 Q When he paid Billy Moore for services, where
15 would he pay him?

16 A Out front right there where we was working on
17 the cars at.

18 Q And then what would Billy Moore do with the
19 money?

20 A He would get the parts and put on the car and
21 fix it.

22 MR. CROUT: No further questions.

23 THE COURT: Further response?

24 MR. VARNER: Nothing further.

25 MR. WISE: Nothing further.

JAMES HEATHERLY - RECROSS

1 THE COURT: Thank you. Come down, please,
2 sir.

3 (Witness excused).

4 MR. WISE: I would like to call Jimmy Madden.

5 THE COURT: Any objection to this witness
6 being excused?

7 MR. WISE: No, sir, and of course if he wants
8 to stay he can stay in the courtroom.

9 THE COURT: Any objection to him being
10 excused, Mr. Varner?

11 MR. VARNER: No objection.

12 THE COURT: How about the State?

13 MR. HOOD: No objection, Your Honor.

14 THE COURT: Mr. Heatherly, you may stay with
15 us or leave the building.

16 THE COURT: Come around and place your left
17 hand on the Bible and raise your right hand.

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JIMMY MADDEN - DIRECT

1 JIMMY RAY MADDEN,
2 after being first duly sworn, testified as follows:

3 THE CLERK: Have a seat and state your full
4 name for the record.

5 THE WITNESS: Jimmy Ray Madden.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. WISE:

8 Q Mr. Madden, where do you live?

9 A I live at 802 Morgan Road.

10 Q And where is that in relation to Billy
11 Moore's?

12 A About 300 yards from where he lives.

13 Q And you are what kin to Billy Moore?

14 A I'm his uncle.

15 Q And you're married to who?

16 A Patsy Madden, used to be Patsy Moore.

17 Q She was Billy Moore's father's --

18 A Sister.

19 Q All right. And how long have you known him?

20 A Ever since he was born.

21 Q All right. The garage we have discussed
22 here, who owns that garage?

23 A I do.

24 Q Do you own the land around it?

25 A Yes, sir.

JIMMY MADDEN - DIRECT

1 Q Let me ask you --

2 A Me and my wife.

3 Q Let me ask you if you can identify this
4 aerial, I know I hadn't shown it to you before, can
5 you identify this aerial map, the location?

6 A Yes, sir.

7 Q Do you know what that is?

8 A Uh-huh (affirmative).

9 Q What is it, describe it, what does it show,
10 just generally?

11 A That's 802 Morgan Road right there.

12 Q Okay.

13 A That's where I live.

14 MR. WISE: Your Honor, I would like to
15 introduce this.

16 MR. HOOD: No objection.

17 THE COURT: Mr. Varner?

18 MR. VARNER: No objection.

19 THE COURT: Without objection it will become
20 Exhibit Number 1 for the defendant Moore.

21 (Defendant Moore Exhibit Number 1 was
22 marked and received in evidence).

23 BY MR. WISE:

24 Q If you would, come down here, using our
25 pointer, point out where the garage location is and

JIMMY MADDEN - DIRECT

1 where you live.

2 THE COURT: Mr. Witness, you all are going to
3 have to stand to the side so that the jurors at the
4 very end can see.

5 MR. WISE: He has to get himself oriented
6 first.

7 THE COURT: Yes, sir, just take your time.

8 A I think, let's see, this is where Billy lives
9 right here.

10 Q All right. The trailer is not on there, on
11 that map?

12 A No.

13 Q Okay.

14 A And I think my house is right here.

15 Q All right.

16 A And this right here is where my mother-in-law
17 lives.

18 Q Uh-huh.

19 A This is the old shop that I used to run,
20 right there.

21 Q Okay, thank you. You can have a seat.
22 Now, what do you do for a living?

23 A I'm a mechanic, run a towing service.

24 Q And where is your place of business?

25 A It's right behind my house.

JIMMY MADDEN - DIRECT

1 Q And how long has Billy been, prior to
2 September 24th of 2002, how long had Billy been
3 doing work in that garage that you own?

4 A About a year, a little over a year.

5 Q And how often would you drop by there?

6 A About every night.

7 Q All right. And why is that?

8 A Well, a lot of times he would have something
9 that he wanted me to look at or something to help
10 him with.

11 Q All right. Did you have some helpers at the
12 garage?

13 A Yes, sir.

14 Q How did they get home?

15 A Well, one little boy, he didn't have any
16 license, and I take him home every night.

17 Q All right. And about what time would you
18 come back by there?

19 A Oh, a lot of nights it would be 8:30, 9:00
20 o'clock, sometimes later, just according to what we
21 were doing.

22 Q Did you have occasion to drop by there on the
23 night before this arrest of Marshall Miller on the
24 24th?

25 A Yes, sir.

JIMMY MADDEN - DIRECT

1 Q Tell us about what time you got there and
2 what you observed.

3 A It was about 8:30, I opened the door, it was
4 dark.

5 Q Did you knock?

6 A No, Huh-uh (negative). I just slid the door
7 back, it's got sliding doors.

8 Q Uh-huh.

9 A And I went in and the first person I seen was
10 Ernest Covan.

11 Q Did you know Ernest Covan?

12 A Oh, yes, I have known Ernest about all his
13 life. I asked him, "What you doing over here,
14 Ernest?"

15 Q Were you surprised to see him?

16 A Yes.

17 Q Okay.

18 A He said he was looking at a minibike or
19 something Billy had there he was wanting to buy.

20 Q Was a man named Marshall Miller there at that
21 time?

22 A No, sir, not at that time.

23 Q Was Chip there, James Heatherly?

24 A Yes, sir.

25 Q He has a nickname?