

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM SPARTANBURG COUNTY
Court Of General Sessions

S.C. Supreme Court

J. Derham Cole, Circuit Court Judge

Appellate Case No.

The State, ... Respondent,

v.

Shondre Lamond Williams, ... Petitioner.

APPENDIX

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Shondre Lamond Williams, Appellant.

Appellate Case No. 2013-000487

Appeal From Spartanburg County
J. Derham Cole, Circuit Court Judge

Unpublished Opinion No. 2014-UP-367
Heard September 9, 2014 – Filed October 29, 2014

AFFIRMED

Carlyle Richardson Cromer, of Turner Padget Graham &
Laney, PA, of Myrtle Beach, and Chief Appellate
Defender Robert Michael Dudek, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson, Senior
Assistant Attorney General David A. Spencer, Assistant
Attorney General Adam L. Whitsett, and Assistant
Attorney General Joshua L. Thomas, all of Columbia,
and Solicitor Barry Joe Barnette, of Spartanburg, for
Respondent.

PER CURIAM: Shondre Lamond Williams appeals his convictions for trafficking in cocaine and possession of crack cocaine, asserting the trial court erred in (1) refusing to suppress the search warrant for his home where the affidavit in support of the warrant was not based on personal knowledge and (2) refusing to suppress the drug evidence based on an incomplete chain of custody. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the trial court erred in refusing to suppress the search warrant: *State v. Dunbar*, 361 S.C. 240, 248, 603 S.E.2d 615, 619 (Ct. App. 2004) ("Generally, affidavits must be made on the affiant's personal knowledge of the facts alleged in the petition. The affidavit must in some way show that the affiant is personally familiar with the facts so that he could personally testify as a witness."); *id.* at 249, 603 S.E.2d at 620 (providing it is permissible for a magistrate to issue a search warrant based upon hearsay information that is not a result of direct personal observations of the affiant, and information given to the affiant by other officers can support probable cause for the search warrant); *State v. Tindall*, 388 S.C. 518, 521, 698 S.E.2d 203, 205 (2010) (holding an appellate court applies a deferential standard of review on appeal from a motion to suppress based on Fourth Amendment grounds); *State v. Wright*, 391 S.C. 436, 442, 706 S.E.2d 324, 326 (2011) (holding an appellate court must affirm a trial court's ruling on a motion to suppress based on the Fourth Amendment if there is any evidence to support the ruling and will reverse the trial court's decision only if there is clear error).

2. As to whether the trial court erred in failing to suppress the drug evidence based on an incomplete chain of custody: *State v. Hatcher*, 392 S.C. 86, 91, 708 S.E.2d 750, 753 (2011) (holding a party offering fungible items, such as drugs or blood samples, into evidence must establish a complete chain of custody as far as practicable); *id.* at 95, 708 S.E.2d at 755 ("The ultimate goal of chain of custody requirements is simply to ensure that the item is what it is purported to be."); *State v. Sweet*, 374 S.C. 1, 6, 647 S.E.2d 202, 205-06 (2007) ("[I]f the identity of each person handling the evidence is established, and the manner of handling is reasonably demonstrated, no abuse of discretion by the trial court is shown in admitting the evidence absent proof of tampering, bad faith, or ill-motive."); *State v. Johnson*, 318 S.C. 194, 196, 456 S.E.2d 442, 444 (Ct. App. 1995) (finding, although a discrepancy existed as to the dates the evidence custodian received the

drug evidence from the detective, no evidence was presented to indicate the drugs were not within the control of identifiable people during the entire time and a reconciliation of the discrepancy was not necessary to establish the chain of custody but merely reflected upon the credibility of the evidence, not its admissibility).

AFFIRMED.

HUFF, SHORT, and KONDUROS, JJ., concur.



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APPELLANT'S PETITION FOR REHEARING

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000004

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, Appellant respectfully requests that the Court grant a rehearing in this matter. In making this petition, Appellant submits that the Court overlooked or misapprehended the following points:

- I. The circuit court erred in refusing to suppress the search warrant for Appellant's home when the officer who completed the accompanying affidavit did so without personal knowledge of the facts giving rise to probable cause.
- II. The circuit court erred in refusing to suppress the drug evidence when the State failed to demonstrate a complete chain of custody by failing to explain date discrepancies.

STATEMENT OF THE CASE

Appellant was indicted for trafficking cocaine and possession with intent to distribute cocaine base. Trial occurred on February 25 – 27, 2013 in Spartanburg County. Appellant was convicted on the trafficking charge and of possession of cocaine base. The trial court sentenced Appellant to 25 years' imprisonment on the trafficking charge and ordered him to pay a fine of \$50,000. On the possession charge, the trial court sentenced Appellant to 10 years' concurrent imprisonment and ordered him to pay a fine of \$12,500. Appellant then commenced this appeal.

This Court held oral arguments on September 9, 2014. On October 29, 2014, the Court filed an unpublished opinion affirming the result below. Appellant has now filed a timely petition for rehearing pursuant to Rule 221, SCACR.

STATEMENT OF THE FACTS

This case involves a reverse-buy operation. On March 1, 2012, Investigator Travis McJunkin of the Spartanburg County Sheriff's Office assisted Greenville County officers in executing a search warrant on an individual named Shondrell Williams.¹ [R. p. 12, lines 3-9; p. 152, line 24-p. 153, line 7.] The police found enough drugs in Mr. Williams' home to make him eligible for a 25-year prison sentence. [R. p. 153, lines 8-9; p. 166, lines 2-5.] However, they informed Mr. Williams that if he cooperated with them, he could avoid prison. [R. p. 153, lines 10-24.] Accordingly, he agreed to act as a confidential informant ("Informant")² in arranging to sell cocaine to Appellant. [R. p. 12, lines 11-18; p. 153, lines 4-7; p. 154, lines 2-3.]

With the police observing, Informant called Appellant to tell him that Informant had some drugs to sell him. [R. p. 155, lines 5-23.] Appellant declined the offer. [R. p. 166, line 25-p. 167, line 5.] Appellant later called Informant back, however, and agreed to purchase cocaine. [R. p. 167, line 5.]

Meanwhile, Sergeant Joe Pharis of the Spartanburg County Sheriff's Office contacted Lieutenant Ashley Harris, a chemist in the forensic lab, and asked him to prepare a package containing approximately 250 grams of cocaine. [R. p. 59, line 21-p. 60, line 2; p. 116, line 19-p. 117, line 3.] Investigator Matt Hutchins retrieved the package from Lieutenant Harris and delivered it to the narcotic office. [R. p. 85, line 17-p. 86, line 12.]

Once the operation was ready to proceed, Investigator McJunkin retrieved the drugs from the narcotic office and gave them to Informant. [R. p. 89, line 21-p. 90, line

¹ This is a different individual than Appellant, who is named Shondre Williams.

² Shondrell Williams will hereinafter be referred to as "Informant" to reduce any confusion between him and Appellant.

15.] Investigator McJunkin and several other members of the sheriff's office then followed Informant to Appellant's residence. [R. p. 12, line 19-p. 13, line 1.] Informant entered Appellant's residence and subsequently exited, got in his car, and drove away. [R. p. 19, lines 18-20.] Investigator William Tillinghast followed Informant to another location, where Informant gave Investigator Tillinghast \$4,000 that Informant said he received from Appellant in exchange for the cocaine. [R. p. 19, line 25-p. 20, line 3.] A surveillance tape captured this verbal exchange between Investigator Tillinghast and Informant. [R. p. 15, lines 13-24; p. 20, line 19-p. 23, line 21; Court's Exhibit 1.] Investigator Tillinghast concluded the recording by stating, "End of debrief at 1:04 a.m., March 2." [R. p. 23, lines 18-21; Court's Exhibit 1.] Investigator Tillinghast then called Investigator Hutchins, who was at the sheriff's office, and told him that Appellant had purchased the cocaine from Informant. [R. p. 20, lines 4-9.]

While waiting on the call from Investigator Tillinghast, Investigator Hutchins had prepared certain background portions of a search warrant and affidavit for Appellant's home. [R. p. 27, lines 7-17.] After receiving the call from Investigator Tillinghast, Investigator Hutchins completed the affidavit by adding the following sentences: "The CI then left the residence and met back with Investigator Tillinghast. Investigator Tillinghast recovered the U.S. currency from the CI. Surveillance was maintained on the residence (premise described above) by members of the Spartanburg County Sheriff's Office Narcotics Unit after the transaction." [R. p. 226; p. 27, line 18-p. 28, line 1.] Investigator Hutchins then printed the warrant and affidavit, drove from the sheriff's office to the jail, handed the documents to the magistrate, and observed the magistrate read and sign them. [R. p. 27, line 7-p. 31, line 2.] The magistrate wrote "0105"

underneath his signature on the second page of the affidavit. [R. p. 227.] Investigator Hutchins testified that this process, from the time he finished the task of filling out the warrant until obtaining the magistrate's signature, would have taken "a few minutes" to complete. [R. p. 31, lines 8-15.]

Once the officers on the scene got word that the warrant was signed, they searched Appellant's home. [R. p. 38, lines 9-17.] After Appellant was handcuffed and given a *Miranda* warning, he revealed to Investigator McJunkin and Lieutenant Cooper that he had hidden the cocaine in the hot water heater. [R. p. 39, line 21-p. 40, line 20; p. 44, lines 1-23.] A search of the home also revealed crack cocaine hidden above a kitchen cabinet. [R. p. 94, lines 14-16.]

Investigator Dan Swad, who recovered the cocaine and crack cocaine at the scene, placed the drugs in a BEST bag. [R. p. 94, line 1-p. 95, line 11.] Investigator Swad also prepared Form B, on which he indicated that he delivered the drugs to the evidence drop box on March 3, 2012. [R. p. 95, line 24-p. 96, line 3; p. 231.] The form was notarized, and the date above the notary's signature is also March 3. [R. p. 97, line 9-p. 98, line 1; p. 231.] Investigator Swad's testimony corroborated his statement on Form B that he placed the drugs in the drop box on March 3. [R. p. 96, line 14-p. 98, line 9.]

Anita Mullinax, an evidence custodian at the sheriff's office, indicated on Form C that she retrieved the BEST bag from the drop box on March 2. [R. p. 99, lines 7-15; p. 232.] She then delivered the bag to the drug room, which is a sealed room in the evidence office. [R. p. 104, line 8-p. 105, line 18; p. 232.] Later that day, Lieutenant Harris retrieved the BEST bag; a test of the substances revealed 249.71 grams of cocaine and 4.91 grams of crack cocaine to be present. [R. p. 63, lines 8-9; p. 81, lines 5-11.]

Before trial, Appellant moved to suppress the search warrant and to suppress the drug evidence due to an incomplete chain of custody. [R. p. 9, line 8–p. 10, line 21; p. 52, lines 6–11; p. 56, lines 20–22.] The court denied the motions. [R. p. 47, line 5–p. 51, line 23; p. 127, line 12–p. 130, line 17.] After trial, the jury convicted Appellant of possession of cocaine base and trafficking cocaine. [R. p. 220, line 20–p. 221, line 1.] This Court affirmed Appellant’s convictions.

ARGUMENT

I.

The circuit court erred in refusing to suppress the search warrant for Appellant’s home when the officer who completed the accompanying affidavit did so without personal knowledge of the facts giving rise to probable cause.

“The Fourth Amendment to the United States Constitution and Article I, § 10 of the South Carolina Constitution protect citizens from unreasonable searches and seizures. Both state and federal constitutions provide that search warrants may not be issued except upon ‘probable cause, supported by oath or affirmation,’ and particularly describing the place to be searched and the persons or things to be seized.” State v. Dunbar, 361 S.C. 240, 246, 603 S.E.2d 615, 618 (Ct. App. 2004). Both federal and state constitutions require an oath or affirmation before probable cause may be found. State v. Jones, 342 S.C. 121, 128, 536 S.E.2d 675, 678 (2000).

South Carolina further mandates that a “warrant . . . shall be issued only upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record.” S.C. Code Ann. § 17-13-140. “Generally, affidavits must be made on the affiant’s personal knowledge of the facts alleged in the petition. The affidavit must in

some way show that the affiant is personally familiar with the facts so that he could personally testify as a witness." Dunbar, 361 S.C. at 248 (citation and internal quotation marks omitted). Where an affidavit contains statements that are false or that were made with reckless disregard to the truth, the search warrant must be set aside if the affidavit's remaining content is insufficient to establish probable cause. State v. Davis, 371 S.C. 412, 415-16, 639 S.E.2d 457, 459 (Ct. App. 2006) (citing Franks v. Delaware, 438 U.S. 154 (1978)).

Here, no evidence exists to support the trial court's determination that the search warrant was valid and supported by Investigator Hutchins' personal knowledge at the time it was executed. After Investigator Tillinghast met with Informant following the sale of the cocaine to Appellant, he recorded Informant's recounting of the events. [R. p. 23, lines 9-21; Court's Exhibit 1.] At the conclusion of the recording, Investigator Tillinghast noted that the time was 1:04 a.m. [R. p. 23, lines 18-21; Court's Exhibit 1.] When the magistrate signed the affidavit, he wrote "0105" under his signature. [R. p. 227.] Investigator Hutchins testified that he could not have completed the affidavit, printed it and the warrant, driven to the jail, and allowed the magistrate to read and sign the documents within sixty seconds. [R. p. 31, lines 8-13.] Investigator Hutchins acknowledged that it would take a few minutes for these events to occur. [R. p. 31, lines 14-15.] Furthermore, Investigator Hutchins acknowledged that 1:05 is an accurate reflection of what time the magistrate signed the documents. [R. p. 31, line 20-p. 32, line 5.]

It is true that Investigator Tillinghast testified that he could not remember at what point during these events he called Investigator Hutchins to inform him of precisely what

had transpired on the scene. [R. p. 20, line 4-p. 21, line 22.] However, Investigator Tillinghast acknowledged that he would not have called Investigator Hutchins until after meeting with Informant to hear his version of the events:

Q: Would you agree that you could not tell [Investigator Hutchins] what transpired until you met with the C.I. to find out? Does that make sense?

A: Yes, sir.

Q: Okay. So at that time when the C.I. tells you what has transpired for you to then relay to Hutchins, at that point you're with the C.I. And we can hear that on the tape.

A: Yes, sir.

[R. p. 22, lines 9-17.] The recording does not include a phone call or any other communication between Investigators Tillinghast and Hutchins. Thus, the only conclusion to be reached from Investigator Tillinghast's testimony is that he called Investigator Hutchins after the video recording concluded at 1:04, and that it was not until then that Investigator Hutchins could complete the portion of the affidavit detailing what occurred after Informant entered Appellant's residence.

The State attempted to mitigate this evidence by eliciting testimony from Investigator Hutchins that the timestamps in the video cameras used by the sheriff's office sometimes may be inaccurate. [R. p. 33, lines 6-21.] However, neither Investigator Hutchins nor anyone else testified that the *specific video camera in question* had an inaccurate timestamp. Furthermore, Investigator Tillinghast *did not* testify that he relied on the video timestamp when giving the time at the conclusion of the recording. The State introduced no evidence indicating that the time of 1:04 given in the video was inaccurate.

The following is a summary of the relevant evidence, in chronological order of occurrence:

- Investigator Tillinghast completed his debriefing of Informant and ceased recording at 1:04;
- At some point after turning off the recording, Investigator Tillinghast called Investigator Hutchins to relay what occurred at Appellant's residence;
- Investigator Hutchins then finished typing the warrant and affidavit, printed them, and drove to the jail which, in his estimation, would have taken "a few minutes"; and
- The magistrate signed the documents at 1:05.

Given this evidence, it was error for the trial court not to find the warrant invalid and not to suppress the evidence discovered as a result. The trial court was constrained to conclude that these events could not possibly have occurred as the State presented them. Notably, Investigator Hutchins *did not* testify that he had prepared the entire affidavit in anticipation and waited for confirmation before executing it. Rather, he testified that he waited for Investigator Tillinghast's call before he finished typing the affidavit, and *then* printed it and drove to the magistrate's office. Investigator Hutchins testified that it would have taken "a few minutes" from the time he finished filling out the warrant and affidavit until obtaining the magistrate's signature. [R. p. 31, lines 8-15.] This testimony is not compatible with the evidence that the call from Investigator Tillinghast to Investigator Hutchins occurred at 1:04 or afterwards and that the magistrate signed the warrant at 1:05.

Thus, the evidence permits only one conclusion: that when Investigator Hutchins executed the affidavit, he lacked personal knowledge of all the facts he included in that

document. Again, Investigator Hutchins did not testify that he had prepared the entire affidavit in anticipation of Investigator Tillinghast's call, but that he rather waited until after the call to complete it. This testimony is not credible in light of the times given in the video recording and under the magistrate's signature. Dunbar is clear that affidavits must be based on personal knowledge. The State has the burden of demonstrating the validity of the warrant, but the evidence it presented was inconsistent and the events could not possibly have occurred during the timeline presented. The actual events that occurred were left to conjecture, and there was no evidence that permitted the trial court to conclude that Investigator Hutchins had personal knowledge of all the facts in the affidavit at the time he executed it. Absent the statements in the affidavit discussing what happened after Informant entered Appellant's residence, the affidavit lacks sufficient facts to constitute probable cause for the search warrant.

In light of the fact that the affidavit was defective, probable cause did not exist for the search warrant. The trial court erred in finding that the warrant was valid. Accordingly, this Court should grant a rehearing, reverse on this issue, and remand for a new trial.

II.

The circuit court erred in refusing to suppress the drug evidence when the State failed to demonstrate a complete chain of custody by failing to explain date discrepancies.

When offering drugs into evidence, the State must establish a complete chain of custody as far as practicable. State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205 (2007). "Proof of chain of custody need not negate all possibility of tampering so long as the chain of possession is complete." State v. Hatcher, 392 S.C. 86, 92, 708 S.E.2d 750, 753

(2011). "Where an analyzed substance . . . has passed through several hands, the identity of individuals who acquired the evidence and *what was done with the evidence between the taking and the analysis must not be left to conjecture.*" Sweet, 374 S.C. at 6, 647 S.E.2d at 205 (emphasis added).

Here, the trial court erred in ruling that the State had established a complete chain of custody. Investigator Swad, who recovered the drugs at the scene, indicated on Form B that he placed the BEST bag in the drop box on March 3. [R. p. 231.] Form B was also notarized, and the notary similarly indicated the date as March 3. [R. p. 231.] When Anita Mullinax completed Form C, however, she indicated that she retrieved the BEST bag from the drop box on March 2. [R. p. 232; p. 100, lines 14–19.] On the witness stand, Investigator Swad affirmed the accuracy of Form B:

Q: If you'll look at Defendant's Exhibit 1, do you fill out any other documentation on that? Form B?

A: Yes, sir, form B.

Q: Is that your form?

A: Yes, sir.

Q: Is your form accurate?

THE STATE: Your Honor, I'm going to --

A: Yes, sir.

[R. p. 95, line 24–p. 96, line 6.] At no point during his testimony did Investigator Swad testify that he transcribed the date erroneously. Given the discrepancy between the date the BEST kit was supposedly deposited in the drop box and the date it was supposedly retrieved, "what was done with the evidence between the taking and the analysis [was] left to conjecture," Sweet, 374 S.C. at 6, 647 S.E.2d at 205, in violation of well-settled law in this state.

This Court, in its opinion, concluded that the trial court did not err because the manner of handling was reasonably demonstrated and that while a date discrepancy

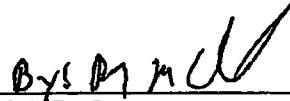
existed, nothing indicated that the drugs were not in the control of identifiable people at all times. However, too much time passed between when the drugs were seized at Appellant's home and when they were placed in the drug lab's drop box to permit the trial court to conclude that a sufficient chain was established. Specifically, Investigator Swad gathered the drugs in the early morning hours of March 2, but, according to Form B, he did not deposit the drugs in the lab until March 3. Importantly, the notary on Form B also listed the date as March 3. At trial, Investigator Swad did not testify that he incorrectly recorded the date on Form B; rather, he affirmed its accuracy. Thus, the drugs were unaccounted for during a period of 24-plus hours.

In sum, the trial court abused its discretion in finding that the State had established a complete chain of custody and allowing these drugs into evidence. Accordingly, this Court should grant a rehearing, reverse on this issue, and remand for a new trial.

CONCLUSION

For the reasons discussed above, as well as those contained in Appellant's Brief, this Court should grant the petition, conduct a rehearing in this matter, and reverse Appellant's convictions and sentences and remand this case for a new trial, with instructions that all evidence seized pursuant to the defective warrant be excluded.

Respectfully submitted,



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November 12, 2014

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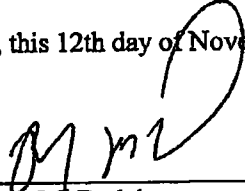
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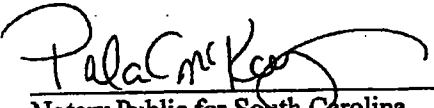
Shondre Lamond Williams, ... Appellant.

PROOF OF SERVICE

I certify that a true copy of the Appellant's Petition for Rehearing in the above-referenced case has been served upon Adam L. Whitsett, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of November, 2014.


Robert M. Dudek
Chief Appellate Defender

SUBSCRIBED AND SWORN TO before me
this 12th day of November, 2014

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

The South Carolina Court of Appeals

The State, Respondent,

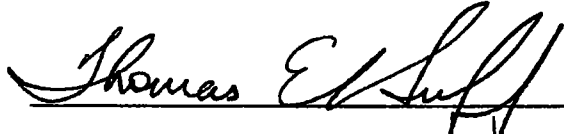
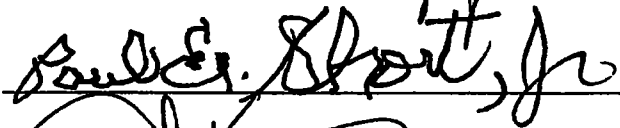
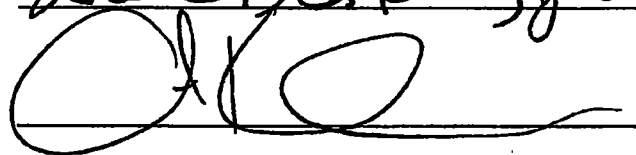
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Shondre Lamond Williams, Appellant.

Appellate Case No. 2013-000487

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.
 J.
 J.

Columbia, South Carolina

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FILED

December 17, 2014

Barry Joe Barnette, Esquire
Joshua L. Thomas, Esquire
The Honorable J. Derham Cole

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

COURT’S EXHIBIT #1 (DVD)

1 STATE OF SOUTH CAROLINA }
2 COUNTY OF SPARTANBURG } IN THE COURT OF GENERAL SESSIONS

3 The State, }
4 -vs- } TRANSCRIPT OF RECORD
5 Shondre Lamond Williams, } 2012-GS-42-4097;4098
6 Defendant. } February 25 - 27, 2013
7 Spartanburg, South Carolina

8
9
10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12
13
14

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

16 J. HAYES HOLLIDAY, ESQUIRE
17 SCOTT SPIVEY, ESQUIRE
Attorneys for the State

18 J. FALKNER WILKES, ESQUIRE
19 Attorney for the Defendant
20
21

22 Linda D. Moffitt
Circuit Court Reporter
23
24
25

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(Court's Exhibits Nos. 2 and 3 were torn by the bailiff and taped.)

1 THE COURT: All right. We'll be at ease. All right.
2 I will be in chambers.

3 (Whereupon, a recess was taken.)

4 THE COURT: All right. Are we ready to proceed?

5 MR. HOLLIDAY: The state is ready, Your Honor.

6 MR. WILKES: We're ready, Your Honor.

7 THE COURT: Okay.

8 MR. WILKES: Your Honor, I had made a motion for --
9 had indicated that we would make a motion to suppress
10 evidence obtained from the search warrant.

11 We also have a Jackson vs. Denno issue. The
12 search-warrant issue is based on the knowledge of the
13 affiant, personal knowledge of the affiant, to facts
14 existing at the time and the timing of the search warrant.

15 We have chain issues as well, and then the Jackson vs.
16 Denno issues.

17 THE COURT: Do I understand that you're contending
18 that the affidavit and the search warrant is false
19 information?

20 MR. WILKES: It is information that appears -- and
21 this is from what I can tell at least from looking at the
22 video. The video is -- indicates that it was --
23 information on the video shows that the debriefing
24 concluded at 1:04. There was a search warrant that was
25 signed at 1:05 which appears on the face of what I see to

1 have been preprepared.

2 The law I think on the search warrant requires the
3 oath or affirmation be made on personal knowledge, and I
4 can't see anything from the video or the audio that I have
5 been given to indicate that that was anything other than a
6 just preprepared script before the events actually
7 occurred.

8 I think we're kind of compelled to move to suppress
9 based on what I've seen so far because it's -- I don't know
10 that it's possible physically at 1:04 to get a search
11 warrant and an affidavit typed from the field, typed to a
12 judge's office and signed in 60 seconds.

13 So I believe that we have an oath or affirmation issue
14 under the law as to whether or not the information of the
15 affiant was personal information known to him of facts that
16 had occurred or whether they were facts that they said they
17 think they're going to occur.

18 There's discrepancies or some reasons to -- in reading
19 the affidavit that gives concern as to whether or not it
20 was all preprepared and signed before he had personal
21 information.

22 THE COURT: Okay. Mr. Holliday.

23 MR. HOLLIDAY: Your Honor, we'll give some testimony.
24 The state would call Investigator Travis McJunkin.

25 THE COURT: Are y'all going to introduce a copy of the

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

1 search warrant?

2 MR. HOLLIDAY: Yes, sir, Your Honor.

3 TRAVIS MCJUNKIN, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. HOLLIDAY

6 MR. HOLLIDAY: I've got a certified copy of the
7 stipulation.

8 (Search warrant and affidavit marked State's Exhibit
9 No. 1 for Identification.)

10 MR. HOLLIDAY: I believe upon stipulation we would
11 move Exhibit 1 in.

12 THE COURT: Okay. It's admitted.

13 MR. WILKES: For the purposes of this hearing.

14 MR. HOLLIDAY: For purposes of this hearing.

15 (Search warrant and affidavit marked State's Exhibit
16 No. 1.)

17 Q All right. Investigator McJunkin, you're employed
18 with the sheriff's office?

19 A Yes, sir, I am.

20 Q And you're involved in the investigation of State vs.
21 Shondre Williams?

22 A Yes, sir, I was.

23 Q Can you tell us a little bit about that investigation
24 and what led to the events that transpired March the
25 12th of 2012?

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

1 A March 1st?

2 Q I'm sorry. March 2nd of 2012.

3 A Essentially, the events began earlier that day when I
4 assisted the Greenville County Sheriff's Office with
5 execution of a search warrant in which a Shondrell Williams
6 was the subject of that search warrant. During the course
7 of that we began speaking with Mr. Shondrell Williams.

8 Q Shondrell Williams?

9 A Shondrell Williams, yes, sir.

10 Q Who is not the defendant.

11 A No, sir, no, sir. Began speaking with Mr. Williams.
12 I gained his cooperation, during the course of those
13 conversations learned that him and Mr. Shondre Williams had
14 a relationship.

15 Through a series of recorded telephone calls an
16 arrangement was made to sell Shondre Williams a quantity of
17 cocaine. That actually, those recorded phone calls,
18 occurred on the 1st.

19 Sometime after midnight during the course of that we
20 met with Shondrell. Well, we didn't meet with him, but we
21 was still with him.

22 Gave him a predetermined amount of cocaine, a recording
23 device. He was followed to the search warrant location, [REDACTED]
24 [REDACTED], from which he went inside, exchanged the
25 cocaine for U.S. currency, was followed back to a

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

1 predetermined location. And the U.S. currency he received
2 for the cocaine was recovered by Investigator Tillinghast.

3 Q All right. Did you -- did you watch all of these
4 events transpire?

5 A I wasn't able to watch actually the transaction occur
6 inside the residence live, no, sir, but we were able to
7 follow.

8 Q Did you see the informant? The sheriff's office gave
9 the informant cocaine?

10 A Yes, sir, we did.

11 Q And you saw that happen?

12 A Yes, sir.

13 Q And did you see him go into the house?

14 A We followed him to that location. I'm not sure if I
15 was actually able to see him go into the house myself from
16 where I was at, but I believe Investigator Tillinghast was
17 able to from his location.

18 Q Okay. And after the informant -- after what you
19 believed to be the transaction occurred, what happened
20 next?

21 A Investigator Tillinghast recovered the U.S. currency
22 from Shondrell, at which point he contacted Investigator
23 Hutchins who I believe was at the Spartanburg County
24 Detention Center preparing a search warrant, at which time,
25 later time, Investigator Hutchins notified us that a search

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

- 1 warrant was signed, at which point we went to execute the
2 search warrant at [REDACTED].
- 3 Q All right. I'm going to hand you what's been marked
4 as State's Exhibit 2. And you're familiar with search
5 warrants?
- 6 A Yes, sir, I am.
- 7 Q You're familiar with the part of the search warrant
8 where the offense states that the probable cause that's the
9 underlying or is the probable cause for the search warrant?
- 10 A Yes, sir, I am.
- 11 Q And let me ask you. Investigator Hutchins filled that
12 out?
- 13 A Yes, sir, he did.
- 14 Q Are those the events that did occur that night that he
15 based his probable cause on? Is what's in that search
16 warrant actually what happened?
- 17 A Yes, sir.
- 18 Q Based on your knowledge and the knowledge of the
19 Spartanburg County sheriff's narcotics team.
- 20 A Yes, sir.
- 21 MR. HOLLIDAY: Your Honor, no further questions for
22 this witness.
- 23 THE COURT: Mr. Wilkes.
24
25

Travis McJunkin (In-camera)
Cross-examination by Mr. Wilkes

1 CROSS-EXAMINATION

2 BY MR. WILKES

3 Q Did you make the phone call to Hutchins, Officer
4 McJunkin?

5 A Which phone call?

6 Q Any. What contact did you have with Hutchins?

7 A I had several contacts with Investigator Hutchins
8 throughout the day.

9 Q Okay. Did you prepare the affidavit?

10 A No, sir, I did not.

11 Q Do you know when the affidavit was prepared?

12 A No, sir, I do not.

13 Q Are you on the video-audio tape? Is that your voice
14 on the video-audio?

15 A Which one, sir?

16 Q The one that I've been provided in the discovery with
17 the debriefing of the C.I.

18 A The debriefing?

19 Q I believe with that's what we call it.

20 A I was on the beginning of the audio-video, yes, sir.

21 Q Okay. Who's on it besides you at the end of it?

22 A At the end of it it would have been Investigator B.J.
23 -- William Tillinghast. We call him B.J. Tillinghast --
24 would have been on it at the end, and Shondrell Williams.

25 Q Okay. Now, you didn't -- you didn't prepare, you

Travis McJunkin (In-camera)
Cross-examination by Mr. Wilkes

- 1 didn't have anything to do with the preparation or the
2 presentation of the affidavit to the search warrant.
- 3 A I did not prepare a search warrant, no, sir.
- 4 Q Okay. All right. And as far as you know Tillinghast
5 was at the -- where was the debriefing held? Were you at
6 the debriefing when the --
- 7 A No, sir.
- 8 Q -- vehicle came back?
- 9 A No, sir, I was not.
- 10 Q Do you know where that was?
- 11 A I believe it was -- it was in Spartanburg County. It
12 was right off 29. I'm not sure of the exact -- it was on
13 the roadside.
- 14 Q Okay.
- 15 A I can guesstimate, but I don't know exactly.
- 16 Q But it wasn't at the law enforcement center.
- 17 A No, sir.
- 18 Q Okay. Tillinghast is the officer that was at the end
19 of the video with the C.I. that he recovered the money from
20 the C.I.
- 21 A Yes, sir. That's correct.
- 22 Q Okay. Did you have communication with Hutchins after
23 the incident? Or let's say this. Did you -- did you have
24 communications with Hutchins on any of this information,
25 sir?

Travis McJunkin (In-camera)
Redirect examination by Mr. Holliday

1 A Yes, sir.

2 Q Okay. What kind of communication did you have --
3 radio or telephone?

4 A Definitely. If anything, it would be personal and
5 telephone.

6 Q Okay. And when did you -- when did you talk to him?

7 A I couldn't give you an exact time.

8 Q Okay. What information did you relay to him?

9 A The information that we had placed recorded phone
10 calls to Shondre Williams in reference to the purchase or
11 the sale of an amount of cocaine, would have given him a
12 description of the premise to be searched, the facts of the
13 case as I knew them at that time.

14 Q Okay. And what time was that?

15 A I don't know of an exact time of when we spoke.

16 Q Okay. All right.

17 MR. WILKES: No further questions of Officer
18 Hutchins -- I mean McJunkin.

19 REDIRECT EXAMINATION

20 BY MR. HOLLIDAY

21 Q Once -- who is the officer who called Investigator
22 Hutchins?

23 A That would have been -- in reference to?

24 Q To inform Investigator Hutchins once the buy was
25 completed.

William Tillinghast (In-camera)
Direct examination by Mr. Holliday

1 A That would have been Investigator Tillinghast.

2 Q Tillinghast. Okay.

3 MR. HOLLIDAY: No further questions of this witness,
4 Your Honor.

5 THE COURT: Step down.

6 MR. HOLLIDAY: Your Honor, we would call B.J.
7 Tillinghast.

8 WILLIAM TILLINGHAST, having
9 been first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. HOLLIDAY

11 Q Can you give us your name, Officer?

12 A William Tillinghast.

13 Q And, Investigator Tillinghast, you're with the
14 sheriff's office.

15 A Yes, sir, I am.

16 Q Narcotics unit.

17 A Yes, sir.

18 Q You were involved -- you were involved in the
19 investigation of the defendant, Shondre Williams?

20 A Yes, sir, I was.

21 Q You were -- there was -- and you also were involved
22 with the informant, Shondrell Williams.

23 A Yes, sir.

24 Q Can you tell your involvement with the informant?

25 A After the transaction that was set up by Investigator

William Tillinghast (In-camera)
Direct examination by Mr. Holliday

1 McJunkin, I assisted with the recovery of the money after
2 the deal. I met with the informant, and he turned over a
3 sum of U.S. currency to me. I recovered that.

4 Q What did the informant tell you happened inside?

5 A He said that the nine ounces of cocaine that we
6 provided to him was given to Shondre, said in exchange for
7 that he was given \$4,000 in U.S. currency. At that time he
8 returned to me and gave me the currency.

9 Q And this was at [REDACTED] -- I'm sorry -- [REDACTED]

10 [REDACTED], the house where you saw the informant come out of?

11 A Yes, sir. I did. I followed him to that location,
12 and he left that location.

13 Q What -- do you know the address that the incident is
14 alleged to have occurred at?

15 A As far as where the transaction took place?

16 Q Yeah.

17 A I didn't know the exact location prior to this. It
18 was the location that is in the search warrant. I followed
19 the informant to that location, watched him pull into the
20 driveway and then watched him leave.

21 Q There's a copy of the search warrant there if you'll
22 look in the affiant section. Is that the address where you
23 saw the informant leave?

24 A Yes, sir.

25 Q At that point in time, what did you do?

William Tillinghast (In-camera)
Cross-examination by Mr. Wilkes

1 A At that point in time I followed him out of the --
2 that residential area. I followed him to another location
3 where he provided me the U.S. currency.

4 Q Did you call Investigator Hutchins?

5 A I did.

6 Q And what did you tell Investigator Hutchins?

7 A I informed him that our informant had left the
8 location and that the cocaine had been given to Shondre in
9 exchange for the U.S. currency.

10 Q Were you at all involved in the preparation of this
11 affidavit that's in the search warrant?

12 A As far as writing it?

13 Q Uh-huh.

14 A No, sir.

15 MR. HOLLIDAY: No further questions of this witness,
16 Your Honor.

17 CROSS-EXAMINATION

18 BY MR. WILKES

19 Q You're on the surveillance video with the C.I. that
20 I've been given in discovery, right?

21 A Yes, sir.

22 Q Okay. And you're the voice at the end indicating
23 times, and that we can hear talking in the background.

24 A Yes, sir.

25 Q Okay. You -- as I understand it, you said you called

William Tillinghast (In-camera)
Cross-examination by Mr. Wilkes

- 1 Hutchins. When did you call Hutchins?
- 2 A If I recall correctly, it was at the time that I met
3 with the informant.
- 4 Q Okay. So that would be on the tape. That would be on
5 the informant's tape. His tape is running, correct?
- 6 A If I was standing beside him.
- 7 Q Okay. If we can hear you talking and calling somebody
8 that would be whom?
- 9 A The only person that I call -- I believe I called
10 Investigator Hutchins. And I'll be honest. I don't
11 remember if I called anybody else to let them know that I
12 had met with him.
- 13 Q Okay. How many times did you call?
- 14 A I don't recall.
- 15 Q Okay. Did you -- what did you tell -- when you made
16 the call, what did you tell Hutchins?
- 17 A The most I remember is that I had -- that the
18 informant had left the location.
- 19 Q Okay. And then you called again with the informant
20 when the informant was with you, right? Or is that the
21 same call?
- 22 A I really -- I don't recall.
- 23 Q Okay. So it's possible you didn't call any other time
24 than just maybe what we hear on the video.
- 25 A I -- I don't know. I really don't recall how many

William Tillinghast (In-camera)
Redirect examination by Mr. Holliday

1 phone calls or -- or exactly who I made them to. I
2 remember making at least one phone call to Investigator
3 Hutchins.

4 Q Okay. So you know that you told him that the C.I. had
5 left the location.

6 A Yes, sir.

7 Q Okay. Anything else you told him?

8 A At this time I don't recall.

9 Q Would you agree that you could not tell him what
10 transpired until you met with the C.I. to find out? Does
11 that make sense?

12 A Yes, sir.

13 Q Okay. So at that time when the C.I. tells you what
14 has transpired for you to then relay to Hutchins, at that
15 point you're with the C.I. And we can hear that on the
16 tape.

17 A Yes, sir.

18 Q Okay.

19 MR. WILKES: No further questions.

20 REDIRECT EXAMINATION

21 BY MR. HOLLIDAY

22 Q Investigator, the tape that the defense attorney made
23 mention of you -- the sheriff's office made a video
24 recording of the undercover buy?

25 A Yes, sir.

William Tillinghast (In-camera)
Recross-examination by Mr. Wilkes

1 Q And that conversation that took place is captured on
2 the last portion of that video?

3 MR. HOLLIDAY: Your Honor, can we approach?

4 (Bench conference held off the record.)

5 MR. HOLLIDAY: No further questions of this witness.

6 MR. WILKES: If I can follow up.

7 RECROSS-EXAMINATION

8 BY MR. WILKES

9 Q Would you agree with me that shortly after you had the
10 C.I. come back he gives you money and you radio, "I've got
11 money in hand"? Correct?

12 A Yes, sir.

13 Q Okay. And that's all you said, right?

14 A Yes, sir.

15 Q And then you talked to the C.I. and said, "Okay. Now
16 tell me everything that happened." And he did. And that's
17 on the tape.

18 Okay. And at the end of it you declared who you were,
19 what the case was or whatever and said it's 1:04 and turned
20 off the recording.

21 A Yes, sir.

22 Q Okay. After that did you call Hutchins?

23 A I don't recall.

24 Q Okay.

25 MR. WILKES: No further questions, Your Honor.

Matt Hutchins (In-camera)
Direct examination by Mr. Holliday

1 MR. HOLLIDAY: I think that's all.

2 THE COURT: Step down.

3 MR. HOLLIDAY: Your Honor, lastly the state would call
4 Investigator Matt Hutchins.

5 MR. WILKES: Your Honor, I'm not sure which witnesses
6 were in here, and he was. I think he was. I'm not sure if
7 they understand they're under sequestration. I don't know
8 which ones are coming that are new. There were lots of new
9 witnesses.

10 THE COURT: Well, I can tell you who was in here. He
11 was one that was in here.

12 MR. WILKES: Very good.

13 THE COURT: Mullinax and Harris were not -- and Cooper
14 were not -- in here.

15 MATT HUTCHINS, having been
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. HOLLIDAY

18 Q Thank you, Investigator.

19 Could you please state your name for us?

20 A Matt Hutchins.

21 Q And you're a -- on March 2nd of 2012 you were with the
22 narcotics unit with the Spartanburg County Sheriff's
23 office?

24 A Yes, sir. That's correct.

25 Q And you were involved with the investigation against

Matt Hutchins (In-camera)
Direct examination by Mr. Holliday

1 the defendant, Shondre Williams?

2 A I was.

3 Q Did you have knowledge of or can you tell us about
4 what you knew about that investigation and what events
5 unfolded that night?

6 A I was aware of a reversal operation that was taking
7 place that night. I had been at the sheriff's office and
8 was advised that there was a quantity of cocaine to be
9 signed out for the reversal. And I went to the evidence
10 office and met with Lieutenant Ashley Harris and signed out
11 a quantity of cocaine from the evidence room.

12 Q Okay. Where were you when the informant went to the
13 house where Mr. -- where the defendant was? Where were you
14 when the drug -- when the sting operation or the reverse
15 buy went down? Where were you? Were you present at that
16 time, or where were you?

17 A I was not. I was actually at the sheriff's office on
18 standby to type the search warrant and get it signed.

19 Q Okay. And setting before you is State's Exhibit 1.
20 Will you take a look at that and just verify that that's
21 the search warrant you did, in fact, type out?

22 A Yes. It is.

23 Q Okay. And you prepared the affidavit in the affiant
24 section of that?

25 A I did.

Matt Hutchins (In-camera)
Direct examination by Mr. Holliday

1 Q On the tape that the informant has played previously
2 in court you hear Investigator Tillinghast tell you we got
3 the money. What does that mean to you or what did that
4 mean to you at that time?

5 A Basically, that the informant had went to the address,
6 had sold the target a quantity of cocaine and had received
7 payment for that cocaine.

8 Q And so when you received that phone call, what did you
9 do?

10 A I then typed the -- or finished typing the affidavit
11 adding that part to the affidavit and then went before a
12 magistrate to get it signed.

13 Q So you did have part of the affidavit already typed
14 out.

15 A I was in the process of typing while it was going on,
16 yes, sir.

17 Q And everything that's in the affidavit, you did
18 confirm that it occurred as it was in the affidavit before
19 you submitted it?

20 A Yes. Investigator McJunkin was the case agent, and
21 had confirmed through him that that was the facts. And
22 then when Investigator Tillinghast had told me that he had
23 the money, then confirmed that. And the search warrant was
24 signed.

25 Q So you didn't sign the search warrant until after you

Matt Hutchins (In-camera)
Cross-examination by Mr. Wilkes

1 heard -- you got that phone call from Tillinghast.

2 A That's correct.

3 MR. HOLLIDAY: No further questions of this witness,
4 Your Honor.

5 CROSS-EXAMINATION

6 BY MR. WILKES

7 Q Where were you preparing the search warrant at?

8 A At the actual location -- I believe was at the
9 sheriff's office. We have laptops, and I had went to that
10 location because it was closer to the jail.

11 Q Okay. And how far is it from the jail?

12 A It's a straight shot. Two minutes.

13 Q Okay. And you're saying that you had completed
14 portions of the search warrant before or while this was
15 going on.

16 A Yes. The facts surrounding the case prior to other
17 than the actual transaction taking place I had typed up.

18 Q Okay. And what portion of that search-warrant
19 affidavit did you complete at the end?

20 A Would be, "The C.I. then left the residence and met
21 back with Investigator Tillinghast. Investigator
22 Tillinghast recovered the U.S. currency from the C.I.
23 Surveillance was maintained on the residence, premises
24 described above by members of the sheriff's office
25 narcotics unit after the transaction." That would be the

Matt Hutchins (In-camera)
Cross-examination by Mr. Wilkes

1 area that was added in.

2 Q Okay. And the C.I. and the C.I.'s vehicle again were
3 searched and no illegal contraband was located, checking,
4 and then goes on from there to unrelated facts; but who --
5 who conveyed to you that the surveillance continued to be
6 maintained on the residence until after the transaction and
7 the C.I.'s vehicle had been searched again? Who informed
8 you of that?

9 A I believe it was Investigator McJunkin.

10 Q And how did he inform you of that?

11 A I know I had talked back and forth with him also in
12 reference to the search warrant, because he was actually
13 standing by for me to let him know it had been signed. So
14 I believe that's who I would have got those facts from.

15 Q And that could not have happened until after the C.I.
16 got back to Tillingham -- hast, right?

17 A You're talking about the C.I. being searched after the
18 fact?

19 Q Right.

20 A That's correct.

21 Q Okay. So all of this has to transpire when the C.I.
22 gets back and gives the money to Tillinghast.

23 A That's correct.

24 Q Okay. And then at that point you complete this,
25 right, and print it out?

Matt Hutchins (In-camera)
Cross-examination by Mr. Wilkes

1 A With -- put those lines in there. The other parts
2 would have been typed waiting on that, yes.

3 Q Okay. What portion of the affidavit was prepared in
4 advance?

5 A Well, I --

6 Q Any of the facts?

7 A While I was sitting there or when I'd started
8 preparing it the part on the prior involvement in reference
9 to the recorded phone calls showed the desire to purchase a
10 quantity of cocaine. All of that along with the criminal
11 history at the end would've been already typed up.

12 Q Okay. So you're saying that this is on a computer and
13 you can just insert the portion that happened when the C.I.
14 got back to Tillinghast.

15 A That's correct.

16 Q Okay. So you then complete it, print it and do what
17 with it?

18 A Go to the jail and get it signed.

19 Q Okay. And how did you do that? Where did you print
20 it from?

21 A I believe from the sheriff's office printer.

22 Q Which is where?

23 A At the Spartanburg County Sheriff's Office at 8045
24 Howard Street.

25 Q In your office.

Matt Hutchins (In-camera)
Cross-examination by Mr. Wilkes

- 1 A It's not where my office was. It's at the sheriff's
2 office.
- 3 Q Okay. Is that where you were?
- 4 A That's where, yes.
- 5 Q Okay. So you print it. You type it, you print it,
6 and then you go where?
- 7 A To the jail.
- 8 Q How?
- 9 A By vehicle.
- 10 Q Okay. And you drive all the way over to the jail,
11 right?
- 12 A Uh-huh.
- 13 Q And do what?
- 14 A Go before the magistrate and swear before the
15 magistrate.
- 16 Q Okay. And how long did it take you to get over to see
17 the magistrate, find a magistrate and swear this out?
- 18 Doesn't the magistrate -- you have to read this, or read it
19 to the magistrate. Does the magistrate have to read this?
- 20 A The magistrate reads it, yes.
- 21 Q And he read all of this.
- 22 A I -- I assume. I can't say. He read it and then
23 issued it. So I'm assuming he read it.
- 24 Q Okay. You assume so. He -- did he go over your
25 affidavit with you? He's the one that notarized it, isn't

Matt Hutchins (In-camera)
Redirect examination by Mr. Holliday

1 he?

2 A He read it, that's correct.

3 Q He read it, and then he notarized it. So how long do
4 you think all of that took?

5 A The sheriff's office is probably at most two minutes
6 from the jail. Walked straight in, and straight into his
7 office.

8 Q And he's got to read it. So you -- can you accomplish
9 that in 60 seconds to get from your office, to print it, to
10 get in the car, to get to him, to read it to him or have
11 him read it, get him to notarize it and sign the search
12 warrant? Can you do that in 60 seconds?

13 A In 60 seconds, probably not.

14 Q Take a few minutes to do that, wouldn't it?

15 A Few minutes.

16 Q At least.

17 MR. WILKES: No further questions.

18 REDIRECT EXAMINATION

19 BY MR. HOLLIDAY

20 Q Investigator Hutchins, you wrote down -- or I'm sorry.
21 Looks like the magistrate judge wrote down the time that he
22 signed the search warrant as 1:05 on March 2nd?

23 A That's correct.

24 Q Were you wearing a watch at that time?

25 A I probably was.

Matt Hutchins (In-camera)
Redirect examination by Mr. Holliday

1 Q Is that -- do you think that's -- is that an accurate
2 reflection of what time it was?

3 A When it was signed?

4 Q When it was signed.

5 A Yeah. The judge would have looked at his watch and
6 put it down. So that's whatever his watch would have said.

7 Q Before the investigation -- did you have a common
8 plan? Do you just show up at somebody's house or as a unit
9 you have a meeting beforehand? I mean, was there a plan
10 going into this thing, or were you just sitting there
11 waiting on a phone call?

12 A No. There was -- there was a plan on what was to
13 transpire.

14 My job was to be sitting in close proximity of the jail
15 to complete the search warrant. Once the transaction -- you
16 want that timeline to be pretty quick because you have just
17 entered narcotics into this residence. So that's why I was
18 sitting in close proximity to the jail waiting on the final
19 facts to put in the search warrant.

20 Q So everything that's been testified to that did
21 happen, is it your testimony that you expected that to
22 happen?

23 A Yes.

24 Q You've had prior knowledge that this was going to
25 occur, and you've been informed by your -- your partners?

Matt Hutchins (In-camera)
Redirect examination by Mr. Holliday

- 1 A Yes, and was waiting on it to happen and then verify
2 the facts through the investigators that was out there.
- 3 Q And are you familiar with the video cameras that the
4 narcotics office uses to make undercover buys?
- 5 A Uh-huh. I am.
- 6 Q Are there timestamps on those?
- 7 A On the --
- 8 Q On the videos.
- 9 A -- the videos? Typically, there are a lot of times,
10 though the batteries will go dead and the clocks will
11 reset. So they may or they may not be accurate. So I --
12 they usually are timestamped. Some we have are not, but
13 most we have are.
- 14 Q So if a battery died the amount of -- the time might
15 not be accurate on those -- on those timestamps on the
16 video?
- 17 A That's correct. The timestamps on them are preset.
18 You hook it up to a computer, and then you punch in what
19 time it was. So, you look at your watch and I look at
20 mine. They may be minutes off what you set the time as,
21 would be different from mine.
- 22 Q And did you synchronize your watches with video
23 cameras before this -- this investigation took place?
- 24 A I did not. I had no part of anything to do with the
25 video in this.

Matt Hutchins (In-camera)
Recross-examination by Mr. Wilkes

1 MR. HOLLIDAY: No further questions.

2 RECROSS-EXAMINATION

3 BY MR. WILKES

4 Q You say you were talking to Tillinghast or McJunkin by
5 phone?

6 A At which time? I actually --

7 Q To get these facts. How did you get these facts?

8 A I had spoke with both of them. I had spoke with
9 McJunkin and I had spoke with Tillinghast.

10 Q Okay. And how did you speak with McJunkin -- phone or
11 radio?

12 A It would have been by phone.

13 Q By phone. Cell phone?

14 A Yes.

15 Q What phone number?

16 A Of mine or his?

17 Q Both of them.

18 A His would be in the phone. Mine is (864)809-0959.

19 Q (864)809 --

20 A 0959.

21 Q And there would be calls between you and --

22 A Tilly -- Tillinghast. And would be me and McJunkin.

23 He may have been using the lieutenant's phone, but I spoke
24 with him. It's whoever -- would have been him or who he
25 was with.

Matt Hutchins (In-camera)
Recross-examination by Mr. Wilkes

- 1 Q Okay. And these phone records would show that you
2 were communicating these facts right here contemporaneous
3 with their occurrence or at least before the warrant --
4 A Was signed at some point, yes.
5 Q -- was signed. You had communicated and confirmed all
6 of these facts.
7 A Yes, sir.
8 Q Okay. And that's going to be shown through those
9 phone records. You say that you also got information from
10 Tillinghast over the radio, right?
11 A Directing that, yes.
12 Q Directing that. That's what we hear on the video.
13 A I hadn't heard the video.
14 Q Okay.
15 A But at that point we had Sprint Nextels.
16 Q Okay.
17 A It would be -- and I do not know my direct-connect
18 number at that point, but it would have either been by
19 direct connect or by cell phone.
20 Q Okay.
21 A That would have been the only modes of communication.
22 Q And you could direct connect through the 809 cell
23 phone to --
24 A It actually has another direct-connect number.
25 Q Okay. But it would have been through the same phone.

Matt Hutchins (In-camera)
Recross-examination by Mr. Wilkes

1 A Phone set, yes, that's correct.

2 Q All right. And you're telling me that none of these
3 facts were prepared in advance of you being told that they
4 had happened.

5 A That's correct. Before I signed this search warrant
6 these facts were conveyed to me that they had happened.

7 Q Every fact or just a general I've-got-money-in-hand,
8 meaning everything has come down like you planned it?
9 Which was it?

10 A The facts that are in here would have been conveyed to
11 me that they had happened.

12 Q Okay. So that would have happened by 1:04.

13 A Yes.

14 Q Okay.

15 MR. WILKES: No further questions, Your Honor.

16 MR. HOLLIDAY: Nothing further, Your Honor.

17 THE COURT: Step down.

18 MR. HOLLIDAY: Your Honor, that's all the state's
19 testimony.

20 THE COURT: All right. What about the Jackson vs.
21 Denno? Who have you got for that?

22 MR. WILKES: Your Honor, I think that was at the -- at
23 the house. That would have been probably McJunkin is what
24 we --

25 MR. HOLLIDAY: I believe it was Investigator McJunkin.

1 MR. WILKES: And may I just right quick reference?
2 That tape, we probably ought to put it in evidence for the
3 purposes. And I've got one if we can do that just for the
4 purposes of the hearing, because it is important that the
5 timing be shown, that it is 1:04 as the officer called in,
6 and the facts that he called in, and exactly what he said.
7 So I would like to mark it because it does need, I think,
8 to be in the record as a court's exhibit.

9 THE COURT: Let her.

10 (D.V.D. marked Court's Exhibit No. 1.)

11 THE COURT: All right. Am I to understand that the
12 state of the search, the defendant made an incriminating
13 statement after his arrest --

14 MR. HOLLIDAY: Yes, sir, Your Honor.

15 THE COURT: -- to law enforcement during the course of
16 an interrogation subsequent to his arrest?

17 MR. HOLLIDAY: Yes, sir, Your Honor.

18 THE COURT: And you intend to offer that into
19 evidence?

20 MR. HOLLIDAY: Yes, sir, Your Honor.

21 THE COURT: All right. What witnesses do you have to
22 establish the voluntariness of it?

23 MR. HOLLIDAY: Your Honor, we would call Investigator
24 Travis McJunkin.

25 THE COURT: Okay.

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

1 MR. WILKES: And, Your Honor, I have just the case law
2 on the search-warrant issue about the contemporaneous
3 knowledge.

4 THE COURT: You're still under oath.

5 THE WITNESS: Yes, sir.

6 TRAVIS MCJUNKIN, having been
7 previously duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. HOLLIDAY

9 Q Investigator McJunkin, you were at the residence with
10 the defendant when the search warrant was executed?

11 A Yes, sir, I was.

12 Q Can you tell us what happened when you went in the
13 door?

14 A At which point we would have made entry into the
15 house, secured all persons inside for our safety.

16 At that point we brought them into a common area in
17 which I would have Mirandized everyone.

18 Q When you say Mirandized --

19 A Read them their rights.

20 Q Which are?

21 A You have the right to remain silent. Anything that
22 you say can and will be used against you in a court of law.
23 You have the right to have an attorney present while you're
24 being questioned. If you cannot afford one, one will be
25 appointed to you free of any cost. You have the right to

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

1 stop answering questions at any time.

2 Q And those -- that's exactly what you told them that
3 evening?

4 A Yes, sir.

5 Q Were they free to go at that point?

6 A No, sir.

7 Q Okay.

8 A I believe all the adults were handcuffed, so.

9 Q Did they make any -- when you went in the door were
10 there any statements made before you gave those Miranda
11 warnings?

12 A I believe Shondre said -- I mean, there was a lot of
13 yelling. This is a dynamic situation. There was a lot of
14 yelling.

15 At some point I believe Mr. Shondre Williams -- Shondre
16 said why are y'all doing this, is it because my name is
17 Shondre Williams. That's the only thing that sticks out
18 prior to that, other than just, I guess, the loudness and
19 the kind of disruptiveness of it all. Other than that
20 nothing really sticks out.

21 Q All right. So after -- after you gave the Miranda
22 warnings what did you do?

23 A Myself and Lieutenant Cooper -- we took Shondre to
24 another room and began questioning him trying to gain his
25 cooperation with the case, talking to him about the case.

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

1 Q And what did he tell you?

2 A At first he -- he seemed kind of resistant to the idea
3 that anything had occurred.

4 We told him that we knew there were nine ounces of
5 cocaine in the house and that he needed to tell us where it
6 was at, that we were going to find it, things of that
7 nature.

8 And at first he denied it, and then he related that he
9 threw it out in the back yard. So we walked around the back
10 yard, and then he indicated that he had, I think, thrown it
11 over the fence. There's like a wood line behind there
12 maybe. So I think he said he threw it over the fence.

13 We walked around. It seemed like he was searching for
14 something. And then I don't remember if myself or
15 Lieutenant Cooper said, you know, this seems silly, you
16 know, something to that effect, not verbatim, you know,
17 pulling our leg, at which point Mr. Williams agreed to show
18 us where the cocaine was hidden at in the residence, at
19 which time he took us to the garage and pointed outside the
20 hot water heater in the garage.

21 Q Okay. And did you collect it?

22 A Yeah. Well, and the investigator doing the search
23 warrant returns -- Dan Swad -- he would have recovered the
24 evidence, and at which point we were still -- at this time
25 we were still trying to gain Mr. Williams', Shondre's,

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

1 cooperation for our assistance.

2 At this point we were just mainly -- I think we were
3 actually outside in the back yard talking to him about
4 customers, suppliers, things of that nature.

5 Q Okay. I'm going to hand you -- hand you this document
6 entitled affidavit for forfeiture. Can you identify that?

7 A Yes, sir. That's -- whenever we get money or seize
8 currency in a case we usually give the option to the
9 suspect -- in this case Mr. Williams -- if they'd like to
10 sign over the money, forfeit, give up their rights, at
11 which time if they agree I myself personally, I read it
12 verbatim to them including the parts that I fill out and
13 ask them if they -- I also encourage them to read over it
14 themselves, not take for granted that it's my word.
15 They're more than welcome to read over it themselves and
16 then to sign and print their name at the bottom if they
17 agree.

18 And then typically for my purposes so I don't lose
19 paperwork I always write the case number at the bottom, just
20 for my purposes keeping up with. And this appears to be the
21 one that we prepared that morning.

22 Q Okay. And is that the defendant's signature here?

23 A Yes, sir.

24 Q Okay. And you were there when he signed it?

25 A Yes, sir.

Travis McJunkin (In-camera)
Cross-examination by Mr. Wilkes

1 (Affidavit, worksheet, affidavit marked State's
2 Suppression Exhibit No. 2 for Identification.)

3 MR. HOLLIDAY: Your Honor, we move State's Exhibit 2
4 in for purposes of this hearing.

5 THE COURT: It's admitted.

6 (Affidavit, worksheet, affidavit marked State's
7 Suppression Exhibit No. 2.)

8 MR. HOLLIDAY: No further questions.

9 THE COURT: Just leave that exhibit up here if you're
10 going to mark it.

11 MR. HOLLIDAY: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. WILKES

14 Q Who was present when you Mirandized all of these
15 people in the same room?

16 A As far as I can tell the three adults with a juvenile
17 male, members of the sheriff's office.

18 Q Tell me the sheriff's office.

19 A I had -- I couldn't begin to tell you who was standing
20 there with me whenever I read it. I have no idea.

21 Q How many officers were there on the scene?

22 A I'd have to refer to the return.

23 Q Take a look at the return and see if that refreshes
24 your memory as far as --

25 A Yeah. That's -- in reference to the return here,

Travis McJunkin (In-camera)
Cross-examination by Mr. Wilkes

1 Looks like Lieutenant Cooper was present; Sergeant Pharis
2 was present; Sergeant Roger Luther; Investigator John
3 Schafer; Investigator Paul Norris; Investigator Dan Swad.
4 I believe that's Uniform Patrol Officer Dually; Investigator
5 Hancock; Curt Jackson with the Greenville County Sheriff's
6 Office; myself. I believe Investigator Hutchins showed up
7 at some point. Looks like Ms. Evelyn Worthy is notated on
8 there. Also, I know -- I believe it's Tania Worthy. I
9 hope I'm pronouncing that correctly. She would have been
10 there. An unknown juvenile male. I'm not sure of what his
11 name -- I don't think we got his name for purposes of being
12 a juvenile male. No need to include it at that point. I
13 believe there was other patrol officers there who assisted
14 us with it. I believe David Moore. But I'm not sure where
15 they were.

16 When we -- when we make entry on these things, once
17 everybody is secured we bring them to a central location
18 where I can Mirandize them.

19 At that point people are taking off gear. They're
20 getting comfortable. So as far as who was actually
21 physically present with me in attendance in that room, I
22 couldn't tell you. I can only tell you who was listed in
23 that search warrant at that time.

24 Q All right. This would have been -- well, give me an
25 idea of a reference point when you say you Mirandized.

Travis McJunkin (In-camera)
Cross-examination by Mr. Wilkes

1 Give me some reference point that I could ask any other
2 officer that was there. How would we be able to verify
3 that? Had they just all been brought in the room together?
4 Had they just been handcuffed? Give me any kind of
5 reference point.

6 A Well, where they were handcuffed and when we brought
7 them in, that's not going to necessarily be the same
8 physical location inside the house.

9 Q Okay.

10 A At some point it would have been when got everyone
11 secured and safe, whether that be in handcuffs. I know a
12 lot of times we do a cursory search of any couches we may
13 put them on. I think there were some couches in there. So
14 we probably would have searched the couches before we sat
15 them down, but it'd been to a point where everyone was
16 secure and it was safe enough for me to do so, to set
17 people down in particular locations, because you just can't
18 set people on the floor. You have to put them on the
19 couch.

20 Q Okay. But, needless to say, with three suspects or
21 more handcuffed in the room there would have had to have
22 been somebody else that would have --

23 A Oh, absolutely.

24 Q Okay. Now, the reason I ask that, the reason I keep
25 asking, is to make sure. Your testimony I believe was I

Travis McJunkin (In-camera)
Cross-examination by Mr. Wilkes

- 1 would have Mirandized everybody. And I'm not -- I'm asking
2 what you remember doing specifically, not what you recall
3 or you would not recall, but what you -- your normal
4 practice is. Do you specifically remember sitting this man
5 down, the defendant, and reading him Miranda before you
6 talked to him?
- 7 A Not on a one-on-one basis. I Mirandized the entire
8 group.
- 9 Q Okay. You specifically remember all of those people
10 sitting somewhere together.
- 11 A Uh-huh.
- 12 Q That you stood in front of them and Mirandized them.
- 13 A Yes, sir.
- 14 Q How?
- 15 A Verbally.
- 16 Q How did you do that?
- 17 A Verbally.
- 18 Q Just verbally. Did you whip out a card? Did you read
19 it? Did you memorize it?
- 20 A I don't believe I whipped out a card that night, no,
21 sir.
- 22 Q Tell me what you told them.
- 23 A You have the right to remain silent. Anything that
24 you say can and will be used against you in a court of law.
25 You have the right to have an attorney present with you

Travis McJunkin (In-camera)
Redirect examination by Mr. Holliday

1 while you're being questioned. If you cannot afford one,
2 one will be appointed to you free of any costs. You have
3 the right to stop answering questions at any time. Do you
4 understand your rights? And at which time I would have
5 pointed and said, "Mr. Williams," and at which time I would
6 have pointed to Ms. Tania Worthy, at which I would have
7 pointed to Ms. Evelyn Worthy. And they all would have had
8 to acknowledge that I understood their rights before I
9 moved forward.

10 Q Okay. I understand. You've got to tell me not that
11 you would have. Do you remember doing that?

12 A Yes, sir, I do.

13 Q Okay. That's what I want to know. And there were
14 some officers that would have -- would have been there.

15 A I'm sure there was.

16 Q All right.

17 MR. WILKES: No further questions, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. HOLLIDAY

20 Q Did the defendant specifically acknowledge that he
21 understood his Miranda warnings?

22 A Yes, sir, he did.

23 THE COURT: Step down.

24 MR. HOLLIDAY: That would be all the testimony for the
25 Jackson vs. Denno hearing, Your Honor.

1 THE COURT: Any for the defense?

2 MR. WILKES: None, Your Honor.

3 THE COURT: All right. Have y'all got any arguments
4 you want to make?

5 MR. WILKES: Yes, sir, on the issue -- and I didn't
6 get back to the issue of the search warrant. The search
7 warrant, we made the -- put the testimony up for the
8 specific purpose of showing that it was impossible for the
9 officer who did the affidavit to actually have personal
10 knowledge of all of the facts.

11 The tape, the video tape, will show that he was -- the
12 debriefing of the informant was not concluded until 1:04.

13 The warrant's issued at 1:05. That's an impossibility
14 for him to have personal knowledge that they actually
15 occurred.

16 That's different than saying they did an anticipatory
17 affidavit saying this is the way it's going to go down,
18 call me if it does, and they get a call saying the money's
19 in hand, which is what happened. That's on the tape. It's
20 clear. That's all that's conveyed.

21 But the bulk of this affidavit and the facts of the
22 affidavit are prepared before the debriefing could possibly
23 have been complete and all of the facts conveyed.

24 And I don't -- I would submit that under the case law
25 the affiant has to have personal knowledge of these facts.

1 They can't draft up an affidavit as to how they think it's
2 going to go, put in some facts and then get a call that
3 says the money's in hand and that alone be sufficient to
4 execute a search warrant on personal knowledge of the facts
5 that are contained.

6 And I would submit that a preprepared affidavit is
7 insufficient under the case law I've submitted as far as
8 being a contemporaneous oath. And that's State vs. Dunbar
9 also cited in the Am. Jur. article.

10 I believe on the issue of suppression on the
11 statements as far as the -- the statements go, I think the
12 testimony of the officer repeatedly was I would have, I
13 would have.

14 He came back and said that he did, and he did
15 remember, but the bulk of that testimony was I would have.
16 And I would submit that it takes accurate recollection for
17 there to be a clear understanding by the defendant. He has
18 to testify that the defendant clearly understood. And I
19 would submit that those statements should be suppressed.

20 MR. HOLLIDAY: Your Honor, we would just -- Your
21 Honor, I believe that based on the common or collective
22 knowledge that the sheriff's office had -- Investigator
23 Hutchins testified that he did know that the plan
24 beforehand -- he knew that -- as a matter of fact, he
25 personally signed out the cocaine from the sheriff's office

1 to provide the informant.

2 He knew that this was going to happen. He had -- he
3 not only had collective knowledge, but he also had personal
4 knowledge of the plan.

5 I think given the fact that all of the -- that
6 Investigator Tillinghast told him once the money's in hand
7 underscores the fact that Investigator Hutchins had an idea
8 of what was going on.

9 It wasn't just somebody called him and told him this
10 and then he went and turned in this affidavit. He knew
11 what was going to happen, and that fact was affirmed to him
12 through the conversations that took place with Investigator
13 McJunkin and Investigator Tillinghast.

14 And, Judge, when he combined the facts that were
15 relayed to him from other officers and the facts that he
16 already knew he filled out that affidavit and submitted it
17 for the search warrant.

18 Judge, we would just submit that based on the common
19 knowledge or the collective knowledge of the sheriff's
20 office that would surpass the standard set by Dunbar.

21 Judge, just based on Investigator Hutchins' testimony,
22 he did state that through telephone conversations with
23 Investigator McJunkin the facts that were in the search
24 warrant were affirmed to him. He ensured that those were
25 accurate facts before he submitted that search warrant.

1 THE COURT: Mr. Wilkes, do I understand your
2 interpretation of the State vs. Dunbar and others is that a
3 law enforcement officer can't prepare an affidavit and a
4 search warrant in anticipation of facts occurring?

5 MR. WILKES: I think he can, Your Honor, in some cases
6 prepare in anticipation. He can prepare anything ahead of
7 time.

8 THE COURT: Well, that's what I'm asking.

9 MR. WILKES: The question is though when he swears to
10 it under oath has it been confirmed that those facts
11 occurred --

12 THE COURT: Well, I agree with that.

13 MR. WILKES: That's my issue with it.

14 THE COURT: Okay. Can I have a look at that search
15 warrant?

16 MR. HOLLIDAY: Yes, sir.

17 MR. WILKES: And again, Your Honor, I think that the
18 end of the tape is important because the very few, two or
19 three or less, minutes that transpire with the C.I. telling
20 officer Tillinghast what happened and him indicating what
21 time it is very clearly on the tape are certainly relevant
22 to the question of is this a case where it was prepared in
23 advance, and he assumed that it was all true based on a
24 single we've-got-the-money-in-hand versus did he sit and
25 learn that information personally, all of the information,

1 beforehand, before he actually executed the affidavit.

2 That's the issue we have. The anticipatory part of
3 it's not a problem if it has all been confirmed at the time
4 that he executes it.

5 We submit that the evidence is going to show that he
6 did not have it all confirmed. He might have gotten a call
7 beforehand, a minute or two beforehand, that said money in
8 hand, but that's it, and that's not enough in our opinion.

9 THE COURT: All right. I find based upon the
10 testimony and the evidence presented that the search
11 warrant is valid considering the information on its face,
12 as well as the testimony providing that all of the
13 information provided in the warrant was confirmed by law
14 enforcement prior to submitting the search warrant to the
15 magistrate for his signature.

16 Of course it's permissible for hearsay evidence,
17 testimony and information to be included in an affidavit.

18 The affiant doesn't have to have personal experience
19 with the facts he asserts in the affidavit, but he has to
20 have personal knowledge. That can be based upon hearsay as
21 well as his own personal observation. So it appears to be
22 sufficient from my review of it, and therefore the motion
23 to suppress is denied.

24 With respect to the motion to suppress the statement
25 as not being voluntary, I also find that the state has

1 established voluntariness by the greater weight of the
2 evidence; and therefore the statement is to be admitted for
3 the jury's determination as to whether or not it was
4 voluntary beyond a reasonable doubt.

5 Okay. Anything else?

6 MR. WILKES: Last motion we have, Judge, in limine
7 will be the suppression on the chain of custody. We
8 believe that the chain is insufficient.

9 We can do that in limine. I can wait until the jury
10 is sworn if we get into it and they try to introduce it.
11 Either one.

12 THE COURT: Well, let me see y'all just a minute.

13 (Bench conference held off the record.)

14 THE COURT: All right. Are we ready for the jury?

15 MR. WILKES: We are, Your Honor.

16 THE COURT: Is the state ready for the jury?

17 MR. HOLLIDAY: Your Honor, I think we would probably
18 rather go ahead and do the motion on the admissibility of
19 the evidence and the chain of custody, at least as far as
20 up to the point of arrest, Your Honor.

21 THE COURT: All right. Well, let's go ahead and pick
22 the jury. We'll do before they're sworn.

23 MR. HOLLIDAY: Yes, sir.

24 MR. WILKES: Before the jury comes in, Judge, there's
25 only two things that I would normally ask in a drug case.

1 THE COURT: By the defendant?

2 MR. WILKES: None, Your Honor.

3 (Whereupon, the remaining members of the jury venire
4 were excused.)

5 THE COURT: All right. How long do you anticipate the
6 matter to take establishing the chain of custody?

7 MR. HOLLIDAY: Your Honor, I believe the defense made
8 a motion to dismiss for violation of due process citing
9 U.S. vs. Twigg.

10 I believe that portions of that testimony that may be
11 admissible and relevant for purposes of matters of law that
12 Your Honor needs to determine would not be relevant and
13 admissible as far as the jury is concerned. So I'm just
14 concerned with -- with putting that testimony up.

15 I think as far as procedurally we might want to go
16 ahead and dispose of that motion before we bring the jury
17 in and begin the fact-finding portion.

18 THE COURT: Well, thank you. I will.

19 MR. HOLLIDAY: Yes, sir.

20 THE COURT: But right now I'm trying to determine how
21 long it's going to take.

22 MR. HOLLIDAY: As far as that motion is going to be?

23 THE COURT: Well, no. I thought the point was, is
24 that you wanted to establish the chain prior to the case
25 starting in trial.

1 MR. HOLLIDAY: Yes, sir.

2 MR. WILKES: He does have a good point. I think his
3 point was that there's -- actually I can raise that motion
4 at the end of the state's case and based on the evidence
5 that's brought out at trial if there's more evidence. But
6 there may be evidence that he wishes not to come out in
7 front of the jury that I would want to cross-examine them
8 about that I think they'll take the position doesn't come
9 out in front of the jury. So that's going to be an issue
10 of how far I can go on cross that the Court may want to
11 address. Am I stating that right?

12 MR. HOLLIDAY: I believe so.

13 MR. WILKES: I think -- I think we can -- I think
14 we're in accord on that. Procedurally that's a little
15 tricky but --

16 THE COURT: Well, no. That's not going to be too
17 tricky.

18 Y'all don't have anything else you want to present on
19 that issue?

20 MR. WILKES: The due process issue can't be finally
21 decided, I don't think, until the state's case is up. I
22 don't think.

23 THE COURT: Well, I thought that's what y'all wanted
24 to do pretrial, is to establish that chain of custody.
25 That's why we're here. That's what this is about.

1 If I rule on that now you're not going to have a
2 chance to rehash it.

3 MR. WILKES: Right. On the -- right.

4 THE COURT: On the due-process violation. In other
5 words, we're doing an in-camera pretrial hearing on a chain
6 of custody.

7 MR. WILKES: Right.

8 THE COURT: We're not going to rehash that.

9 MR. WILKES: No. I know. And I'm not saying we need
10 to. I don't -- from my purposes on the chain of custody I
11 would rather just have the jury sworn and object at the
12 time that it goes in and have the hearing then personally
13 because of the double jeopardy. And if I win, I win.

14 I would rather not do a chain-of-custody argument here
15 in limine and then have them try to try it again and
16 rehabilitate it somehow. I don't know that that would
17 happen.

18 THE COURT: Well, that won't work.

19 MR. WILKES: Well, if Your Honor --

20 THE COURT: They can't. They can't rehabilitate it.
21 If I -- if I find there's not a sufficient chain and the
22 case is dismissed, they don't get to rehabilitate it.

23 MR. WILKES: Then -- then we can do it in -- in
24 limine. But I think his point was there was some other
25 testimony that I would want to just get into on

1 cross-examination before the jury on that.

2 THE COURT: Well, if you don't -- if you don't, when
3 would you ever get into it?

4 MR. WILKES: Right. And I think that was -- I may be
5 mistaken, but that might have been the point, is that -- I
6 think the state was saying that maybe even some of that
7 needs to be done now.

8 I don't think so but -- I -- I think the easiest thing
9 and what I would intend to do unless the Court tells me
10 different is I will cross-examine on police conduct
11 throughout the trial. And if the Court says I've gone too
12 far, knowing what my defense is then --

13 THE COURT: Well, that's -- that's why we're doing
14 this pretrial --

15 MR. WILKES: Right.

16 THE COURT: -- is so that prejudicial information
17 that's not relative to any issue --

18 MR. WILKES: Right.

19 THE COURT: -- is not presented to the jury.

20 MR. WILKES: Right. Well, then we'll go through
21 everything when we do the chain of custody for the -- both
22 chains.

23 THE COURT: Okay.

24 MR. WILKES: Okay.

25 THE COURT: Now, back to my question. How long is

1 that going to take?

2 MR. WILKES: It'll be take a while.

3 THE COURT: An hour?

4 MR. HOLLIDAY: As far as our presentation, 30 minutes.

5 But I feel cross-examination is going to be extensive.

6 THE COURT: Okay. All right. Well, we'll see about
7 that.

8 All right. I'm going to bring -- I'm going to bring
9 the jury in and excuse them for the afternoon.

10 Bring the jury.

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: Ladies and gentlemen, I've got some
14 matters I need to address that have been scheduled
15 previously that I have to take care of before we can begin
16 with the trial of the case, but I wanted to go ahead and
17 select the jury so that we didn't have the whole panel held
18 up.

19 So you're going to be excused right now. We're going
20 to begin with the trial at 9:30 in the morning.

21 So as you leave let me caution you that at no time
22 during the course of this trial are you ever permitted to
23 talk about this case with any person whatsoever in any
24 fashion whatsoever.

25 Any decision that a jury makes must be based solely

Ashley Harris (In-camera)
Direct examination by Mr. Holliday

1 MR. HOLLIDAY: Thank you, Your Honor. The state would
2 call Ashley Harris.

3 Your Honor, we have a matter. Can we approach before
4 Mr. Harris takes the stand?

5 THE COURT: Okay.

6 (Bench conference held off the record.)

7 ASHLEY HARRIS, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. HOLLIDAY

10 Q Please state your name for us.

11 A Yes. Ashley Harris.

12 Q And, Mr. Harris, you're employed with the Spartanburg
13 County Sheriff's Office as a forensic chemist, chemical
14 analyst.

15 A That's correct.

16 Q And are you familiar with the case against Shondre
17 Williams?

18 A Yes, sir.

19 Q As part of your position with the sheriff's office are
20 you involved with what we will call a reverse buy or sting
21 operations that the sheriff's office may perform?

22 A Yes, sir, I'm familiar with the operations.

23 Q Can you tell us a little bit about how those work?

24 A Yes, sir. When narcotics is interested in doing a
25 reversal drug -- reversal drug -- drug deal they'll contact

Ashley Harris (In-camera)
Direct examination by Mr. Holliday

1 me to see if we have any reversal drugs to use.

2 Cases that are -- have already been adjudicated, the
3 outcome is already known and those cases -- when it comes
4 time for those cases to be destroyed the -- our evidence
5 office will contact us about utilizing those drugs to check
6 on -- check on the identity and how much there was. And
7 then those will be moved into a reversal box. And then
8 those will be cataloged in. And then they can be signed out
9 and turned into reversal requests, whatever the narcotics
10 officers request -- a quarter kilo or a half kilo or a kilo
11 of cocaine or whatever they -- they need for their reversal.

12 Q Okay. And on March 3rd of 2012 were you involved in
13 the providing cocaine to narcotics officers?

14 A Would you care if I get my notes out?

15 Q Sure. If you need to refresh your recollection.

16 A You said March the 1st, sir?

17 Q March the 1st.

18 A Yes, sir, I was involved in that.

19 Q Okay. And what did you give to the -- or what did you
20 give, and who did you give it to?

21 A Matt -- I was actually contacted I believe by Joe
22 Pharis. I'm not a hundred percent sure. But Matt Hutchins
23 actually came by the sheriff's office on March the 1st of
24 2012 and received a package that had been packaged with
25 approximately 250 grams of cocaine, would have been a

Ashley Harris (In-camera)
Direct examination by Mr. Holliday

1 quarter kilo, and another package of approximately 500
2 grams of cocaine, a half kilo.

3 Q Okay. And you gave that to Matt Hutchins?

4 A Yes, sir.

5 Q What's the process for checking that out or for
6 putting that into somebody else's custody?

7 A Well, the -- all of the items that are utilized for
8 reversal drugs are kept in the evidence unit in a special
9 place in the actual drug locker in the drug room of the
10 evidence unit.

11 The way we kind of have a triple check system, a
12 narcotics officer has to be present to check it out.
13 Somebody from the lab is responsible for the actual
14 inventory and will actually remove it and -- from our
15 inventory. And then someone in evidence has to give us
16 access to it.

17 I have the inventory, and I do spot checks to make sure
18 that they're -- that everything's there that's supposed to
19 be. And then the evidence is responsible for actually being
20 the one that has custody and control of it when it's --
21 until it's being utilized. But all three of us have to be
22 there present to sign it out -- someone from narcotics and
23 someone from the lab and someone from evidence.

24 Q Okay. And whose -- when you -- when y'all are all
25 there -- you said Ashley Harris and an evidence custodian.

Ashley Harris (In-camera)
Direct examination by Mr. Holliday

1 Do you know who the evidence custodian was?

2 A In this case it was Anita Mullinax.

3 Q Okay. When the three of you were present -- well, the
4 cocaine was originally in your custody?

5 A Well, it was -- it was -- when the case was
6 adjudicated and was removed it was placed into the reversal
7 box and it was added to the inventory.

8 Q Okay.

9 A I believe it was in the starting inventory, which
10 prior to when I took over that particular position there
11 was not a lot of really good records on it. But it was --
12 everything that was in there was real, but there was not a
13 lot of records of where it came from exactly.

14 But in this case it was packaged by me and held in
15 evidence until it was ready for their -- what they needed.
16 And then on March the 1st myself, Matt Hutchins and Anita
17 Mullinax were there present for the signing of it out.

18 Q Okay. And when you say it was real, do you mean
19 cocaine?

20 A Yes, sir. When cases had -- had already gone to court
21 and those cases are being disposed of -- they've been pled
22 to or whatever they're -- those cases are done. When it
23 comes time for those to be destroyed if there's a large
24 quantity of them, off of a kilo, very fresh, broken off of
25 large pieces, things like that, we try to save those

Ashley Harris (In-camera)
Direct examination by Mr. Holliday

1 because they're -- they look good, and to be utilized for
2 reversal things. In this particular case it was a large
3 hunk of a -- of a kilo that was utilized.

4 Q Okay. I'm going to hand you -- it looks like a BEST
5 bag marked 12030067.

6 A Yes, sir.

7 Q Can you identify that for us?

8 A Yes, sir. This is -- we utilize the lab number within
9 the lab, and this is L120356. And it's from the sheriff's
10 office, case No. 1203067 -- 0067. Excuse me.

11 Q Okay. And is that the -- you said you gave
12 Investigator Hutchins a package of -- you called it a
13 quarter kilo and a half kilo. Is that the same package
14 that you gave Investigator Hutchins with the quarter kilo?

15 A Yes, sir. This would have been a quarter kilo, yes,
16 sir. They actually ended up returning the half kilo unused
17 on a later date. And they ended up using the quarter kilo
18 for -- for one case. They didn't utilize the half. So it
19 was put back into evidence or back into the reversal
20 inventory.

21 Q And you signed that out to the custody of Matt
22 Hutchins?

23 A Yes, sir. That's correct.

24 (Drug marked State's Exhibit No. 3 for Identification.)

25 Q I'm referring to you State's Exhibit 3 marked for

Ashley Harris (In-camera)
Direct examination by Mr. Holliday

1 identification purposes.

2 A Yes, sir.

3 Q Okay. And, Mr. Harris, you also said you got that bag
4 back from Investigator Swad on March 12th or on March the
5 2nd.

6 A Uh, it was submitted, uh, on March the 2nd. According
7 to the chain of custodies, Dan Swad was the one that
8 dropped it off in evidence. And I actually received it
9 from evidence on, uh, March the 2nd.

10 Q Okay. And what -- what condition did you receive it
11 in?

12 A At that point it was inside this BEST bag that's
13 folded inside the heat sealed bag as BEST bag No. S156607.
14 And then it went through our standard testing procedures
15 and was assigned a lab number and was then analyzed for its
16 identity.

17 Q Did you notice any tampering or anything like that?

18 A No, sir. The BEST bag -- when cases first come in, we
19 pick them up from evidence.

20 The first thing we do, check the obvious integrity of
21 the bag like a quick spot test to make sure it hasn't been
22 tampered with, no one's tried to open, pry it open, anything
23 along those lines -- and at that point take custody of it.
24 When it gets into the lab we'll assign a lab number and log
25 it in. Then it'll go into a key waiting to be analyzed.

Ashley Harris (In-camera)
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1 And when it is it's turn to be analyzed we'll actually do
2 another inspection, a little more thorough, to make sure
3 that it hasn't been tampered with.

4 And on the day that I actually open it and do the
5 analysis I actually write the letters OK, my initials and
6 the date on the front of the bag if it appears it has not
7 been tampered with in any way.

8 So it actually gets looked at twice before it's ever
9 analyzed.

10 Q And so when you looked at it it had not been tampered
11 with since it had been sealed.

12 A That's correct.

13 Q Okay. All right. And, Mr. Harris, also in that bag
14 there's a quarter gram -- quarter of kilo. Are there any
15 others drugs in that BEST bag?

16 A Yes, sir. There was a -- an off-white rock substance
17 also found in the bag.

18 In this -- according to this it was actually labeled
19 No. 1. You can see it up here just above the powdery white
20 substance you're referring to as a quarter of kilo. It's
21 kind of a rocky substance. It actually tested positive for
22 crack cocaine.

23 Q And that was also in the bag sealed.

24 A Yes, sir. Both items were inside the BEST bag sealed.

25 Q No evidence of tampering?

Ashley Harris (In-camera)
Direct examination by Mr. Holliday

1 A No, sir.

2 Q Okay. So once you received the bag, the BEST bag, can
3 you tell us about the testing procedure?

4 A Yes, sir. It comes into the lab. As I stated, we
5 analyze the bag and make sure it hasn't been tampered with,
6 open it up and take our samples. And then we will place it
7 in this heat-sealed bag that's on the outside with the
8 initials, the lab number and the date in the actual heat
9 seal.

10 Once we get 20, 30, 40 cases, depending on how thick
11 they are -- we'll actually do a bulk return back to the
12 evidence office to do a chain of custody back to them post
13 analysis. And then the evidence office will hold it until
14 it needs to be picked up for court purposes.

15 Q And subsequent to your analysis you resealed the bag?

16 A Yes, sir. Once -- once I actually cut the bottom of
17 the BEST bag open and removed the items, took the samples I
18 needed for a presumptive test and confirmatory test, then I
19 placed the heat sealed bag or the BEST bag -- excuse me --
20 and all of the evidence down in the heat-sealed bag and
21 seal it up until it was returned to the evidence office.

22 Q And have those items been tampered with since they
23 have been sealed?

24 A No, sir. My -- the reason we seal in this heat-sealed
25 bag the way we do is we can actually write the initials,

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 lab number, date in the heat seal and heat seal it. And
2 then if anyone tampers with it after that it would be,
3 again, a good indication -- it'd be easy to see if it has
4 been tampered with. And this bag's in the same condition
5 it was when -- when I returned it to evidence and once I
6 worked it. And it still has my initials, the date and the
7 lab number and seal.

8 MR. HOLLIDAY: No further questions at this time, Your
9 Honor.

10 THE COURT: Mr. Wilkes.

11 MR. WILKES: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. WILKES

14 Q Now, you've given documents in discovery relating to
15 box four that says cocaine. Do you have those with you?

16 A Yes, sir, I do.

17 Q That's your inventory. And the handwritten document
18 that you have also looks like it comes out of a --

19 A Journal.

20 Q Journal.

21 A Yes, sir, that's correct.

22 Q That's handwritten?

23 A Yes, sir.

24 Q Are those all of the records that you have as far as
25 keeping those drugs before you hand them to the informant

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 in this case?

2 A That's all I have in this particular case, yes, sir.

3 I was actually tasked with making an inventory of what
4 was in the existing reversal dope. It had -- it'd all been
5 analyzed prior, and it'd all been moved in there once it was
6 seemed to be real. But the inventory -- some of the bags
7 had been removed that had the original lab numbers on them.

8 So we actually started on May the 6th of 2011 with
9 whatever the starting inventory was what in those boxes.
10 Anything that's placed in the boxes now, the lab number's
11 left on it so we'll know the exact -- what they came from.
12 But they were just some of the bags that had been taken out
13 of the original bags, so. But that's how the -- the
14 inventory we had at that time, yes, sir.

15 Q Okay. And at that time when you say all the
16 inventory there -- I see notes. Are there six kilos of
17 cocaine in that box?

18 A In box four at the -- at -- on May the -- May the 6th
19 of 2011 there were six full kilos and then three partials,
20 a quarter kilo, a half kilo and one that weighed about
21 400 grams, a large piece that weighed about 400 grams.

22 Q And is there any policy or procedure in writing at the
23 sheriff's office about the handling of this?

24 A No, sir. Like I say, when I was tasked of taking --
25 taking this over there was nothing.

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 The only thing that was an understood policy that
2 before they can go into the reversal they had to be -- they
3 had to be analyzed, one, and then they had to -- once they
4 were determined to be real they could be placed into the
5 reversal. But at that point there was no written policy,
6 and it's something that to be honest, just too much of a
7 caseload to actually finish and put in writing.

8 Q Okay. At that time did it require any sort of
9 supervisory authorization to obtain those drugs? What was
10 the procedure?

11 A The -- a supervisor within the narcotics unit has to
12 make contact and ask to obtain something for a reversal
13 entity.

14 And in this case officer -- excuse me -- Sergeant
15 Pharis was the one that requested the actual things for
16 reversal.

17 And then the other policy is there has to be someone
18 present from the lab, someone from the evidence office and
19 someone from narcotics to sign for it. That way it's kind
20 of a checks and balances to make sure that everything is
21 known by all three to keep an inventory.

22 Q What's your requirements on -- under SLED policy for
23 destruction of drugs?

24 MR. HOLLIDAY: Your Honor, I'm going to object to how
25 that's relevant to how these drugs came into the chain of

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 custody.

2 THE COURT: well, overruled.

3 Go ahead.

4 BY MR. WILKES

5 Q What's the SLED policy on the destruction of drugs
6 after a case is disposed of?

7 A I'll be honest. I have no idea.

8 Q And you would be the person in charge of the lab?

9 A Yes, sir, I would. But SLED's -- doesn't have
10 dominion and policy over every aspect of the -- of the lab.
11 They when -- a lab when -- well, of -- of really any part
12 of an entity there, they're state police, but they don't
13 make all standard rules and everything. So I'm not sure
14 that they would have final say in what our policy and --
15 what their policy and what our policy would be in regards
16 to destruction.

17 Q Federal law? Are you aware of any policy or
18 regulations as far as federal law on the destruction of
19 drugs?

20 A No, sir.

21 Q Anything you're aware of that allows you to keep six
22 kilos of drugs to pull from for reversals?

23 A No, sir. The only thing I -- I am familiar with when
24 it comes to the destruction is the way they have to be
25 destroyed. They have to be burned. It has to be burned

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 again. It has to -- incinerators. I know that there are
2 policies associated with that. But as far as keeping them
3 for doing reversals, no, sir, I don't know any policies.

4 Q Okay. And y'all had at that time six kilos of
5 cocaine.

6 A Yes, sir.

7 Q And how much would you have at this time?

8 A Well, that was just box four. I mean, there's --
9 there's other things in --

10 MR. HOLLIDAY: Your Honor, I'm going to object to
11 what -- the amount of cocaine the sheriff's office has at
12 this point in time. It doesn't have anything to do with
13 what this case is about.

14 THE COURT: Overruled.

15 Go ahead.

16 BY MR. WILKES

17 Q How many boxes are there?

18 A There's, I think, four boxes labeled cocaine, and then
19 there's one for methamphetamine and pills and one for
20 opiates.

21 Q Okay. And at the time back in May of -- or whenever
22 this was that you printed this out -- roughly there are six
23 kilos in this box. How much in the total?

24 A I'd have to look back at the records. I know there's
25 more in the other -- in the other three boxes for cocaine.

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

- 1 Some of it's loose; some of it's pressed kilos. I'm not
2 exactly sure how much there would be though.
- 3 Q All right. Now, Sergeant Pharis called whom to
4 request these drugs?
- 5 A They -- they called me because I'm the one that has an
6 inventory. Basically, they'll call and say, hey, do we
7 have anything that we can use for this, do we have a half
8 kilo or a quarter kilo, kinda ask me what's -- what shape
9 they're in and what we've got available.
- 10 Q Okay. And in this case he asked for three quarters of
11 a kilo.
- 12 A He asked for a quarter kilo and a half kilo because
13 they weren't sure how -- what kind of a deal was going
14 forward. But he wanted one of each.
- 15 Q But you said there was two deals that they were doing.
16 That's why -- he had -- he had brought it back. The other
17 one he brought back because the deal didn't go through.
- 18 A Well, I -- I don't know if it was for two deals or
19 they didn't know which one was going to go. All that -- he
20 just asked me for a quarter kilo and a half kilo.
- 21 Q Okay. All right. And how do you determine that
22 you're pulling out what he's asked for? In other words,
23 what's a quarter kilo look like? Is that something exact,
24 or do you measure it?
- 25 A I weigh it.

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 Q Okay. The record, your handwritten sheet, says
2 748 grams. It's says quarter kilo plus a half kilo, and
3 then it has the odd mark that I'm not sure what that mark
4 means -- 748 grams. Does that mean plus or minus -- plus?

5 A Approximately.

6 Q If you weigh it how is it approximate? How close are
7 you weighing it?

8 A Well, he asked for a quarter kilo and approximately
9 250 grams, so I gave him approximately 250 grams. I'm not
10 going to weigh it out to 250.00. As long as it's
11 relatively close I -- so.

12 Q Okay. Did you document -- tell me how you pulled out
13 and what you pulled it out from, three quarters of a kilo.
14 Are there any bags already in this box?

15 A No. We're like -- it's like a broke-up kilo. So I
16 took like a chunk.

17 Q Okay. You took it out of in this box, is it just a
18 whole bunch of drugs dumped together?

19 A No, sir. They're in like --

20 Q Different bags.

21 A -- bags, yes, sir.

22 Q So you pick a bag that looks like it has something
23 suitable for you, and you pull it out.

24 A Yes, sir.

25 Q And you said you were going through the process at the

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 time of making sure that all of that was drugs in retesting
2 it or --

3 A No. Everything that was in the boxes, they would call
4 and ask, hey, is this real, and then it would be placed in
5 the boxes. That was like prior to me taking over. But
6 everything that was in the box was -- had been deemed real.

7 Q How do you know personally? Do you know?

8 A Well, every time they had called me and asked me to
9 look at one I looked it up. And then they would say, okay,
10 we're going to put it in -- this is, like I said, this is
11 prior to May of 2011.

12 Q Okay. So at the time that you did this there's --
13 there's a box of drugs. You look in there and find
14 something that looks workable, and you pull out the bag.
15 And there's two bags? Did you separate it? How did you
16 come to the -- to the 750? Did you break open?

17 A No. I took a bag, found a piece that was
18 approximately -- approximately a quarter kilo.

19 Q Okay.

20 A Placed it into a -- into a bag and then separately
21 found -- and I don't remember if the half key was one piece
22 or five or six small, you know, like chunks but --

23 Q But my question is then if you -- you pulled out
24 something that looked about a quarter key, and you put it
25 in a bag.

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

- 1 A Yes, sir.
- 2 Q Okay. And then you gave that bag to whom?
- 3 A Well, it was signed to Matt Hutchins.
- 4 Q Okay. So Matt Hutchins picked it up. Did you -- was
- 5 he there when you pulled it out, or did you pull it out in
- 6 advance?
- 7 A I pulled it out and weighed it in advance.
- 8 Q You weighed it. You didn't say weighed it before. So
- 9 you -- you pulled it out and put it in a bag, but weighed
- 10 it first.
- 11 A Well, yes, sir.
- 12 Q With or without the bag?
- 13 A I tared the bag and then placed it inside the bag,
- 14 which automatically subtracts out the weight of the bag.
- 15 Q Okay.
- 16 A So when I put it in there I got it to approximately
- 17 250 grams.
- 18 Q Okay. So you've weighed it before you put it in the
- 19 bag. You put it in the bag, and you give it to Hutchins,
- 20 or he come and gets it.
- 21 A Yes, sir.
- 22 Q Okay. Now, you didn't test it, did you?
- 23 A Not at that time, no, sir.
- 24 Q Okay. Is there any documentation on the weight other
- 25 than the plus or minus 248 grams?

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

- 1 A No, sir.
- 2 Q Okay. How close is the -- I'm sorry. I misstated
- 3 that. 748 grams. How close is that?
- 4 A Well, it's going -- it's going to be as close as I can
- 5 get it using chunks, but, I mean, it was weighed when it
- 6 came back into the lab, and it was 249.71 grams.
- 7 Q Okay. So it -- I'm sorry. That was two hundred
- 8 and --
- 9 A 49.71.
- 10 Q Okay. So there's no documentation on putting it in as
- 11 far as the weight. We -- you just know that the total
- 12 weight of what you started with was 748.
- 13 A Well, in two packages, yes, sir. One was
- 14 approximately 250 and one was approximately 500.
- 15 Q Okay. All right. And then Hutchins picks it up.
- 16 A Yes, sir.
- 17 Q And you write this in this book, correct?
- 18 A Yes, sir.
- 19 Q And then what's next on this document?
- 20 A Says quarter kilo came back as 12030067 submitted by
- 21 Swad on 3/2 of '12 in BEST bag S156607, which is this BEST
- 22 bag and this case number. And then it says the half kilo
- 23 returned by Steve Cooper on 3/6/2012. And it has Anita
- 24 Mullinax written at the end of it.
- 25 Q All right. Now, the half kilo, when it says it comes

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

- 1 back in the BEST bag, there's nothing indicating on this
2 documentation what the weight is.
- 3 A Of the half kilo?
- 4 Q Right.
- 5 A No, sir.
- 6 Q Where is that accounted for?
- 7 A Well, it stated right there that it had been returned
8 back and it was looked at by the person in evidence, and I
9 have my initials out on the end of that.
- 10 Q I'm with you. I was asking about the drug analysis.
11 Did you do a subsequent drug analysis on it?
- 12 A No, sir.
- 13 Q Other than the BEST bag. You opened the BEST bag and
14 did it.
- 15 A Okay. I'm sorry. You said -- you asked about the
16 half kilo. I was very confused.
- 17 Q I didn't mean to.
- 18 A Okay.
- 19 Q The -- when the BEST bag came back and the quarter
20 kilo comes back --
- 21 A Yes, sir.
- 22 Q -- you do the analysis on that.
- 23 A Yes, sir.
- 24 Q Do you have that documentation?
- 25 A Yes, sir, right here.

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

- 1 Q May I inspect it?
- 2 A Yes, sir.
- 3 Q Is that the original documentation?
- 4 A This is. We have gone to a paperless system. So it's
- 5 a printout of the digital signature, but yes, sir.
- 6 Q And when you say you've gone to a paperless system, is
- 7 that everybody or is that lab analysis?
- 8 A Spartanburg County Sheriff's Office Lab.
- 9 Q Okay. The lab.
- 10 A Yes, sir. Change of custodies are still done on hard
- 11 copy and are scanned in. The original report is a P.D.F.
- 12 file with digital signature.
- 13 Q Okay. When you say that does that mean that the --
- 14 the -- when you say that it's scanned in and the original
- 15 becomes the P.D.F., do they destroy the paper copy?
- 16 A No, sir. The chain of custody -- as I have the
- 17 original chain of custodies right here. In reference to
- 18 the actual report it is -- it is printed off as a P.D.F.
- 19 with a digital signature. But the original chain of
- 20 custodies are right here.
- 21 Q May I see the original chain of custody?
- 22 A Yes, sir.
- 23 Q And who keeps the original paperwork?
- 24 A I am tasked with that, sir.
- 25 Q Okay. So these are the original actual pin-to paper

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 signatures, original copies.

2 A As I stated, at that point they're all -- our goal is
3 to get those all digital where they can be done with
4 digital signatures, and we will not have the paper any
5 more. But at this point we -- they have the digital copy,
6 and they're scanned in. And we keep the original.

7 Q Okay. Now, at the time that you do testing you don't
8 have anything to do with the chain of custody. You just
9 deal with the BEST bag?

10 A I'm just responsible for keeping it for the sheriff's
11 office.

12 Q Okay. And you don't even look at it. It doesn't
13 matter what that says. You go straight to the BEST bag and
14 do the testing.

15 A Yes, sir.

16 Q I got you. Now, you provided copies of this to the
17 solicitor. And I think I've gotten the exact copies of
18 this.

19 A As far as I know, yes, sir. They have the ability to
20 print those off of our system the same way. They can
21 actually print the -- the digital directly from the system.

22 Q Okay. Now, when you talk about the BEST bag, the BEST
23 bag is untamperable, correct, supposedly tamperable.

24 A It is tamper evident.

25 Q Evident.

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 A I mean, anybody with a pocketknife can get in it, but
2 the good thing about the way it's designed, the way the
3 glue strip goes across the sides and across the top and the
4 markings down the side, it's basically impossible to get in
5 without making some kind of obvious markings on it.

6 Q Okay. And there -- would it be possible to place
7 10.2 grams of cocaine in that bag and you test it and it be
8 anything different than 10.2 grams of cocaine or crack or
9 anything else? In other words, whatever is put in there,
10 by the time you test it it should be the same when it comes
11 out.

12 A Yes, sir.

13 Q Unless you see tampering.

14 A Yes, sir.

15 Q Okay. Now, do -- I'm going to let you look if you
16 will at these copies.

17 A Yes, sir.

18 Q And make sure they're the same as your originals. And
19 then we will use that. So you keep your originals.

20 A Yes, sir. It is the same.

21 Q Same copies?

22 A Yes, sir.

23 Q Okay.

24 MR. WILKES: Your Honor, we would like to offer this
25 for the purpose of the hearing.

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 (Report marked Defendant's Suppression Exhibit No. 1
2 for Identification.)

3 Q On the form -- you have two forms that you're
4 responsible for actually having knowledge of and filling
5 out, correct?

6 A The form A and the actual report. Is that what you're
7 in reference to, sir?

8 Q Yes, sir. Will you look -- which one do you do first?
9 I guess it's the form A.

10 A We do the form A when that -- when the -- when the
11 item comes in. We fill out what day that we received it,
12 the lab number, what tests are performed on it, and then
13 sign and dated the date that it's actually written up.

14 Q Okay. And what date was that that you received or had
15 submitted the following items for testing? And it says
16 L120356.

17 A I received it on March the 2nd.

18 Q Okay. And what does that indicate?

19 A That I actually picked it up from evidence on March
20 the 2nd.

21 Q And what does -- what was the date of the actual
22 testing for the report?

23 A It was -- I actually signed the form A on March the
24 7th.

25 Q Okay. And then the actual drug analysis is your next

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 document which just says forensic lab.

2 A The -- the one with the results right here, sir.

3 Q Okay. That's right.

4 A Yes, sir.

5 Q Will you tell me what the results were, the amount?

6 A Yes, sir. Item No. 1 was an off-white rock substance,
7 and it ended up being cocaine base or crack, which is a
8 Schedule II. Found total weight of 4.91 grams.

9 Item No. 2 was a white powdery rock substance. Tested
10 positive for cocaine, which is also a C2. Found
11 249.71 grams.

12 Q Now, how did you determine that it was those specific
13 weights? When you opened the BEST bags did you weigh it?

14 A I open the BEST bags, take any samples that are
15 necessary to do the analysis, so we do the presumptive.
16 Everything that comes through the lab gets a presumptive
17 test and a confirmatory test. And once those are done the
18 samples are taken. The last thing that is done is a weight
19 is obtained.

20 Q Okay. And how much -- is there any wastage? How do
21 you do the two tests? Is there any wastage?

22 A Approximately .02 to .03 depending on how many spots
23 are done and how many G.C.M.s are done.

24 On item No. 1 there were four spot tests done and one
25 G.C. mass spec. And according to my analysis notes it was

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 approximately four damp off-white rock substances in baggie
2 tie closed inside zipper type bag, air dried for
3 approximately 90 minutes. Final weight 4.91 grams.

4 Q Okay. And from the time that you took it out of the
5 bag and you did the testing, air drying or testing the
6 wastage, what do you anticipate? What would be the normal
7 loss in weight attributable to that?

8 A Well, if a case is wet when it comes in, since cocaine
9 powder is turned into crack in -- in water --

10 Q Uh-huh.

11 A -- a lot of times we get crack that comes in or
12 thought -- something that's thought to be crack that comes
13 in wet. We allow it to air dry until it can be
14 reproducible weight.

15 I have seen as much as 60 and 70 percent by mass leave
16 like if you have really, really wet crack and once you weigh
17 it it'll actually go down by 50, 60, 70 percent by its
18 initial weight.

19 Q And do you have any way to record that decline, or is
20 that just --

21 A Typically, I don't weigh it from the very beginning
22 because I don't want the water on the balance. The balance
23 is -- has a stainless steel top on it, but don't typically
24 weigh it when it's wet. Just lay it out on absorbent
25 sheets and allow it to air dry until the water's -- until

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 it stops producing more water and then actually obtain a
2 weight from that.

3 Q Okay. So in this case what -- are you telling me that
4 you can lose five grams on that?

5 A Absolutely.

6 Q Okay.

7 A What is uncommon -- also common when narcotics
8 officers are weighing whatever packaging, the biggest
9 problem that they run into is a lot of times they're using
10 a hundred-dollar scale on the hood of a running car, and
11 it's wet and they're weighing it in the -- the bag or the
12 zipper pouch or whatever it's in. So a lot of times
13 there's a drastic difference between their weight and my
14 weight because they're weighing it in the package and I'm
15 weighing it out of the package. They're weighing it wet.
16 I'm allowing it to air dry. They're doing it before any
17 tests are taken, any samples are taken for their
18 presumptive test, the confirmatory test.

19 So my -- my weight tends to be significantly lower than
20 theirs. Theirs is simply a field wet -- weight.

21 Q Okay. And from the weighing of the other material --
22 did you weigh it when the bigger amount -- you weighed it
23 and got 249 some odd?

24 A Yes, sir. With that particular item according to my
25 notes it was one large chunk of white powdery substance. I

Ashley Harris (In-camera)
Cross-examination by Mr. Wilkes

1 took field -- or excuse me -- presumptive test, G.C.M.S.
2 sample, and the last thing I did was obtain a weight. It
3 ended up weighing 249.71 grams.

4 Q Okay. And any weighing before that?

5 A Only the weighing of -- you know, it was initially
6 packaged, the 250 they had requested. But that's -- that's
7 the only weight that was obtained on that.

8 We take all of our samples in the lab before any
9 weights are obtained.

10 Q Okay.

11 A The main reason is in the event someone ever wants to
12 go back and retest something, reweigh something, the weight
13 is reflected if it's opened back and up weighed, will be
14 the same as the one that's reflected on the report.

15 Q Okay. So this weight is after testing.

16 A Yes, sir.

17 Q So that means that when it went into the bag it had to
18 be -- it would have been more, less or the same?

19 A It would have been slightly more.

20 Q Okay.

21 A I mean, when we take samples we take, you know,
22 approximately .01, .02 of gram samples. We're not talking
23 about a significant amount in the -- utilized in the actual
24 sample.

25 Q Okay.

Matt Hutchins (In-camera)
Direct examination by Mr. Holliday

1 MR. WILKES: Nothing further from Mr. Harris.

2 MR. HOLLIDAY: Nothing, Your Honor.

3 THE COURT: Step down.

4 THE WITNESS: Thank you sir.

5 MR. HOLLIDAY: Your Honor, may we approach?

6 (Bench conference held off the record.)

7 MR. HOLLIDAY: The state would call Matt Hutchins.

8 THE COURT: You've already been sworn, so you remain
9 under oath.

10 THE WITNESS: Yes, sir.

11 MATT HUTCHINS, having been
12 previously duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. HOLLIDAY

14 Q All right. Investigator Hutchins, you've already
15 testified you were involved in the case against Shondre
16 Williams.

17 On March 1st of 2012 as part of your investigation did
18 you receive any narcotics or any drugs from Ashley Harris as
19 part of this investigation?

20 A I did.

21 Q And what did you receive?

22 A It was a package containing cocaine from the
23 Spartanburg County Sheriff's Office Evidence Room.

24 Q I'm going to show you this package that's been marked
25 state's Exhibit 3. Can you identify that for us?

Matt Hutchins (In-camera)
Cross-examination by Mr. Wilkes

1 A The block of white compressed powder would be what I
2 received.

3 Q Okay. And when you received that from Ashley Harris
4 that went into your custody?

5 A Yes, sir.

6 Q And then did you -- who did you give that to?

7 A I then went to the narcotic office. There's a safe in
8 the narcotic office in which the two supervisors --
9 Sergeant Joe Pharis and Lieutenant Steve Cooper -- have the
10 combination to. Then it was secured in that safe.

11 Q Okay. So you left it in the safe.

12 A Yes.

13 Q Okay.

14 MR. HOLLIDAY: No further questions of this witness.

15 MR. WILKES: May it please the Court.

16 CROSS-EXAMINATION

17 BY MR. WILKES

18 Q Mr. Hutchins, how did you come to -- did you actually
19 request the amounts?

20 A No. I did not.

21 Q What -- what other role in getting those, picking
22 those up, did you have? Did you just -- are you the
23 currier that picked it up and put it in the safe?

24 A Yes. I was at the sheriff's office. Sergeant Pharis
25 had called me, or either prior to going to the sheriff's

Matt Hutchins (In-camera)
Cross-examination by Mr. Wilkes

1 office advised me that there was a quantity to be picked
2 up. And I was there and met with Lieutenant Harris to get
3 it.

4 Q All right. And you picked it up and transported it.

5 A That's correct.

6 Q This is in -- in what container? What? You just pick
7 up some, and in two bags or one bag?

8 A It would have been in the bag that Lieutenant Harris
9 signed it out in. He would have preweighed it and all. I
10 took it straight and secured it in the locked safe.

11 Q Okay. Any kind of paperwork that you filled out in
12 regards to that?

13 A Yes. There is a log book that it's logged. And I
14 will sign or initial. Lieutenant Harris will initial it as
15 far as it being signed out.

16 Q Could this be that log? Does that look like the log
17 that you signed?

18 A Yes, it does.

19 Q And that'd be your signature?

20 A Yes. It is.

21 MR. WILKES: Your Honor, we would offer this as our
22 exhibit for the purpose of this motion?

23 THE COURT: Admitted.

24 (Notes marked Defendant's Suppression Exhibit No. 2.)

25 Q Is there any other documentation that you fill out

Matt Hutchins (In-camera)
Cross-examination by Mr. Wilkes

- 1 when you take it back to the sheriff's office?
- 2 A When -- when I take what back to the sheriff's office?
- 3 Q Drugs. When you take the drugs back to the sheriff's
- 4 office what -- will you put them somewhere in a safe? Do
- 5 you have any paperwork you fill out or any documentation or
- 6 any control document that you --
- 7 A The narcotics is an off-site location. When it was
- 8 transported to that safe -- you know it's secured there. I
- 9 have no access to it at that point, and the supervisors
- 10 have access.
- 11 Q Okay. So you don't sign off on anything there. It
- 12 just goes in their safe.
- 13 A Yes, sir.
- 14 Q And who -- and tell me again who those two people
- 15 were.
- 16 A Sergeant Pharis, Sergeant Joe Pharis, and Lieutenant
- 17 Steve Cooper.
- 18 Q And which one or both did you give it to?
- 19 A I believe it was Lieutenant Cooper to the best of my
- 20 knowledge, but I can't be a hundred percent. I know those
- 21 two are the only two that have access to the safe.
- 22 Q And it was Sergeant Pharis that -- did you say he was
- 23 the one that called you to go and get it?
- 24 A Yes. He was the one that had phoned I believe
- 25 Lieutenant Harris to have the amounts weighed up and

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

1 packaged.

2 Q So Sergeant Pharis made the call on the actual
3 weights.

4 A As far as I know, yes, sir.

5 Q Okay. And were you at the scene when the search
6 occurred?

7 A I took the search warrant to that location. I stayed
8 for just a brief amount of time and then left.

9 Q Okay. Did you see the drugs or handle those drugs
10 again?

11 A No, sir.

12 Q Okay. All right.

13 MR. WILKES: Nothing further of Mr. Hutchins.

14 THE COURT: Step down.

15 MR. HOLLIDAY: We would call Travis McJunkin.

16 THE COURT: You are still under oath.

17 THE WITNESS: Yes, sir.

18 TRAVIS MCJUNKIN, having been
19 previously duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. HOLIDAY

21 Q Investigator McJunkin, with regards to the quarter
22 kilo of cocaine --

23 A Yes, sir.

24 Q -- where -- who did you receive the cocaine from?

25 A It would have been either Lieutenant Cooper or

Travis McJunkin (In-camera)
Direct examination by Mr. Holliday

- 1 Sergeant Joe Pharis.
- 2 Q You can't remember which one specifically?
- 3 A I can't remember. When things of that nature -- high
4 amounts of drugs and we request things such as that --
5 we're not allowed to even though it's my case -- we're not
6 allowed to maintain custody of that. That's a supervisory
7 issue, so to speak. So I wouldn't have been allowed to
8 maintain custody of it once it was obtained.
- 9 Q But you know it was one of those two.
- 10 A Yes, sir.
- 11 Q Okay. And then once you received the cocaine, who did
12 you give it to?
- 13 A That would have been Shondrell Williams.
- 14 Q The informant?
- 15 A Yes, sir, the informant.
- 16 Q And then from that point you saw him go into the
17 house?
- 18 A We did. He followed us to the location. Actually,
19 Investigator Tillinghast actually saw him go into the
20 house.
- 21 Q Now, let's fast forward to the search warrant when you
22 go into the house.
- 23 A Yes, sir.
- 24 Q Did you locate the cocaine?
- 25 A Yes, sir, we located the cocaine.

Travis McJunkin (In-camera)
Cross-examination by Mr. Wilkes

1 Q And where did you find that?

2 A It was located inside a hot water heater in the
3 garage.

4 Q And who actually had custody of that cocaine?

5 A Investigator Dan Swad who completed the search-warrant
6 return.

7 Q Okay. when the -- when you gave the C.R.I. or the
8 informant, Mr. Shondrell Williams, the cocaine was there a
9 search performed of his person or his vehicle?

10 A Yes. Both were searched prior to him receiving it.

11 Q And you performed that search or your supervisor --

12 A Myself and Sergeant Pharis.

13 Q Again, we're talking about the -- when I say quarter
14 kilo, I'm referring to the block of cocaine --

15 A Yes, sir.

16 Q -- in State's Exhibit 3.

17 A Yes, sir.

18 MR. HOLLIDAY: No further questions.

19 MR. WILKES: May it please the Court.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. WILKES

23 Q who found the big block of cocaine? Did you say you
24 did?

25 A Yes, sir.

Travis McJunkin (In-camera)
Cross-examination by Mr. Wilkes

- 1 Q Okay. Are you on the chain of custody?
- 2 A No, sir.
- 3 Q Why not?
- 4 A I didn't touch it.
- 5 Q Okay. Who did?
- 6 A Dan Swad.
- 7 Q He's the only one that picked it up?
- 8 A After it was recovered, yes, sir.
- 9 Q Okay. And he would have given it to Mullinax who gave
- 10 it to the drug lab.
- 11 A Yes, sir.
- 12 Q Okay. All right. And you say you found it where?
- 13 A It was like beside a hot water heater in the garage.
- 14 Q Okay. And how did you come to find it there?
- 15 A Mr. Shondre Williams showed us where it was.
- 16 Q And at what point did he show you that?
- 17 A After he'd been handcuffed and Mirandized and spoken
- 18 with and walked around.
- 19 Q All right. Now, you simply saw it and identified the
- 20 location for Swad, is that right?
- 21 A I'm not sure if I --
- 22 Q I mean, you said you found it but Swad collected it.
- 23 You never touched it.
- 24 A No, sir.
- 25 Q I'm wrong on that? Did you --

Dan Swad (In-camera)
Direct examination by Mr. Holliday

1 A No, sir. I never touched it, no, sir.

2 Q Okay. But you actually went around and found it. And
3 you brought Swad in to collect it?

4 A Yes, sir.

5 Q Okay. All right. Nothing further, Officer McJunkin.

6 THE COURT: Step down.

7 MR. HOLLIDAY: We would call Dan Swad.

8 DAN SWAD, having been first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. HOLLIDAY

11 Q All right. Mr. Swad, would you state your name for
12 the record, please?

13 A Dan Swad.

14 Q And, Investigator Swad, you were involved in the case
15 against Shondre Williams March 2nd of 2012?

16 A Yes, sir.

17 Q You were on the scene at the residence listed in the
18 search warrant, and you took custody of the items listed in
19 the return?

20 A Yes, sir.

21 Q Look here, marked State's Exhibit 3. Can you identify
22 that for us?

23 A Yes, sir. This is the BEST bag that I packaged the
24 evidence in. It has my signature on it, and it has the
25 date and all of that on it.

Dan Swad (In-camera)
Direct examination by Mr. Holliday

- 1 Q Okay. I'm looking at the return that you filled out
2 for the search warrant. And item one is listed as one
3 plastic bag of white rock-like substance found behind a --
4 a white block substance -- I'm sorry -- found behind a
5 water heater in a garage area found by Travis McJunkin.
- 6 A Yes, sir.
- 7 Q Is that located in that bag?
- 8 A Yes, sir.
- 9 Q And that's the --
- 10 A The big one, the big part here, not the small one.
- 11 Q Okay. And you took custody of that item?
- 12 A Yes, sir. He showed me where he found it. I picked
13 it up from behind the water heater.
- 14 Q Okay. And item two on the return is listed as one
15 plastic bag containing white rock-like substance found
16 above the kitchen cabinet to the right of stove by Swad.
17 And I assume that's you?
- 18 A Yes, sir.
- 19 Q You located that. Is that in that bag?
- 20 A Yes, sir. It's over here on the side, little smaller
21 chunks.
- 22 Q Okay. And so when you took possession of those items,
23 what did you do with those?
- 24 A During the search collected up all the other items
25 that are listed on that return, packaged them up and

Dan Swad (In-camera)
Cross-examination by Mr. Swad

1 deposited them into the evidence locker at the sheriff's
2 office.

3 Q Okay. And when you say packaged them, what did you
4 package them in?

5 A They go into a -- this blue bag or blue-lined bag here
6 called a BEST bag. It's a sealed tamper-evident-proof bag.
7 It shows if somebody seal -- breaks the seal on it.

8 Q And so you sealed the bag?

9 A Yes, sir.

10 Q And placed it into the evidence drop box.

11 A Yes, sir.

12 MR. HOLLIDAY: No further questions.

13 MR. WILKES: May it please the Court.

14 CROSS-EXAMINATION

15 BY MR. WILKES

16 Q If I may right quick just have -- are you considered
17 in the chain of custody?

18 A Yes, sir.

19 Q Do you fill out the chain of custody?

20 A The search warrant is part of that chain, my
21 understanding.

22 Q You did the return?

23 A Yes, sir.

24 Q If you'll look at Defendant's Exhibit 1, do you fill
25 out any other documentation on that? Form B?

Dan Swad (In-camera)
Cross-examination by Mr. Swad

1 A Yes, sir, form B.

2 Q Is that your form?

3 A Yes, sir.

4 Q Is your form accurate?

5 MR. HOLLIDAY: Your Honor, I'm going to --

6 A Yes, sir.

7 MR. HOLLIDAY: -- object to the basis of that

8 question, whether or not the form is accurate or not. I
9 think the form speaks for itself.

10 THE COURT: Well, it does speak for itself, but he
11 completed it. So he can tell us if it's accurate or not.

12 Overruled.

13 BY MR. WILKES

14 A Well, it was on the 3rd when I put it in the evidence
15 bag, when I put it in the 3rd -- on the 3rd. But we
16 actually seized it on the 2nd if I'm correct. It was --
17 I'd have to look at the search-warrant return to see the
18 time on the return.

19 Q So you're telling me that it may or may not be
20 accurate?

21 A I'd have to look at the search warrant return to see
22 what time we executed the search warrant, the exact time.

23 Q Well, you've got, "The 3rd of March I seized from
24 Shondre Lamond Williams pursuant to a search warrant."
25 Would that -- you're saying that's not right?

Dan Swad (In-camera)
Cross-examination by Mr. Swad

- 1 A It was actually -- we went in on the 2nd. I'll just
2 have to see how long we stayed. I'm not sure. I'm sure it
3 was after midnight when I filled that out --
- 4 Q Okay. So --
- 5 A -- which would make it the 3rd.
- 6 Q Okay. So on the 3rd you made a delivery to the
7 evidence drop box.
- 8 A Yes, sir.
- 9 Q And you had it notarized on the 3rd by a notary
10 public, right? Do you recognize who that notary was?
- 11 A I don't. I can't read the signature.
- 12 Q Do you remember?
- 13 A No, sir.
- 14 Q Do you know if you executed that in front of a notary?
- 15 A Yes, sir.
- 16 Q And that would indicate that you're under oath telling
17 the notary that the information is correct.
- 18 A It's that I signed it.
- 19 Q Okay. So it does not indicate anything other than you
20 signed it to you.
- 21 A That's my understanding, yes, sir.
- 22 Q Okay. But it says on March 3rd you delivered the
23 substance to the evidence drop box.
- 24 A Yes, sir.
- 25 Q And a notary swore it out and signed it on the 3rd.

Dan Swad (In-camera)
Redirect examination by Mr. Holliday

1 That's what it says.

2 A Okay.

3 Q Okay. Does that mean -- is that what it says?

4 A Yes. That's the dates on it.

5 Q Okay. And you fill this out when you have the drugs?

6 A Yes.

7 Q Okay. So if you put it in there, you fill it out at
8 that time.

9 A Yes, sir.

10 Q Okay.

11 MR. WILKES: No further questions.

12 REDIRECT EXAMINATION

13 BY MR. HOLLIDAY

14 Q Agent Swad, from the point in time in which you took
15 custody and control of both of the drugs in State's
16 Exhibit 3 until you placed them in a sealed bag at the
17 sheriff's office and put them in the drop box did anyone
18 else have possession or control over those drugs?

19 A No, sir.

20 Q And did you in any way tamper or alter or do anything
21 to those drugs other than just merely possess them and put
22 them into the BEST bag?

23 A No, sir.

24 MR. HOLLIDAY: No further questions, Your Honor.

25 THE COURT: Step down.

Anita Mullinax (In-camera)
Direct examination by Mr. Holliday

1 MR. HOLLIDAY: Call Anita Mullinax.

2 ANITA MULLINAX, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. HOLLIDAY

5 Q Would you please state your name for us?

6 A Anita Mullinax.

7 Q And, Ms. Mullinax, you're employed at the Spartanburg
8 County Sheriff's Office --

9 A I am.

10 Q -- as an evidence custodian?

11 A Yes.

12 Q And on March 2nd according to this form it says you
13 received a BEST bag labeled state's Exhibit 3. Are you
14 familiar with that bag?

15 A Yes.

16 Q And can you tell us what you did with that bag?

17 A When I received the BEST bag I put the case number on
18 it and the defendant's name on it, and I put it in the drug
19 room. And then the lab picks it up for processing.

20 Q Was it torn or altered in any way?

21 A No. It was sealed.

22 Q It was sealed. Did you alter it, do anything to it?

23 A No, no. Just -- just to write the name and the case
24 number on the outside.

25 Q And when you put it back up was it still sealed?

Anita Mullinax (In-camera)
Cross-examination by Mr. Wilkes

1 A It was.

2 Q So in no way did you alter that, the contents of that
3 bag.

4 A No. It was sealed at all times.

5 MR. HOLLIDAY: No further questions.

6 MR. WILKES: May it please the Court.

7 THE COURT: Yes.

8 CROSS-EXAMINATION

9 BY MR. WILKES

10 Q Ms. Mullinax, will you take a look at me -- for me?

11 I'll show you a copy.

12 THE COURT: Do you want this?

13 MR. WILKES: No, sir. I'll show her my copy.

14 Q Did you fill out a form C on this?

15 A Yes, I did.

16 Q When did you receive the drugs into evidence?

17 A On 3/2 of 2012.

18 Q Is that March 2nd?

19 A That's correct.

20 Q Who did you receive them from?

21 A The drop box.

22 Q What time?

23 A I usually pick up out of the drop box at 8:30 in the
24 morning.

25 Q Okay. So you're -- are you confident in your date

Anita Mullinax (In-camera)
Cross-examination by Mr. Wilkes

- 1 being correct on that form?
- 2 A Yes.
- 3 Q Will you look at that form very carefully and explain
- 4 to me why that form has two different handwritings and
- 5 typewriting and looks like it's been photocopied over?
- 6 Tell me how that form has originated.
- 7 A What I do is I make probably 30 or more at a time --
- 8 Q Okay.
- 9 A -- where I have my name typed, and I fill in the rest
- 10 of it with my signature, the date and the other
- 11 information --
- 12 Q Okay.
- 13 A -- on the day I receive the drugs.
- 14 Q Okay. So you're saying that you have a photocopy
- 15 without a signature and only typed information on it?
- 16 A Yes, just my name typed at the top.
- 17 Q Just your name typed. There's other typing in the
- 18 form, isn't there?
- 19 A Spartanburg County Sheriff on two different locations.
- 20 Q Okay. And that --
- 21 A And --
- 22 Q And the typed information is part of the photocopied
- 23 form, right?
- 24 A Yes.
- 25 Q Okay. And what else? What did you do when you

Anita Mullinax (In-camera)
Cross-examination by Mr. Wilkes

- 1 received this evidence with that form? What did you do?
2 You took that photocopied form that has typewriting on it.
3 And what did you write?
4 A I wrote the date.
5 Q Okay.
6 A I wrote the person's name that I received the drug
7 from.
8 Q Uh-huh.
9 A What type of drug I have -- if it's a BEST bag or if
10 it's green plant material.
11 Q Uh-huh.
12 A And then I put the BEST bag number.
13 Q Uh-huh.
14 A I make sure I write whatever is on the BEST bag, the
15 date on the bottom part.
16 Q Uh-huh.
17 A And I sign my name.
18 Q Okay. That looks like there's another --
19 A Drug room.
20 Q Yeah. What -- was that -- did you write that? Is
21 there a reason that that appears differently?
22 A When I put it in the drug room --
23 Q Uh-huh.
24 A -- unless it's -- unless I hand deliver it to
25 somebody --

Anita Mullinax (In-camera)
Cross-examination by Mr. Wilkes

- 1 Q Uh-huh.
- 2 A -- then I always put it in the drug room.
- 3 Q Okay. My question is why does it appear to be in a
4 different pen than the rest of your writing. Why is that?
- 5 A Because I wrote drug room on it before I photocopied
6 it.
- 7 Q Okay. So that -- in other words, the typing was
8 there, and then you wrote drug room.
- 9 A Right. I wrote drug room.
- 10 Q Okay. And then --
- 11 A And then I signed my name and the date and who I got
12 it from.
- 13 Q Okay. So at the time -- what time did you write the
14 lighter handwriting on there?
- 15 A The day I receive it.
- 16 Q Okay. And that was what day?
- 17 A March 2nd of 2012.
- 18 Q And you received it from the drop box March 2nd. And
19 then what -- when did you write the darker portion that
20 says drug room?
- 21 A That would have been on -- on the copy I had when I
22 photocopied it.
- 23 Q Okay. So that's what I was asking. But the original
24 blank photocopy form has typing and then the drug room.
- 25 A Right. And drug room.

Anita Mullinax (In-camera)
Cross-examination by Mr. Wilkes

- 1 Q Okay. And then you wrote the rest of it in.
- 2 A Right.
- 3 Q But there's no question that you wrote in the part
- 4 about the date on the day that you got it.
- 5 A The date I received it, yes, sir.
- 6 Q No doubt about that.
- 7 A No doubt.
- 8 Q Where were those drugs according to your forms on the
- 9 3rd? Where did they go on the 2nd?
- 10 A I put it in the drug room for the lab to pick up.
- 11 Q So they would have been in the lab on the 3rd. Should
- 12 be.
- 13 A I don't know what day of the week that March 2nd fell
- 14 on. I mean, technically if it was a Friday the drug -- I
- 15 mean, the lab might not pick up until the next Monday. But
- 16 given it was a normal day during the week he would have
- 17 picked it up.
- 18 Q All right. But they are in a drop box of some sort.
- 19 What do you put them in on the 2nd? Can anyone outside of
- 20 the lab get to them?
- 21 A No.
- 22 Q Okay. Tell me what you put them in on the 2nd.
- 23 A What I put in the drug room?
- 24 Q Yes, ma'am.
- 25 A It is a sealed room within the evidence office --

Anita Mullinax (In-camera)
Cross-examination by Mr. Wilkes

- 1 Q Okay.
- 2 A -- that only myself and two other custodians --
- 3 Q Have access to?
- 4 A -- have access to.
- 5 Q who would those people be?
- 6 A That's Angela Nelson and Robert Rosenberg.
- 7 Q And was that at the time of that form you filled
- 8 out -- were those the only three people that could have had
- 9 access to those, that, the drugs once you dropped them in
- 10 there?
- 11 A Yes, sir, they are the only other two people that have
- 12 access.
- 13 Q Okay. And do you have access to it once you put it in
- 14 for the drug room? Do you have access to it?
- 15 A Our drug room has not only a deadbolt lock, but when
- 16 we go into that particular room you have to have our key
- 17 fob file that's directly related to us, and our
- 18 fingerprint.
- 19 Q Okay. So when you are one of those other two people,
- 20 you take it to the drug room and put it in something, can
- 21 you get it back?
- 22 A Could I get it out?
- 23 Q Uh-huh.
- 24 A I guess I could put it on my desk.
- 25 Q Okay. But I'm saying you have access to it, but no

Anita Mullinax (In-camera)
Cross-examination by Mr. Wilkes

- 1 one else would other than the two other people.
- 2 A Only the three of us have access to the drugs until
- 3 the lab comes and gets it.
- 4 Q Okay. And then who took it to the lab?
- 5 A They pick it up.
- 6 Q The lab came and picked it up.
- 7 A Correct.
- 8 Q Okay. And what does your form say? Does your form
- 9 say that --
- 10 A My form says I deliver it to the drug room, which is
- 11 where I put it.
- 12 Q And so the lab actually comes and takes it out of your
- 13 custody --
- 14 A That's correct.
- 15 Q -- instead of you walking it to the lab.
- 16 A That's correct. We don't take it outside of the
- 17 evidence office.
- 18 Q Okay. And is there any doubt that you did that on the
- 19 2nd?
- 20 A No doubt.
- 21 Q Thank you.
- 22 MR. WILKES: No further questions, Your Honor.
- 23 MR. HOLLIDAY: No questions, Your Honor.
- 24 THE COURT: Step down.
- 25 MR. HOLLIDAY: Judge, the last witness we have would

1 be -- Your Honor, can we approach?

2 THE COURT: Yes.

3 (Bench conference held off the record.)

4 THE COURT: All right. Court is in recess until
5 9:30 in the morning.

6 END OF PROCEEDINGS FEBRUARY 25, 2013

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Steve Cooper (In-camera)
Direct examination by Mr. Holliday

1 (Proceedings February 26, 2013)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Okay. Mr. Holliday.

5 MR. HOLLIDAY: Yes, sir, the state would call Steve
6 Cooper.

7 STEVE COOPER, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. HOLLIDAY

10 Q Please give your full name.

11 A It's Steve Cooper.

12 Q And, Investigator Cooper, you're with the Spartanburg
13 County Sheriff's Office?

14 A That is correct.

15 Q And you're in charge of the narcotics unit?

16 A Yes, I am.

17 Q Lieutenant, correct, with the sheriff's office?

18 A Correct.

19 Q Were you involved with the case against the defendant,
20 Shondre Williams?

21 A I was.

22 Q And were you present the evening that the -- you're
23 aware of the reversal buy?

24 A I was.

25 Q And were you present that evening?

Steve Cooper (In-camera)
Direct examination by Mr. Holliday

1 A I was.

2 Q And in the course of your buys it's common for the
3 sheriff's office to take drugs out of the evidence room and
4 to give them to informants to sell to defendants?

5 A That is one investigative practice that we use, that
6 is correct.

7 Q Is that what happened in this case?

8 A That's correct.

9 Q And do you know who -- who got the drugs from the
10 evidence room?

11 A I believe it was Investigator Hutchins.

12 Q And what -- did he give those drugs to you?

13 A And I don't recall if it was directly me that he gave
14 them to, but that practice is once somebody signs that out
15 it goes into a locked safe in our office that either myself
16 or Sergeant Pharis has access to. We're the only two that
17 has access to that safe.

18 So he would have either given those to myself or
19 Sergeant Pharis. But in this particular case I don't really
20 recall if it was me or Sergeant Pharis that he handed those
21 over to.

22 Q Okay. Was Sergeant Pharis also involved in this
23 investigation?

24 A Excuse me?

25 Q Was Sergeant Pharis also involved in this

Steve Cooper (In-camera)
Cross-examination by Mr. Wilkes

1 investigation?

2 A Yes, he was.

3 Q And was he present when the drugs were transferred as
4 well?

5 A Yes, he was.

6 Q And who did -- well, when they went from Investigator
7 Hutchins to either you or Pharis, where did they go from
8 there?

9 A They would have went into a locked safe that only
10 myself or Sergeant Pharis has access to.

11 Q Okay. And then where do they go from the locked safe?

12 A Usually, and in this case, it would have been
13 Investigator McJunkin because he's the case agent. He
14 would have been the one that actually turned the drugs over
15 to the informant that was attempting to sell the drugs.

16 Q Okay. And so it was either you or Sergeant Pharis who
17 gave the drugs to Investigator McJunkin.

18 A That's correct.

19 Q And you were both there when that happened.

20 A That's correct.

21 MR. HOLLIDAY: No further questions of this witness.

22 CROSS-EXAMINATION

23 BY MR. WILKES

24 Q Do you recall if you were involved in determining if
25 the drugs should be obtained in the first place?

Steve Cooper (In-camera)
Cross-examination by Mr. Wilkes

- 1 A Yes, sir. I was.
- 2 Q And what were the circumstances in your obtaining
3 those drugs or your knowledge as far as the need for those
4 drugs?
- 5 A Once Investigator McJunkin came to me and basically
6 laid out the case and how he wanted it to go, it was up to
7 me to give the approval on whether the case would actually
8 follow that route or not.
- 9 (Pause for witness coughing.)
- 10 A I've got a cold.
- 11 Once I decided to -- to sign off on the case the okay
12 was given through Lieutenant Ashley Harris to sign those
13 drugs out of the evidence.
- 14 (Pause.)
- 15 A Thank you.
- 16 Q And what amount of drugs did you request?
- 17 A I believe in this particular case it was undetermined
18 at the time that we made the request for the drugs if it
19 was going to be a half-ounce deal or it was going to be a
20 quarter-ounce deal. So to the best of my knowledge I think
21 we actually requested two -- two parcels of drugs, one in a
22 quantity of nine ounces and one in four and a half ounces.
- 23 Q Okay. And when you say it was undetermined how much,
24 both a quarter kilo and half kilo were intended to be
25 directed toward the defendant in this case?

Steve Cooper (In-camera)
Cross-examination by Mr. Wilkes

- 1 A It was unsure how much drugs the defendant was wanting
2 at this particular deal. We didn't know if he was going to
3 want a half a key or if he was going to want a quarter key.
- 4 Q Okay. When you say want, you're saying that he
5 requested it?
- 6 A Based on the information that the informant had given
7 us about how prior deals had went with the -- with the
8 defendant in the past, I think that there was different
9 amounts that had transpired between the two. And we just
10 didn't know what -- what amount it was going to be this
11 particular deal.
- 12 Q Okay. And what was the period? What was the period
13 of time from those prior deals?
- 14 A I'm not sure. I don't know.
- 15 Q Okay. Did you have any other connection with the case
16 as far as the search warrant or the drugs?
- 17 A Other than my just overseeing the execution of the
18 search warrant that night, I believe I did have an
19 opportunity to talk to the defendant that night. And I
20 think I signed the -- I notarized the voluntary forfeiture
21 form.
- 22 Q Okay. At the time that you notarized the voluntary
23 forfeiture form what -- what was he told about that
24 forfeiture form?
- 25 A The form was read to him in detail, and I don't have a

Joseph Pharis (In-camera)
Direct examination by Mr. Holliday

1 copy of the form, but I'll be glad to read it to you. That
2 form was read to him in its entirety.

3 Q And is that -- at that time was it indicated to him
4 that that was a civil forfeiture, a civil proceeding form?

5 A That is correct.

6 Q Okay. When he filled that out and executed that and
7 you notarized that was he told that this would be used in
8 criminal court against him?

9 A No, it was not.

10 Q Okay. Was there some indication that this was simply
11 civil and it would not be used in criminal court?

12 A Yes, it was. That's correct.

13 Q Okay.

14 MR. WILKES: No further questions.

15 MR. HOLLIDAY: No questions.

16 THE COURT: You may step down.

17 MR. HOLLIDAY: The state would call Joe Pharis.

18 (Pause.)

19 JOSEPH PHARIS, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. HOLLIDAY

22 Q Thank you. Could you please give your name for us?

23 A Joseph Pharis.

24 Q And, Investigator Pharis, you're with the sheriff's
25 office?

Joseph Pharis (In-camera)
Direct examination by Mr. Holliday

1 A Yes, sir.

2 Q And you work in the narcotics unit?

3 A Yes, sir.

4 Q And were you involved in the case against the
5 defendant, Shondre Williams?

6 A Yes, sir.

7 Q And were you involved in handling drugs in a reverse
8 buy transaction that you're aware of?

9 A I don't recall me being directly involved in the drug
10 handling.

11 Q Is it the sheriff's -- can you tell us about the
12 sheriff's office's procedure for doing a reverse buy as far
13 as how it comes from the evidence locker to a narcotics
14 investigator, to an informant, to sell to a defendant?

15 A Yes. We make a phone call usually to Lieutenant
16 Ashley Harris, which is our chemist, letting him know what
17 size, amount, type of drug we'll need for the reversal.

18 He will usually sign it out to either myself or
19 Lieutenant Cooper or another investigator if we're not
20 available.

21 At that point the drugs are brought back to the
22 narcotics office and locked in the safe until the time of
23 the reversal. There's only two people in our office that
24 has access to the safe. That's myself and Lieutenant
25 Cooper.

Joseph Pharis (In-camera)
Direct examination by Mr. Holliday

- 1 Q Okay. No one else has access to that safe.
- 2 A No, sir.
- 3 Q And on this incident do you know who put the drugs in
- 4 the safe?
- 5 A I don't recall who put the drugs in the safe.
- 6 Q If I showed you what's been marked as Defendant's
- 7 Exhibit 2 -- take a look at that. Does that help you
- 8 refresh your memory on who checked out those drugs from the
- 9 evidence locker?
- 10 A There's several entries. What date, again, are we
- 11 looking at?
- 12 Q The incident date is March 2nd of 2012. I believe the
- 13 entry on that log would be March 1st of 2012.
- 14 A Yeah. It looks like Investigator Matt Hutchins signed
- 15 them out from Lieutenant Ashley Harris.
- 16 Q Okay. And Investigator Hutchins testified earlier he
- 17 placed those drugs, the quarter kilo and the half kilo,
- 18 into the evidence or into the sheriff's office locker,
- 19 which you stated you and Lieutenant Cooper are the only
- 20 ones who had access to it.
- 21 A That is correct.
- 22 Q Were you present during the -- the reverse-buy
- 23 operation?
- 24 A Yes, sir, I was.
- 25 Q Was Lieutenant Cooper present as well?

Joseph Pharis (In-camera)
Cross-examination by Mr. Wilkes

1 A Yes, he was.

2 Q And is it your testimony that either you or him, one
3 of the two, handled those drugs?

4 A We -- one of us would have had to retrieve them out of
5 our narcotics safe to give them. I don't recall which one
6 did, but one of us is the only two that can open that safe.

7 Q So you don't recall who did it, but it was one of you,
8 one of the two of you.

9 A Yes, sir. That is correct.

10 Q And do you know who the drugs were given to at that
11 point after -- after either you or Lieutenant Cooper
12 handled them?

13 A I do not.

14 Q Okay.

15 MR. HOLLIDAY: No further questions of the witness.

16 MR. WILKES: May it please the Court.

17 CROSS-EXAMINATION

18 BY MR. WILKES

19 Q Investigator Pharis, your name is on that particular
20 document indicating per J. Pharis' request, is that
21 correct?

22 A Could I see the document?

23 Q What's been marked for the purpose of this hearing as
24 Defendant's Exhibit 2. Can you identify that for me?

25 A Yes, sir. This is a sign-out log that the evidence

Joseph Pharis (In-camera)
Cross-examination by Mr. Wilkes

1 keeps. And, yes, on there it says per my request. Not
2 seeing that, I was the one obviously that called the
3 lieutenant actually to request the drugs be made up.

4 Q Okay. And the drugs at your request were listed under
5 the 3/1/12 entry for relating to this case, correct?

6 A Yes, sir. Looks like a quarter kilo and a half kilo
7 of cocaine.

8 Q Why those two amounts?

9 A The best I can recall there was two different amounts
10 that might have been part of the reversal. And since we
11 cannot tamper with them once we get them, if it was going
12 to be less than a half kilo we needed to already have that
13 made up.

14 Q Okay. How often do these type of reversals occur?

15 A Right off the top of my head I don't have any idea how
16 often they would occur. We -- I would say probably in the
17 range of probably average five a year maybe.

18 Q Okay.

19 A If that.

20 Q And just by looking at that particular exhibit there's
21 other transactions on there for one kilo, three kilos, five
22 pounds or five bags of something, two kilos of cocaine.

23 Those -- those don't relate to my client, do they?

24 A No, sir.

25 MR. HOLLIDAY: Your Honor, I'm going to object to how

Joseph Pharis (In-camera)
Cross-examination by Mr. Wilkes

- 1 that's relevant to this case.
- 2 THE COURT: Well, it's in evidence.
- 3 Q Those don't relate to my client, do they?
- 4 A The other entries on this, no, sir, just the -- from
- 5 what I'm looking at it's just the 3/1 of '12 entry, would
- 6 be with your client.
- 7 Q Okay. And in this document -- this document indicates
- 8 the retrieval or the pickup of the drugs from the drug
- 9 lab --
- 10 A Yes, sir.
- 11 Q -- or evidence, somewhere in evidence.
- 12 A From -- from evidence, yes, sir.
- 13 Q Okay. And then there -- would there -- did you say
- 14 there's no other chain, there's no other documentation as
- 15 far as where they go after that? Is there any? Let me ask
- 16 that. Is there any other documentation or paperwork
- 17 following these drugs on a chain of custody to where they
- 18 go next?
- 19 A No, sir, not until they're given to whoever we do the
- 20 reversal on. And then the chain is started back.
- 21 Q Okay. And you say you can't remember who put them in
- 22 or took them out of the drug safe.
- 23 A The narcotics safe?
- 24 Q Yes, sir.
- 25 A There's only two people that have access to it, myself

Joseph Pharis (In-camera)
Cross-examination by Mr. Wilkes

1 and Lieutenant Cooper. It had to be one of us. I don't
2 recall myself doing it.

3 Q And at any given time at the time that this, for
4 instance, was in there, would there have been any other
5 drugs in there at that time?

6 A No, sir.

7 Q And why would that be?

8 A That is our money safe where we keep our buy money.
9 And we keep our log books to where when we do money
10 seizures, where we have to log and do deposits, and, like I
11 said, it's rare that we do reversals, and we just stick
12 that in there because that's a safe place and very
13 controlled place for us to keep that until the reversal
14 takes place.

15 Q Okay. So no other drugs would have gone in there, you
16 think, until March 7th with the five pounds of marijuana
17 perhaps.

18 A And actually the five pounds of marijuana would
19 probably be a squeeze to put in our safe.

20 Q Okay. All right. And you said who made the decision
21 on the two amounts?

22 A According to the document, I made the phone call. So
23 depending on the -- I guess the -- the prestuff in the case
24 we knew we might need one of them amounts, so we got both
25 of them.

Joseph Pharis (In-camera)
Cross-examination by Mr. Wilkes

1 Q Okay. And who -- who gave you that information, do
2 you remember?

3 A It would have come from Investigator McJunkin.

4 Q Were you at the search warrant?

5 A Yes, sir, I was.

6 Q What was your role at the search warrant?

7 A Help secure the residence and then search.

8 Q Okay. During the search did you obtain anything? Did
9 you obtain drugs or find anything?

10 A No, sir, I did not.

11 Q What did you do?

12 A Just help search the residence and the -- I mainly
13 stayed in the garage area. There wasn't cars in there.
14 They was using it more for a storage type place. That's
15 where I mainly searched.

16 Q Okay. And at the time -- at any time did you go into
17 the living room with the defendant and others that were
18 handcuffed and seated?

19 A I made brief walk-throughs, yes, sir.

20 Q Did you witness anybody being read their Miranda at
21 any time?

22 A I don't recall witnessing that.

23 Q Okay.

24 MR. WILKES: No further questions, Your Honor.

25 MR. HOLLIDAY: That's it.

1 THE COURT: Step down.

2 MR. HOLLIDAY: Your Honor, that would be the state's
3 testimony with regard to the chain of custody.

4 THE COURT: Okay. Anything further?

5 MR. WILKES: No further evidence, Your Honor.

6 THE COURT: Any statement?

7 MR. WILKES: Yes, sir. One additional matter that has
8 arisen obviously is we would move -- we have introduced for
9 in limine purposes the forfeiture form.

10 I think the testimony is sufficient for me to move to
11 exclude that from the trial of the case before the jury
12 based on the fact that it is a civil matter and he was
13 informed it was merely a civil matter and wouldn't be used
14 in the criminal proceedings. And we would move for that
15 reason to exclude that document.

16 That would be outside of Miranda and would override
17 his Miranda warnings once he's told that that would not be
18 used in the criminal case.

19 THE COURT: Well, is it? Is it being offered?

20 MR. WILKES: I just -- I'm moving to suppress it ahead
21 of time so that it doesn't come up in the middle of the
22 trial. I think I can do that if the Court would allow.

23 THE COURT: Well, is it being offered?

24 MR. HOLLIDAY: Judge, we would probably move to offer
25 it but --

1 THE COURT: What would be the purpose of it?

2 MR. HOLLIDAY: To establish that he claimed
3 responsibility for that money. He was forfeiting that as
4 part of the drug seizure.

5 He would be acknowledging that the drugs were being
6 seized for the purposes of illegal drug sales, and he's
7 acknowledging that's the reason that the government's
8 taking it, and he's saying that that's fine.

9 THE COURT: Well, what about that part where your
10 witness testified that he told him it wasn't going to be
11 used?

12 MR. HOLLIDAY: He was under -- Judge, he was given
13 Miranda warnings. He was told that anything that he said
14 or did would be used against him.

15 THE COURT: Well, I understand, but he was also told
16 that it wouldn't be used against him.

17 MR. HOLLIDAY: Yes, sir.

18 THE COURT: Well, so why does one override the other?

19 MR. HOLLIDAY: One is mandated by the United States
20 Supreme Court.

21 THE COURT: So, in other words, you can say it because
22 it's mandated by the Court, but then you can renege on it
23 and it doesn't make any difference?

24 In other words, you can say, look, I have to tell you
25 that I can use this against you because the Supreme Court

1 requires me to, but I'm telling you I'm not going to? So
2 you he's supposed to -- the defendant's then supposed to
3 assume that that second part is a lie and the first part's
4 the truth?

5 MR. HOLLIDAY: No, sir.

6 THE COURT: Well, what would he assume then?

7 MR. HOLLIDAY: Judge, I just think that the Miranda
8 warnings would give him fair notice that anything he says
9 and does could be used against him and --

10 THE COURT: What about -- well, what about the other
11 promise that it won't be?

12 If you -- if you will sign -- if you want to sign this
13 forfeiture, I promise you I'm not going to use it against
14 you?

15 MR. HOLLIDAY: Well, officers make promises all of the
16 time that they don't keep. They -- they -- that's just
17 part of their investigation -- investigative techniques.
18 You know, as soon as Mir -- once Miranda warnings are given
19 that defendant is on notice that if he speaks it could be
20 used against him.

21 THE COURT: Let me see the form.

22 (Pause.)

23 THE COURT: I'm not sure what the testimony reflected
24 right now because I didn't know this was going to be a real
25 issue, nor should it be, but, nevertheless, I don't recall

1 any law enforcement agent testifying that the defendant
2 claimed ownership in this. Probably, he was just giving up
3 any interest that he might have in it.

4 Did somebody testify that he claimed ownership of this
5 money?

6 MR. HOLLIDAY: No, sir, not -- not from the testimony
7 that's been given so far.

8 THE COURT: Okay. In that event it's not relevant.

9 MR. WILKES: May it please the Court. Your Honor, we
10 raise two issues.

11 One is a due process issue under the outrage of police
12 conduct which we have tried to establish the facts showing
13 that the reversals in this case, although generally
14 reversals are not being prohibited by law in and of
15 themselves, in this case the lack of documentation and the
16 manner in which they're conducted without accurate records,
17 chain of custodies as where the drugs go and who's handling
18 those drugs, without keeping a clear chain of that
19 transaction and the purpose of the transaction, the
20 regularity of the transactions and some showing of public
21 benefit to the actions that they're taking, that the
22 conduct in a sting of this type just exceeds due process,
23 Your Honor.

24 There is evidence showing that the officers do not
25 know what -- where the drugs -- actually who's handling the

1 drugs going into the safe, coming out of the safe, or chain
2 of custody or documentation anywhere in between until it
3 gets to the confidential informant.

4 Your Honor, we would submit that evidence showing that
5 the police maintained various amounts of drugs, up to six
6 kilos in a single box, for sale to the general public or
7 whoever they choose, along with boxes of methamphetamine
8 and marijuana and other drugs of such substantial amounts
9 that are probably recorded, exceed the level of just being
10 lax in record keeping. It exceeds the normal purpose of
11 law enforcement's goal in making arrests and ferreting it
12 out -- ferreting out crime and just becomes an outrageous
13 operation where they are instead of fighting the drug
14 trade, they are inducing drug trade in this case without
15 individuals actually ever being or many people not being
16 prosecuted.

17 We would move as a due process matter -- I had
18 submitted a brief, and that is simply a supplemental brief
19 in addition to what was started by Mr. Smith. He filed a
20 detailed memorandum that my client has a lot of faith in.
21 It's detailed. And I would submit that it sets forth
22 accurately the entire argument. And we would ask that by
23 reference those briefs be incorporated in my argument to
24 the Court.

25 THE COURT: Mr. Holliday.

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

2 I believe that the defense began drawing on the Twigg
3 case, Your Honor. And that case is incredibly
4 distinguishable from this case in that in the Twigg case
5 the -- the government is actually manufacturing marijuana.
6 They're taking part in a full circle of the crime. They're
7 making the drug; they're selling the drug; and then they
8 buy the drug back. They complete a full circle where they
9 perpetuate a crime.

10 Judge, in this case while we'll concede it's not the
11 best practice that the sheriff's office has used to perform
12 this sting operation that it does not rise to the level of
13 outrageous conduct.

14 Ashley Harris testified that all the drugs in the
15 cocaine box came from prior cases. The drugs were not
16 manufactured by the sheriff's office. They were seized in
17 other cases that they would have otherwise been destroyed,
18 and they were used as evidence in this case or to sell
19 drugs to the defendant, Your Honor.

20 Judge, I've got a case. It's 361 South Carolina 607,
21 State vs. McCluney. And, Your Honor, in that case the
22 Cherokee County Sheriff's Office did a reverse buy of
23 imitation cocaine. And, Your Honor, the Court found that
24 that was satisfactory.

25 Your Honor, our argument would be that if the

1 sheriff's office can use imitation drugs, certainly they
2 can use real drugs without rising to the level of
3 outrageous conduct.

4 THE COURT: Well, clearly there's a difference in
5 selling an actual illegal substance and selling something
6 you claim to be an illegal substance, which it's not. So
7 there's most definitely a difference in imitation drugs and
8 real drugs. No question about that.

9 But under the facts of this case I agree. There is no
10 outrageous police conduct. So your motion to dismiss is
11 denied.

12 MR. WILKES: Your Honor, I have one last issue I don't
13 think the Court has ruled on.

14 I had prepared a memorandum for whatever help, but, in
15 essence, I believe that on our chain of custody, Your
16 Honor, that the chain must be complete; it must be
17 substantially accurate; and it must resolve doubt as far as
18 evidence is what it is; and the manner in which it has been
19 handled most importantly.

20 In this case, Your Honor, the documentation as to the
21 chain of custody on the BEST bag would indicate a completed
22 possibility as far as the timing and the handling and the
23 manner of the handling.

24 I believe it shows receipt and distribution to or
25 transfer to another person on one day and then another day

1 passing and then back to the day before.

2 The chain is a completed possibility. It shows that,
3 I believe that, Swad was handing over the drugs to Anita
4 Mullinax the day after Anita Mullinax claims to have
5 received the drugs.

6 There's been no explanation for that. I think
7 Investigator Swad made some vague references as to the time
8 of day, but he did not testify, in fact, that he had simply
9 made some error or explained that error.

10 And the sworn testimony on the chain documentation
11 shows that it could not have happened. It cannot be
12 credible. It is not credible.

13 The manner in its handling is uncertain. The date on
14 it was not only indicated by Investigator Swad, but it was
15 done under oath, and a separate notary public swore that
16 that was the date that it occurred. They did not produce
17 the notary as far as I know to explain the date difference.

18 There is no evidence in record sufficient to explain
19 the anomaly and what happened with the drugs, why there
20 would be a 1-day difference in the transfer of the drugs
21 and if, in fact, there is mishandling in those drugs.

22 There was testimony of course by the drug lab analysis
23 that there could be some loss in drug weight. But we know
24 that there was a substantial amount of drug weight lost
25 between the time it was weighed and the time that the

1 chemist received it.

2 Drug-weight loss aside, the chain itself is what
3 establishes the manner of handling. And it is sworn
4 testimony. And the sworn testimony given indicates dates
5 that are physically impossible and leave at least a day
6 open in question. And we would move that that is fatally
7 defective in the chain documentation, which makes that
8 evidence suppressible. And we move to suppress on that
9 basis.

10 THE COURT: Mr. Holliday.

11 MR. HOLLIDAY: Yes, sir, Your Honor.

12 Investigator Swad testified that he was the first
13 person to touch the drugs in question on the scene. He
14 testified that when he took the drugs he placed them into a
15 BEST bag, a sealed BEST bag.

16 He then testified that no one tampered with those
17 drugs. He did not tamper with those drugs. They were
18 sealed. They were placed in an evidence drop box.

19 Anita Mullinax testified that she took those out of
20 the drop box. They were still sealed. They were in her
21 sole custody and control. She did not tamper with them.
22 No one else tampered with them.

23 Ashley Harris then testified that he took control of
24 the drugs. When he opened the BEST bag there was no
25 evidence of tampering. No one had tampered with them. He

1 tested the drugs. Then he resealed the bag.

2 Your Honor, I believe that creates a complete chain of
3 custody. I believe the state has substantially met its
4 burden to prove the chain of custody, and, in fact, that
5 there may or may not be an error of one date on a form that
6 the investigator filled out -- would not rise to the level
7 to have cause for suppression of the drugs.

8 THE COURT: All right. Well, while there has been
9 some discrepancy as to the date between the 2nd and the 3rd
10 a complete -- in this case a complete chain has been
11 established by the people in possession of the substance.
12 They've all testified as to what they did with it after
13 they received it.

14 So notwithstanding the discrepancy as to the dates, a
15 complete chain has been established, and therefore so has
16 the integrity of the evidence. So your motion to dismiss
17 based upon an incomplete chain of custody is denied.

18 All right. What else?

19 MR. WILKES: We think that's all the pretrial issues.
20 I think we're ready for the jury.

21 THE COURT: All right. Let's bring the jury in. And
22 ask Mr. Davis, Tommy Davis, to take the foreperson's seat.

23 (The following takes place in the presence of the
24 jury.)

25 THE COURT: Good morning, ladies and gentlemen. Thank

Opening statements

1 So I do want to thank you in advance for your
2 participation, as well as your careful attention. I would
3 ask that you please give the lawyers your attention now as
4 they give you their opening statements.

5 Mr. Holliday.

6 MR. HOLLIDAY: May it please the Court.

7 Ladies and gentlemen, thank you for your service. And
8 people often say outside of full time that the most any
9 person can give their country is to serve on a jury. And
10 we thank you for giving up your time to be here. And we
11 just ask that you just do what you think is right during
12 the course of the trial.

13 This case is about drugs and money. The defendant,
14 Mr. Shondre Williams, is here today in front of you because
15 the sheriff's office set up a sting operation. They
16 recruited an informant who had a working relationship with
17 the defendant.

18 I'll refer to him as the informant because his name is
19 Shondrell Williams which is very similar to Shondre
20 Williams. To make it a little easier for you I'll refer to
21 them as the informant and the defendant throughout the
22 course of the trial, because it could get a little bit
23 confusing.

24 But the sheriff's office catches the informant with
25 some drugs, and so they recruit him because of his

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1 connections to work for them. They arrange through some
2 telephone calls to sell some drugs to the defendant,
3 Mr. Shondre Williams.

4 The informant calls Mr. Williams and sets up a drug
5 deal. Then the sheriff's office gives the informant a
6 quarter kilo of cocaine, 250 -- 247 grams of white powder
7 cocaine. It looks like a brick. It's a lot of cocaine.

8 Goes to the defendant's house. Sheriff's office is,
9 you know, standing by surveilling. They actually put a
10 video camera on the informant as he goes into the garage of
11 the house.

12 The drug deal goes down. The defendant gives the
13 informant \$4,000 cash for the quarter kilo of cocaine.

14 The sheriff's office meanwhile knows all of this is
15 going on. They're standing around watching. The informant
16 comes back and says the deal's gone down and gives the
17 officers \$4,000 cash and tells them what happened.

18 The sheriff's office then goes and gets a search
19 warrant. They go back to the house. Low and behold, what
20 do they find? Quarter kilo of cocaine.

21 The defendant is there. He also has about \$13,000
22 stashed in the house. But they find a bonus. They also
23 find about five -- four or five grams of crack cocaine,
24 which is a cooked or refined version of cocaine. And we'll
25 bring in a chemist later on in the trial who can explain to

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1 you the differences between those two compounds and how
2 crack is made from cocaine.

3 But, so not only did they find the drugs that they
4 sold to the defendant, but they also found drugs that the
5 defendant already previously had, which is why there are
6 two charges.

7 There's a trafficking cocaine, which is simply that he
8 had a lot of cocaine. He bought it, and he had it on his
9 person.

10 He also possessed with intent to distribute the crack
11 cocaine, which was a little over four grams, which the
12 chemist, again, will explain to you how much that is and
13 what those weights mean. And I'm sure sitting here right
14 now you're saying four grams, what does that really mean.
15 We'll get into that as the trial goes on.

16 But just to give you an overview and kind of a
17 bird's-eye view of what's going on I just wanted to kind of
18 give you the story. And really what you want to pay
19 attention to is the witnesses' testimony.

20 At the end of the trial I'll come back up here and try
21 to really explain to you how all of that fits together. I
22 just ask that you pay attention and at the end of the trial
23 you return a verdict of guilty. Thank you.

24 THE COURT: Mr. Wilkes.

25 MR. WILKES: May it please the Court, ladies and

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1 gentlemen.

2 what the state did not tell you and that is going to
3 be important to watch for are facts relating to the
4 informant and why is the informant doing this.

5 They said that he was set up. It's not that he was
6 set up and he got in trouble. The key facts are going to
7 be that this gets him out of trouble.

8 If he can take cocaine and leave it with somebody to
9 let the police kick in the door and then get the cocaine
10 back and arrest that person, he gets out of trouble. And
11 that's going to be the key thing here, is how much trouble
12 is that informant in and how much trouble does he get out
13 of by getting somebody to open the door and hand them
14 cocaine. And that's going to be the key to the case.

15 When they say a lot of cocaine, it's a lot of cocaine.
16 And the question is going to be why take a lot of cocaine.
17 The evidence you're going to hear is not going to be --
18 evidence I don't believe on the tape that you'll hear
19 saying a quarter pound or a quarter kilo of cocaine.

20 I think what you may hear and to listen for is who's
21 deciding how much to scoop out of the bucket and take and
22 try to leave or give my client. Who decides how much?

23 And the reason how much is important is because how
24 much is two things. One, it gets you in a whole lot of
25 trouble because the sentences are so much bigger. So the

Travis McJunkin
Direct examination by Mr. Holliday

1 more drugs, the more trouble he's in.

2 The second thing is you'll see the C.I. has to make a
3 certain level case. So he -- even if somebody said, yes,
4 maybe I -- I had to have it or I had a need or desire to
5 have a little bit, well, if that gets you in the door and
6 you can hand them a quarter of a kilo and walk out and then
7 the police bust in and find it, you've met your quota.

8 You will see that there's a quota for the C.I., and
9 the C.I. has to make really big cases. And that'll become
10 important in this case. And I'll explain more at the end
11 of the case. But listen carefully to the evidence as it
12 comes out.

13 THE COURT: Mr. Holliday.

14 MR. HOLLIDAY: Yes, sir, Your Honor. The state would
15 call Investigator Travis McJunkin to the stand.

16 TRAVIS MCJUNKIN, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. HOLLIDAY

19 Q Investigative, would you please give us your full name
20 for the record?

21 A My name is Travis McJunkin.

22 Q And, Investigator McJunkin, where do you work?

23 A I currently work with the Spartanburg County Sheriff's
24 office.

25 Q And as part of that job what do you do?

Travis McJunkin
Direct examination by Mr. Holliday

1 prostitution and illegal gambling sort of thing.

2 Q How many drug cases would you say you've been involved
3 with since you've been in narcotics?

4 A I wouldn't even begin to --

5 Q Is it substantial?

6 A -- add them, yes, sir.

7 Q More than a hundred?

8 A Oh, absolutely. If I average myself ten to 15 cases a
9 month, over a period of time, four years, my partners, I
10 think there's nine or ten of us averaging the same and
11 actively participate in their investigations, my
12 investigations, I wouldn't even be able to begin to
13 estimate, but well over a hundred.

14 Q Okay. You were involved with the investigation
15 against the defendant, Shondre Williams?

16 A Yes, sir, I was.

17 Q And what was your involvement in that?

18 A I was the lead investigator in this particular case.

19 Q How did you come to know the defendant or how did the
20 defendant come on your radar?

21 A Well, essentially I guess I was -- I had foreknowledge
22 of him prior to the investigation just from neither here
23 nor there. I couldn't really begin to tell you. I may
24 have heard his name or either knew who he was primarily.

25 But on March the 1st of 2012 I assisted the Greenville

Travis McJunkin
Direct examination by Mr. Holliday

1 County Sheriff's Office in the execution of the search
2 warrant at a house in their county on a Shondrell Williams.

3 Shondrell -- he was the target of another investigation
4 that I had at that time, and I had two charges pending on a
5 Shondrell. We had bought trafficking amounts of cocaine
6 base from Shondrell in Spartanburg County.

7 The information I had obtained I communicated with
8 Greenville County, kind of a joint effort. And it came to
9 fruition on March the 1st when we finally executed a search
10 warrant on Shondrell.

11 During that time period myself and other investigators
12 with Spartanburg County Sheriff's Office who were assisting
13 had a conversation with Shondrell Williams, gained his
14 cooperation, and at which time during the course of our
15 conversation and his cooperation learned that he and Mr.
16 Shondrell Williams had a relationship as far as a business
17 relationship.

18 Q Okay. And so when you say Shondrell Williams, you're
19 talking about using him as an informant?

20 A Yes, sir, yes, sir.

21 Q And so when you spoke with the informant, Shondrell
22 Williams, what sort of conversations did you have? What
23 did you -- what was he charged with?

24 A Me personally, I had the two trafficking crack cocaine
25 charges on him stemming from investigations here in

Travis McJunkin
Direct examination by Mr. Holliday

1 Spartanburg County.

2 Q And did you make an agreement with him?

3 A Oh, yes, sir, yes, sir. We made an agreement that his
4 participation with us, his cooperation, would gain him
5 consideration in those cases.

6 At that time on March the 1st we had no idea what that
7 would be. There was nothing, you know, in writing. We
8 didn't sign a contract or anything. It was more like a
9 gentlemen's agreement.

10 I mean, I know it's still the South, and, you know, at
11 the time in the heat of the moment or in a fluid situation,
12 dynamic situation, you've got two men talking, you know, a
13 hand shake, and us putting faith in them and them putting
14 faith in us. So, I mean, it's more or less what I call a
15 gentlemen's agreement at that point in time.

16 Q And what was your agreement at that point in time?

17 A In reference to his charges?

18 Q Uh-huh.

19 A I don't think we came to anything conclusive that day.
20 I think that we discussed several things including Shondre
21 Williams, the defendant, and also other cases. And as far
22 as specifics of that agreement that day I -- I really
23 couldn't tell you what we concluded. I mean, there was no
24 conclusion that day. That would have been arrived at a
25 different day.

Travis McJunkin
Direct examination by Mr. Holliday

1 Q Okay. You mentioned that the -- the informant named
2 the defendant as a possible person he could have dealings
3 with.

4 A Yes, sir.

5 Q Can you explain that a little bit?

6 A Shondrell indicated that at that point that him and
7 Shondre had a business relationship and that Shondre had
8 been purchasing what we consider large amounts of cocaine.
9 When we say large amounts we --

10 MR. WILKES: Objection. Hearsay.

11 THE COURT: Let me see y'all just a minute.

12 (Bench conference held off the record in the presence
13 of the jury but out of the hearing of the jury.)

14 THE COURT: Overruled.

15 BY MR. HOLLIDAY

16 Q At that point in time did you initiate any
17 communications or did you -- did you and the informant
18 initiate any communications between yourselves and the
19 defendant?

20 A Yes, sir. We placed some phone calls throughout that
21 day actually.

22 Q Were you present when those phone calls were made?

23 A I was present when two of them were made. I do not
24 believe I was present when the third was made, but it's
25 still recorded. But I do not believe I was actually

Travis McJunkin
Direct examination by Mr. Holliday

1 present when the third was made. But other investigators
2 would have been because it was being recorded.

3 Q Did -- did you hear the defendant's voice on those
4 phone calls?

5 A Yes, sir. I mean, at that time I didn't know it was
6 the defendant's, but after the execution or later
7 activities, hearing the voice on the recorded phone calls
8 and hearing the voice of the defendant, I was able to say
9 or able to realize that they were, in fact, the defendant.

10 Q What did the defendant say on those phone calls?

11 A I believe initially the first phone call was rather
12 brief. And, once again, when it comes to terminology and
13 verbiage, you know, I believe the informant might -- are
14 you all right, which I guess would say in the sense that I
15 interpret this you need something. And I believe if I'm
16 not mistaken the defendant, Shondre, said I got a little
17 something.

18 MR. WILKES: Your Honor, I'm going to object to his
19 recanting the phone call and interpreting it before it's --

20 THE COURT: Sustained.

21 Go ahead.

22 Q Based on those phone calls, what did you do next?

23 A Based on the series of phone calls, recorded phone
24 calls that were made, we determined that Shondre Williams,
25 the defendant, had the desire to purchase an amount of

Travis McJunkin
Direct examination by Mr. Holliday

1 cocaine, at which time that would have been communicated to
2 my supervisors in reference to the case.

3 Q Okay. So once y'all have this agreement set up, what
4 did you do?

5 A I would have contacted my supervisors who would have
6 made an arrangement from our chemist, Lieutenant Ashley
7 Harris, to prepare a certain amount of cocaine.

8 And in this case I think early on in the investigation
9 we wasn't sure exactly the exact amount that we were going
10 to need, at which time it would have been prepared and
11 picked up by another officer.

12 I was intimately involved in picking up the actual
13 drugs or the cocaine in this case. And that would have been
14 arranged. And eventually over the course of events us
15 preparing, had the informant, searched him and his car
16 before sending him to the address, which is [REDACTED]
17 [REDACTED] here in the county of Spartanburg, providing him with
18 audio recoding -- audio-video recording device, also the
19 amount of cocaine, and then followed him to the transaction
20 location.

21 Q So you actually when you set up the buy called a sting
22 operation --

23 A Yes, sir.

24 Q -- you met with the informant beforehand.

25 A Well, actually it's after the execution of the search

Travis McJunkin
Direct examination by Mr. Holliday

- 1 warrant in Greenville. I was with him from that point
2 except for I think there's a small period of time when the
3 third phone call was recorded I wasn't present.
- 4 Q Okay. So the search warrant occurred on March 1st.
- 5 A I believe the search warrant actually was executed
6 March the 2nd. You talking about Greenville County?
- 7 Q On the informant when --
- 8 A Yes, sir. I apologize -- I apologize. The search
9 warrant in Greenville County actually occurred on March the
10 1st.
- 11 Q And between March the 1st and March the 2nd you set up
12 a deal between the informant and the defendant?
- 13 A Yes, sir.
- 14 Q So about a 24-hour period -- 24 to 48 hours.
- 15 A No. It was less than that. I mean, it wasn't a full
16 24 hours between the execution of the Greenville County
17 search warrant and execution of our search warrant on
18 Mr. Shondre Williams.
- 19 Q Okay. Did you meet with your other narcotics officers
20 and develop a plan for the sting operation?
- 21 A There were some already with us. Supervisor was with
22 me; Lieutenant Cooper was with me. So all of this is being
23 communicated throughout the day. And finally before the
24 actual cocaine was delivered to the residence we had one
25 large meeting, so to speak, briefing as we call it, to

Travis McJunkin
Direct examination by Mr. Holliday

1 discuss the plan. But prior to that beforehand, I mean, it
2 was being communicated throughout the day by telephone what
3 the plans were. And everyone I think was preparing
4 throughout the day for their role, whatever that may have
5 been.

6 Q So you -- the plan -- where was the -- the sting
7 operation supposed to occur?

8 A The actual transaction was supposed to occur at the
9 defendant's address at [REDACTED].

10 Q Okay. Did -- did you -- did you have the informant
11 with you before the operation?

12 A Yes, sir.

13 Q Did you search his person or his vehicle before he
14 went into the house?

15 A Oh, absolutely, yes, sir.

16 Q Did you locate anything?

17 A No, sir.

18 Q I want to show you what's been premarked as State's
19 Exhibit 3 and ask if you can look at that and see if you
20 can identify what's in that bag.

21 A There's two items in the bag.

22 Q What's the larger item?

23 A That -- that is the nine ounces of cocaine that was
24 prepared.

25 Q Quarter of kilo?

Travis McJunkin
Direct examination by Mr. Holliday

1 A Quarter of kilo, yes, sir.

2 Q About 250 grams?

3 A Roughly, yes, sir.

4 Q And is that -- are those the -- is that the block of
5 cocaine that you provided the informant?

6 A Yes, sir.

7 Q So you got that from the sheriff's office.

8 A Yes, sir. I mean, it would have been provided by the
9 sheriff's office but --

10 Q And it was provided to the informant.

11 A Yes, sir.

12 Q Once you gave the informant those drugs, what
13 happened?

14 A He was followed to the transaction location. I was
15 actually I believe in what we reference a raid van. That's
16 we're all geared up.

17 It was -- it was followed to that purchase location
18 where another investigator in an unmarked vehicle was
19 actually able to follow the informant much closer in than
20 what we could, a residential neighborhood, simply because of
21 the vehicle we were in.

22 Transaction occurred within the residence. The
23 informant left the residence and was followed back out by
24 Investigator -- another investigator, Investigator
25 Tillinghast, at which point after the informant left the

Travis McJunkin
Direct examination by Mr. Holliday

1 residence I had a phone conversation with him just briefly
2 describing what happened, why the informant was on the way
3 back to meet with Investigator Tillinghast at that point,
4 telling me the events, what had occurred essentially in the
5 house.

6 Q Did Investigator Tillinghast give you any -- give you
7 anything after the incident?

8 A Yes. After the incident Investigator Tillinghast gave
9 me \$4,000 in U.S. currency.

10 Q And where did you believe that money came from?

11 A I believe it came -- at the time I believe Shondre
12 Williams supplied that to the informant in exchange for the
13 cocaine.

14 Q You said you equipped the informant with video and
15 audio equipment.

16 A Yes, sir.

17 Q I'm going to hand you what's been marked State's
18 Exhibit 4. Have you seen that disc before?

19 A Yes, sir, I have.

20 Q And do you know the contents of that disc?

21 A Should be a D.V.D. that I prepared. It has my
22 handwriting on there in reference to the recorded audio
23 phone calls and audio visual recording device we supplied
24 the informant with for this case.

25 Q The recording of the sting drug operation.

Travis McJunkin
Direct examination by Mr. Holliday

1 A The regimen of the phone calls and also the video,
2 yes, sir.

3 Q Once you'd been told that the drug deal had gone down,
4 what happened next?

5 A Investigator Hutchins completed a search warrant and
6 signed the search warrant, after which he notified us, the
7 rest of the remaining unit, the search warrant had been
8 signed, at which point we went ahead and executed the
9 search warrant at [REDACTED]

10 Q When you breached the residence, when you went into
11 the house, what did you see?

12 A Specifically, I don't remember if I was the first
13 person in the door. Specifically, I believe I was. I
14 can't swear to it a hundred percent.

15 But I just remember -- the first thing I saw was
16 Mr. Williams kinda of -- when you enter the house you're
17 going straight into the house, and it's almost like if you
18 keep going straight, it's like the living room area if I'm
19 not mistaken. There's a living room area.

20 I remember seeing him standing there at which point --
21 that's the only thing that just sticks out in my mind
22 immediately, at which point we began clearing the house,
23 detaining individuals, which includes handcuffing them. And
24 then we brought them all to one central location once that
25 had actually -- once we were actually inside the house.

Travis McJunkin
Direct examination by Mr. Holliday

1 And we do that for safety purposes, for security
2 purposes. Also, before that we would have -- I think we sat
3 them down to the couches in the living room area. We would
4 have searched the couches pretty much just to make sure
5 there's no knives, you know, hand grenades, guns, anything
6 that could cause harm to anybody for safety purposes.

7 Q Once you had the suspects in the house here did you --
8 did you give them the Miranda warnings?

9 A Yes, sir. Once all the adults -- because there was a
10 juvenile there -- were in one central location I Mirandized
11 them as a group, not individually. And after I Mirandized
12 them and read them their rights I asked each one
13 individually do you understand your rights. And all of the
14 adults in the house including the defendant, Mr. Williams,
15 acknowledged they understood their rights.

16 Q Did you at that point begin a conversation with the
17 defendant?

18 A At that point myself and Lieutenant Cooper took
19 Shondre, the defendant, to a separate room, began
20 questioning him attempting to gain his cooperation at this
21 point as well.

22 Q And what happened to that conversation?

23 A At first Shondre was not receptive to what we had to
24 say. We kind of used the back -- we just told him we knew
25 what had happened, told him we knew that there were nine

Travis McJunkin
Direct examination by Mr. Holliday

1 ounces of cocaine there, asked him where the nine ounces
2 is, where the quarter kilo of cocaine.

3 At first I remember -- and I don't remember
4 specifics -- but he didn't want to tell us saying that he
5 didn't know what had happened, why we were there.
6 Eventually, he told us --

7 MR. WILKES: Objection. Prior -- my prior issue on
8 the statements of the defendant.

9 THE COURT: Overruled.

10 A Eventually he told us that he had hid it outside in
11 the back-yard area.

12 when you walk out -- I believe there's sliding glass
13 doors in the same living room. We had Mirandized everyone
14 and detained everyone. Sliding glass doors if I'm not
15 mistaken takes you to the back-yard area. It's a nice size
16 backyard area, fenced in. Said he had threw it out there.
17 I think he may have made reference to paranoia, you know,
18 just scared to keep that much in the house.

19 So we walked around, myself and Lieutenant Cooper. We
20 walked around with him for quite some time in this back
21 yard.

22 During this time he looked like he was looking for
23 something, and then he said that he may have throwed it
24 under the fence. There's like a little wooded area behind
25 the back yard. Well, we looked around, you know, the fence

Travis McJunkin
Direct examination by Mr. Holliday

1 area trying to locate this cocaine.

2 And finally we told him, hey, this doesn't make any
3 sense, why would you throw nine ounces of cocaine outside in
4 the woods, at which point he finally agreed to show us where
5 the cocaine was. And then he took us to the garage area and
6 pointed it out beside the hot water heater located in the
7 garage where the actual cocaine was.

8 (Photograph marked State's Exhibit No. 6 for
9 Identification; photograph marked State's Exhibit No. 7 for
10 Identification.)

11 Q I show you what's been premarked State's Exhibits 6
12 and 7. Are those true and accurate representations of the
13 garage of the house that you did the search warrant at?

14 A Yes, sir. This is like the hot water heater located
15 in the garage area where the cocaine was found, yes, sir.

16 Q And is that where the defendant pointed to?

17 A Yes, sir, it is.

18 Q And what did you find behind the water heater?

19 A You can see it's kind of well positioned behind there.
20 It's not immediately visible to the front. You can see the
21 handles, and it looks like a gas -- looks like a gas
22 powered -- or I'm not familiar with hot water heaters. It
23 looks like it's powered by gas or heated by gas.

24 You can see it's a little more around the back. So you
25 kinda had to struggle to see it, but behind there you could

Travis McJunkin
Cross-examination by Mr. Wilkes

1 see the nine ounces of -- or quarter of kilo cocaine back
2 behind the hot water heater.

3 MR. HOLLIDAY: No further questions of this witness at
4 this time.

5 THE COURT: Mr. Wilkes.

6 MR. WILKES: May it please the Court.

7 CROSS-EXAMINATION

8 BY MR. WILKES

9 Q Investigator McJunkin, was the C.I. or the informant
10 in custody from his dealings in Greenville all the way
11 through this transaction? Was he in custody the entire
12 time?

13 A No, sir. I don't believe so. I mean, he was with us
14 but I don't -- I wouldn't consider him in custody.

15 Q Okay. But he was in your personal observation the
16 whole time?

17 A Not my personal observation the whole time, but he was
18 with the sheriff's office the entire time, yes, sir.

19 Q Okay. So he was with some agent of the sheriff's
20 office at all times.

21 A Yes, sir.

22 Q Okay. And did he have two cell phones with him? Is
23 that what you recall?

24 A Yes, sir. I believe so.

25 Q Okay. And y'all didn't take those away from him at

Shondrell Williams
Direct examination by Mr. Holliday

1 case now. I'll bring you back after a short break.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: What's the break for?

5 MR. HOLLIDAY: I believe the court reporter needs to
6 make sure everything's accounted for that's been presented
7 to the Court.

8 May we approach, Your Honor?

9 THE COURT: Okay.

10 (Bench conference held off the record.)

11 (Whereupon, a recess was taken.)

12 THE COURT: All right. Bring the jury in, please.

13 (The following takes place in the presence of the
14 jury.)

15 THE COURT: All right. Mr. Holliday.

16 MR. HOLLIDAY: Your Honor, the state calls Shondrell
17 Williams to the stand.

18 SHONDRELL WILLIAMS, having
19 been first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. HOLLIDAY

21 Q All right. Mr. Williams, could you please state your
22 name for us?

23 A Shondrell Williams.

24 Q And, Mr. Williams, where are you from?

25 A Spartanburg.

Shondrell Williams
Direct examination by Mr. Holliday

- 1 Q And you're involved in this case as an informant, is
2 that correct?
- 3 A Yes.
- 4 Q And --
- 5 THE COURT: You need to use that black microphone and
6 speak up loudly so we can all hear what you have to say.
- 7 A Yes, sir.
- 8 Q Would it be fair to say you've got a little bit of a
9 criminal history?
- 10 A Yes, sir.
- 11 Q And you've got some -- you've got some prior drug
12 trafficking charges.
- 13 A Yes, sir.
- 14 Q And you served time on those charges.
- 15 A Yes, sir.
- 16 Q Two within the last ten years. Is that fair to say?
- 17 A Two, yeah, yes, sir.
- 18 Q You were arrested twice in the last ten years.
- 19 A Yes, sir.
- 20 Q And they're both felony level drug convictions.
- 21 A Yes, sir.
- 22 Q But you served your prison time on those.
- 23 A Yes, sir.
- 24 Q On March 1st of 2012 did the Greenville County
25 Sheriff's Office come to your house?

Shondrell Williams
Direct examination by Mr. Holliday

- 1 A Yes, sir.
- 2 Q And can you tell us what happened there?
- 3 A They came to my house on some -- on some warrants they
- 4 said they had me for. They questioned me, went through my
- 5 phone, asked about Mr. Williams and got his phone number
- 6 outta my phone and made transaction to call him, and that's
- 7 when make the deal or whatever.
- 8 Q Okay. Did they find drugs at your house?
- 9 A Yes, sir.
- 10 Q And did you agree to cooperate with the police?
- 11 A Oh, yes, sir.
- 12 Q And at that point in time what was your agreement with
- 13 the police?
- 14 A Say what, now?
- 15 Q At that point in time when they were at your house did
- 16 you and the police make an agreement?
- 17 A Oh, yeah. They gave me a nice deal. They told like
- 18 if I do what I had to do, no prison time.
- 19 Q Okay. They told you no prison time.
- 20 A Yes, sir.
- 21 Q And subsequent to that you reached a formal written
- 22 agreement where they agreed to dismiss your charges if you
- 23 cooperated?
- 24 A Oh, yes, sir.
- 25 Q And you were facing substantial prison time.

Shondrell Williams
Direct examination by Mr. Holliday

- 1 A Oh, yes, sir.
- 2 Q So you had some motivation to cooperate.
- 3 A Oh, yes, sir.
- 4 Q You said you know Mr. Williams. I assume you're
- 5 referring to the defendant.
- 6 A Oh, yes, sir.
- 7 Q Had you had any prior contact with him outside of the
- 8 courtroom today?
- 9 A Previous?
- 10 Q Previous contact with him?
- 11 A Oh, yeah.
- 12 Q And could you identify him today?
- 13 A Yeah. There he is right there.
- 14 Q What was the nature of your relationship?
- 15 A Just straight business.
- 16 Q When you say business, what do you mean?
- 17 A You know, buy drugs.
- 18 Q Would you buy from him? Would he buy from you? What
- 19 was your relationship like?
- 20 A Last year or so he was buying from me.
- 21 Q So you were his supplier?
- 22 A Yeah. That's what I'm saying. Yeah.
- 23 Q How many times have you sold to the defendant in the
- 24 past?
- 25 A Around three times.

Shondrell Williams
Direct examination by Mr. Holliday

- 1 Q About three times before?
- 2 A Yeah.
- 3 Q So you had his contact information?
- 4 A Yes, sir.
- 5 Q When the sheriff's deputies arrived at your house and
- 6 you told them you had a relationship with the defendant did
- 7 you make any phone calls to him?
- 8 A Yeah, we made phone calls.
- 9 Q And what was the nature of those phone calls?
- 10 A Just letting him know that I had some for him or
- 11 whatever. And he was like that he was already yelling
- 12 he'll get back with me when he, you know, gets hisself
- 13 together.
- 14 Q Okay. You say you had something for him.
- 15 A Uh-huh.
- 16 Q What does that mean?
- 17 THE COURT: Is that a yes or a no?
- 18 THE WITNESS: Yes.
- 19 THE COURT: Use the words yes or no, please.
- 20 THE WITNESS: Yes, sir.
- 21 Q You say you had something for him. What does that
- 22 mean?
- 23 A I had drugs for him.
- 24 Q Okay. And where were you going to get those drugs
- 25 from?

Shondrell Williams
Direct examination by Mr. Holliday

- 1 A Spartanburg County.
- 2 Q From the sheriff's office?
- 3 A Yeah.
- 4 Q Okay. And when he said he'd call you when he got
5 something, when he was ready, what did that mean?
- 6 A Well, that he already had -- already had drugs. Once
7 he got rid of them, he was going to call me.
- 8 Q So when he needed more drugs, he would call you.
- 9 A Yeah.
- 10 Q So you had a working relation -- business -- I call it
11 business relationship with him.
- 12 A Yeah.
- 13 Q It's ongoing.
- 14 A Yeah. Yes, sir, what I say.
- 15 Q So on -- you went from your house. You went into --
16 you went with the sheriff's office. You went with them to
17 Spartanburg?
- 18 A Oh, yeah. They -- he -- they packed me up and made me
19 go.
- 20 Q Okay. They made you go?
- 21 A Sort of.
- 22 Q But you could have -- you could have refused to
23 cooperate.
- 24 A Yeah.
- 25 Q Did they tell you -- I earlier heard it referred to as

Shondrell Williams
Direct examination by Mr. Holliday

- 1 a sting operation, a plan to sell drugs to the defendant.
2 Did they tell you about the plan? Did you have a plan to
3 go into the defendant's house?
4 A Oh, yeah, yes, sir.
5 Q And -- and what was that plan?
6 A The plan -- I guess the plan was to when he called
7 take the drugs over there and get the money and bring it
8 back to them.
9 Q Okay. Do you remember who gave you the drugs and how
10 much it was and anything like that?
11 A I think it was Lieutenant Cooper.
12 Q Lieutenant Cooper?
13 A Yeah. You got it.
14 Q Was Investigator McJunkin there as well?
15 A Yeah, yes, sir.
16 Q Okay. How much drugs did -- what kind of quantity and
17 what type of drugs did they give you?
18 A Nine ounces of powder.
19 Q Okay. I'm going to show you what's been marked
20 State's Exhibit 3. That white block right there, does that
21 look familiar?
22 A Yeah. That's it.
23 Q That's a -- could it be commonly referred to as a
24 quarter kilo of cocaine?
25 A Yeah.

Shondrell Williams
Direct examination by Mr. Holliday

- 1 Q Okay. Did you sell that to the defendant?
- 2 A Yes, sir.
- 3 Q How much did he pay for it?
- 4 A Gave me \$4,000.
- 5 Q Okay.
- 6 A And told me he owed me the rest.
- 7 Q He owed you the rest.
- 8 A Yeah.
- 9 Q How much did he owe you?
- 10 A Five grand.
- 11 Q About five grand. So \$9,000 all total, about a
- 12 thousand dollars per ounce?
- 13 A Yes, sir.
- 14 Q Okay. So if you were going to sell him four ounces
- 15 you would sell -- that would be about \$4,000 you're going
- 16 to --
- 17 A Yes, sir.
- 18 Q But your understanding was he owed you the rest of the
- 19 money.
- 20 A Yes, sir.
- 21 Q So he was -- like a down payment.
- 22 A Yes, sir.
- 23 Q Were you equipped with any sort of recording equipment
- 24 when you went into the house?
- 25 A Oh, yes, sir.

Shondrell Williams
Direct examination by Mr. Holliday

- 1 Q And do you remember where the house was?
- 2 A Not off the -- not off the bat.
- 3 Q But it was in Spartanburg County?
- 4 A Yes, sir.
- 5 Q And it was the defendant's residence?
- 6 A Yes, sir.
- 7 Q Okay. You were equipped with an audio and video
- 8 recording device?
- 9 A Yes, sir.
- 10 Q I'm going to show you what's been marked State's
- 11 Exhibit 4. This is a D.V.D. Have you had a chance to
- 12 watch this D.V.D. at the solicitor's office?
- 13 A Yes, sir.
- 14 Q Okay. So you're aware of the contents?
- 15 A Yes, sir.
- 16 Q Is that the video from the wire that you wore to the
- 17 defendant's house?
- 18 A Yes, sir.
- 19 Q When you went into the house or the garage -- well,
- 20 when you went into the house, where did you go?
- 21 A To the garage.
- 22 Q Okay. What happened inside the garage?
- 23 A Made -- made the exchange. He gave -- I gave him the
- 24 drugs. He gave me the money.
- 25 Q Okay. Then you -- after you sold him the drugs and

Shondrell Williams
Direct examination by Mr. Holliday

- 1 you got the money, you left the house?
- 2 A Yes, sir.
- 3 Q Where did you go?
- 4 A Went back to where they told me to go back to. And I
- 5 gave it to the officers.
- 6 Q Okay. You gave what?
- 7 A The money.
- 8 Q All right. I'm going to show you State's Exhibit 16.
- 9 How much money did you say he gave you?
- 10 A Four thousand. \$4,000.
- 11 Q And is that the \$4,000 that he paid you?
- 12 A Yes.
- 13 Q And you gave that to the sheriff's office?
- 14 A Yes, sir.
- 15 Q Do you remember who exactly you gave it to?
- 16 A I don't know them by name like that.
- 17 Q Okay. You'd recognize him if you saw them?
- 18 A Yeah.
- 19 Q One of the deputies was there.
- 20 A Yeah. I remember the face.
- 21 Q Okay.
- 22 MR. HOLLIDAY: Your Honor, at this time the state
- 23 would move Exhibit 4 into evidence and request permission
- 24 to publish to the jury.
- 25 MR. WILKES: No objection. That's the video.

Shondrell Williams
Direct examination by Mr. Holliday

1 THE COURT: It's admitted.

2 (D.V.D. marked State's Exhibit No. 4.)

3 THE COURT: All right. Let me ask the jurors if
4 you'll move down one seat. You'll be able to -- everybody
5 will see a little bit better the screen.

6 (Pause.)

7 THE COURT: Are you going to have the witness narrate
8 or explain the video?

9 MR. HOLLIDAY: We can wait until after the video is
10 played, Your Honor.

11 THE COURT: Okay.

12 (Whereupon, the video was played for the jury.)

13 Q Okay. Mr. Williams, after watching that video, I've
14 got a couple of questions for you. Maybe you can explain.

15 It looked like -- first off, there's the gentleman in
16 the video wearing a white t-shirt, had a "G" on it. Do you
17 know who that was?

18 A Mr. Williams.

19 Q Mr. Williams, the defendant. You pointed to in the
20 courtroom -- Shondre Williams?

21 A Uh-huh.

22 Q That's the same person you sold the -- the cocaine to?

23 A Yes, sir.

24 Q We saw the white block on the video. That's the same
25 block that's in the courtroom today?

Shondrell Williams
Direct examination by Mr. Holliday

- 1 A Yes, sir.
- 2 Q And the money that we saw in the video that he paid to
3 you --
- 4 A Yes, sir.
- 5 Q -- that's the same money that's in the courtroom
6 today? It looked like he smelled the cocaine or something
7 on the video. Is that typical?
- 8 A I -- I don't know.
- 9 Q Okay. Did -- did the defendant complain about the
10 quality of any previous cocaine that you had sold to him?
- 11 A Yeah. He always wanted to do that.
- 12 Q Always complained about it. I think you say on the
13 video that the previous cocaine you supplied him wouldn't
14 drop. Do you know what that means?
- 15 A Wasn't dropped?
- 16 Q Yeah. Said it wasn't dropped.
- 17 A I guess it wasn't cooked. I guess it wasn't cooked
18 for him the way he wanted to, yes.
- 19 Q Wasn't cooked for him.
- 20 A Yeah.
- 21 Q What does that mean? What is -- if you were trying to
22 explain to somebody who didn't know about cooking cocaine,
23 what do you cook cocaine to make?
- 24 A Crack.
- 25 Q Crack. Okay. So he was saying that the cocaine you

Shondrell Williams
Cross-examination by Mr. Wilkes

1 had been giving him before wasn't up to par?

2 A I guess so.

3 Q It wasn't good enough stuff.

4 A Yeah, yes, sir.

5 MR. HOLLIDAY: No further questions.

6 THE COURT: Mr. Wilkes.

7 MR. WILKES: May it please the Court.

8 CROSS-EXAMINATION

9 BY MR. WILKES

10 Q When you pulled up to the house, where did you park,
11 street or in the driveway?

12 A In front of the house.

13 Q Okay. You didn't pull in the driveway?

14 A No, sir.

15 Q Okay. Now, how long had you known the defendant,
16 since what age?

17 A About ten.

18 Q Okay. And were you selling drugs to each other when
19 you were ten?

20 A No.

21 Q Okay. So y'all were friends when you were kids.

22 A No. We just grew up together. I ain't said, you
23 know, no friends.

24 Q You have any friends? He just wasn't your friend?

25 A I don't have friends.

Shondrell Williams
Cross-examination by Mr. Wilkes

- 1 Q Okay. Is it possible he thought you were his friend?
- 2 A No. Just business.
- 3 Q But you know him since he was ten.
- 4 A Yeah.
- 5 Q Has he been to your house when you were kids?
- 6 A No.
- 7 Q You been to his house when you were kids?
- 8 A No, just on the streets.
- 9 Q You don't know his mother?
- 10 A Not personally.
- 11 Q Never been to her house?
- 12 A Yes.
- 13 Q Okay. Why would you be --
- 14 A It's -- it's at a age level.
- 15 Q Okay. Well, you've been to her house.
- 16 A Yeah. Over the ages -- not little kids.
- 17 Q What age?
- 18 A What? About 30, about 30, about 30 years old.
- 19 Q How old are you now?
- 20 A Thirty-four.
- 21 Q So you've known him for 20 something years?
- 22 A Yeah.
- 23 Q Go to school together?
- 24 A No, no, sir.
- 25 Q Just in the neighborhood?

Shondrell Williams
Cross-examination by Mr. Wilkes

- 1 A Yes, sir.
- 2 Q Okay. Now, had you had a fight or any disagreement
3 with the defendant prior to this?
- 4 A Nah, no, sir.
- 5 Q No arguments or anything?
- 6 A No, sir.
- 7 Q So y'all were getting along good.
- 8 A I ain't going to say getting along. We just don't
9 talk. It's just straight business.
- 10 Q Okay. But you had no fights and no disagreements.
- 11 A No, sir.
- 12 Q All right. Now, you had said you made calls to him.
13 You were in Greenville, and the police came.
- 14 A Yes, sir.
- 15 Q Okay. Tell me what happened when you were in
16 Greenville and the police came.
- 17 A Well, they came in the house with a search warrant and
18 said that they had warrants for me and offered me a deal,
19 said I don't have to do no jail time. So I did what I had
20 to do.
- 21 Q Okay. And what you had to do to avoid jail time.
- 22 A Yes, sir.
- 23 Q Because you've been in jail.
- 24 A Yes, sir.
- 25 Q And you had no plans of going back.

Shondrell Williams
Cross-examination by Mr. Wilkes

- 1 A No, sir.
- 2 Q All right. Do you know what you were facing at that
- 3 time? Would you agree with me that you were facing at
- 4 least a minimum mandatory of 25 and then some?
- 5 A Yes, sir.
- 6 Q Okay. You had plenty of motivation to cooperate with
- 7 the police.
- 8 A If that's what you want to call it, yes, sir.
- 9 Q What would you call it?
- 10 A Trying to stay free for my kids.
- 11 Q Okay. And so you make phone calls to the defendant.
- 12 You make some phone calls to him.
- 13 A Yes, sir.
- 14 Q Okay. And those phone calls I think were recorded,
- 15 correct?
- 16 A Yes, sir.
- 17 Q And the police have those phone calls.
- 18 A Yes, sir.
- 19 Q How many phone calls did you make that were recorded?
- 20 A One, two. I mean, I called, and he called back.
- 21 Q You possibly make more phone calls to him than that?
- 22 A No, sir, not as I recall.
- 23 Q Okay. The tapes would show us though, wouldn't they?
- 24 A Yeah.
- 25 Q Okay. And did your first conversation with him, did

Shondrell Williams
Cross-examination by Mr. Wilkes

1 he essentially say no?

2 A What he said was -- on the phone he said he was
3 already straight, he had some. He said when he do, when he
4 get rid of that, he was going to call me. And we hung up
5 the phone. He made the -- initially the call back himself.

6 Q Let me ask you this. You're -- are you saying that's
7 verbatim what the jury will hear on those tapes, or are you
8 just interpreting what those words are?

9 MR. HOLLIDAY: Objection, Your Honor. If the defense
10 wants to introduce those into evidence we can listen to
11 them, but the defendant doesn't need to testify about it.

12 THE COURT: Well, he's a party to the conversation,
13 isn't he?

14 MR. HOLLIDAY: Yes, sir.

15 THE COURT: Overruled.

16 BY MR. WILKES

17 Q Are you saying what those tapes indicated, or are you
18 interpreting them?

19 A What do you mean, interpreting?

20 Q Now, are telling me exactly what those --

21 A No. I can't tell you word for word what was said.

22 Q Okay.

23 A I can tell you the main thing that was the topic and
24 what was discussed.

25 Q All right. Did he tell you when you called him the

Shondrell Williams
Cross-examination by Mr. Wilkes

- 1 first time that he'd take some? Did he say yes?
- 2 A Like I said, again, repeat once again, he said he
- 3 already had some, that he was straight. And he said that
- 4 when he got rid of whatever that he would call back.
- 5 Q So he didn't --
- 6 A And the tapes will say that, show he called back.
- 7 Q He gave you an excuse and said no.
- 8 A Yes, sir, over the phone, yes, sir.
- 9 Q Okay. Now, you talked to him later again, didn't you?
- 10 A Uh-huh.
- 11 Q And you tried to get him to talk about buying drugs,
- 12 or I guess buying drugs from you, right?
- 13 A What you do you mean, I tried to get him to talk about
- 14 it?
- 15 Q Did you have a conversation about it?
- 16 A Yeah, we had a conversation. That's why we called
- 17 back.
- 18 Q Are you sure that was the callback, or another call?
- 19 A He called back. That's all I can say. He called
- 20 back, and we discussed whatever that was --
- 21 Q In a conversation with him did he -- did you work at
- 22 him awhile and he say, well, maybe, just a little bit?
- 23 Anything like that on one of those tapes?
- 24 A We can listen to the tapes.
- 25 Q I'm just asking you. Did you talk him in --

Shondrell Williams
Cross-examination by Mr. Wilkes

1 A No. I didn't talk him into nothing.

2 Q So you would say there's -- there's no statement that
3 he made after you talked to him about maybe -- maybe just a
4 little bit.

5 A When he said he had four thousand, he said that -- I
6 told him that he can owe me the rest.

7 Q Ask -- just answer the question yes or no first.

8 A You ain't letting me answer the question.

9 Q And then you can answer it.

10 MR. HOLLIDAY: Your Honor, he needs to be allowed to
11 explain his answer.

12 THE WITNESS: Yeah. He's trying to -- won't give me a
13 chance.

14 THE COURT: Well, answer his question. Then you may
15 explain it if you need to.

16 THE WITNESS: Okay.

17 BY MR. WILKES

18 A What you asking me? Clear -- clarify it.

19 Q Did he make a statement after you had said a bunch of
20 stuff? Did he make some comment about, okay, maybe a
21 little bit?

22 A Oh, yeah, yeah, yeah, yeah, yeah.

23 Q Okay. All right. Now, a little bit wouldn't be a
24 quarter of kilo, would it?

25 A Would a -- would it be a quarter of kilo? I don't

Dan Swad
Direct examination by Mr. Holliday

1 voice on the video.

2 Q Okay. And your testimony or your voice on the video
3 is the one saying we've got money in hand.

4 A Yes, sir. I believe I said I have the cash.

5 Q Have the cash. And that was -- anything else you
6 relayed other than that?

7 A I don't recall.

8 Q Okay.

9 MR. WILKES: No further questions of this officer.

10 MR. HOLLIDAY: Nothing further, Your Honor.

11 THE COURT: You may step down.

12 MR. HOLLIDAY: The state calls Dan Swad.

13 DAN SWAD, having been first
14 duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. HOLLIDAY

16 Q Investigator Swad, could you state your name for the
17 record, please?

18 A Dan Swad, S-W-A-D.

19 Q And you work at the sheriff's office?

20 A I do.

21 Q And what do you do?

22 A I'm an investigator assigned to the narcotics unit.

23 Q And how long have been doing that?

24 A Well, I've been with the sheriff's office about 30
25 years.

Dan Swad
Direct examination by Mr. Holliday

1 Q Okay. How long have you been specifically in
2 narcotics?

3 A Total about 15 years.

4 Q Okay. Were you involved in the case against the
5 defendant, Mr. Shondre Williams?

6 A Yes, sir.

7 Q Do you recognize him in the courtroom today?

8 A Yes, sir.

9 Q How were you involved in that investigation?

10 A I went on a search warrant with the rest of the unit,
11 and my specific duty was to do the return of the search
12 warrant, which is like a written record of what was taken
13 from the residence.

14 Q Okay. So you were -- you were there and part of the
15 team that did the search of the house?

16 A Yes, sir.

17 Q As part of that search did you locate any items in the
18 house?

19 A Yes, sir. As investigators that were searching the
20 house located stuff they would call me to come and recover
21 the items.

22 Q Uh-huh.

23 A And I would then list them on part of the search
24 warrant called the return.

25 Q Okay. Can you recall what items you found in the

Dan Swad
Direct examination by Mr. Holliday

1 house?

2 A Yes, sir.

3 Q Do you need to see the return to refresh your memory?

4 A The return would be good just in case.

5 Q What did you locate in the house upon -- upon the
6 search?

7 A Well, Investigator McJunkin called me into the garage
8 area where the water heater was located, and behind that
9 water heater was a plastic bag with a white block-like
10 substance in it.

11 Q And I'm going to let you take a look right here,
12 State's Exhibit No. 3. The white block substance, is that
13 the same substance you found behind the water heater?

14 A Yes, sir, because I would have placed it in this BEST
15 bag right here with my signature on it.

16 Q Did you tamper it or alter it in any way?

17 A No, sir.

18 Q You placed it in the bag. And did you seal the bag?

19 A Yes, sir. It has a tamperproof or tamper evident seal
20 on it.

21 Q Okay. I'm going to get you to look at a couple of
22 pictures for me and give us an idea of what was going on at
23 the house. These are marked exhibits, State's Exhibits 5
24 through 14. See if you can identify those for us.

25 A Yes, sir.

Dan Swad
Direct examination by Mr. Holliday

1 Q Are those a true and accurate representation of the
2 house and the items as you saw them that evening?

3 A Yes, sir.

4 MR. HOLLIDAY: At this time the state would move
5 Exhibits 5 through 14 into evidence.

6 MR. WILKES: Your Honor, we had made a prior Emory
7 [sic] objection, which we would raise that again since
8 those are the result of a search warrant.

9 THE COURT: Overruled. They are admitted.

10 (Photographs marked State's Exhibits Nos. 5 through
11 14.)

12 Q Start with State's 7. Is this the water heater you
13 were referring to?

14 A Yes, sir. It's kind of in a corner. There is two
15 walls that are all around it.

16 Q And what led y'all to search behind the water heater,
17 or were you instructed by another investigator to look
18 at --

19 A I was called by Investigator McJunkin to come and
20 retrieve it.

21 Q Investigator McJunkin found that over there.

22 A Yes, sir.

23 Q Okay. And what is this picture?

24 A Well, it's to the right, I guess, if you're looking at
25 it there. It's the water heater. And down below it --

Dan Swad
Direct examination by Mr. Holliday

1 well, yeah, right there you're pointing to is the white
2 block-like substance in a plastic bag.

3 Q That's what's in State's Exhibit 3?

4 A Yes, sir. Right here.

5 Q That's --

6 A And that's the bag picked up, you know, picked up from
7 the floor.

8 Q All right. What other items did you find in the
9 house?

10 A Well, in the area where I was writing I had posted up
11 at a counter. I did a little searching, and on top of the
12 cabinets in the kitchen over on the top --

13 Q State's Exhibit 8?

14 A Yeah. Take your pointer and point above the
15 microwave. Right in that area I found a -- some rock-like
16 substance, some small white rock-like substances on a
17 plate, I believe.

18 Q Is that what you saw on top of the counter?

19 A Yeah, yeah, that's -- yes, sir, that's it up there in
20 a plastic bag.

21 Q Okay. Did you recover that substance?

22 A Yes, sir, I did.

23 Q Did you alter it or change it in any way?

24 A No, sir.

25 Q What did you do with it?

Dan Swad
Direct examination by Mr. Holliday

- 1 A Again, placed it in the BEST evidence bag.
- 2 Q So it -- that's this other white rock substance we can
- 3 see in State's Exhibit 3?
- 4 A Yes, sir.
- 5 Q And you sealed the bag?
- 6 A Yes, sir.
- 7 Q And once you sealed that bag, what did you do with it?
- 8 A Then we take it to the sheriff's office evidence
- 9 locker.
- 10 Q Okay. And you put it in the locker?
- 11 A Yes, sir.
- 12 Q That's just another picture.
- 13 A Yes, sir. That's standing up on top of the counter
- 14 picking it up.
- 15 Q Okay. What else did you find in the house?
- 16 A Investigator Schafer in that same area in a drawer
- 17 right there in that area found a set of scales, which I
- 18 recovered digital scales.
- 19 Q This is State's Exhibit 13.
- 20 A Yes, sir.
- 21 Q Those are the scales?
- 22 A Yes, sir. And that's right there in that same area
- 23 under the microwave type where we saw that.
- 24 Q Okay. I'm going to ask -- this is marked State's
- 25 Exhibit 15 and ask if you could open that for me.

Dan Swad
Direct examination by Mr. Holliday

- 1 A Pull it out?
- 2 Q Can you tell us what's in the bag?
- 3 A Yes, sir. I think it fell down behind that --
- 4 Q Those are the scales that you recovered at the scene?
- 5 A Yes, sir.
- 6 Q What else did you find on the scene?
- 7 A Investigator Hancock -- I believe it was -- called me
- 8 to an upstairs bedroom. From the shape and size of it I'd
- 9 say it was the master bedroom. Had a big walk-in closet.
- 10 He had found a quantity of currency, United States
- 11 currency, and a money counter.
- 12 Q And this is State's Exhibit 12?
- 13 A Yes, sir.
- 14 Q Is that the currency found in the closet?
- 15 A Yes, sir.
- 16 Q State's Exhibit 11.
- 17 A Yes. That's in a drawer up in the same area, the
- 18 master bedroom.
- 19 Q Do you know approximately how much currency you
- 20 located?
- 21 A We did a rough count there that night and looks like
- 22 about \$12,500 or so, just over that. There was another
- 23 amount of currency found.
- 24 Q And this is State's Exhibit 14. Can you tell us what
- 25 that is?

Dan Swad
Direct examination by Mr. Holliday

1 A Yes. That's the money counter that was in the closet
2 there when Investigator Hancock called me upstairs to come
3 and recover it.

4 Q And can you tell us what else is in the State's
5 Exhibit 15 bag there?

6 A Yeah. The money counter that we recovered.

7 Q Would you pull it out for us? And is that the same
8 item you recovered on the scene?

9 A Yes, sir, it is.

10 MR. HOLLIDAY: Your Honor, at this time we would move
11 the contents of State's 15 into evidence.

12 MR. WILKES: Your Honor, I'm going to object. I don't
13 believe they've proven the full chain. I don't believe
14 they could testify as to the person that actually found it
15 and where it was found and the condition it was found. I
16 think -- if I understood it, he just recovered it. He was
17 called up. He was --

18 THE COURT: I understand.

19 Let me see y'all just a minute.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 BY MR. HOLLIDAY

23 Q Investigator Swad, did anyone else touch these items
24 before you part of -- the money counter and the scale, or
25 were you the first person to take possession of those

Dan Swad
Direct examination by Mr. Holliday

1 items?

2 A To my knowledge they were setting in the place where
3 they were seen, first seen, and I recovered them.

4 Q So no one else was -- was -- no one else took
5 possession of those items other than you.

6 A No, sir. Not to my knowledge.

7 MR. HOLLIDAY: Your Honor, we would again move to
8 introduce Exhibit 15.

9 MR. WILKES: Again, Your Honor, I would object to
10 that. Just because he recovered it and somebody said they
11 were found here does not mean that they have established
12 the person -- through the person that found them the
13 condition of it, where they were found and located, which I
14 think they have to do other than just somebody told me to
15 come and pick them up.

16 Somebody told him look at this, I found this and pick
17 it up. They're still basing their admissibility on
18 hearsay.

19 I think they need to have that person testify where
20 they found it and that they actually found it there rather
21 than to rely on hearsay through somebody that was told to
22 come and get it.

23 THE COURT: All right. Note your objection.
24 Overruled.

25 (Scale and money counter marked State's Exhibit No.

Dan Swad
Cross-examination by Mr. Wilkes

1 15.)

2 BY MR. HOLLIDAY

3 Q Investigator Swad, do you know what day it was when
4 you executed the search warrant?

5 A I -- I believe it was -- it was right around midnight
6 sometime. It was late. It says here March 2nd, and I
7 think it was actually the 3rd. I'm not sure which day it
8 was to be honest with you. It's been a year.

9 Q Did -- when you recovered the -- the drugs, how long
10 from when you recovered them to when they were turned in in
11 the drop box? How long of a time period? Did you go
12 anywhere or did you go straight?

13 A Oh, no, no. We go -- when we leave there we go to the
14 office and process the evidence immediately.

15 Q So you took it straight to the sheriff's office.

16 A Yes, sir.

17 MR. HOLLIDAY: No further questions, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. WILKES

20 Q On this evidence that you say you recovered, were you
21 the one that actually saw that evidence first? You say you
22 saw it. But did you see it first?

23 A No, sir.

24 Q You don't know where it was when it was first seen.

25 A No, sir, just where the investigator told me it was.

Dan Swad
Redirect examination by Mr. Holliday

1 Q And can you tell me? Does -- does the contents of
2 that bag appear to be in the same condition as you found
3 it?

4 A Yes, sir.

5 Q Any differences you can note?

6 A No, sir.

7 Q Okay. Thank you. Did you weigh the material?

8 A No, sir.

9 Q Did you see anybody weigh it?

10 A No, sir.

11 MR. WILKES: No further questions of this witness.

12 Q Thank you, sir.

13 REDIRECT EXAMINATION

14 BY MR. HOLLIDAY

15 Q Mr. Swad, can you identify this document for me?

16 A It's a copy of our sheriff's office evidence --
17 evidence form is what we call that.

18 Q And what does that document show?

19 A It lists the date, time, case number, the owner of the
20 property, their address and the property.

21 Q And what property is listed on that?

22 A A set -- a bill counter and a set of digital scales.

23 Q So that document was prepared as part of this case?

24 A Yes, sir.

25 Q And in preparing that in the normal course of -- of

Anita Mullinax
Direct examination by Mr. Holliday

1 your job, you're aware that that document is provided to
2 the defense as part of our discovery.

3 A Yes, sir. It should be.

4 Q And do you know what the date on that document says?

5 A Says March 2nd, 1:30 a.m.

6 Q So if you knew that the defense was going to get a
7 copy of a document that said March the 2nd would you have
8 any reason to manipulate or intentionally lie on any other
9 form dated March 3rd?

10 A No, sir.

11 Q And is it your belief that the form on the drug
12 analysis could possibly be a mistake and you meant to have
13 March the 2nd?

14 A Yes, sir.

15 MR. HOLLIDAY: No further questions.

16 MR. WILKES: No further questions.

17 THE COURT: You may step down.

18 MR. HOLLIDAY: The state calls Anita Mullinax.

19 ANITA MULLINAX, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. HOLLIDAY

22 Q Ms. Mullinax, could you state your name for the
23 record, please?

24 A Anita Mullinax.

25 Q And you work for the Spartanburg County Sheriff's

Anita Mullinax
Direct examination by Mr. Holliday

1 office?

2 A I do.

3 Q And what do you do there?

4 A I'm over the evidence department of the sheriff's
5 office.

6 Q Okay. And what does that entail?

7 A Daily duties from logging items into evidence, putting
8 bar codes on them, and placing them in the proper areas for
9 storage, and signing them out to officers, and destruction
10 of property when needed.

11 Q So basically you're in charge of when officers bring
12 in evidence. You're the custodian?

13 A Correct.

14 Q Let me show you what's been marked as State's
15 Exhibit 3. Do you recognize that? Do you know what that
16 is?

17 A Yes. It's a BEST bag.

18 MR. WILKES: Your Honor, may I? I believe that's
19 State's Exhibit 3 for Identification not --

20 MR. HOLLIDAY: State's Exhibit 3 for identification
21 purposes.

22 Q Do you recognize that?

23 A Yes.

24 Q Was that turned into Spartanburg County Sheriff's
25 Office Evidence Department?

Anita Mullinax
Direct examination by Mr. Holliday

- 1 A It was.
- 2 Q And when was that turned in?
- 3 A On March 2nd of 2012.
- 4 Q And when you received it was it in a drop box?
- 5 A It was.
- 6 Q And when you received was it -- what was the condition
- 7 of it?
- 8 A It was sealed in a yellowish envelope, and it's in a
- 9 plastic. It's in a clear bag, but it's placed in a yellow
- 10 envelope with B.S.C. forms.
- 11 Q So it's in a sealed BEST bag?
- 12 A Correct.
- 13 Q If -- if someone had broken into or torn that BEST bag
- 14 would you have known that? Would you have been able to
- 15 detect that?
- 16 A If I had seen that it was opened I would not have
- 17 accepted it.
- 18 Q Okay. So it was sealed when you received it.
- 19 A That's correct.
- 20 Q Did you alter it or tamper with it in any way?
- 21 A I did not.
- 22 Q What did you do with it?
- 23 A I entered it in the computer. I put the case number
- 24 and the defendant's name on the BEST bag itself. And then
- 25 I printed a bar code.

Anita Mullinax
Cross-examination by Mr. Wilkes

- 1 Q Okay.
- 2 A And put it in our drug room.
- 3 Q Okay. No further questions.
- 4 MR. WILKES: May it please the Court.
- 5 CROSS-EXAMINATION
- 6 BY MR. WILKES
- 7 Q Ms. Mullinax, do you keep paperwork when you take this
- 8 property in? Keep any paperwork to keep a record of it?
- 9 A For a BEST bag?
- 10 Q Yes, ma'am.
- 11 A It goes in the envelope with the forms.
- 12 Q Which forms?
- 13 A The B form that I get and the C form that I create.
- 14 It goes into the envelope for the lab to pick up.
- 15 Q Okay. Did you get a B form?
- 16 A I did.
- 17 Q Do you have it with you?
- 18 A I do not.
- 19 Q Have you seen a copy recently?
- 20 A I have not.
- 21 Q You have not seen a copy recently of the B form?
- 22 A No, sir.
- 23 Q Have you seen a copy recently of your C form?
- 24 A I did.
- 25 Q Okay. What does your C form say?

Anita Mullinax
Cross-examination by Mr. Wilkes

- 1 A My C form will say that I received it on a particular
2 date and from whom and what I'm receiving. And then I sign
3 my name at the bottom.
- 4 Q Okay. would you give me the date that you received it
5 per the C form?
- 6 A March 2nd of 2012.
- 7 Q And can you tell me what the C form says as far as who
8 you received this from -- whom you received it from?
- 9 A Dan Swad.
- 10 Q Okay. Does it say Dan Swad?
- 11 A I'd have to look at it again.
- 12 Q Where is it?
- 13 A The original B and C forms -- when the lab picks them
14 up they keep the originals. So I don't see them from that
15 point on.
- 16 Q Okay. But there is one.
- 17 A Yes.
- 18 Q And would it be in the bag with the drugs?
- 19 A No, it will not be.
- 20 Q would the lab analysis have the originals?
- 21 A The lab maintains the originals of the B and C forms.
- 22 Q Okay. would you be familiar with a copy of the B and
23 C form if I showed it to you?
- 24 A Yes, sir.
- 25 Q okay. Take a look at those and see if they're

Anita Mullinax
Cross-examination by Mr. Wilkes

1 familiar to you.

2 A They are.

3 Q Okay. Tell me what Mr. Swad's B form says.

4 A D. Swad.

5 Q Okay. And it says he received it when?

6 MR. HOLLIDAY: Your Honor, I'm going to object to
7 hearsay on that form. She is not a party to that.

8 THE COURT: Sustain it.

9 That form is not in evidence. Mr. Swad has testified
10 already about what he did with the form.

11 MR. WILKES: And she just said she received that form
12 and made out another form.

13 THE COURT: Well, I understand. But she can testify
14 as to what she did with her form that she made out, but
15 those forms are not now in evidence.

16 Q Tell me what you did with your form.

17 A On my form I filled out the day I received it, the
18 person that I received it from, which was Dan Swad, and the
19 BEST bag that I received, which is this bag with an
20 identifier that starts with an S.

21 Q Okay.

22 A And I put that number on my C form.

23 Q Okay. And explain to me when you fill that form out,
24 you put the date that you receive it, correct?

25 A That's correct.

Anita Mullinax
Cross-examination by Mr. Wilkes

1 Q Tell me the date that you show that you received the
2 evidence --

3 A I put on my form March 2nd of 2012.

4 Q -- from Mr. Swad. Okay. Now, is your form -- when
5 you say your original form, tell me about your original
6 form. If we see that form, which you said the evidence
7 people have it -- is that right -- or the chemist keeps it?

8 A The lab keeps the originals.

9 Q Okay. All right. Tell me about how that form is
10 formulated. In other words, how does it get completed?
11 What's already on it when you start with it? What do you
12 fill in?

13 A When I received a C form I typed the items on the C
14 form that don't change, like my name is at the top and
15 Spartanburg County Sheriff's Office.

16 And I had made several -- I made copies of that. And I
17 also put drug room at the bottom because that's where I put
18 all of my drugs.

19 Q Uh-huh.

20 A That is in my handwriting because I neglected to type
21 it. So every time that I get a drug in I take that
22 precopied form with the things that don't change, and I put
23 whatever it is, the day that I get it, the person I get it,
24 and what I get, and sign my name at the bottom because
25 those do change.

Anita Mullinax
Cross-examination by Mr. Wilkes

1 Q Okay. And you signed your name every time.

2 A Correct.

3 Q And when you do that you filled in the dates so that
4 you know that the date is correct.

5 A I put in the date that I received it.

6 Q Okay. And you sign it indicating that you know that's
7 correct. In other words, 3/2 would be correct for this.

8 A That's the date that I put on it.

9 Q Okay. And that would be the date also that you
10 delivered it where?

11 A To the drug room.

12 Q Okay. No further questions. Thank you.

13 MR. HOLLIDAY: Nothing further, Your Honor.

14 THE COURT: Step down.

15 MR. HOLLIDAY: Your Honor, can we approach?

16 (Bench conference held off the record in the presence
17 of the jury but out of the hearing of the jury.)

18 THE COURT: All right. We're going to take a short
19 break.

20 I'll ask the jury to please go to your jury room.
21 Don't talk about the case. I'll bring you back shortly.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: We'll be at ease for ten minutes.

25 (Whereupon, a recess was taken.)

Ashley Harris
Direct examination by Mr. Holliday

1 THE COURT: All right. Bring the jury in.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: All right. We will continue with the
5 state's presentation.

6 MR. HOLLIDAY: The state would call Ashley Harris.

7 ASHLEY HARRIS, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. HOLLIDAY

10 Q Mr. Harris, could you state your name for us?

11 A Yes. It's Ashley Harris?

12 Q And where do you work?

13 A I work for the Spartanburg County Sheriff's Office in
14 the forensic lab.

15 Q Okay. And what do you do there?

16 A I am responsible for testing items that are thought to
17 be controlled substance or drugs and determining what they
18 are, how much they weigh and then send a report out to the
19 solicitor's office.

20 Q So you're a chemical analyst?

21 A Yes, sir.

22 Q What kind of training do you have to have to get in
23 that position?

24 A Well, I have a bachelor's of science in chemistry from
25 Wofford College here in Spartanburg. After completing

Ashley Harris
Direct examination by Mr. Holliday

1 Wofford I started working on my Ph.D. at the University of
2 South Carolina and actually left there to go take a job at
3 the South Carolina State Law Enforcement Division in
4 Columbia -- SLED.

5 And I was there for a little over two years, went
6 through their training program. An in-house training
7 program is approximately six months long. It also included
8 some classes that were outside through the D.E.A., and
9 through some various instrumentation companies.

10 And started here in Spartanburg, and actually have
11 continuing education. I have gone through that every year
12 for the past 16 years. And while I was at Spartanburg
13 actually went back and completed my master's degree in
14 analytical chemistry at Furman University in Greenville.

15 Like I said, I have continuing education classes every
16 year in new instrumentation analyzing drugs, testing
17 techniques, basically everything that's coming down the pipe
18 from D.E.A. and SLED.

19 Q Okay. How long have you been an analyst, a chemical
20 analyst.

21 A I've been doing this for a little over 16 years.

22 Q Okay. What are some of the things that you do on a
23 daily basis?

24 A The bulk of my job is to analyze controlled substances
25 that are submitted into the lab.

Ashley Harris
Direct examination by Mr. Holliday

1 We do a series of tests on anything that's submitted
2 thought to be a controlled substance. We do a presumptive
3 test and a confirmatory test to determine what it is.

4 We take the weight of that substance after we take any
5 samples that we're going to do. And then we produce a
6 report for the officers and for the solicitor's office for
7 them to see if there's any going forward with prosecution.

8 Q Okay. Have you ever testified in court before?

9 A Yes, sir. I've actually been -- I've been qualified
10 in the state and federal courts in I believe a hundred --
11 111 times prior to today. I believe that's correct.

12 Q And have you ever been qualified as an expert witness
13 in chemical analysis before?

14 A Yes, sir. That would -- the 111 forensic drug
15 analysis -- I have a couple in arson, but 111 in forensic
16 drug analysis.

17 MR. HOLLIDAY: At this time we move to designate
18 Ashley Harris as an expert in chemical analysis.

19 MR. WILKES: No objection.

20 THE COURT: He is so qualified.

21 BY MR. HOLLIDAY

22 Q Now, Mr. Harris, were you involved in the case against
23 the defendant, Mr. Shondre Williams?

24 A Yes, sir. I had some -- I had a case submitted for
25 analysis, yes, sir.

Ashley Harris
Direct examination by Mr. Holliday

1 Q Okay. I show you what's been marked for
2 identification purposes as State's Exhibit 3. Do you
3 recognize that?

4 A Yes, sir. This is lab No. L120356, which is the lab
5 number that's assigned. When a -- when a case comes into
6 the lab it's assigned an individual lab number for tracking
7 purposes. And this is L120356. It's sheriff's office case
8 No. 12030067. It's a case I prepped back in March of 2012.

9 Q Okay. And when you -- where did you get the bag from?

10 A This is a sheriff's office case. And what we -- go
11 down to the -- to the actual evidence, sheriff's office
12 evidence, and actually receive evidence from them.

13 Q Okay. When you received the bag what condition was it
14 in?

15 A Inside the heat-sealed bag that this is now sealed in
16 there's a blue lined bag that has the sheriff's office seal
17 on it. It's got some stickers placed on it also.

18 It's referred to as a BEST bag. It was a system that
19 SLED came up with back in the 80's to kinda make a uniform
20 way of submitting drug cases.

21 There were 46 counties and over 200 agencies submitting
22 to SLED back in the 80's, and so they said we need to come
23 up with something that can be uniform.

24 When I left SLED I kinda took the idea because it was
25 working really well, and so we have one bag that as long as

Ashley Harris
Direct examination by Mr. Holliday

1 the drugs will fit in that bag people -- people deliver
2 those bags to the sheriff's office for us to analyze them.

3 We receive from 26 different agencies, so it just kind
4 of made everything a little easier. But this -- this bag on
5 the inside here is a tamper-evident bag. So if anyone tries
6 to open it or tries to tamper with it, tries to slice it
7 open or anything, it's obvious if it's been tampered with.

8 So when this case was submitted it was in one of these
9 tamper-evidence bags. And I checked to make sure it hadn't
10 been tampered with in any way. It was carried back to the
11 lab and it was assigned a lab number.

12 Q You say it's tamper evident. It's not tamper proof?

13 A No, sir. I mean, anybody with a pocketknife can get
14 in it, but the way it's designed it's so that you can see
15 if anyone does try to get in it.

16 The -- the glue across the top will distort the bag.
17 The markings down the side and across the back, if anyone
18 tries to open it, it's obvious. There's -- I don't know
19 what they make that plastic out of, but it's pretty tough
20 stuff.

21 Q So if somebody had tempered with the bag you would
22 have seen it.

23 A Yes, sir.

24 Q Okay. Once you received the bag, what did you do with
25 it?

Ashley Harris
Direct examination by Mr. Holliday

1 A Once we obtained the -- a piece of evidence the first
2 thing we do is we do a quick check just to see, hey, has it
3 been tampered with.

4 Take it back to the lab. It is assigned a lab number
5 when it's logged in. And then it's basically put in the
6 aqea [sic] waiting until it's its turn to be analyzed.

7 When this particular case came up, the next thing
8 that's done -- or with every case that comes up -- the next
9 thing that's done, we do another inspection of it just to
10 make sure we didn't miss anything -- look over the bag
11 again, check it and make sure that everything's squared away
12 on it.

13 And if it is sealed, it hasn't been tampered with, I
14 simply put the letters O-K, my initials and the date on the
15 outside of the bag to show that it was not tampered with at
16 the time I opened it.

17 Q Okay. And after you opened the bag, what did you do?

18 A Each item that was found inside, we perform a series
19 of tests. We run -- two specific tests have to be run on
20 everything. A presumptive test. And in the case of
21 something like white powder we do chemical tests. We add
22 some chemicals to it to look for a color change, a
23 character color change.

24 If it turns color it's a good indication that it may be
25 a controlled substance. In this case we used cobalt

Ashley Harris
Direct examination by Mr. Holliday

1 thiocyanate tin chloride. It's a simple test for the
2 presence of crack and cocaine. If it turns blue, it's
3 positive for cocaine.

4 Those presumptive tests were performed on -- there's
5 two items in this particular case, and then each of one of
6 them had a confirmatory test run on them, and that's a G.C.
7 mass spec, and it's basically a piece of instrumentation
8 that is designed to separate any components in the mixture
9 and then tell us what those components are. And it came up
10 positive in this case. Both items actually tested positive
11 for cocaine. One ended up actually being crack and one
12 ended up being cocaine.

13 Q What's the difference between crack and cocaine?

14 A The structure of cocaine is a -- is a pretty large
15 molecule. There's a nitrogen on it. And if you actually
16 add hydrochloride salt to it, that is considered powder
17 cocaine or cocaine that people -- the cocaine that people
18 snort through their nose.

19 If you take that back off it actually is freebase
20 cocaine, commonly referred to as crack. It's basically the
21 way that they go into the body.

22 The powder cocaine is snorted. It has to be --
23 actually go into a water medium to be used in the body. So
24 the most obvious place to put that is -- is through the nose
25 or through the mouth. Once it hits water it's able to be

Ashley Harris
Direct examination by Mr. Holliday

1 taken into the bloodstream.

2 The crack cocaine or the freebase form of cocaine has
3 had that hydrochloride removed. The only way it can get
4 into the body is if it travels into the lungs and across the
5 avioisaxon [sic] to the bloodstream. So they're -- they're
6 basically the same drug. They're both cocaine. But it's
7 how it actually gets into the body, that the form that it's
8 actually used in. One is smoking and one is snorting.

9 Q Okay. So you -- you -- crack is a derivative of
10 cocaine.

11 A Yes, sir. When cocaine usually comes into the United
12 States it's sold in the form of -- it comes in the form of
13 cocaine hydrochloride. And it'll typically be in a block
14 in powder form pressed into a -- into a block.

15 Sometimes on the street that is actually -- a base is
16 added to it and it's converted into crack because the -- the
17 high's a little faster.

18 When you snort cocaine it goes through the nasal cavity
19 to go into the brain and into the bloodstream. It takes a
20 little for it to fight through that. Your body's got
21 naturally defenses -- the hair, the mucous membranes -- to
22 try to keep you from breathing in things. So you lose a
23 little bit of the efficacy of the actual drug.

24 when they convert it into the crack form and they
25 smoke, it goes into -- into the lungs, straight across into

Ashley Harris
Direct examination by Mr. Holliday

1 the bloodstream almost instantaneous. The high is a lot
2 faster. And you don't lose the efficacy you lose as it
3 tries to go through the defenses that the body naturally has
4 set up.

5 Q If an individual is going to partake in the
6 recreational use of these illegal drugs, what would be the
7 common doses that someone would use?

8 A It -- it varies a little bit depending on whether the
9 person is a heavy user or not, but kinda typically it's
10 seen about twenty to five grams.

11 So in one gram which is -- a nickel weighs about five
12 grams, and you would have 20 hits in every gram of a person
13 who is a moderate user. And if you have a heavy user, they
14 can use up to .1, .15 if they're a really heavy user. But
15 that's -- that's kind of -- kinda average of about a
16 tenth -- a tenth of a -- from a 20th of a grain to a 10th of
17 a gram for -- for those.

18 Q Okay. Put definitely not more than a gram.

19 A Oh, no, sir, no, sir. You would actually -- anybody
20 who's using, trying to use that much, would have some --
21 probably not make it through it before they were --

22 Q Did you perform an actual analysis on these drugs?

23 A Yes, sir. Each one was, like I said, a presumptive
24 test and a confirmatory test, on each one of them.

25 Q Okay. And what were the results of that test?

Ashley Harris
Direct examination by Mr. Holliday

1 A Item No. 1, which was an off-white rock substance,
2 small substance can be seen here, ended up being cocaine
3 base, which is commonly known as crack, the total weight of
4 4.91 grams.

5 And then the white powdery-rock substance which is item
6 No. 2, it's like a -- kind of a square that's seen in
7 here -- is a pressed block of a -- of a -- of a powder
8 substance. Ended up being cocaine with a total weight of
9 249.71 grams.

10 Q Okay. And just with regards to item one in this --
11 apologize for making you do math in your head.

12 A That's all right.

13 Q About how many doses would that item one be, the
14 4.91 grams?

15 A Well, it'd be anywhere from, you know, 49 to -- to 98
16 using the .1 up to -- down to .05. It's depending, totally
17 depending, on how often the person used, how heavy of user
18 they was at the time. I think you could easily say around
19 50 would be a reasonable number to -- to deduce from that.

20 Q Okay. When you -- when you weigh the drugs --

21 A Yes, sir.

22 Q -- can you tell us how you do that?

23 A Yes, sir. When an item is submitted for analysis the
24 very first thing that we do, like I say, after we check to
25 make sure it's not been tampered with and those kind of

Ashley Harris
Direct examination by Mr. Holliday

1 things, first thing we do is we take our samples for our
2 presumptive tests, perform any of those on there. And then
3 we take a sample for the confirmatory test.

4 The last thing that is done is the weight is obtained,
5 and there's a couple of reasons for that.

6 One, I want to make sure that if somebody else ever
7 went back and reweighed this it would weigh the same thing
8 that I reported as when they opened the bag up and took it
9 out.

10 There's some places where they'll take all -- they'll
11 take the weight first and then take any samples. We want to
12 make sure that the number that's -- if it was ever reweighed
13 would be the same.

14 Also, if the item is wet we will air the item to dry,
15 and before we obtain a weight. That's just a personal
16 choice of our lab. But we -- we don't want to weigh the
17 weight and have the person charged with the weight -- water.
18 So we allow the item to dry also before we take and obtain a
19 weight.

20 Q So do you commonly find that items that are turned
21 into you weigh less, your results weigh less than what the
22 officers found in the field?

23 A Yes, sir. It's actually very common for a couple of
24 reasons.

25 One, most of the time the officers in the field,

Ashley Harris
Direct examination by Mr. Holliday

1 they're using a hundred-dollar pair of scales on the hood of
2 a running car. Sometimes they're not perfectly flat. And a
3 lot of times they're not at the most accurate reading. A
4 lot of times too they are in the packaging. It's kind of
5 more difficult for them to remove the item from the
6 packaging, obtain a weight and then put it back in the
7 package.

8 A lot of times they'll just throw it on there -- in the
9 baggie or -- or zip-lock or whatever it's in. So a lot of
10 times their weight will be significantly higher than -- than
11 the weight that is recovered from the lab, because we remove
12 all the packaging, take our samples, if it's wet allow it to
13 dry, do all of that before we ever take a weight.

14 Q In this particular case did -- did you follow that
15 procedure and let the drugs dry out?

16 A Yes, sir. Item No. 1 -- let me refer back to my notes
17 and make sure I'm not -- according to my notes on item
18 No. 1 the -- there were approximately four off-white rock
19 substances in a baggie tie closed. And they were damp and
20 they were allowed to air dry for almost 90 minutes before
21 the weight was taken.

22 Q So the weight you obtained is purely just the
23 substance and nothing else.

24 A Yes, sir. There's no packaging. And we allowed the
25 air to dry -- I mean -- the water to dry. Excuse me.

Ashley Harris
Cross-examination by Ms. Wilkes

1 Q Just one more time. What were the results of the test
2 for item one and item two?

3 A Item No. 1, the off-white rock substance was cocaine
4 base or crack, 4.91 grams.

5 Item No. 2, the powdery white rock substance was
6 cocaine with a total weight of 249.71 grams.

7 MR. HOLLIDAY: Your Honor, at this time the state
8 would move Exhibit No. 3 into evidence.

9 MR. WILKES: Your Honor, I would object. We have on
10 record I believe our in-limine argument which we would
11 reassert at this time.

12 THE COURT: All right. Overrule the objection.
13 (Drugs marked State's Exhibit No. 3.)

14 MR. HOLLIDAY: No further questions.

15 MR. WILKES: May it please the Court.

16 THE COURT: Mr. Wilkes.

17 CROSS-EXAMINATION

18 BY MR. WILKES

19 Q If I understand your testimony correct you're saying
20 that it makes sense then if the officer were to have
21 weighed it -- the small bag -- and it be 10.2, for you to
22 weigh it after drying and it be 4.9. That's possible.

23 A Yes, sir. Like I said, a lot of times the officers
24 will weigh them in their packaging. In this particular
25 case I made a note that item No. 1 -- you're referring to

Ashley Harris
Cross-examination by Ms. Wilkes

1 analysis makes all the paperwork complete.

2 A Yes, sir.

3 MR. WILKES: Nothing further.

4 MR. HOLLIDAY: Nothing further, Your Honor.

5 THE COURT: You may step down.

6 THE WITNESS: Yes, sir.

7 MR. HOLLIDAY: Your Honor, the state rests its case.

8 THE COURT: All right. Ladies and gentlemen, that is
9 all of the testimony to be offered by the state, at least
10 their case in chief.

11 Before we go any further I've got a couple of matters
12 I'll need to address with the lawyers. So I'll ask you to
13 please go to your jury room. Don't discuss the case. I'll
14 bring you back in just a few minutes.

15 (The following takes place outside the presence of the
16 jury.)

17 THE COURT: All right. Motions or other matters to
18 address?

19 MR. WILKES: Yes, sir. We had earlier made a motion
20 for a due process violation, moved the Court to dismiss the
21 charges.

22 We renew that motion. It's been put in a memorandum,
23 and I would incorporate that into my argument. We believe
24 that the conduct of the police would be outrageous and
25 would be a violation of due process, in addition to the

1 evidence that there is a reversal manner in which they
2 failed to document properly -- have no concern or regard,
3 knowledge of federal or state laws concerning the
4 maintaining or destruction of drugs. Your Honor, we
5 believe that that would establish the outrage, a defense,
6 which is applicable in this circuit.

7 We further move -- I believe we moved. I would renew
8 my motion on the suppression on the evidence. We would
9 move for a directed verdict based on the foregoing and
10 based on lack of evidence.

11 We would move also -- I think that covers it. Oh, and
12 renew our objection on the Jackson vs. Denno and reassert
13 that as well as a basis for a directed verdict and the
14 Court to reject that evidence.

15 Oh, and I believe we also would renew our motion on
16 the search warrant. I think that's all the motions that we
17 had outstanding.

18 THE COURT: All right. Each of those motions are
19 denied as previously addressed.

20 MR. WILKES: Thank you, Your Honor.

21 THE COURT: All right. Have you talked to
22 Mr. Williams about his right to testify?

23 MR. WILKES: Many times. However, Your Honor, because
24 of the nature of the case I'd like a few minutes if I may
25 to talk to him.

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1 MR. WILKES: No, sir.

2 THE COURT: All right. Bring the jury in, please.

3 For the spectators' benefit, understand that once we
4 get started nobody will be coming or leaving. So if you
5 can't sit still, be sure you leave now.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: Good morning, ladies and gentlemen.

9 As you know, when we recessed yesterday all of the
10 evidence had been received. What remained to be done are
11 the lawyers' final summations. I'll instruct you on the
12 law. Then you can begin with your deliberations in the
13 case.

14 So please give the lawyers your attention now as they
15 give you their final summations.

16 Ms. Rogers, you don't have to sit over there by
17 yourself. You can sit in that seat if you want to. All
18 right.

19 MR. WILKES: May it please the Court.

20 THE COURT: Mr. Holliday.

21 MR. HOLLIDAY: Ladies and gentlemen, you've sat
22 through about a little bit over a day's worth of testimony
23 now, and you've heard all of the facts. You will get to in
24 a few short minutes go back into your deliberation room and
25 begin to talk about the case, talk about what you've seen,

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1 what you've heard. You get to take the evidence back into
2 the jury room with you. Get to look at it. And I believe
3 that after you've had a chance to talk about it, I believe
4 you'll come back with a verdict of guilty.

5 The reason for that is that the facts pretty much
6 speak for themselves. This is a case where on March the
7 1st the Spartanburg County Sheriff's Office and Greenville
8 County Sheriff's Office executed a search warrant on the
9 informant's house in Greenville County.

10 The informant then decided he wanted to cooperate, and
11 he named the defendant, Shondre Williams, with whom he had
12 a prior relationship. He said they had sold drugs before.
13 He was his supplier.

14 They had a working relationship. He had Shondre's
15 contact information, and he made several phone calls to the
16 defendant and asked him if he would like to purchase
17 some -- some cocaine, set up this drug deal, this sting
18 operation.

19 The sheriff's office in Spartanburg County then
20 supplies a quarter kilo of cocaine. And you heard the
21 chemist, Ashley Harris, testify that that was two --
22 249.71 grams of powder cocaine. And that's in this exhibit
23 right here marked as State's Exhibit 3. You see this white
24 brick, quarter kilo of cocaine.

25 The sheriff's office gives the informant the cocaine.

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1 He goes into the garage of the defendant's house.

2 You got to see a video. It wasn't a great video, but,
3 you know, it was a wire. Technology being what it is, it's
4 the best we have today. You got to see. And you can watch
5 it again if you missed it, but you got to see the drugs on
6 the video. You got to see the cash on the video.

7 And the defense attorney during his cross-examination
8 kept asking why did you just -- you just -- you just wanted
9 to leave this -- this -- these drugs with my client. You
10 just wanted to give it to him. But that's not what
11 happened.

12 He paid cash for them. He paid \$4,000 cash for them.
13 And you heard the informant testify that it wasn't just the
14 \$4,000. He owed him \$5,000 more because the street value
15 for those drugs at that time for this quarter kilo was
16 \$9,000 or a thousand dollars an ounce.

17 But even if you believe what the defense is suggesting
18 that he only wanted \$4,000 worth, I believe Ashley Harris,
19 the chemist, testified that \$4,000 worth of cocaine would
20 still be 112 grams, roughly less than half of this brick
21 that he received.

22 But both Investigator McJunkin and the informant
23 testified it's common practice to front some drugs to a
24 drug dealer so that he can then go and sell them and pay
25 the rest of the money back, sort of like a down payment if

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1 you will. And that's what happened in this case.

2 so the sting operation goes down. The sheriff's
3 office comes in with a search warrant. And you heard
4 Investigator Dan Swad testify and look at some pictures of
5 the house that evening.

6 Not only did they find the quarter kilo of cocaine,
7 but they also found some white powder -- white powder --
8 white rock-like substance or crack cocaine. And Ashley
9 Harris, the chemist, testified that that was 4.91 grams of
10 crack cocaine. And you can see that here in this bag as
11 well. This is rock substance.

12 And I asked Mr. Harris what is the typical dosage or
13 usage, and he said I think hit of a crack. He said about,
14 you know, varied between .05 grams and .1 grams, so that I
15 asked them, okay, well, say you got 4.91 grams of crack,
16 how many -- how many doses or how many units or how many
17 hits is that. I believe he said it was something around 40
18 to 90 or 50 to a hundred or something like that. That's a
19 lot of usage. And I would argue that's intent to
20 distribute. Someone who has that much drugs setting around
21 their house isn't just storing it up to use it whenever
22 they want. They're a drug dealer. And there's some more
23 evidence of that.

24 when they looked through the house not only did they
25 find the drugs that they sold the defendant, they found the

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1 crack cocaine in addition, and they also found a money
2 counter.

3 Now, I don't have one of these in my house. You
4 probably don't have one of these in your house. But if you
5 were a drug dealer you might.

6 They also found a digital scale commonly used to weigh
7 out drugs before you purchase them or sell them if you're
8 in the business.

9 Now, the defendant is charged with trafficking cocaine
10 more than 200 grams. In South Carolina the law on
11 trafficking is pretty simple. Trafficking just means that
12 you had some drugs, and you had a lot of drugs, in this
13 case more than 200 grams. That's really all the law says.

14 Trafficking doesn't mean that you had to be taking it
15 from one place to another or anything like that. It just
16 means that you had so much drugs that we think it's that
17 much of a crime that we're going to call it trafficking.
18 That's the offense that the defendant is charged with with
19 regards to this attempt to purchase and, in fact, he did
20 purchase this quarter kilo of cocaine.

21 And he's also charged with possession with intent to
22 distribute crack cocaine. And as Ashley Harris, the
23 chemist, testified, crack cocaine is a modified version of
24 cocaine. Cocaine is what I would consider the pure form of
25 the drug. It's -- it's more condensed. It's a stronger

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1 version. When they cut it and they cook it, it becomes
2 crack cocaine, and that's the form that the defendant was
3 trying to sell it in. So he was purchasing the cocaine,
4 cooking it to make crack cocaine and then sell it.

5 Possession with intent to distribute means that you
6 had it and you intended to sell it. And I think if you
7 take a look at the money counter, he had \$4,000 cash and
8 paid the informant for those drugs.

9 The sheriff's office also found stores of cash
10 throughout the defendant's house, and those are in the
11 pictures that I showed you yesterday, but you can look at
12 that in your jury room. You'll see this defendant,
13 Mr. Shondre Williams, absolutely intended to sell, or the
14 legal term distribute, that crack cocaine.

15 Now, the defense raised an issue about, you know, they
16 just gave him these drugs, they left it with him. Well,
17 what about that \$4,000 cash? Why did he -- who gives
18 somebody \$4,000 cash if they don't intend to purchase it or
19 if they weren't willing to purchase it?

20 And the judge is going to charge you on what in South
21 Carolina we call entrapment. That means that the
22 defendant -- and in order for you to find the defense of
23 entrapment applies you have to find that the defendant had
24 no predisposition to commit the crime.

25 And the defendant bears that burden. The defendant

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1 has to prove to you that he had no predisposition. That
2 means that he would never do that, he's never done it
3 before, he wouldn't do it again, and the cops came and
4 forced it upon him, he wasn't willing, he didn't want to do
5 it.

6 He's put up no evidence to that effect. Now, normally
7 in a criminal trial the state bears the burden, and for the
8 rest of this stuff we do. And that burden is proof beyond
9 a reasonable doubt. And I believe that every element of
10 every charge that we put before you trafficking cocaine and
11 PWID mari -- PWID crack cocaine that we've met that burden.

12 But on this instance for him to meet the burden the
13 law puts on him for the defense of entrapment you're going
14 to find that that applies. He has to prove to you that he
15 was not predisposed to commit this crime. I submit he
16 absolutely has not done that.

17 As a matter of fact, the evidence that's in the case,
18 the fact that he had prior dealings with the informant
19 without the government being involved, they had a working
20 relationship beforehand, that is proof beyond a reasonable
21 doubt the absolute opposite way that he was completely
22 predisposed to commit this crime. So I do not believe, and
23 I do not believe you should find, that the defense of
24 entrapment applies in this case.

25 Lastly, ladies and gentlemen, I told you before this

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1 case is about drugs and money. The defendant was in a
2 business, in the business to make money. The only problem
3 was when you're in a business you've to do it the right
4 way. His business was that.

5 I ask that when you go back in your jury room you
6 consider the evidence, you consider the testimony, take a
7 look at the drugs, take a look at the money and return a
8 verdict of guilty.

9 THE COURT: Mr. Wilkes.

10 MR. WILKES: Thank you, Your Honor. May it please the
11 Court.

12 Ladies and gentlemen of the jury, let's talk about
13 what the state does not talk about.

14 What is in evidence and what you should consider is
15 the video tape. Well, there's more than just a video tape
16 in this disc which you're allowed to see, should see,
17 entitled to see, are also phone calls. And all of that is
18 evidence for you to consider.

19 Now, in this case if you will listen to the audio
20 portion of that video there's one thing that the state
21 hasn't mentioned.

22 It is the drug dealer informant that tells the police
23 where the drugs are. He says they're in the garage. He
24 may say I think they're in there. He may have. But he
25 says they're in the garage. How does he know that? How

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1 does he know where they are?

2 There's a lot of testimony about the police walking
3 the defendant around and the defendant saying, well, I
4 don't know, I don't know where they are, they're out here
5 somewhere.

6 The police know where the drugs are. The police know
7 they're in the garage. The informant said so. There's 13
8 police officers that find the drugs, and they find them
9 exactly where they were told, in the garage.

10 Now, if you look at the video you don't see anybody
11 putting those drugs anywhere. And the important thing to
12 remember is, is that the informant in this case is a drug
13 dealer. He has been caught in Greenville, and he has --
14 he's facing, I think he said, a mandatory minimum of 25
15 years in jail. And he has two other trafficking charges as
16 well. So this informant has every incentive to do several
17 things. One, induce and entice somebody to take those
18 drugs.

19 Now, the police are the ones that had the drugs. They
20 scoop it out. They decide how much they're going to scoop
21 out and give to that C.I.

22 How much did they give? Gave him a lot, because a lot
23 of drugs makes a better case, makes a bigger case. It also
24 happens to meet the C.I.'s agreement.

25 Now, we haven't talked about the agreement. The

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1 police entered into an agreement. There's a written
2 agreement. But the state hasn't given it to you because
3 they don't want you to see it. But we cross-examined him
4 about it, and he admitted it. It's in writing. He walks
5 scot-free. A number of people asked to do a number of
6 cases to get out of his charges. Dismissed. Not even --
7 not just no jail. Dismissed.

8 Now, what does he have to do to do that? Can he get
9 in the -- can he take advantage of somebody that he knows?
10 Can he get in the door and say I -- you like drugs, I'll
11 give you a little bit? Will that do? No.

12 But if he can get in the door and he can commit
13 somebody to take 249 grams of drugs, would that work for
14 his working agreement? Yes, it would. And those drugs
15 become a hot potato. He has to leave that house and leave
16 those drugs in that house. He's the one that told the
17 police they're in the garage. He knew where they were.
18 But you don't see that and you don't hear that on the
19 video. But you hear him say that to the police later on
20 the video.

21 Now, the question on enticement is very important
22 because that's a completely separate issue from just the
23 other facts of the case as far as the reliability of the
24 evidence and all.

25 Entrapment is a defense. If my client has been

Closing arguments

1 induced into this, if the government has instigated this
2 and my client was not otherwise predisposed to take from
3 him 249 ounces, if he was induced to do that by an
4 informant drug dealer, then he's proven the defense of
5 entrapment and he's entitled to not guilty.

6 Now, let me tell you a little bit about the evidence.
7 In this case there was some other things that the state
8 didn't want to talk about a whole lot, one being the chain
9 of custody, which you notice I wanted to talk about a whole
10 lot, because as they explained, the chain of custody are
11 the documents that track the magical value.

12 They say they put drugs in a bag and then it's tracked
13 by these documents, so they know exactly how this bag has
14 been handled.

15 The question is what goes into the bag and then where
16 does the bag go to get to the chemist. The chemist comes
17 in, and he says I opened this bag and I tested it and I'm
18 sure of what they are. He sounds like he knows what he's
19 doing. But the question is what goes into the bag and how
20 does it make its way to the chemist.

21 Well, there are chain-of-custody documents that tell
22 us how that works to ensure the jury -- to ensure the case
23 is sound. And we know how that evidence has been handled.

24 Now, again, I questioned them on form A, form B, form
25 C, because each one in reverse order for some reason starts

closing arguments

1 the chain of custody and tracks it.

2 It appears from the chain of custody from the
3 testimony that Deputy Swad, Investigator Swad, took some
4 drugs or some substance in and put it in a bag and
5 indicates that he did so on March the 3rd.

6 Now, the chemist says that the drugs that he tested
7 were received by them on March 2nd. So from the testimony
8 there's no question that that's not possible. You can't do
9 that. That could not be the same bag absent something
10 unusual.

11 Investigator Swad said, well, maybe I didn't know what
12 the date was. But I asked him, it's not just you. There's
13 a notary public that has notarized this and indicated that
14 also it's the 3rd. It's not just Deputy Swad saying it.
15 It's a notary public indicating that it's the 3rd. So
16 there is something exceedingly unusual. It's an
17 impossibility. There's something wrong with that.

18 Now, that's a question of fact that you've got to be
19 comfortable with. You've got to resolve the question of
20 fact as to how that can be. And if you cannot and there's
21 a reasonable doubt, then the drugs that are tested are not
22 liably the substance that they say they put in the bag, and
23 they can't prove it.

24 I would submit to you that those forms, the chain of
25 custody that I questioned them on, are important. They're

Closing arguments

1 the police forms. They have them. They're not in
2 evidence. They don't want you to take them back and look
3 at them. They don't want you to have them in your hands.
4 But I asked the questions. And you heard the testimony.
5 And they did not answer the reason. They didn't give a
6 reason. They didn't remove that doubt. They didn't
7 explain it.

8 Now, the reason that I make that an issue is because
9 of this. I asked the chemist about the drugs, and he
10 explained that, for instance, some of the substances that
11 he tested -- and he looked at it. It was closed up in
12 the -- in the bag, and he looked at it. And it was wet.
13 There's moisture in it and it's wet.

14 So he had to dry it out to weigh it. And I asked him
15 I think does it look like that, is that what it looked
16 like. I asked that of Deputy Swad. I said does this look
17 like what they look like when you put them in the bag, and
18 he said -- he said yeah. He said it was a hard rock-like
19 substance.

20 Now, he sealed it up in a bag. The chemist opens a
21 bag and finds wet drugs that he has to dry out before he
22 can even weigh them.

23 Ladies and gentlemen, how can that be? That has not
24 been explained. If it can't be explained and it has not
25 been explained, then I submit it's doubt that must be

Closing arguments

1 resolved in favor of my client. Any doubt that's
2 reasonable must be resolved in favor of my client.

3 Now, there are phone calls on the disc that you're
4 entitled to listen to that the state did not play. The
5 question is was my client induced in or tricked into by the
6 C.I., into doing something that he did not intend or would
7 not have otherwise done.

8 In looking at that you have to look at the motivation
9 of this informant. He's got a lot of motivation to leave
10 those drugs there. He's got a lot of motivation to make
11 this happen.

12 Could he take advantage of somebody that has a drug
13 habit? Maybe. Maybe he can get in the door to say, you
14 know, come over.

15 If you listen to those audio tapes that the state
16 didn't want to play -- and I think the C.I. or the
17 informant admitted that he was called and called and
18 called.

19 And initially on the call he's told essentially
20 enough, given an excuse. No. But he calls again. Why
21 does he call again? Why does he call again and again?
22 Because he wants, he has to make this happen. He has to
23 talk somebody into it, or he's facing 25 years in jail.

24 So, the question when you listen to the tapes is is
25 there resistance initially and does he get induced into

Closing arguments

1 doing this. Is there evidence initially? He was going to
2 take and let this guy in and bring that much drugs?

3 If a person were going to say I might take a little
4 bit -- he was -- that's different. The question is for
5 this crime that's being charged was he going to take that
6 or did he get talked into it? Did he get induced into that
7 by the C.I.?

8 Ladies and gentlemen, the state didn't want you to
9 look at some evidence. I've done my best to bring it out.
10 so you will hear it and know what it was.

11 All I can do with the video is tell you that there's
12 audio on there. I believe you're entitled to look at this
13 if you want to in the jury room. I think you can. I think
14 you probably should.

15 And if you believe that there is resistance, if you
16 believe that that informant is getting his foot in that
17 door and making sure that he's going to leave enough drugs
18 to get him out of 25 years in jail, then he has been
19 induced.

20 There's no evidence in this record that my client has
21 any conviction for trafficking large drug transactions, and
22 that's what this case is about. It is not about an ounce.
23 It's not about letting someone in the door. It's about
24 intending from the beginning to traffic cocaine.

25 After you look at the evidence and consider what's not

Jury charge

1 there, consider the motivation of that informant and what
2 he was facing, and consider the fact that he had to leave
3 those drugs there, and listen to that audio again on the
4 video, and see if he doesn't tell the police they're in the
5 garage. He knew that and the police knew that.

6 If you'll listen to all of the evidence, ladies and
7 gentlemen, and listen to the law that the judge will give
8 you, make a fair verdict. Thank you.

9 THE COURT: Mr. Foreman and ladies and gentlemen, you
10 of course have heard and seen all of the evidence and now
11 the final summations of the lawyers.

12 It now becomes my duty and obligation to instruct you
13 on the law that's applicable in the case. Then you'll be
14 asked to go back, begin with your deliberations. Through
15 that process you'll carefully examine the evidence, decide
16 the facts, apply the law and arrive at a fair and just
17 decision, whatever that decision may be.

18 It is your exclusive duty to determine what the facts
19 are. You do that through your own common sense examination
20 and evaluation of all of the testimony and other evidence
21 in the case.

22 Your sole objective and duty is to determine those
23 facts, apply the law and arrive at a decision that's fair
24 and just based upon the law and the evidence in the case.

25 As you know, the defendant in this case has been

Verdict

1 THE COURT: I'm informed the jury has reached a
2 decision. Are we ready to receive the verdicts?

3 MR. HOLLIDAY: Yes, sir, Your Honor.

4 MR. WILKES: We are, Your Honor.

5 THE COURT: Okay. Bring the jury in.

6 (Whereupon, the jury returned to the courtroom at
7 12:50 p.m. to report its verdict.)

8 THE COURT: All right. Mr. Foreman, have you and your
9 fellow jurors reached a unanimous decision as to each of
10 the separate indictments?

11 THE FOREMAN: Yes, we have.

12 THE COURT: And have you reflected those decisions on
13 the verdict forms as requested?

14 THE FOREMAN: Yes, I have.

15 THE COURT: Did you sign your name and date it?

16 THE FOREMAN: Yes, I did.

17 THE COURT: If you will, please hand those verdict
18 forms up by way of the bailiff.

19 All right. You may publish the verdicts.

20 THE CLERK: The State vs. Shondre Lamond Williams, on
21 case No. 2012-GS-42-4097 for the indictment of possession
22 with intent to distribute, the verdict is guilty on
23 possession only. Signed by the foreperson. Dated 2/27 of
24 2013.

25 On Indictment 2012-GS-42-4098, on the indictment of

Verdict

1 trafficking cocaine, the verdict is guilty. Signed by the
2 foreperson. Dated 2/27 of 2013.

3 Ladies and gentlemen of the jury, is this your verdict
4 and still your verdict? If so, please raise your right
5 hands.

6 (Whereupon, all jurors responded in the affirmative.)

7 THE CLERK: So say you all.

8 THE COURT: Does the defendant wish to have the jury
9 polled?

10 MR. WILKES: In this case, yes, sir, I would.

11 THE COURT: All right. Poll the jury, please, ma'am.

12 THE CLERK: Yes, sir.

13 Ladies and gentlemen of the jury, I will pose a
14 question to you, after which I will ask each of you to
15 stand and respond individually, the question being is this
16 your verdict and still your verdict.

17 Juror 35, Amanda Curren.

18 THE JUROR: Yes, it is.

19 THE CLERK: Juror 180, Laura Warren.

20 THE JUROR: Yes, it is.

21 THE CLERK: Juror 186, Michael Whittaker.

22 THE JUROR: Yes, it is.

23 THE CLERK: Juror 55, Leslie Finley.

24 THE JUROR: Yes, it is.

25 THE CLERK: Juror 95, Robert Laskowski.

Sentence

1 MR. HOLLIDAY: And these have been presented to
2 defense counsel, Your Honor.

3 THE COURT: All right. Mr. Wilkes, you've been over
4 these prior convictions with your client?

5 MR. WILKES: I have been over his prior record. I
6 have not shown him each of those certified copies that the
7 solicitor has, but we have discussed his record. And I'll
8 ask him now if there's any --

9 THE COURT: Well, he's in agreement, is he, that he
10 has four prior convictions making this conviction at least
11 a third or subsequent?

12 MR. WILKES: It would be third or subsequent. That's
13 my understanding, yes, sir.

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

15 MR. WILKES: No, sir, Your Honor. Not unless my
16 client would like to say anything.

17 THE COURT: Mr. Williams, do you have anything you
18 want to tell me?

19 THE DEFENDANT: Yes. I'm just sorry about everything,
20 and I just hope the Court will have mercy on me.

21 THE COURT: On Indictment 2012-4098, that's the
22 indictment for trafficking in cocaine more than 200 grams,
23 wherein you have been found guilty by the jury of that
24 offense, Sentence of the Court is you, Shondre Lamond
25 Williams, be confined to the Department of Corrections for

Sentence

1 a period of 25 years and pay a fine of \$50,000.

2 Indictment 2012-4097, an indictment for possession
3 with intent to distribute crack cocaine, wherein you have
4 been found guilty by the jury of the lesser included
5 offense of possession of crack cocaine, Sentence of the
6 Court is you be confined to the South Carolina Department
7 of Corrections for a period of ten years and pay a fine of
8 \$12,500. Those sentences are concurrent.

9 Mr. Williams, you have a right to appeal the verdicts
10 of the jury and the Sentence of the Court. You must file
11 any notice of your intention to appeal those decisions
12 within ten days of today's date.

13 Mr. Wilkes will assist you in understanding that
14 right. Okay.

15 THE DEFENDANT: All right.

16 MR. WILKES: Thank you, Your Honor.

17 MR. HOLLIDAY: Thank you, Your Honor.

18 END OF REQUESTED TRANSCRIPT OF RECORD
19
20
21
22
23
24
25

12-109
STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

ORIGINAL

SEARCH WARRANT

"NO KNOCK"

CC 6

Date 3/2/12

Officer M. HUTCHINS

This is a certified true copy
of the records kept in the
Spartanburg Magistrate Court

02-25-2012 CTC

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SC

ORIGINAL

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF SPARTANBURG COUNTY, SC

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

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

FROM DOWNTOWN SPARTANBURG TRAVEL MAIN STREET (HIGHWAY 29) TOWARDS LYMAN, SOUTH CAROLINA. CONTINUE ON HIGHWAY 29 TO N. BLACKSTOCK ROAD AND TURN RIGHT. TRAVEL N. BLACKSTOCK ROAD TO SHORESBROOK ROAD AND TURN LEFT. TRAVEL SHORESBROOK ROAD TO BELLHAVEN LANE AND TURN LEFT. TRAVEL BELLHAVEN LANE TO E. ABINGTON WAY AND TURN LEFT. TRAVEL E. ABINGTON WAY TO BIRKHALL CT. AND TURN LEFT. TRAVEL BIRKHALL CT. TO [REDACTED] AND TURN RIGHT. THE PREMISES TO BE SEARCHED IS A GRAY TWO STORY DWELLING WITH BLACK SHUDDERS. THE NUMBERS "[REDACTED]" ARE ON THE MAILBOX AT THE END OF THE DRIVEWAY. THE SEARCH IS TO INCLUDE THE RESIDENCE, THE CURTILAGE AREA, AND ANY OUTBUILDINGS.

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

DESCRIPTION OF PROPERTY SOUGHT

COCAINE, A SCHEDULE II CONTROLLED SUBSTANCE, SCALES, BAGGIES, ELECTRONIC MEDIA, LEDGERS, DIARIES, U.S. CURRENCY, PAPERWORK IN THE NAME OF SHONDRE WILLIAMS SHOWING DOMINION AND CONTROL OVER THE PREMISE TO BE SEARCHED, CELL PHONE WITH THE NUMBER 864-[REDACTED] PARAPHERNALIA, AND ANY ITEM RELATED TO THE DRUG TRADE.

This Search Warrant shall not be valid for more than ten days from the date of issuance. *True and correct copy of records kept in the Spartanburg Magistrate Court 02-26-2013 CJC*

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

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

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

Spartanburg
March 2, 2012 SC

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

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG, SC

AFFIDAVIT

This is a certified
 of the records kept
 by the
 02-25-2013
 ctc

ORIGINAL

Personally appeared before me, one M. HUTCHINS

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

COCAINE, A SCHEDULE II CONTROLLED SUBSTANCE, SCALES, BAGGIES, ELECTRONIC MEDIA, LEDGERS, DIARIES, U.S. CURRENCY, PAPERWORK IN THE NAME OF SHONDRE WILLIAMS SHOWING DOMINION AND CONTROL OVER THE PREMISE TO BE SEARCHED, CELL PHONE WITH THE NUMBER 864-373-8564, PARAPHERNALIA, AND ANY ITEM RELATED TO THE DRUG TRADE.

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

FROM DOWNTOWN SPARTANBURG TRAVEL MAIN STREET (HIGHWAY 29) TOWARDS LYMAN, SOUTH CAROLINA. CONTINUE ON HIGHWAY 29 TO N. BLACKSTOCK ROAD AND TURN RIGHT. TRAVEL N. BLACKSTOCK ROAD TO SHORESBROOK ROAD AND TURN LEFT. TRAVEL SHORESBROOK ROAD TO BELLHAVEN LANE AND TURN LEFT. TRAVEL BELLHAVEN LANE TO E. ABINGTON WAY AND TURN LEFT. TRAVEL E. ABINGTON WAY TO BIRKHALL CT. AND TURN LEFT. TRAVEL BIRKHALL CT. TO [REDACTED] AND TURN RIGHT. THE PREMISES TO BE SEARCHED IS A GRAY TWO STORY DWELLING WITH BLACK SHUDDERS. THE NUMBERS "[REDACTED]" ARE ON THE MAILBOX AT THE END OF THE DRIVEWAY. THE SEARCH IS TO INCLUDE THE RESIDENCE, THE CURTILAGE AREA, AND ANY OUTBUILDINGS.

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

ON 3/1/12 A CONFIDENTIAL INFORMANT (CI) WORKING FOR THE SPARTANBURG COUNTY SHERIFF'S OFFICE CONDUCTED MULTIPLE RECORDED PHONE CONVERSATIONS WITH A SUBJECT THE CI KNOWS AS SHONDRE WILLIAMS. DURING THE CONVERSATIONS SHONDRE WILLIAMS SHOWED A DESIRE TO PURCHASE A QUANTITY OF COCAINE FROM THE CI. THE CI RECEIVED A CALL FROM SHONDRE WILLIAMS IN WHICH SHONDRE WILLIAMS AGREED TO PURCHASE THE QUANTITY OF COCAINE WITH U.S. CURRENCY. SHONDRE WILLIAMS CALLED THE CI FROM PHONE NUMBER 864-[REDACTED] SHONDRE WILLIAMS AGREED TO MAKE THE PURCHASE AT THE PREMISE DESCRIBED ABOVE. ON 3/2/12 THE CI WAS EQUIPPED WITH AN AUDIO AND VIDEO RECORDING DEVICE. THE CI AND CI'S VEHICLE WAS SEARCHED WITH NO ILLEGAL CONTRABAND BEING LOCATED. THE CI WAS PROVIDED WITH A QUANTITY OF COCAINE. THE CI WENT TO THE PREMISE DESCRIBED ABOVE AND MET WITH SHONDRE WILLIAMS. THE CI GAVE SHONDRE WILLIAMS THE QUANTITY OF COCAINE PROVIDED BY THE SPARTANBURG COUNTY SHERIFF'S OFFICE. SHONDRE WILLIAMS GAVE THE CI A SUM OF U.S. CURRENCY FOR THE COCAINE. THE CI THEN LEFT THE RESIDENCE AND MET BACK WITH INVESTIGATOR TILLINGHAIST. INVESTIGATOR TILLINGHAIST RECOVERED THE U.S. CURRENCY FROM THE CI. SURVEILLANCE WAS MAINTAINED ON THE RESIDENCE (PREMISE DESCRIBED ABOVE) BY MEMBERS OF THE SPARTANBURG COUNTY SHERIFF'S OFFICE NARCOTICS UNIT AFTER THE TRANSACTION. THE CI AND CI'S VEHICLE WAS AGAIN SEARCHED AND NO ILLEGAL CONTRABAND WAS LOCATED. CHECKING SHONDRE WILLIAMS' CRIMINAL

TH *Man*

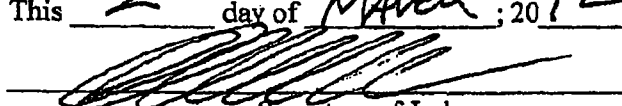
HISTORY SHOWS THAT IN AUGUST 1995 WILLIAMS WAS CONVICTED OF DISTRIBUTION OF CRACK COCAINE WITHIN HALF MILE OF SCHOOL, IN SEPTEMBER 1996 WILLIAMS WAS CONVICTED OF UNLAWFUL CARRYING OF A PISTOL, IN SEPTEMBER 1996 WILLIAMS WAS CONVICTED OF DISTRIBUTION OF CRACK COCAINE, IN SEPTEMBER 2003 WILLIAMS WAS CONVICTED OF DISTRIBUTION CRACK COCAINE 2ND OFFENSE, IN APRIL 2004 WILLIAMS WAS CONVICTED OF POSSESSION OF MARIJUANA, IN AUGUST 2011 WILLIAMS WAS CONVICTED OF DISTRIBUTION OF COCAINE BASE 2ND OFFENSE, IN JUNE 1993 WILLIAMS WAS CONVICTED OF DISTRIBUTION OF CRACK COCAINE, IN JUNE 1993 WILLIAMS WAS CONVICTED OF UNLAWFUL CARRYING OF A WEAPON, IN JUNE 1993 WILLIAMS WAS CONVICTED OF ASSAULT AND BATTERY, AND IN JUNE 1993 WILLIAMS WAS CONVICTED OF FAILURE TO STOP FOR A BLUE LIGHT. WITH THE FACTS LISTED ABOVE IT IS REQUESTED THAT THIS WARRANT BE A "NO KNOCK" DUE TO SHONDRE WILLIAMS' HISTORY OF WEAPONS VIOLATIONS, HISTORY OF FAILING TO STOP FOR BLUE LIGHT, AND FOR THE PRESERVATION OF EVIDENCE. EC6

ORIGINAL

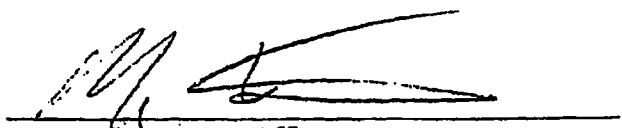
This is a certified true copy
of the records kept in the
Spartanburg Magistrate Court
02-25-2013 CT

Sworn to and Subscribed before me

This 2 day of March; 2012


Signature of Judge

0105


Affiant

Address 8045 Howard St.
Spartanburg, S.C. 29301
Phone 503-4500

RETURN

I received the attached Search Warrant March 2, 2012, and have executed it as

Follows: On March 2, 2012 at 1:10 o'clock A M,

I searched (the person) described in the warrant and (the premises)

ORIGINAL

I left a copy of the warrant with Shondre Williams

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

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

- 1) One plastic bag of white block substance found behind water heater in garage area (left side of garage) found by Chris T. McJunkin.
 - 2) One plastic bag containing white rock like substance found above kitchen cabinets to the right of stove found by Swad
 - 3) One set of digital scales (gray in color) found in kitchen drawer on right side of stove found by J. Schaefer
 - 4) One \$100 US Currency found in pants pocket of Shondre Williams (\$1265) found by Schaefer
 - 5) One \$100 US Currency found in chest of drawers in Master bedroom (\$1790) found by Hancock
 - 6) One \$100 US Currency found in Master bedroom chest on right hand side on wine shelf (\$10,813) found by Hancock
 - 7) One Bill Counter found in Master bedroom chest on right hand side found by Hancock
- Nothing Follows.

2:50 AM

This inventory was made in the presence of Sgt. Cooper, Sgt. Pharis, Sgt. Luther, Inv. Schaefer, Neeris

AND Swad, Ouley, Hancock, Jacobson, McJunkin, Hutchins, E. Worthy

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 2nd

Day of Mar, 2012

W. R. Ch (L.S.)
Signature of Judge

[Signature]
(Signature of Executing Office)

Spectator, SC

10:42 am



Spartanburg County
Forensic Analysis Lab

Chuck Wright, Sheriff

ATTN: Travis McJunkin
Spartanburg County Sheriff's Office
8045 Howard Street
Spartanburg, SC 29303

Date of Report: March 8, 2012
LAB #: L-12-0356
CASE #: 12030067
INCIDENT DATE: MARCH 2, 2012
SUSPECT 1: SHONDRE L. WILLIAMS

The items submitted for analysis were examined with your assurance that the submitted specimens have not nor will be submitted to any other laboratory or agency for examination.

RESULTS:

Item #1: Off-white rock substance

Cocaine Base (Crack) (C-II) found : 4.91 grams

Item #2: White powdery rock substance

Cocaine (C-II) found : 249.71 grams

I am a Chemical Analyst employed by the Spartanburg County Sheriff's Office, certified by the Spartanburg County Sheriff's Office Forensic lab as a chemist or analyst qualified to perform testing and analysis for controlled dangerous substances prohibited by law in this state by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

EXAMINED BY:

A handwritten signature in black ink, reading "Ashley C Harris".

ASHLEY C HARRIS
Laboratory Supervisor



FORM A

REPORT OF ANALYSIS FOR
CONTROLLED DANGEROUS SUBSTANCES

I, Ashley C. Harris, am a Chemical Analyst employed by the Spartanburg County Sheriff's Office and certified by the South Carolina Law Enforcement Division (SLED) as a chemist or analyst qualified to perform testing and analysis for controlled dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I have more than 15 years experience as a Chemical Analyst. During that period, I have been qualified as an expert witness and testified in court no less than 100 times. I have received the following training as a chemical analyst:

BS in Chemistry from Wofford College, May 1996

Basic Law Enforcement Training at the South Carolina Criminal Justice Academy, March 1997

Training in Forensic Chemistry at SLED - Department of Drug Analysis

DEA Forensic Chemist Seminar, December 1997

DEA Clandestine Laboratory Enforcement Training, February 1998

MS in Chemistry (Analytical) from Furman University, June 2002

Extensive Training in Various Forms & Disciplines of Instrumentation

Technical Seminars and Yearly Meetings for Drug-Related Topics

Certified as a Fellow of the American Board of Criminalistics, June 2010

On March 2, 2012, SLED Evid submitted the following items to me for testing or analysis:
(Date) (Name)

L12- 0356

I tested this (these) item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

- ☒ Chemical Test
☐ Microscopic
☐ Infrared Spectroscopy
☒ Solubility

- ☒ Gas Chromatography
☒ Mass Spectroscopy
☐ Liquid Chromatography
☐ Published Literature

☐ Other: _____

and am of the opinion the item(s) contain(s) the controlled substance:

See Report

(Substance Found and Amount or Proportion)

Ashley C. Harris
Ashley C. Harris
Chemical Analyst

3-7-12
(Date)

CONTROL NO. 5156607

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM B (RULE 6)

CERTIFICATE OF PROOF OF CHAIN OF PHYSICAL
CUSTODY OR CONTROL

(Initial Custody)

This is to certify that I D. SWAN am employed by
(Name)SPTBG COUNTY S/O and that on
(Name of Agency or Department)3 MAR, 2012, I seized from SHONKE LEMOND WILLIAMS
(Date) (Year) (Name)pursuant to SEARCH WARRANT
(State Whether Subject to Warrant, Lawful Arrest or Otherwise)at or near 815 OLD WYOMING CT. SPTBG, S.C.
(Place Where Seized)

the following substance(s) or container(s):

(Describe substance or container with sufficient particularity to distinguish it.)

1 PLASTIC BAG c/ WHITE ROCK LIKE SUBSTANCE1 PLASTIC BAG c/ WHITE ROCK SUBSTANCEOn 3 MAR, 2012, I made delivery of the above described
(Date) (Year)substance(s) or container(s) to EVIDENCE DROP BOX of
(Name)SPTBG COUNTY S/O in substantially the same condition
(Law Enforcement Agency)

as when I received it.

Place: _____
Date: _____[Signature]
(Signature)Sworn to me on this 3 day of MAR, 2012[Signature]
Notary Public for South CarolinaMy Commission expires: 23rd Aug 2014

CONTROL NO. _____

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM C (RULE 6)

**CERTIFICATE OF PROOF OF CHAIN OF PHYSICAL
CUSTODY OR CONTROL**

(Subsequent Change of Custody)

This is to certify that I Anita Mullinax am employed by
(Name)

Spartanburg County Sheriff as Evidence Officer and that on
(Name of Agency or Department) (Capacity of Employment)

3-2, 12, I received In Person
(Date) (Year) (Specify Whether by Mail or in Person)

from Drop Box of Spartanburg County Sheriff
(Name of Person) (Law Enforcement Agency)

the following substance(s) or container(s) which were originally seized by

D Swag
(Name of Person making Original Seizure)
(Describe substance or container with sufficient particularity to distinguish it.)

Dark bag S15 6607

On 3-2, 12, I made delivery of the above described
(Date) (Year)

substance(s) or container(s) to drugroom of
(Name)

Spartanburg County Sheriff in substantially the same condition
(Law Enforcement Agency)

as when I received it.

Place: _____
Date: _____

Anita Mullinax
(Signature)

Sworn to me on this _____ day of _____, _____

Notary Public for South Carolina
My Commission expires: _____

WITNESSES

SPTG CO SHERIFF'S OFFICE

1. SENTENCE MADE

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

ARREST WARRANT
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

M758190 AMENDED

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

FEB 22 2013

VERDICT

Guilty - Possession only.

Foreperson of Petit Jury

Date: 2-27-13

DOCKET NO.

12-GS-42-4097

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 22 2013

TERM

THE STATE
vs.

SHONDRE LAMOND WILLIAMS

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE BASE

SC Code: 44-53-375

CDR Code:

Class MIS/A

2013 FEB 22 PM 4:50
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on Feb 22 2013 the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE

That Shondre Lamond Williams did in Spartanburg County on or about March 2, 2012, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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


ASSISTANT SOLICITOR

340 Whitestone
Shondre Lamond Williams
SPARTANBURG
VS.
Shondre Lamond Williams
ACK Sex: M Age: 37
SS#: [REDACTED]
State, Zip: [REDACTED]
SID#: 0090130753
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

235
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4204097

A/W#: M758190

Date of Offense: 3/2/2012

S.C. Code § : 44-53-0375(C)

CDR Code #: 0452

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Possession Cocaine Base (Crack Cocaine) 3rd Offense (0 - 10 years &/or up to \$12,500)

in violation of § 44-53-0375 (of the S.C. Code of Laws, bearing CDR Code # 3016
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: HOLLIDAY HAYES 79791 SC Bar# Shondre Williams Defendant Heidi Lee Attorney for Defendant 12593 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ 12,500; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:
§ 14-1-206 (Assessments 107.5 %)
§ 14-1-211(A)(1) (Conv. Surcharge) \$100
§ 14-1-211(A)(2) (DUI Surcharge) \$100
§ 56-5-2995 (DUI Assessment) \$12
§ 56-1-286 (DUI Breath Test) \$25
Proviso 47.9 (Public Def/Prob) \$500
§ 14-1-212 (Law Enforce. Funding) \$25
§ 14-1-213 (Drug Court Surcharge) \$150
§ 50-21-114 (BUI Breath Test Fee) \$50
§ 56-5-2942(J) (Vehicle Assessment) \$40/ca
Proviso 90.5 (SCCJA Surcharge) \$5
3% to County (if paid in installments)
TOTAL

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. ☐
May serve W/E beginning
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

Sentence Date:

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

2053

February 27, 2013

WITNESSES

SPTBG CO SHERIFF'S OFFICE

1. SENTENCE MADE

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANTS

ARREST WARRANT NUMBER

6. CHECKED SIGNATURE

7. ASSESSMENT FINE CARD MADE

M758191

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

AUG 2 2012

Person of Grand Jury
ite:

VERDICT

Guilty

Person of Petit Jury

9: 2/27/13

DOCKET
12-GS-42- 4098

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 2 2012

TERM

THE STATE
vs.

SHONDRE LAMOND WILLIAMS

Indictment for
TRAFFICKING COCAINE

SC Code: 44-53-370

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 AUG 30 PM 3:30
M. HOPE BARNETT

SC/AM

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

April 23 2012

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING COCAINE

That Shondre Lamond Williams did in Spartanburg County on or about March 2, 2012, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (200) two hundred grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

Shondre Lamond Williams

AROLINA

Computer

IN THE COURT OF GENERAL SESSIONS 238

TH SPARTANBURG
VS.
Shondre Lamond Williams
County
BLACK Sex: M Age: 37
SS#:
DL#: 0090130755 SID#:
City, State, Zip:
DL# 0090130755 SID#

INDICTMENT/CASE#: 2012GS4204098
A/W#: M758191
Date of Offense: 3/2/2012
S.C. Code §: 44-53-0370(e)
CDR Code #: 0288

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Trafficking Cocaine, 200 grams - 400 grams 3rd Offense (25 years & \$100,000)

in violation of § 44-53-0370(e) of the S.C. Code of Laws, bearing CDR Code # 0288
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.

ATTEST:
HOLLIDAY, HAYES 79791 SC Bar# Defendant Attorney for Defendant 12893 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ 50,000 ; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
☐ Set by SCDPPPS

Recipient:

*Fine: \$50,000.00
§ 14-1-206 (Assessments 107.5 %)
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$53,750.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 2500
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00
§ 50-21-114 (BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 500
3% to County (if paid in installments) \$3120.90
TOTAL \$107,150.90

days/hours Public Service Employment
Obtain GEL ☐
Attend Voc. Rehab. or Job Corp. ☐
May serve W/E beginning
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

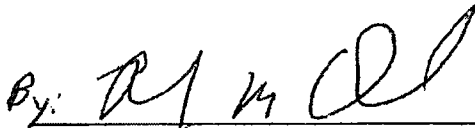
Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2053
Sentence Date: February 27, 2013

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for Appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the August 13, 2007, Order from the South Carolina Supreme Court titled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 11th, 2013

By: 

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court Of General Sessions

J. Derham Cole, Circuit Court Judge

Appellate Case No. 2013-000487

The State, ...Respondent,

v.

Shondre Lamond Williams, ...Appellant.

FINAL BRIEF OF APPELLANT

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ATTORNEYS FOR APPELLANT

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STATEMENT OF ISSUES ON APPEAL

- I. Did the circuit court err in refusing to suppress the search warrant for Appellant's home when the officer who completed the accompanying affidavit did so without personal knowledge of the facts giving rise to probable cause?
- II. Did the circuit court err in refusing to suppress the drug evidence when the State failed to demonstrate a complete chain of custody by failing to explain date discrepancies?

STATEMENT OF THE CASE

Appellant was indicted for trafficking cocaine and possession with intent to distribute cocaine base. Trial occurred on February 25 – 27, 2013 in Spartanburg County. Appellant was convicted on the trafficking charge and of possession of cocaine base. The trial court sentenced Appellant to 25 years' imprisonment on the trafficking charge and ordered him to pay a fine of \$50,000. On the possession charge, the trial court sentenced Appellant to 10 years' concurrent imprisonment and ordered him to pay a fine of \$12,500. Appellant filed a timely notice of appeal.

STATEMENT OF THE FACTS

This case involves a reverse-buy operation. On March 1, 2012, Investigator Travis McJunkin of the Spartanburg County Sheriff's Office assisted Greenville County officers in executing a search warrant on an individual named Shondrell Williams.¹ [R. p. 12, lines 3–9; p. 152, line 24–p. 153, line 7.] The police found enough drugs in Mr. Williams' home to make him eligible for a 25-year prison sentence. [R. p. 153, lines 8–9; p. 166, lines 2–5.] However, they informed Mr. Williams that if he cooperated with

¹ This is a different individual than Appellant, who is named Shondre Williams.

them, he could avoid prison. [R. p. 153, lines 10–24.] Accordingly, he agreed to act as a confidential informant (“Informant”)² in arranging to sell cocaine to Appellant. [R. p. 12, lines 11–18; p. 153, lines 4–7; p. 154, lines 2–3.]

With the police observing, Informant called Appellant to tell him that Informant had some drugs to sell him. [R. p. 155, lines 5–23.] Appellant declined the offer. [R. p. 166, line 25–p. 167, line 5.] Appellant later called Informant back, however, and agreed to purchase cocaine. [R. p. 167, line 5.]

Meanwhile, Sergeant Joe Pharis of the Spartanburg County Sheriff’s Office contacted Lieutenant Ashley Harris, a chemist in the forensic lab, and asked him to prepare a package containing approximately 250 grams of cocaine. [R. p. 59, line 21–p. 60, line 2; p. 116, line 19–p. 117, line 3.] Investigator Matt Hutchins retrieved the package from Lieutenant Harris and delivered it to the narcotic office. [R. p. 85, line 17–p. 86, line 12.]

Once the operation was ready to proceed, Investigator McJunkin retrieved the drugs from the narcotic office and gave them to Informant. [R. p. 89, line 21–p. 90, line 15.] Investigator McJunkin and several other members of the sheriff’s office then followed Informant to Appellant’s residence. [R. p. 12, line 19–p. 13, line 1.] Informant entered Appellant’s residence and subsequently exited, got in his car, and drove away. [R. p. 19, lines 18–20.] Investigator William Tillinghast followed Informant to another location, where Informant gave Investigator Tillinghast \$4,000 that Informant said he received from Appellant in exchange for the cocaine. [R. p. 19, line 25–p. 20, line 3.] A surveillance tape captured this verbal exchange between Investigator Tillinghast and

² Shondrell Williams will hereinafter be referred to as “Informant” to reduce any confusion between him and Appellant.

Informant. [R. p. 15, lines 13–24; p. 20, line 19–p. 23, line 21; Court’s Exhibit 1.] Investigator Tillinghast concluded the recording by stating, “End of debrief at 1:04 a.m., March 2.” [R. p. 23, lines 18–21; Court’s Exhibit 1.] Investigator Tillinghast then called Investigator Hutchins, who was at the sheriff’s office, and told him that Appellant had purchased the cocaine from Informant. [R. p. 20, lines 4–9.]

While waiting on the call from Investigator Tillinghast, Investigator Hutchins had prepared certain background portions of a search warrant and affidavit for Appellant’s home. [R. p. 27, lines 7–17.] After receiving the call from Investigator Tillinghast, Investigator Hutchins completed the affidavit by adding the following sentences: “The CI then left the residence and met back with Investigator Tillinghast. Investigator Tillinghast recovered the U.S. currency from the CI. Surveillance was maintained on the residence (premise described above) by members of the Spartanburg County Sheriff’s Office Narcotics Unit after the transaction.” [R. p. 226; p. 27, line 18–p. 28, line 1.] Investigator Hutchins then printed the warrant and affidavit, drove from the sheriff’s office to the jail, handed the documents to the magistrate, and observed the magistrate read and sign them. [R. p. 27, line 7–p. 31, line 2.] The magistrate wrote “0105” underneath his signature on the second page of the affidavit. [R. p. 227.] Investigator Hutchins testified that this process, from the time he finished the task of filling out the warrant until obtaining the magistrate’s signature, would have taken “a few minutes” to complete. [R. p. 31, lines 8–15.]

Once the officers on the scene got word that the warrant was signed, they searched Appellant’s home. [R. p. 38, lines 9–17.] After Appellant was handcuffed and given a *Miranda* warning, he revealed to Investigator McJunkin and Lieutenant Cooper

that he had hidden the cocaine in the hot water heater. [R. p. 39, line 21–p. 40, line 20; p. 44, lines 1–23.] A search of the home also revealed crack cocaine hidden above a kitchen cabinet. [R. p. 94, lines 14–16.]

Investigator Dan Swad, who recovered the cocaine and crack cocaine at the scene, placed the drugs in a BEST bag. [R. p. 94, line 1–p. 95, line 11.] Investigator Swad also prepared Form B, on which he indicated that he delivered the drugs to the evidence drop box on March 3, 2012. [R. p. 95, line 24–p. 96, line 3; p. 231.] The form was notarized, and the date above the notary's signature is also March 3. [R. p. 97, line 9–p. 98, line 1; p. 231.] Investigator Swad's testimony corroborated his statement on Form B that he placed the drugs in the drop box on March 3. [R. p. 96, line 14–p. 98, line 9.]

Anita Mullinax, an evidence custodian at the sheriff's office, indicated on Form C that she retrieved the BEST bag from the drop box on March 2. [R. p. 99, lines 7–15; p. 232.] She then delivered the bag to the drug room, which is a sealed room in the evidence office. [R. p. 104, line 8–p. 105, line 18; p. 232.] Later that day, Lieutenant Harris retrieved the BEST bag; a test of the substances revealed 249.71 grams of cocaine and 4.91 grams of crack cocaine to be present. [R. p. 63, lines 8–9; p. 81, lines 5–11.]

Before trial, Appellant moved to suppress the search warrant and to suppress the drug evidence due to an incomplete chain of custody. [R. p. 9, line 8–p. 10, line 21; p. 52, lines 6–11; p. 56, lines 20–22.] The court denied the motions. [R. p. 47, line 5–p. 51, line 23; p. 127, line 12–p. 130, line 17.] After trial, the jury convicted Appellant of possession of cocaine base and trafficking cocaine. [R. p. 220, line 20–p. 221, line 1.] This appeal followed.

STANDARD OF REVIEW

On appeals from a motion to suppress based on Fourth Amendment grounds, the appellate court applies a deferential standard of review and will reverse if there is clear error. State v. Tindall, 388 S.C. 518, 521, 698 S.E.2d 203, 205 (2010). In spite of this deference, however, the Court may conduct its own review of the record to determine whether the trial court's decision is supported by the evidence. *Id.*

"The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." State v. Hatcher, 392 S.C. 86, 91, 708 S.E.2d 750, 753 (2011) (citation and internal quotation marks omitted).

ARGUMENT

I.

The circuit court erred in refusing to suppress the search warrant for Appellant's home when the officer who completed the accompanying affidavit did so without personal knowledge of the facts giving rise to probable cause.

"The Fourth Amendment to the United States Constitution and Article I, § 10 of the South Carolina Constitution protect citizens from unreasonable searches and seizures. Both state and federal constitutions provide that search warrants may not be issued except upon 'probable cause, supported by oath or affirmation,' and particularly describing the place to be searched and the persons or things to be seized." State v. Dunbar, 361 S.C. 240, 246, 603 S.E.2d 615, 618 (Ct. App. 2004). Both federal and state constitutions

require an oath or affirmation before probable cause may be found. State v. Jones, 342 S.C. 121, 128, 536 S.E.2d 675, 678 (2000).

South Carolina further mandates that a “warrant . . . shall be issued only upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record.” S.C. Code Ann. § 17-13-140. “Generally, affidavits must be made on the affiant’s personal knowledge of the facts alleged in the petition. The affidavit must in some way show that the affiant is personally familiar with the facts so that he could personally testify as a witness.” Dunbar, 361 S.C. at 248 (citation and internal quotation marks omitted). Where an affidavit contains statements that are false or that were made with reckless disregard to the truth, the search warrant must be set aside if the affidavit’s remaining content is insufficient to establish probable cause. State v. Davis, 371 S.C. 412, 415-16, 639 S.E.2d 457, 459 (Ct. App. 2006) (citing Franks v. Delaware, 438 U.S. 154 (1978)).

Here, no evidence exists to support the trial court’s determination that the search warrant was valid and supported by Investigator Hutchins’ personal knowledge at the time it was executed. After Investigator Tillinghast met with Informant following the sale of the cocaine to Appellant, he recorded Informant’s recounting of the events. [R. p. 23, lines 9–21; Court’s Exhibit 1.] At the conclusion of the recording, Investigator Tillinghast noted that the time was 1:04 a.m. [R. p. 23, lines 18–21; Court’s Exhibit 1.] When the magistrate signed the affidavit, he wrote “0105” under his signature. [R. p. 227.] Investigator Hutchins testified that he could not have completed the affidavit, printed it and the warrant, driven to the jail, and allowed the magistrate to read and sign the documents within sixty seconds. [R. p. 31, lines 8–13.] Investigator Hutchins

acknowledged that it would take a few minutes for these events to occur. [R. p. 31, lines 14–15.] Furthermore, Investigator Hutchins acknowledged that 1:05 is an accurate reflection of what time the magistrate signed the documents. [R. p. 31, line 20–p. 32, line 5.]

It is true that Investigator Tillinghast testified that he could not remember at what point during these events he called Investigator Hutchins to inform him of precisely what had transpired on the scene. [R. p. 20, line 4–p. 21, line 22.] However, Investigator Tillinghast acknowledged that he would not have called Investigator Hutchins until after meeting with Informant to hear his version of the events:

Q: Would you agree that you could not tell [Investigator Hutchins] what transpired until you met with the C.I. to find out? Does that make sense?

A: Yes, sir.

Q: Okay. So at that time when the C.I. tells you what has transpired for you to then relay to Hutchins, at that point you're with the C.I. And we can hear that on the tape.

A: Yes, sir.

[R. p. 22, lines 9–17.] The recording does not include a phone call or any other communication between Investigators Tillinghast and Hutchins. Thus, the only conclusion to be reached from Investigator Tillinghast's testimony is that he called Investigator Hutchins after the video recording concluded at 1:04, and that it was not until then that Investigator Hutchins could complete the portion of the affidavit detailing what occurred after Informant entered Appellant's residence.

The State attempted to mitigate this evidence by eliciting testimony from Investigator Hutchins that the timestamps in the video cameras used by the sheriff's office sometimes may be inaccurate. [R. p. 33, lines 6–21.] However, neither Investigator Hutchins nor anyone else testified that the specific video camera in question

had an inaccurate timestamp. Furthermore, Investigator Tillinghast did not testify that he relied on the video timestamp when giving the time at the conclusion of the recording. The State introduced no evidence indicating that the time of 1:04 given in the video was inaccurate.

Given the evidence before the trial court—that Investigator Tillinghast completed his questioning of Informant at 1:04; that he then called Investigator Hutchins to relay what occurred at Appellant's residence; that Investigator Hutchins then had to complete the warrant and affidavit, drive to the jail, and obtain the magistrate's signature, which occurred at 1:05—it was error for the trial court not to find the warrant invalid and not to suppress the evidence discovered as a result. Dunbar is clear that affidavits must be based on personal knowledge. The only logical inference from the evidence is that Investigator Hutchins had already completed the affidavit in its entirety, executed it, and traveled to the jail with the documents before receiving confirmation of the events from Investigator Tillinghast. In other words, the evidence permits only one conclusion: that when Investigator Hutchins completed and executed his affidavit, he lacked personal knowledge of all the facts he included in that document. Thus, he acted, at a minimum, with reckless disregard of the truth when completing the portion of the affidavit detailing what occurred after Informant entered Appellant's residence. Absent these statements, the affidavit lacks sufficient facts to constitute probable cause for the search warrant.

In light of the fact that the affidavit was defective, probable cause did not exist for the search warrant. The trial court erred in finding that the warrant was valid. Accordingly, this Court should reverse the trial court's decision refusing to suppress the warrant and the evidence seized pursuant thereto.

II.

The circuit court erred in refusing to suppress the drug evidence when the State failed to demonstrate a complete chain of custody by failing to explain date discrepancies.

When offering drugs into evidence, the State must establish a complete chain of custody as far as practicable. State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205 (2007). “Proof of chain of custody need not negate all possibility of tampering so long as the chain of possession is complete.” State v. Hatcher, 392 S.C. 86, 92, 708 S.E.2d 750, 753 (2011). “Where an analyzed substance . . . has passed through several hands, the identity of individuals who acquired the evidence and *what was done with the evidence between the taking and the analysis must not be left to conjecture.*” Sweet, 374 S.C. at 6, 647 S.E.2d at 205 (emphasis added).

Here, the trial court erred in ruling that the State had established a complete chain of custody. Investigator Swad, who recovered the drugs at the scene, indicated on Form B that he placed the BEST bag in the drop box on March 3. [R. p. 231.] Form B was also notarized, and the notary similarly indicated the date as March 3. [R. p. 231.] When Anita Mullinax completed Form C, however, she indicated that she retrieved the BEST bag from the drop box on March 2. [R. p. 232; p. 100, lines 14–19.] On the witness stand, Investigator Swad affirmed the accuracy of Form B:

Q: If you’ll look at Defendant’s Exhibit 1, do you fill out any other documentation on that? Form B?

A: Yes, sir, form B.

Q: Is that your form?

A: Yes, sir.

Q: Is your form accurate?

THE STATE: Your Honor, I’m going to --

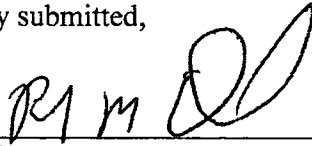
A: Yes, sir.

[R. p. 95, line 24–p. 96, line 6.] At no point during his testimony did Investigator Swad testify that he transcribed the date erroneously. Given the discrepancy between the date the BEST kit was supposedly deposited in the drop box and the date it was supposedly retrieved, “what was done with the evidence between the taking and the analysis [was] left to conjecture,” Sweet, 374 S.C. at 6, 647 S.E.2d at 205, in violation of well-settled law in this state. Thus, the trial court abused its discretion in finding that the State had established a complete chain of custody and allowing these drugs into evidence, and Appellant asks this Court to reverse that determination.

CONCLUSION

For the reasons discussed above, this Court should reverse Appellant’s convictions and sentences and remand this case for a new trial, with instructions that all evidence seized pursuant to the defective warrant be excluded.

Respectfully submitted,

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March 31, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court Of General Sessions

J. Derham Cole, Circuit Court Judge

Appellate Case No. 2013-000487

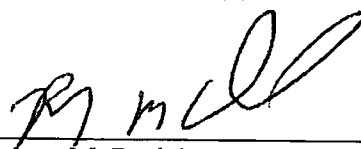
The State, ...Respondent,

v.

Shondre Lamond Williams, ...Appellant.

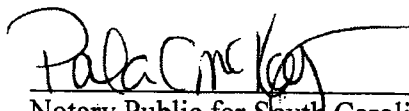
APPELLANT'S RULE 211 CERTIFICATION

The undersigned, attorney for Appellant Shondre Lamond Williams, certifies, pursuant to Rule 211, SCACR, that Appellant's Final Brief complies with Rule 211(b), SCACR.



Robert M. Dudek
Chief Appellate Defender

SUBSCRIBED AND SWORN TO before me
this 31st day of March, 2014

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
J. Derham Cole, Circuit Court Judge

Appellate Case No.: 2013-000487

State of South Carolina, ... Respondent,

v.

Shondre Lamond Williams, ... Appellant.

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STATEMENT OF ISSUES ON APPEAL

- I. The circuit court did not err in refusing to suppress the search warrant for Appellant's home.
- II. The circuit court did not err in refusing to suppress the drug evidence.

STATEMENT OF THE CASE

Appellant was indicted for trafficking more than 200 grams of cocaine and for possession with intent to distribute cocaine base (crack cocaine). Appellant's trial took place in Spartanburg County, South Carolina and occurred from February 25, 2013 to February 27, 2013. Prior to trial, Appellant's counsel moved to suppress all evidence found pursuant to the search warrant and also moved to suppress the drug evidence alleging an incomplete chain of custody. The trial court denied both motions, and the case proceeded to the jury. The jury ultimately convicted Appellant of trafficking more than 200 grams of cocaine and of the lesser included offense of possession of cocaine base (crack cocaine). Upon conviction, the trial court sentenced Appellant to 25 years' imprisonment and imposed a \$50,000 fine for the trafficking cocaine conviction, and the trial court sentenced Appellant to 10 years' imprisonment and imposed a \$12,500 fine for the possession of cocaine base (crack cocaine) conviction. This appeal follows.

STATEMENT OF THE FACTS

On March 2, 2012, the Appellant purchased a "quarter kilo" of cocaine from an informant working with the Spartanburg County Sheriff's Office. (Tr. pp. 229-30) (R. pp. 157-58). This purchase was conducted under surveillance and resulted in the issuance of a search warrant for the Appellant's home and the subsequent seizure of 249.71 grams of cocaine and 4.91 grams of cocaine base (crack cocaine) from the Appellant. (Tr. pp. 257, 259-60, 291)(R. pp. 172, 174-75, 198). Ultimately, Appellant was convicted of trafficking cocaine and possession of cocaine base (crack cocaine). (Tr. p. 352)(R. p. 220).

This entire operation was a reverse buy operation coordinated and conducted under the supervision and surveillance of the Spartanburg County Police Department. (Tr. pp. 25-27)(R. pp. 12-14). On March 1, 2012, Investigator Travis McJunkin with the Spartanburg County Sheriff's Office assisted officers with the Greenville County Sheriff's Department in a drug search operation in Greenville County regarding an individual named Shondrell Williams. (Tr. p. 25)(R. p. 12). Subsequent to this operation, Shondrell Williams (hereinafter "Informant") agreed to cooperate with law enforcement and arranged to sell Appellant a quantity of cocaine. *Id.* Informant was a known drug supplier and had sold drugs to Appellant on several prior occasions. (Tr. pp. 226-27)(R. pp. 154-55).

Thereafter, on March 2, 2012, the Spartanburg County Sheriff's Office supplied Informant with a predetermined amount of cocaine, fixed recording devices on Informant's person, and conducted surveillance on the entire operation. (Tr. pp. 25-26)(R. pp. 12-13). After receiving cocaine from law enforcement, Informant went to

Appellant's home, 815 Old Wynd Court in Spartanburg County, South Carolina, and exchanged the cocaine for \$4,000 of U.S. currency with Appellant.¹ (Tr. pp. 229-32)(R. pp. 157-160). After selling the Appellant cocaine, Informant met with Spartanburg County Sheriff's Office Investigator William Tillinghast and turned over the \$4,000. (Tr. p. 26)(R. p. 13). Subsequently, a search warrant was obtained for 815 Old Wynd Court. (Tr. pp. 42-44)(R. pp. 29-31). During this search, law enforcement recovered not only the 249.71 grams of cocaine that Informant had sold Appellant, but also an additional 4.91 grams of crack cocaine that was in Appellant's possession. (Tr. pp. 26-27, 291)(R. pp. 13-14, 198).

On the day of this operation, March 2, 2012, the Spartanburg County Sheriff's Office developed a coordinated plan to facilitate this reverse buy operation. (Tr. pp. 190-191)(R. pp. 142-43). This plan was communicated throughout the day amongst the various officers involved so that the proper preparations were coordinated and put in place. *Id.* Upon Informant agreeing to sell the Appellant cocaine, Spartanburg County Investigator Matt Hutchins retrieved cocaine from the Spartanburg County Sheriff's Office's evidence room. (Tr. p. 38)(R. p. 25). The cocaine was ultimately provided to Informant who sold it to the Appellant. (Tr. pp. 227-30)(R. pp. 155-58). However, upon retrieving the cocaine, Investigator Hutchins then returned to the Sheriff's Office to complete the search warrant for Appellant's home should the transaction occur. (Tr. p. 38)(R. p. 25). Throughout that day, Investigator McJunkin kept Investigator Hutchins apprised of the events that were transpiring during this operation so that Investigator Hutchins could accurately prepare the search warrant. (Tr. pp. 30, 39)(R. pp. 17, 26).

¹ Appellant actually purchased \$9,000 worth of cocaine from Informant, and Appellant agreed to pay the remaining \$5,000 at a later date.

In addition, Spartanburg County Investigator William Tillinghast, who followed Informant to and from the cocaine sale at Appellant's house, recovered the money that Appellant paid Informant for cocaine. (Tr. pp. 32-33)(R. pp. 19-20). Upon receiving this money, Investigator Tillinghast called Investigator Hutchins to inform him that Informant had left the sale and that Appellant had purchased cocaine from Informant in exchange for money. (Tr. pp. 33, 39)(R. pp. 20, 26). After speaking with Investigator Tillinghast, Investigator Hutchins completed the search warrant affidavit and took it before a magistrate to obtain a search warrant. (Tr. pp. 39-40)(R. pp. 26-27). Investigator Hutchins was not present on the scene for this operation; however, Investigator Hutchins confirmed that everything he placed in the search warrant affidavit had in fact happened before taking the search warrant to the magistrate and swearing the search warrant affidavit. (Tr. pp. 39-40, 45-49)(R. pp. 26-27, 32-36). This was accomplished by various personal contact and telephone calls with Investigator McJunkin throughout the day on March 2, 2012 and at least one phone call with Investigator Tillinghast on that date. (Tr. pp. 30, 33, 47)(R. pp. 17, 20, 34).

Ultimately, a Spartanburg County magistrate signed the search warrant and the Appellant's house was searched. (Tr. p. 43)(R. p. 30). During this search, Appellant directed Investigator McJunkin to the cocaine Appellant had just purchased from Informant, and this cocaine was recovered from a hiding place near a water heater in Appellant's garage.² (Tr. p. 197)(R. p. 149). Spartanburg County Investigator Dan Swad ultimately recovered this cocaine and sealed it in a tamper-resistant BEST evidence bag. (Tr. p. 257)(R. p. 172). In addition to the cocaine, Investigator Swad also located a

² At first, Appellant was not truthful regarding the location of the cocaine; however, Appellant ultimately acquiesced led the investigators to it. (Tr. pp. 196-97)(R. pp. 148-49).

quantity of crack cocaine on top of the cabinets in Appellant's kitchen. (Tr. p. 259)(R. p. 174). Investigator Swad also recovered this crack cocaine and placed it in the same tamper-resistant BEST evidence bag along with the cocaine. (Tr. pp. 259-60)(R. pp. 174-75). Investigator Swad did not alter or tamper with either substance at any time. (Tr. pp. 257, 259)(R. pp. 172, 174). Further, upon the completion of the search at Appellant's house, Investigator Swad immediately took the evidence to the evidence room at the Spartanburg County Sheriff's Office and placed it in the evidence locker. (Tr. pp. 260, 264)(R. pp. 175, 179). This occurred on March 2, 2012. (Tr. pp. 260, 264, 275)(R. pp. 175, 179, 182).³ In addition to the cocaine and the crack cocaine located in Appellant's house, law enforcement recovered a set of digital scales, \$12,500 in U.S. Currency, and a money counter. (Tr. pp. 260, 261-62)(R. pp. 175, 176-77).

On that same date, March 2, 2012, a Spartanburg County Sheriff's Office evidence custodian named Anita Mullinax retrieved the evidence in this case, including the BEST bag containing the cocaine and crack cocaine recovered from the Appellant's house and placed into evidence by Investigator Swad, entered this evidence into the evidence computer log, and put it in the secure drug room at the Sheriff's Office. (Tr. pp. 275-77)(R. pp. 182-84). When Ms. Mullinax received this evidence, it had not been opened or tampered with in any way. (Tr. p. 276)(R. p. 183). In addition, Ms. Mullinax did not alter or tamper with this evidence in any way. *Id.*

Ultimately, Spartanburg County Sheriff's Office's chemical analyst, Ashley Harris, who was qualified as an expert in chemical analysis at Appellant's trial, retrieved the evidence recovered from the Appellant's house from the drug room at the Sheriff's

³ However, it appears that Investigator Swad incorrectly dated one evidence form indicating this occurred on March 3, 2012, when in fact it occurred on March 2, 2012. This was a simple scrivener's error. (Tr. p. 274)(R. p.).

Office and performed a chemical analysis on it. (Tr. pp. 282, 284-85, 288)(R. pp. 189, 191-92, 195). However, initially upon retrieving this evidence and prior to performing the chemical analysis, Mr. Harris checked to make sure the BEST evidence bag containing these drugs had not been tampered with. (Tr. pp. 286-87)(R. pp. 193-94). Satisfied that this evidence had not been altered or tampered with in any way, Mr. Harris ultimately performed a series of chemical analyses on this evidence. (Tr. p. 287)(R. p. 194). All of the testing of these items resulted in both items testing positive for cocaine, one being crack cocaine and the other being cocaine. (Tr. p. 288)(R. p. 195). After the positive analysis, the cocaine weighed out to be 249.71 grams and the crack cocaine, after air drying, weighed out to be 4.91 grams. (Tr. p. 291)(R. p. 198). Prior to this testing, these items had not been altered or tampered with in any way. (Tr. pp. 286-7, 291-92)(R. pp. 193-94, 198-99).

STANDARD OF REVIEW

“The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion.” State v. Hatcher, 392 S.C. 86, 91, 708 S.E.2d 750, 753 (2011) (quoting State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006)).

“In criminal cases, an appellate court reviews errors of law only and is bound by factual findings of the trial court unless clearly erroneous.” State v. Covert, 368 S.C. 188, 193, 628 S.E.2d 482, 485 (Ct. App. 2006) aff’d as modified, 382 S.C. 205, 675 S.E.2d 740 (2009)(citing State v. Wilson, 345 S.C. 1, 5–6, 545 S.E.2d 827, 829 (2001)).

“A court’s ruling on the admissibility of evidence will not be reversed on appeal absent an abuse of discretion or the commission of legal error that results in prejudice to the defendant.” State v. Adams, 354 S.C. 361, 377, 580 S.E.2d 785, 793 (Ct.App.2003).

ARGUMENT

I. The circuit court did not err in refusing to suppress the search warrant of Appellant’s home.

In South Carolina, a search warrant “shall be issued only upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record establishing the grounds for the warrant.” S.C. Code Ann. § 17-13-140. However, South Carolina law clearly allows a search warrant affidavit to be based on hearsay and recognizes that an affiant may attest to information supplied by fellow officers. State v. Dunbar, 354 S.C. 479, 488, 581 S.E.2d 840, 845 (Ct. App. 2003) cert. granted, decision vacated in part, 356 S.C. 138, 587 S.E.2d 691 (2003); State v. Sullivan, 267 S.C. 610, 230 S.E.2d 621 (1976) (recognizing the validity of an affiant attesting to information supplied him by a fellow officer).

In this matter, Spartanburg County Investigator Matt Hutchins testified that he had personal knowledge of everything contained in the search warrant affidavit as Investigator Hutchins confirmed everything with his fellow officers who were on the scene observing each aspect of this operation. Investigator Hutchins specifically testified to this as follows:

Q: Okay. And you prepared the affidavit in the affiant section of that⁴?

A: I did.

Q: On the tape that the informant has played previously in court you hear Investigator Tillinghast tell you we got the money. What does that mean to you of what did that mean to you at that time?

A: Basically, that the informant had went to the address, had sold the target a quantity of cocaine and had received payment for the cocaine.

Q: And so when you received that phone call, what did you do?

A: I then typed the -- or finished typing the affidavit adding that part to the affidavit and then went before a magistrate to get it signed.

Q: So you did have part of the affidavit already typed out.

A: I was in the process of typing while it was going on, yes, sir.

Q: And everything that's in the affidavit, you did confirm that it occurred as it was in the affidavit before you submitted it?

A: Yes. Investigator McJunkin was the case agent, and had confirmed through him that that was the facts. And then when Investigator Tillinghast had told me that he had the money, then confirmed that. And the search warrant was signed.

Q: So you didn't sign the search warrant until after you heard -- you got the phone call from Tillinghast.

A: That's correct.

⁴ Referring to the disputed search warrant. (Tr. p. 38)(R. p. 25).

(Tr. pp. 38-40)(R. pp. 25-27). Investigator Hutchins also testified that he had spoken with the case agent, Investigator McJunkin throughout the day to obtain information for this affidavit. Specifically, he testified as follows:

Q: Okay. And the C.I. and the C.I.'s vehicle again were searched and no illegal contraband was located, checking, and they goes on from there to unrelated facts, but who -- who conveyed to you that the surveillance continued to be maintained on the residence until after the transaction and the C.I.'s vehicle had been searched again? Who informed you of that?

A: I believe it was Investigator McJunkin.

Q: And how did he inform you of that?

A: I know I had talked back and forth with him also in reference to the search warrant, because he was actually standing by for me to let him know it had been signed. So I believe that's who I would have got those facts from.

(Tr. p. 41)(R. p. 28). Investigator Hutchins further testified to the following:

Q: You say you were talking to Tillinghast or McJunkin by phone?

A: At which time? I actually --

Q: To get these facts. How did you get these facts?

A: I had spoke with both of them. I had spoke with McJunkin and I had spoke with Tillinghast....

Q: Okay. And these phone records would show that you were communicating these facts right here contemporaneous with their occurrence or at least some point before the warrant --

A: Was signed at some point, yes....

(Tr. pp. 47-48)(R. pp. 34-35). Investigator Hutchins ultimately indicated, "[b]efore I signed this search warrant these facts were conveyed to me that they had happened." (Tr. p. 49)(R. p. 36). As such, it is clear that Investigator Hutchins had personal knowledge of the facts set forth in the affidavit.

Investigator McJunkin also confirmed that he had spoken with Investigator Hutchins several times throughout the day acknowledging, "I had several contacts with Investigator Hutchins throughout the day." (Tr. p. 28)(R. p. 15). Investigator McJunkin further indicated that he relayed a significant amount of information to Investigator Hutchins: "[t]he information that we had placed recorded phone calls to Shondre Williams in reference to the purchase or the sale of an amount of cocaine, would have given him a description of the premises to be searched, the facts of the case as I knew them at that time." (Tr. p. 30)(R. p. 17). Spartanburg County Investigator William Tillinghast also testified that he had spoken with Investigator Hutchins to supply information for the search warrant. Specifically, Investigator Tillinghast acknowledged that he told Investigator Hutchins "that our informant had left the location and that the cocaine has been given to Shondre in exchange for the U.S. Currency." (Tr. p. 33)(R. p. 20).

Further, Investigator Hutchins indicated that he did not complete the search warrant affidavit that he had been working on throughout the day until after he had spoken with Investigator Tillinghast to confirm the drug sale and the recovery of the money. (Tr. pp. 39, 42). (R. pp. 26, 29). The testimony was as follows:

Q: Okay. What portion of the affidavit was prepared in advance?

A: Well, I --

Q: Any of the facts?

A: While I was sitting there or when I'd started preparing it the part on the prior involvement in reference to the recorded phone calls showed the desire to purchase a quantity of cocaine. All of that along with the criminal history at the end would've been already typed up.

Q: Okay. So you're saying that this is on a computer and you can just insert the portion that happened when the C.I. got back to Tillinghast.

A: That's correct.

(Tr. p. 42)(R. p. 29). Investigator Hutchins next testified that upon the insertion of the information provided by Investigator Tillinghast, Investigator Hutchins had completed the search warrant affidavit. Upon completion, Investigator Hutchins printed a hard copy of this search warrant, drove it to the magistrate, and swore the affidavit on the personal knowledge he had received from his fellow officers to the magistrate, who ultimately signed the warrant. (Tr. p. 43)(R. p. 30).

Accordingly, the testimony presented in this matter clearly demonstrates that the search warrant affidavit sworn to the magistrate by Investigator Hutchins was based entirely on the personal knowledge Investigator Hutchins received and obtained from Investigator McJunkin and Investigator Tillinghast. The information contained in this affidavit was accurate and was based specifically on the personal knowledge of the Spartanburg County Sheriff's narcotics team acquired during the course of this coordinated operation. (Tr. p. 27)(R. p. 14).

Further, Appellant's assertion that the only conclusion to be drawn from the facts of this case is that Investigator Hutchins had already completed the affidavit in its entirety before speaking with Investigator Tillinghast is completely without merit. Put simply, there is no evidentiary support whatsoever for this assertion and the testimony in this matter directly contradicts this assertion.

In addition, any discrepancy between the time appearing on the undercover video camera and the time put down by the magistrate leads only to the logical conclusion that

these two clocks were not synchronized. Not surprisingly, Investigator Hutchins confirmed that there was no synchronization between the clocks answering the following:

Q: And did you synchronize your watches with video cameras before this -- this investigation took place?

A: I did not. I had no part of anything to do with the video in this.

(Tr. p. 46)(R. p. 33). Moreover, Investigator Hutchins also testified as to the inaccuracy of the clocks on undercover surveillance video cameras indicating,

Typically, there are a lot of times, though the batteries will go dead and the clocks will reset. So they may or may not be accurate.... The timestamps on them are preset. You hook it up to a computer, and then you punch in what time it was. So, you look at your watch and I look at mine. They may be minutes off what you set the time as, would be different from mine.

(Tr. p. 46)(R. p. 33). As such, there is no support whatsoever for the Appellant's contention that Investigator Hutchins did not confirm the facts set forth in the affidavit prior to swearing them to the magistrate.

In sum, in the words of Investigator Hutchins, "[b]efore I signed this search warrant these facts were conveyed to me that they had happened.... The facts that are in here would have been conveyed to me that they had happened." (Tr. p. 49)(R. p. 36). This is uncontroverted direct evidence that Investigator Hutchins had personal knowledge of the facts set forth in the search warrant affidavit, and clearly satisfies the personal knowledge requirements of South Carolina search warrant jurisprudence. *See* S.C. Code Ann. § 17-13-140; State v. Sullivan, 267 S.C. 610, 230 S.E.2d 621 (1976). Accordingly, the trial judge was correct in denying the Appellant's motion to suppress based on arguments that the search warrant was defective, and this appellate ground is without merit. Therefore, this Court should affirm and uphold the trial court in this matter.

II. The circuit court did not err in refusing to suppress the drug evidence in this matter as the State clearly established a full and complete chain of custody.

“Proof of chain of custody need not negate all possibility of tampering so long as the chain of possession is complete.” State v. Hatcher, 392 S.C. 86, 92, 708 S.E.2d 750, 753 (2011)(quoting State v. Carter, 344 S.C. 419, 424, 544 S.E.2d 835, 837 (2001)). In applying this rule courts have “found evidence inadmissible only where there is a missing link in the chain of possession *because the identity of those who handled the [substance] was not established at least as far as practicable.*” *Id.* (emphasis in original). In this matter, there is no missing link in the chain of custody because the identity of each individual handling the evidence was established beyond a reasonable doubt.

The first link in the chain, Spartanburg County Investigator Dan Swad, testified that he collected the drug evidence at the scene. (Tr. pp. 257, 259-60)(R. pp. 172, 174-75). Specifically, Investigator Swad recovered the cocaine from the water heater in the Appellant’s garage and placed this evidence into a BEST evidence bag.⁵ (Tr. p. 257)(R. p. 172). In addition, Investigator Swad also located a quantity of crack cocaine on top of the cabinets in Appellant’s kitchen. (Tr. p. 259)(R. p. 174). Investigator Swad recovered the crack cocaine and placed it in the same tamper-resistant BEST evidence bag along with the cocaine. (Tr. pp. 259-60)(R. pp. 174-75). Investigator Swad did not alter or tamper with either substance at any time. (Tr. pp. 257, 259)(R. pp. 172, 174). Upon the completion of the search at Appellant’s house, Investigator Swad left the Appellant’s residence and immediately took all of the evidence to the evidence room at the Spartanburg County Sheriff’s Office and placed it in the evidence locker. (Tr. pp. 260,

⁵ This occurred after the Appellant directed law enforcement to this evidence. (Tr. p. 197)(R. p. 149).

264)(R. pp. 175, 179). All of these actions occurred on March 2, 2012. (Tr. pp. 260, 264, 275)(R. pp. 175, 179, 182).⁶

On that same date, March 2, 2012, the second link in the chain of custody, Spartanburg County Sheriff's Office evidence custodian Anita Mullinax, retrieved the evidence in this case, including the BEST bag containing the cocaine and crack cocaine recovered by Investigator Swad from the Appellant's house, from the evidence locker where Investigator Swad had put it, entered the evidence into the evidence computer log, and placed the evidence in the secure drug room of the Sheriff's Office. (Tr. pp. 275-77)(R. pp. 182-84). Ms. Mullinax further testified that this evidence had not been tampered with in any way when she initially received it. In addition, Ms. Mullinax testified that she did not alter or tamper with this evidence in any way. *Id.*

The final link in the chain of custody, Spartanburg County Sheriff's Office's chemical analyst, Ashley Harris, testified that he retrieved the evidence recovered from the Appellant's house from the drug room at the Sheriff's Office and performed a chemical analysis on it. (Tr. pp. 282, 284-85, 288)(R. pp. 189, 191-92, 195). However, Mr. Harris testified that he also inspected this evidence upon his retrieval of it. (Tr. pp. 286-87)(R. pp. 193-94). Mr. Harris testified that he specifically checked to make sure the BEST evidence bag containing these drugs had not been tampered with. (Tr. pp. 286-87)(R. pp. 193-94). Satisfied that this evidence had not been altered or tampered with in any way, Mr. Harris ultimately performed his chemical analyses on the evidence. (Tr. p. 287)(R. p. 194). All of the testing of these items resulted in both items testing positive for cocaine, one being crack cocaine and the other being cocaine. (Tr. p. 288)(R. p. 195).

⁶ However, it appears that Investigator Swad incorrectly dated one evidence form indicating this occurred on March 3, 2012, when in fact it occurred on March 2, 2012. This was a simple scrivener's error. (Tr. p. 274)(R. p. 181).

After the positive analysis, the cocaine weighed out to be 249.71 grams and the crack cocaine, after air drying, weighed out to be 4.91 grams. (Tr. p. 291)(R. p. 198). Further, Mr. Harris testified that his inspection upon retrieval of this evidence revealed that these items had not been altered or tampered with in any way. (Tr. pp. 286-87, 291-92)(R. pp. 193-94, 198-99). As such, the identity of each person who handled this drug evidence was established at trial. Accordingly, the trial court correctly denied the Appellant's motion to suppress this evidence based on a chain of custody argument.

Furthermore, the Appellant's argument that the scrivener's error on one evidence form is determinative in this matter is without merit. In South Carolina, the "[p]roof of chain of custody need not negate all possibility of tampering so long as the chain of possession is complete." State v. Hatcher, 392 S.C. 86, 92, 708 S.E.2d 750, 753 (2011). In this matter, a complete chain of custody was presented. Investigator Swad testified that he recovered the drugs from the Appellant's house and immediately took the drugs to the evidence locker at the Spartanburg County Sheriff's Office. (Tr. pp. 260, 264)(R. pp. 175, 179). That same day, March 2, 2012, Evidence Custodian Mullinax recovered the drugs, processed them into the lab and placed them in the secure drug room.⁷ (Tr. pp. 275-77)(R. pp. 182-84). And, the chemical analyst in this matter, Ashley Harris, testified that he retrieved the drugs from this drug room to perform his testing. (Tr. pp. 282, 284-85)(R. pp. 189, 191-92). In the face of Investigator Swad's direct testimony that he immediately took the drugs from the Appellant's house to the evidence locker and Evidence Custodian Mullinax's direct testimony that this evidence was recovered on March 2, 2013; Investigator Swad's scrivener's error on one evidence form is

⁷ Even assuming *arguendo* that this occurred on March 3, 2013, there is no break in the chain as Investigator Swad testified that he took the evidence immediately from the Appellant's house to the evidence locker where Ms. Mullinax retrieved it. (Tr. pp. 260, 264)(R. pp. 175, 179).

inconsequential and is certainly not determinative in this matter. Rather, the State of South Carolina's presentation of a full and complete chain of custody in this matter, with each link in the chain testifying that the drug evidence had not been tampered with or altered in any way prior to the chemical testing on this evidence, clearly satisfies South Carolina's chain of custody requirements. See State v. Hatcher, 392 S.C. 86, 708 S.E.2d 750 (2011). Accordingly, the trial court did not abuse his discretion in denying the Appellant's motion to suppress based on the chain of custody. Therefore, the trial court should be affirmed and this appeal should be denied.

CONCLUSION

In conclusion, based on the foregoing and the applicable laws of the State of South Carolina, the trial court's decision should be affirmed and upheld in its entirety. The trial court did not abuse his discretion when he denied the Appellant's motion to suppress regarding the search warrant a. And, the trial court did not abuse his discretion when he denied the Appellant's motion to suppress regarding the chain of custody. Accordingly, the trial court should be affirmed and this appeal should be denied.

Respectfully submitted,

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Attorney General

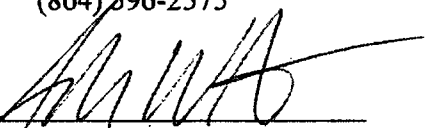
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March 28, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

J. Derham Cole, Circuit Court Judge

Appellate Case No.: 2013-000487

State of South Carolina, ... Respondent,

v.

Shondre Lamond Williams, ... Appellant.

CERTIFICATE OF COUNSEL

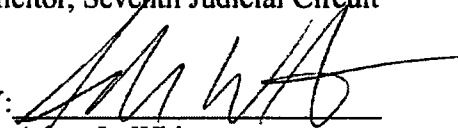
The undersigned certifies that the Final Brief of Respondent complies with Rule 211(b), SCACR.

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March 28, 2014

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
Court of General Sessions
Honorable J. Derham Cole, Circuit Court Judge

Appellate Court No: 2013-000487

THE STATE,

Respondent,

vs.

SHONDRE LAMOND WILLIAMS,

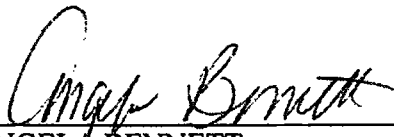
Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Final Brief of Respondent on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney, Robert M. Dudek, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Columbia, South Carolina 29201 and Carlyle R. Cromer, Esquire, P.O. Box 2116, Myrtle Beach, South Carolina 29578.

I further certify that all parties required by Rule to be served have been served.

This 28th day of March, 2014.


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