

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Beaufort County

Deadra L. Jefferson, Circuit Court Judge

RECEIVED

JAN 21 2015

S.C. Supreme Court

TURUK SAUNDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001240

APPENDIX

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ASHLEIGH R WILSON
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

VOLUME ONE OF TWO
Pages 1 - 500

INDEX

VOLUME ONE

INDEX	i
TRIAL TRANSCRIPT – VOLUME 1 of 3 (May 24, 2010)	1
TRIAL TRANSCRIPT – VOLUME 2 of 3 (May 25, 2010)	42
TRIAL TRANSCRIPT – VOLUME 3 of 3 (May 26, 2010)	234
APPLICATION FOR POST-CONVICTION RELIEF (Filed November 30, 2012)	344
AMENDED APPLICATION FOR POST-CONVICTION RELIEF (Filed August 26, 2013)	380
RETURN (Dated February 25, 2013).....	383
POST-CONVICTION RELIEF HEARING TRANSCRIPT (August 27, 2013).....	389

VOLUME TWO

POST-CONVICTION RELIEF HEARING TRANSCRIPT (August 27, 2013).....	501
ORDER OF DISMISSAL (Filed March 10, 2014)	558
APPLICANT’S MOTION TO ALTER OR AMEND JUDGMENT (Filed April 2, 2014)	583
APPLICANT’S AMENDED MOTION TO ALTER OR AMEND JUDGMENT (Filed April 8, 2014).....	585
ORDER DENYING APPLICANT’S MOTION TO ALTER OR AMEND JUDGMENT (Filed May 28, 2014).....	588
INDICTMENTS	595
STATE’S EXHIBIT NUMBER 1 (Affidavit of Andre Benjamin).....	605
COURT’S EXHIBIT NUMBER 1 (Compilation of Documents)	606

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) FOURTEENTH JUDICIAL CIRCUIT
 COUNTY OF BEAUFORT) INDICTMENT NO.: 2007-GS-07-0505
 2007-GS-07-0506
 2007-GS-07-0507
 2007-GS-07-0508
 2007-GS-07-0509

STATE OF SOUTH CAROLINA)
)
 VS.)
)
 TURUK SAUNDERS,)
)
 DEFENDANT.)

JURY TRIAL

VOLUME 1 OF 3

held before the Honorable J. Ernest Kinard, Jr.
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Beaufort County Courthouse
 Beaufort, South Carolina
 on Monday, May 24, 2010, Commencing at 11:39 a.m.

SUSAN "MIA" PERRON, CCR, CVR-CM
 Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 31865
 Charleston, South Carolina 29417-1865
 1-706-231-6028

COPY

APPEARANCES OF COUNSEL

FOR THE STATE: Angela M. McGall-Tanner, Esquire
Meredith Bannon, Esquire
14th Circuit Solicitor's Office
102 Ribaut Road
Beaufort, South Carolina 29902

FOR THE DEFENDANT: Cory H. Fleming, Esquire
Kimberly Smith, Esquire
Moss Kuhn & Fleming
Post Office Drawer 507
Beaufort, South Carolina 29901

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	4
JURY VOIR DIRE	4
STRIKING OF THE JURY	20
MOTIONS	30
CERTIFICATE OF COURT REPORTER	43

- - - - -
EXHIBITS

[None]

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

PROCEEDINGS

JURY VOIR DIRE

THE COURT: Solicitor, are you going to call something for trial?

MS. TANNER: Yes, sir, I am.

THE COURT: All right.

MS. TANNER: The State of South Carolina is ready in the State of South Carolina vs. Turuk Saunders charged with 2007-GS-07-508, trafficking in crack cocaine between ten and twenty-eight grams; 2007-GS-07-509 charging Turuk Saunders with the use of a firearm during the commission of a violent offense; 2007-505, State of South Carolina charges Turuk Saunders with possession with intent to distribute marijuana; 2007-GS-07-506, State of South Carolina versus Turuk Saunders charged him with possession with intent to distribute powder cocaine; 2007-GS-07-507, the State of South Carolina versus Turuk Saunders, possession with intent to distribute ecstasy.

I'll pass these forward.

[Whereupon, Ms. Tanner proffers documents to the Court]

THE COURT: Okay. Looking at the indictments, it looks like his name would be pronounced Saunders

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 and not Saunders. is that correct?

2 MR. FLEMING: That is correct, Your Honor.

3 THE COURT: It's Saunders.

4 All right. Jurors, my name is Ernest Kinard
5 and I'm a resident judge of the fifth circuit.
6 That's Camden and Columbia. I'm the longest-serving
7 active circuit judge for about six or seven years.
8 I've been assigned down here a while. I'm over the
9 criminal cases until -- they said July 1st but this
10 year July works kind of weird -- July the 3rd. I
11 think, and I can go back to Camden and Columbia.

12 Been down here a good bit over the years.
13 Been chief judge three times. But then I've been a
14 judge a long time. Held court in all forty-six
15 counties.

16 Judge Mullen I think qualified you this
17 morning while I was taking care of some other things.

18 What the solicitortrix -- that's what you call
19 a female prosecutor. Her name is Angie Tanner. I
20 think she's the chief deputy. She handed me these
21 indictments. They're called indictments. They
22 allege that Mr. Saunders committed various crimes in
23 Beaufort County. That's just what they are,
24 allegations.

25 The fact that the indictments have been issued

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 creates no inference of guilt against Mr. Saunders.
2 Mr. Saunders is presumed innocent of all charges.
3 Just looking at the indictments, they allege the
4 commission of various crimes on the same date, that
5 date being February the 23rd of 2007, and they all
6 involve narcotics, controlled substances.

7 The bottom line, jurors, they allege -- one is
8 the use of firearm while committing a violent crime.
9 The legislature classified various crimes as violent.
10 One of the charges -- and that's what it is, a charge
11 against Mr. Saunders -- is trafficking in cocaine, a
12 certain amount over ten grams but less than twenty-
13 eight grams. And the legislature has classified drug
14 trafficking as a violent crime. So it's not like
15 armed robbery, murder, kidnaping or something. But
16 classified as a violent crime. So if you're engaged
17 in the commission of a violent crime, you had a
18 firearm, that would meet the qualifications of that
19 particular crime. I'm not suggesting Mr. Saunders is
20 guilty of anything.

21 Now, I just talked briefly with the attorneys
22 involved, and this is what's going to happen: we're
23 going to select a jury, and we're going to start the
24 trial at like 9:30 in the morning. Got various
25 things to take care of involving the case today to

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 shorten it out. And the attorneys handed up a
2 witness list with a lot of names on there. But don't
3 worry, the witnesses aren't going to be long. It's
4 not a two-week trial. I'm not saying it's not a
5 serious matter. Anytime you're accused of a crime,
6 it's serious.

7 But it's not a lengthy trial, will not be a
8 lengthy trial. We think even if we just start in the
9 morning at 9:30, we will finish tomorrow. It might
10 go into the next day because as sure as you say that,
11 some witness gets sick or something and can't come
12 and you have to put it off another day. But if all
13 the witnesses are here -- a good many witnesses. But
14 they're all short, so the testimony will just roll
15 right through.

16 Now, in this state, jurors, if you're not
17 authorized to have in your possession various
18 controlled substances, it's illegal. The legislature
19 classified what controlled substances are: you know,
20 marijuana, cocaine, cocaine, heroin, LSD, ecstasy, so
21 forth and forth. It's also illegal to have a drug
22 that you need a prescription for in your possession
23 if it was not prescribed to you, something that you
24 just might carry around -- be bad luck if you have a
25 traffic stop -- like Tylenol II. Have to have a

State vs. Turuk Saunders
Jury Trial, Volume I of 3
May 24, 2010

1 prescription to have it. If you don't have a
2 prescription, you've got a controlled substance in
3 your possession illegally.

4 Now, there are certain exceptions, like a law
5 enforcement officer can transport drugs, you know,
6 from point A to point B. Various other people can
7 examine them and so forth. Some physicians can
8 dispense them, some labs can have them. But if you
9 don't fall in one of those categories and you have a
10 controlled substance in your possession, you are
11 guilty of having that substance in your possession.

12 Mr. Saunders, Turuk Saunders, is charged with
13 a couple of crimes, and they all involve more than
14 just having them in his possession. Not only can you
15 not have a controlled substance in your possession,
16 you can't sell it or give it to somebody, or you
17 can't have it there with intent to sell it to
18 somebody. He is charged with possession with intent
19 to distribute various drugs on the same date,
20 February the 23rd, 2007.

21 This indictment alleges that on that day he
22 had in his possession ecstasy and that he intended to
23 distribute it to somebody.

24 Now, Mr. Saunders is presumed innocent of all
25 charges. No burden on his part to prove he's not

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 guilty. You need to understand that on all the
2 charges.

3 But that's one charge. The other charge is
4 that on that particular day, right here in Beaufort
5 County, he had cocaine in his possession and he
6 intended -- that he intended to distribute.

7 Other indictment charges that on that
8 particular date he had marijuana in his possession.
9 Not only did he have it in his possession, that he
10 knew it was marijuana and he intended to sell it,
11 give it away, or transfer it to somebody.

12 Finally, as far as the drug charges are
13 concerned, it alleges that he had between ten grams
14 and twenty-eight grams of crack cocaine in his
15 possession. And that will be explained to you if you
16 get on the jury. It's called trafficking. You don't
17 have to watch TV or movies and you see trafficking,
18 you know, a trainload of marijuana coming over the
19 hill, thrump-thrump, thrump, law enforcement behind
20 them, trafficking.

21 No. Trafficking under our statutes, you just
22 have so much by weight in your possession. And it's
23 not your concern, but the penalty depends upon the
24 weight. There is a penalty for having so much crack
25 cocaine, over ten grams or less than twenty-eight

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 grams. The penalty increases if it's more than that,
2 and so forth. If it's less than ten grams in your
3 possession, you're not guilty of trafficking. You
4 might be guilty of possession. You might even be
5 guilty of possession with intent to distribute,
6 depending upon the circumstances. But you wouldn't
7 be guilty of trafficking unless the weight of the
8 crack cocaine in your possession is over ten grams.

9 All right. Finally, trafficking, as I
10 mentioned briefly, is called a crime of violence.
11 He's charged with possessing a -- I don't know what
12 it is. It says a firearm or a knife. It'll be
13 explained to you if you get on the jury. But all I
14 see is that while he was committing or attempting to
15 commit a violent crime, specifically trafficking in
16 crack, he possessed a firearm, is what it says.

17 All right. Mr. Saunders is presumed innocent
18 of all charges. And he is present. If you would
19 just stand. Just kind of turn around.

20 [Whereupon, Mr. Saunders complies]

21 THE COURT: All right. Does he look familiar,
22 anybody kin to him, live in the neighborhood with
23 him, go to school with him, work with him, know him
24 at all? If so, please stand.

25 [Whereupon, there is no response]

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 THE COURT: All right. Just out of order, but
2 because he was standing, he is represented by an
3 attorney who is going to tell us who he is.

4 MR. FLEMING: Thank you, Your Honor.

5 My name is Cory Fleming. With me is an
6 attorney in our office, Kimberly Smith. We are from
7 the law firm Moss, Kuhn, and Fleming.

8 THE COURT: Jurors, do y'all have any
9 connection with the Moss Law Firm, Mr. Fleming,
10 Ms. Smith? Have any connection with them, direct or
11 indirect? Have they ever represented you in any
12 legal matter? Have they ever been on the other side
13 of a controversy in which you were involved?

14 [Whereupon, there is no response]

15 THE COURT: Okay. The State's case is handled
16 by Fourteenth Circuit Solicitor's Office, handled by
17 a specific prosecutrix who is going to tell us who
18 she is.

19 MS. TANNER: Good afternoon. My name is
20 Angela McCall-Tanner. I'm the deputy solicitor here
21 in Beaufort County. Sitting with me is another
22 attorney in our office, Meredith Bannon.

23 THE COURT: Jurors, any of y'all have any
24 connection, direct or indirect, with Ms. Tanner,
25 Ms. Bannon, or anybody in the solicitor's office,

State vs. Teruk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 fourteenth circuit?

2 I need you to stand. Tell us who you are.

3 MS. WALKER: I'm Rhonda Walker.

4 My son and daughter-in-law work for the
5 solicitor's office. And my son works for law
6 enforcement; my daughter-in-law works for the
7 solicitor's office.

8 THE COURT: Okay. Thank you. Bottom line,
9 can you be fair and impartial?

10 MS. WALKER: Sure.

11 THE COURT: All right. Jurors, if you -- and
12 on this series of questions I'm talking about
13 immediate family. I'm not talking about second
14 cousins twice removed. All right? I'm talking about
15 parents, brothers, sisters, children.

16 If you or an immediate family member currently
17 or in the past have been employed by law enforcement
18 at any level -- that would be from the FBI to SLED to
19 the Town of Yemassee police officer -- if you would
20 just please stand.

21 All you have to do is tell us your name and
22 how that question applies to you.

23 MS. WALLACE: My name is Jan Wallace, juror
24 number 227.

25 My brother is an undercover narcotics

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 detective in Greer.

2 THE COURT: Okay. Thank you.

3 MS. FOY: My name is Doraha Foy.

4 My husband was a police sargent in Pelum.

5 THE COURT: Okay. And we're talking about
6 highway patrol, wildlife officers, anybody employed
7 by any governmental agency that has the power to
8 arrest someone.

9 [Whereupon, there is no response]

10 THE COURT: All right. Jurors, if you or an
11 immediate family member, while not directly employed
12 by law enforcement, have ever held a quasi law
13 enforcement position such as a night watchman, a
14 security guard. Jurors if you or a family member --

15 MR. KEANE: Robert Keane. Juror number 110.

16 I used to live down in St. Augustine, Florida,
17 and worked for about a year as a part-time security
18 guard with a security company.

19 THE COURT: Okay. Thanks.

20 And, jurors, you understand, now, I'm talking
21 about law enforcement or anything involved with it.
22 Probation office.

23 [Whereupon, there is no response]

24 THE COURT: All right. Jurors, if you or an
25 immediate family member are currently or in the past

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 have ever been employed by any individual or entity
2 that prosecutes cases. That would be a district
3 attorney's office, a solicitor's office. Some county
4 attorneys prosecute cases, some city attorneys
5 prosecute cases.

6 [Whereupon, there is no response]

7 THE COURT: Jurors, if you or an immediate
8 family member, currently or in the past, have ever
9 been employed by a public defender corporation,
10 either federal or state -- that's an agency that
11 defends individuals accused of the commission of a
12 crime -- or a lawyer who represents people accused of
13 commissions of crime. And of course I'm talking
14 about prosecutors, I'm talking about JAG Corp in
15 service, anything like that.

16 [Whereupon, there is no response]

17 THE COURT: Jurors, if you belong to an
18 organization that takes a position on crime in
19 society -- without enumerating, jurors, you would
20 know. They all go by initials: MAD, Mothers Against
21 Drunk Driving, CADRA, CAV, SAD, CASA, Citizens
22 Against Spousal Abuse. Just any position about crime
23 in society.

24 [Whereupon, there is no response]

25 THE COURT: Jurors, any of y'all have heard

State vs. Thruk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 anything about this case?

2 [Whereupon, there is no response]

3 THE COURT: Jurors, if you have ever while not
4 worked directly for law enforcement have ever been
5 employed -- and when I say you, I'm talking about
6 immediate family members -- with any entity that
7 takes a position of the use of narcotics in society.
8 And of course that would include a drug enforcement
9 agency, all drug enforcement agencies.

10 [Whereupon, there is no response]

11 THE COURT: Jurors, I have a list of potential
12 witnesses. I don't think the witnesses are present.
13 If they are present, if they would stand. I just
14 have the names, and sometimes I have some
15 information. If you know the individual or are
16 related to them, I need for you to stand.

17 Renita Berry, who's now formerly with the
18 Beaufort County Sheriff's Office. Elijah Clark.

19 If you know someone with the same or similar
20 name, just stand and the attorneys can tell us
21 whether the person you know is the name down of the
22 person who's going to testify.

23 Ramona Cooper, Beaufort County Sheriff's
24 Office; Andrew Faucett, Beaufort County Sheriff's
25 Office, formerly; Robby -- Bobby Jenkins, retired

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 SLED agent, now employed by the --

2 Just stand if you know somebody.

3 UNIDENTIFIED: Robert Jenkins. Robert
4 Jenkins.

5 THE COURT: How does it apply to you?

6 UNIDENTIFIED: Oh. How do I know him?

7 THE COURT: Yes.

8 UNIDENTIFIED: He was my classmate.

9 THE COURT: Can you be fair and impartial if
10 he testifies?

11 UNIDENTIFIED: Yes.

12 THE COURT: Okay. Thank you.

13 Scott Johnson, Beaufort County Sheriff's
14 Office; Robin McIntosh, Beaufort County Sheriff's
15 Office; Jean Roberts, Beaufort County Sheriff's
16 Office; JoJo Woodward, Beaufort County Sheriff's
17 Office; Betty Long; Jarret Jackson; Akeem Saunders;
18 Jonathan Kelly.

19 I can't read the writing on Brown. How do you
20 pronounce it?

21 MR. FLEMING: Tyece.

22 THE COURT: Tyece?

23 MR. FLEMING: Yes, Your Honor.

24 THE COURT: Tyece Brown.

25 [Whereupon, there is no response]

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 THE COURT: And jurors, just an abundance of
2 caution: when I tell you about prosecuting agencies,
3 I mentioned district attorneys. I didn't mention the
4 Attorney General. Anybody ever been employed by an
5 Attorney General? Anybody that prosecutes cases?

6 [Whereupon, there is no response]

7 THE COURT: Jurors, anybody have any moral or
8 religious beliefs that would prevent you from serving
9 on a case involving narcotics?

10 [Whereupon, there is no response]

11 THE COURT: Jurors, if you have ever been on a
12 criminal jury before -- that's where you were on a
13 jury where someone was accused of committing a crime,
14 not that the fellow jurors were criminals. Y'all
15 understand. Ever been on a -- in criminal trials?
16 The attorneys would like to know. Have you ever
17 serve as a juror?

18 MR. CALLAHAN: Rick Callahan, juror number 32.

19 THE COURT: What kind of case? How long ago?

20 MR. CALLAHAN: It was in the '90s. It was a
21 sexual molestation case in Arkansas.

22 THE COURT: Thanks.

23 MR. HINTON: Don Hinton, number 91.

24 A DUI case, probably in the mid '90s.

25 THE COURT: Thanks.

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 MR. PINCKNEY: Henry Pinckney, 165.

2 It was in the '90s. It was a criminal case in
3 Chatham County involving an officer of the Court.

4 THE COURT: All right.

5 MR. BURKE: Samuel Burke, number 31 juror.

6 Served a grand jury, crack cocaine, City of
7 New York, Bronx County.

8 THE COURT: Okay.

9 MS. KELLY: Juror 118.

10 Grand jury in New York, probably in the
11 '90s.

12 THE COURT: All right.

13 MS. LANKIN: Sandra Lankin, juror 119.

14 Served in a criminal trial that had to do with
15 a burglary and rape in Ohio.

16 THE COURT: Okay. Jurors, have any of y'all
17 heard anything about the case? Anybody formed or
18 expressed an opinion as to how it should -- these
19 matters should be resolved, not knowing anything
20 about it other than the very allegations in the
21 indictment?

22 [Whereupon, there is no response]

23 THE COURT: Jurors, do you understand that if
24 you get on the jury, I instruct you as to how the law
25 is? It might not be like you think it is. If you

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 feel like you can't set aside your preconceived
2 ideas, you need to tell us and we won't put you on
3 the jury.

4 [Whereupon, there is no response]

5 THE COURT: Any juror have any reason why you
6 couldn't be fair and impartial, whether I have
7 queried you about it or not?

8 [Whereupon, there is no response]

9 THE COURT: Anything else from the State?

10 MS. TANNER: Nothing from the State?

11 THE COURT: Defense?

12 MR. FLEMING: No, Your Honor, other than just
13 marking my voir dire.

14 THE COURT: All right.

15 MR. FLEMING: Thank you.

16 THE COURT: Okay. Let's roll them out.

17 As far as we know, five and five.

18 MS. TANNER: Yes, sir. I e-mailed the statute
19 to your law clerk.

20 [Off the record momentarily]

21

22

23

24

25

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

STRIKING OF THE JURY

THE CLERK OF COURT: All right. Ladies and gentlemen, when we call your name, please come up, stand in front of the podium --

THE COURT: No, no, no, no, no, no, no. They just stand.

THE CLERK OF COURT: Okay.

THE COURT: They either accept them or don't. They have a seat. And then after we get them all seated, we then call them all up. They just stand in place. They don't have to say anything.

THE CLERK OF COURT: Your Honor, it's --

THE COURT: Just stand and look nice.

THE CLERK OF COURT: -- your pleasure.

THE COURT: You got it. Just call out --

Jurors, they're going to call out your name. When they call your name, just stand. Don't say anything. I hate to put it bluntly, but they're going to accept you or reject you. They might use nicer words. But, anyway, whatever they do, then just have a seat. And then after we get twelve jurors and one alternate, we'll call you thirteen up at one time. Just stand in place and look nice. All right.

THE CLERK OF COURT: Juror number 247, Renee

State vs. Turuk Saunders
Jury Trial, Volume I of 3
May 24, 2010

1 Yarberry.

2 What says the State?

3 MS. TANNER: Please present the juror.

4 THE CLERK OF COURT: What says the defense?

5 MR. FLEMING: Would the Court inquire --
6 during qualification, they did not ask what her late
7 husband did for a living and I would just like --

8 THE COURT: You can ask her.

9 MS. YARBERRY: He owned an insurance agency.

10 MR. FLEMING: Please present the juror.

11 [Whereupon, Ms. Yarberry is selected as a
12 juror in the trial of this case]

13 THE COURT: You can have a seat, ma'am.

14 [Whereupon, Ms. Yarberry complies]

15 THE CLERK OF COURT: Juror number 113,
16 Dorothea Kelly.

17 What says the State?

18 MS. TANNER: Please present the juror.

19 MR. FLEMING: Please present the juror.

20 [Whereupon, Ms. Kelly is selected as a juror
21 in the trial of this case]

22 THE CLERK OF COURT: Have a seat, ma'am.

23 [Whereupon, Ms. Kelly complies]

24 THE CLERK OF COURT: Juror number 72, Rachel
25 German.

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 MS. TANNER: Please present the juror.

2 THE CLERK OF COURT: What says the defense?

3 MR. FLEMING: Please present the juror.

4 [Whereupon, Ms. German is selected as a juror
5 in the trial of this case]

6 THE CLERK OF COURT: Have a seat, ma'am.

7 [Whereupon, Ms. German complies]

8 THE CLERK OF COURT: Juror 158, Debra Parsons.
9 What says the State?

10 MS. TANNER: Please present the juror.

11 MR. FLEMING: Please swear the juror.

12 [Whereupon, Ms. Parsons is selected as a juror
13 in the trial of this case]

14 THE CLERK OF COURT: Have a seat, ma'am.

15 [Whereupon, Ms. Parsons complies]

16 THE CLERK OF COURT: Juror number 201, Barbara
17 Smith.

18 What says the State?

19 MS. TANNER: Please present the juror.

20 MR. FLEMING: Please excuse the juror.

21 [Whereupon, Ms. Smith is excused from the
22 trial of this case.]

23 THE CLERK OF COURT: Juror 145, Eric Moore.

24 What says the State?

25 MS. TANNER: Please present the juror.

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 MR. FLEMING: Please swear the juror.
2 [Whereupon, Mr. Moore is selected as a juror
3 in the trial of this case]
4 THE CLERK OF COURT: Have a seat, sir.
5 [Whereupon, Mr. Moore complies]
6 THE CLERK OF COURT: Juror number 32, Rickey
7 Callahan.
8 What says the State?
9 MS. TANNER: Please present the juror.
10 MR. FLEMING: Please swear the juror.
11 [Whereupon, Mr. Callahan is selected as a
12 juror in the trial of this case]
13 THE CLERK OF COURT: Juror number 232, Lolita
14 Watson.
15 What says the State?
16 MS. TANNER: Please present the juror.
17 MR. FLEMING: Please swear the juror.
18 [Whereupon, Ms. Watson is selected as a juror
19 in the trial of this case]
20 THE CLERK OF COURT: Juror number 93, Roxanne
21 Holub.
22 What says the State?
23 MS. TANNER: Please present the juror.
24 MR. FLEMING: Please excuse the juror.
25 [Whereupon, Ms. Holub is excused from the

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 trial of this case]

2 THE CLERK OF COURT: Juror number 74, Linda
3 Glover.

4 What says the State?

5 MS. TANNER: Please present the juror.

6 MR. FLEMING: Please swear the juror.

7 [Whereupon, Ms. Glover is selected as a juror
8 in the trial of this case]

9 THE CLERK OF COURT: Juror number 51, Lillian
10 Dasher.

11 What says the State?

12 MS. TANNER: Please excuse the juror.

13 [Whereupon, Ms. Dasher is excused from the
14 trial of this case]

15 THE CLERK OF COURT: Juror number 151, Jessica
16 Myers.

17 What says the State?

18 MS. TANNER: Please excuse this juror.

19 [Whereupon, Ms. Myers is excused from the
20 trial of this case]

21 THE CLERK OF COURT: Juror 177, Tom Ridgeway.

22 What says the State?

23 MS. TANNER: Please present the juror.

24 MR. FLEMING: Please excuse the juror.

25 [Whereupon, Mr. Ridgeway is excused from the

State vs. Toruk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 trial of this case]

2 THE CLERK OF COURT: Juror 119, Sandra Lankin.
3 What says the State?

4 MS. TANNER: Please present the juror.

5 MR. FLEMING: Please swear the juror.

6 [Whereupon, Ms. Lankin is selected as a juror
7 in the trial of this case]

8 THE CLERK OF COURT: Juror number 18, Delores
9 Bias.

10 What says the State?

11 MS. TANNER: Please present the juror.

12 MR. FLEMING: Please excuse the juror.

13 [Whereupon, Ms. Bias is excused from the trial
14 of this case]

15 THE CLERK OF COURT: Juror number 165, Henry
16 Pinckney.

17 What says the State?

18 MS. TANNER: Please present the juror.

19 MR. FLEMING: Please swear the juror.

20 [Whereupon, Mr. Pinckney is selected as a
21 juror in the trial of this case]

22 THE CLERK OF COURT: Juror number 86, Wendi
23 Hein.

24 What says the State?

25 MS. TANNER: Please present the juror.

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 MR. FLEMING: Please swear the juror.

2 [Whereupon, Ms. Hain is selected as a juror in
3 the trial of this case]

4 THE CLERK OF COURT: Juror number 167, Maurice
5 Putrello.

6 What says the State?

7 MS. TANNER: Please present the juror.

8 MR. FLEMING: Please swear the juror.

9 [Whereupon, Mr. Putrello is selected as a
10 juror in the trial of this case]

11 THE CLERK OF COURT: Juror number 125, Meda
12 Luscko.

13 MS. TANNER: Please present the juror.

14 MR. FLEMING: How many alternates are there?

15 THE CLERK OF COURT: I believe just one.

16 MR. FLEMING: One strike apiece?

17 THE CLERK OF COURT: Two and one.

18 MR. FLEMING: Two?

19 THE COURT: Two. You've got two.

20 MR. FLEMING: Please excuse the juror.

21 [Whereupon, Ms. Luscko is excused from the
22 trial of this case]

23 THE CLERK OF COURT: Juror 220, Mary Ellen
24 Torgersen.

25 What says the State?

MIA PERRON, CCR, CVR-CM

-26-

20 start the trial in the morning at 9:30.

21 But before we go, I need for y'all to go to
22 the jury room. You've got plenty of time. Just
23 elect somebody a foreperson. Don't get your hopes
24 up, because they don't get paid a penny more than
25 anybody else. But somebody has to preside. Once you

MIA PERRON, CCR, CVR-CM

-27-

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 have elected a foreperson, the bailiffs will show you
2 how to get back in in the morning -- you don't come
3 back to this courtroom -- and then y'all will be free
4 to go.

5 Don't talk about the case with anybody. And
6 we've all got internet access. Don't be looking at
7 any old newspaper articles, see if you can find out
8 anything about what happened or what they were
9 charged with. You're going to have to decide the
10 case based on what transpires in the courtroom, based
11 upon admitted evidence as you apply the evidence to
12 the law that I will instruct you on. No outside
13 influences at all.

14 So if y'all would just ease out. Follow the
15 bailiff.

16 [Whereupon, the jury exits the courtroom at
17 12:24 p.m.]

18 THE COURT: Okay. Madam Clerk, here are the
19 indictments. You being the clerk, if you would hold
20 on to them, please, until we start this trial in the
21 morning.

22 Okay. Jurors not selected on this trial --

23 What's the next one? about a two-week trial,
24 Ms. Tanner?

25 Judge Mullen is going to come in and select a

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 jury. Y'all see it doesn't take that long. You'll
2 probably finish right around 1:00 and then y'all will
3 be free for the day. So I'm going to step off and
4 she will be in.

5 [Whereupon, a recess is taken from 12:25 p.m.
6 to 2:27 p.m.]
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - -
- - -
- - -

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

MOTIONS

THE COURT: Okay. All right. Here I am. Can I help anybody?

MR. FLEMING: Thank you, Your Honor.

MOTIONS

MR. FLEMING: On behalf of my client, Turuk Saunders, I have some motions in limine to bring before the Court prior to trial.

First and foremost, this case is -- for your brief edification, this is essentially the service of a search warrant in which narcotics were found in a trailer.

There are multiple witnesses, as you might imagine, and it is my contention that there are various versions of the same story. Some of them are inconsistent. As a result of that, I am moving to sequester the witnesses so that we may be able to get a clear idea of what that particular witness saw, not what he just heard from the witness stand.

THE COURT: Well, that's pretty easy. Over her strenuous objection, I'll grant that.

MR. FLEMING: Thank you, sir.

The next ones are --

THE COURT: You did strenuously object, didn't

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 you?

2 MS. TANNER: As always.

3 THE COURT: All right.

4 MR. FLEMING: Next, and a little bit more
5 complicated, is there are -- if I can -- you're a
6 speed reader, so it won't take you long. I'll be
7 talking a little bit about the search warrant in the
8 case. May I just hand up my copy?

9 THE COURT: Sure.

10 MR. FLEMING: I'll show -- I have highlighted
11 some things. I'll show the solicitor so that she
12 won't be sandbagged.

13 [Whereupon, Mr. Fleming and Ms. Tanner confer]

14 [Whereupon, Mr. Fleming proffers documents to
15 the Court]

16 [Whereupon, the Court reviews documents]

17 THE COURT: I'm listening.

18 MR. FLEMING: All right. Thank you, sir.

19 There is -- there are several -- there are
20 several representations of events, that may or may
21 not have taken place, in the search warrant on the
22 basis of presumably the application for the search
23 warrant. I am told -- I am informed and believe that
24 none of the witnesses who made these representations
25 -- I don't mean law enforcement but I mean citizen

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 witnesses -- are going to testify. As a result,
2 first and foremost, regardless of whether or not the
3 search warrant is valid or not, which I will address
4 later, I would move to exclude reference to those as
5 being both hearsay and primarily --

6 And, secondarily, a confrontation clause
7 violation because we have no way of cross-examining
8 the accusers of the allegations in there. Whether or
9 not the search warrant in and of itself is valid will
10 be another ruling. I'm talking about the
11 representations made in there without the declarant
12 being available to testify and be cross-examined, and
13 thus would move to suppress those statements.

14 And specifically there is a statement
15 concerning -- in the search warrant about my -- or
16 reference to somebody assume -- I assume they intend
17 it's my client, sold some marijuana out of the
18 trailer. Obviously, without that witness I believe
19 it would be hearsay and inadmissible. And that is
20 essentially my first evidentiary motion, Your Honor.

21 MS. TANNER: Your Honor, I believe the law
22 does provide that I can't put in statements of lay
23 witnesses if they're not going to testify; however,
24 from law enforcement I believe there will be some
25 information, that they gleaned from their

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 investigation, that would be admissible. Not
2 necessarily statements by other people, but as part
3 of the interviews of those people, information they
4 gleaned such as this address, suspects that could be
5 sough within, things of that nature. So I think that
6 would be admissible under the law enforcement
7 investigation, and things they acted upon, without
8 using a statement of a third party.

9 THE COURT: Okay. Well, I don't know what
10 transpired. I do know that two alleged co-
11 conspirators have already pled guilty.

12 MS. TANNER: Yes, sir.

13 THE COURT: And under the general testimonial
14 rules, law enforcement can say, we went to the
15 premises based on a search warrant, without going
16 into how they got the search warrant. If it's
17 queried as to how it came about, then hearsay comes
18 in; if it's not, it doesn't come in. They can't
19 instigate it themselves, but he can open the door.
20 And he's been around. He knows that.

21 MS. TANNER: Yes, sir.

22 THE COURT: So reference as to what somebody
23 told them, they can't instigate it under the rules.

24 It might come in, though. It depends on how
25 the testimony develops during the trial.

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 MS. TANNER: Yes, sir.

2 THE COURT: It's just like why did you stop
3 that blue Chevrolet, it was a BOLO out, you know,
4 without going into how it was. It was, you know, a
5 BOLO said stop a blue vehicle. So there you go.

6 All right. What else?

7 MR. FLEMING: Thank you, Your Honor.

8 Then with regards to the search warrant
9 itself, I'm in a quandary. And I'll sort of explain
10 it to you for just a second and then you -- maybe we
11 can sort of move forward from that.

12 It is our belief, it is our position, that my
13 client neither owned, operated, stayed in, domiciled,
14 spent the night, or in any other way had any control
15 over the trailer in question. That would lend me to
16 the clear conclusion that he has no standing to
17 challenge a search warrant because he's not the
18 subject of the search.

19 THE COURT: He just happened to be there when
20 the search was conducted?

21 MR. FLEMING: That is correct. And that --

22 THE COURT: As I understand the facts. I
23 mean, I don't know anything.

24 MR. FLEMING: He was -- I believe that the
25 State will present testimony that my client was

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 present when the search warrant was effected and he
2 was apprehended on the front-porch steps momentarily
3 after the initial entry.

4 THE COURT: On the front steps smoking a
5 marijuana cigarette and throwing the crack down? No.
6 Not really.

7 MR. FLEMING: I don't expect that particular
8 testimony, but --

9 THE COURT: We wouldn't be here, would we?

10 MR. FLEMING: No, sir.

11 However, as such, I however believe that
12 they're going to attempt to show that my client was
13 in some way in possession or control of that house
14 and, as a result, I believe that I am entitled to
15 challenge the search warrant, even though I don't
16 think my client has standing.

17 And the quandary that I find myself in is I
18 don't want to in any way prohibit my ability to argue
19 our position, which is that he has no ownership,
20 control, et cetera, but at the same time defend the
21 allegations of the search warrant.

22 THE COURT: Well, unfortunately, you can't
23 have it both ways.

24 MR. FLEMING: Well, then --

25 THE COURT: He was either -- he was just

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 there, which is your best position, in the abstract.
2 I don't know.

3 MR. FLEMING: Well, then, I will not choose to
4 have it both ways, then.

5 I will not challenge, then, the validity of
6 the search warrant, subject, of course, to the ruling
7 that you made concerning what was in it.

8 THE COURT: I don't know if -- if it develops
9 that somehow they say he was in ownership and
10 control, then it reverts back, doesn't it? If they
11 say he was in control of the premises, then that
12 relaxes certain rulings. But I don't know what's
13 going to transpire. So there you go.

14 MR. FLEMING: Well, to predict -- at my
15 peril here, to predict what I think will transpire,
16 I believe that they are going to call the physical
17 owner or the landlord, Robert Jenkins, and attempt
18 through his testimony to show that my client, at
19 the bare minimum, paid rent at this trailer. Whether
20 true or not, I believe that's what the testimony
21 will be.

22 And, again, you see my position. And I
23 will -- I do want my cake and eat it, too, but I am
24 certainly not going to jeopardize my client's
25 position concerning our contention that he has no

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 control.

2 THE COURT: Assuming it shakes down like that,
3 then that's just facts in the case. A says he
4 rented; he says he doesn't rent it. If he testifies,
5 which he certainly does not have to do. If they say
6 he rented it, he says he didn't rent it.

7 MR. FLEMING: Well, it seems then at this
8 juncture, then, barring something else, that I will
9 not challenge the validity of the search warrant,
10 again, subject to renewing or just reaffirming my
11 motion concerning the hearsay statements that would
12 not be admissible unless I open the door.

13 THE COURT: Got it.

14 MR. FLEMING: There is -- that, then,
15 eliminates a great portion of what we were going
16 to do this afternoon.

17 There are two other small matters, Your Honor.

18 I don't believe, then, that they are going to
19 then talk about an alleged marijuana sale earlier.
20 But I want to be very specific about that. It is
21 both contained in the search warrant, this
22 information, and also contained in an independent
23 report. There is a statement by an individual, a
24 witness by the name of Reeves, that -- concerning the
25 sale and the possible involvement of my client.

State vs. Turk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 That, in and of itself, is also hearsay. I am told
2 that they have been unable to locate that individual.

3 I would ask in limine that unless that witness
4 appears and testifies and subjects himself to cross-
5 examination, that that also be limited and the State
6 not be allowed to reference that. That is clearly
7 inadmissible, Your Honor.

8 THE COURT: You're not going there with that,
9 are you?

10 MS. TANNER: No, sir.

11 THE COURT: All right. You win again.

12 MR. FLEMING: All right. And then the -- as
13 is common, Your Honor, in these cases, some people
14 maintain a name, or your Christian name, and then
15 they are referred to in other ways.

16 THE COURT: Right.

17 MR. FLEMING: There is an allegation in this
18 case that my client is referred to by the name Big-T.
19 Well, I don't know whether that is the truth or not,
20 but neither does the State because they have no
21 witnesses that can testify to that. The only way
22 they would know, that would be hearsay similar to
23 what we're talking about and I would move that they
24 refer to him as -- with his name and not some
25 referenced street name without laying a proper

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 foundation for how they know that.

2 MS. TANNER: Agree in part, and disagree in
3 part. And the part that I agree: I intend to refer
4 to Turuk Saunders as Turuk Saunders or the defendant.
5 I don't intend to call him by a street name.
6 However, during the trial, as part of law
7 enforcement's investigation I believe it could come
8 out that they were looking for a Big-T. Now, I'm not
9 calling him that --

10 THE COURT: If the testimony is in there, it
11 comes in. That's all.

12 MS. TANNER: Yes, sir.

13 THE COURT: But it has to come in. Not
14 through hearsay. It has to come in.

15 MR. FLEMING: Your Honor, and that -- I agree
16 with what you just said. What I believe -- if I can
17 paraphrase: what the solicitor is saying is their --
18 the officers are going to testify we were looking for
19 Big-T. The problem is that the only reason they were
20 looking for big-T is the very hearsay that we're
21 talking about. And the -- this entire case is about
22 limiting --

23 THE COURT: Well, then, they could just say,
24 we're looking for the defendant. That doesn't hurt.
25 And, you know, if you go into it, how do you think

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 you're looking for the defendant, because everybody
2 knows he was Big-T, you know. But I can't protect
3 you all the way. I just --

4 MR. FLEMING: And I'm not -- I'm not asking
5 you to protect me.

6 I guess what she's saying is they're not going
7 to say why they were looking for him, just that they
8 were. And I object to that, as well, because I don't
9 think that that's what the search warrant says. But
10 I'm certainly not going to dance on that edge,
11 either.

12 THE COURT: You know, I haven't -- you know, I
13 haven't been in the case. Cases develop, and then we
14 see how they go.

15 MR. FLEMING: Well, and, again -- and I know
16 you're sick of me saying this. But, Judge, they're
17 going to say this before you really know anything
18 about the case. That's going to be the first three
19 words out of their mouth. And so you're not going to
20 really know any more than what you know now in terms
21 of that ruling.

22 So if I object, you will not know anything
23 else than what we do now, and what I'm trying to do
24 is sort of edify you a little bit so that you can
25 sort of know. And, you know, they clearly gained

MIA PERRON, CCR, CVR-CM

-40-

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 Your Honor, I believe that's all the motions
2 we have before we start in the morning.

3 THE COURT: All right.

4 MR. FLEMING: I do -- I will reserve your --
5 my client may or may not choose to testify and at the
6 appropriate time when the Court inquires of his
7 rights, et cetera, there may be an issue as to
8 whether or not the probative value of his prior
9 convictions exceed or do not exceed the prejudicial
10 effect of them, specifically because of the nature of
11 the prior offenses verses what he is currently being
12 charged with. But I'll reserve that motion at the
13 appropriate time because we may not even address
14 that.

15 THE COURT: All right.

16 MR. FLEMING: And I believe that's all I have,
17 Your Honor. Thank you.

18 THE COURT: All right. 9:30.

19 MS. TANNER: Thank you, Your Honor.

20 [JURY TRIAL ADJOURNS AT 2:45 P.M.]
21
22
23
24
25

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable J. Ernest Kinard, Jr., on Monday, May 24th, 2010.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 30th day of December, 2010.

Mia Perron
Mia Perron, CCR, CVR-CM
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CCR, CVR-CM

-43-

COPY

STATE OF SOUTH CAROLINA
VS.
TURUK SAUNDERS,
DEFENDANT.

VOLUME 2 OF 3

SUSAN "MIA" PERRON, CCR, CVR-CM
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

COPY

APPEARANCES OF COUNSEL

FOR THE STATE: Angela M. McCall-Tanner, Esquire
Meredith Bannon, Esquire
14th Circuit Solicitor's Office
102 Ribaut Road
Beaufort, South Carolina 29902

FOR THE DEFENDANT: Cory H. Fleming, Esquire
Kimberly Smith, Esquire
Moss Kuhn & Fleming
Post Office Drawer 507
Beaufort, South Carolina 29901

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	9
OPENING STATEMENT BY MS. TANNER	24
OPENING STATEMENT BY MR. FLEMING	27
SCOTT JOHNSON	
Direct Examination by Ms. Tanner	33
Cross-Examination by Mr. Fleming	41
ANDREW P. FAUCETT	
Direct Examination by Ms. Tanner	45
Cross-Examination by Mr. Fleming	53
Redirect Examination by Ms. Tanner	68
JOEY WOODWARD	
Direct Examination by Ms. Tanner	72
Cross-Examination by Mr. Fleming	81
BOBBY JENKINS	
Direct Examination by Ms. Tanner	85
Cross-Examination by Mr. Fleming	92
Redirect Examination by Ms. Tanner	95
Recross-Examination by Mr. Fleming	96

INDEX TO PROCEEDINGS, continued

	PAGE
ROBIN MCINTOSH	
Direct Examination by Ms. Tanner	98
Cross-Examination by Mr. Fleming	134
Continued Cross-Examination by Mr. Fleming	152
Redirect Examination by Ms. Tanner	160
JEAN ROBERTS-LINKER	
Direct Examination by Ms. Tanner	166
RENITA BERRY	
Direct Examination by Ms. Tanner	175
Cross-Examination by Mr. Fleming	184
CERTIFICATE OF COURT REPORTER	194

INDEX TO EXHIBITS

[Exhibits pre-marked by counsel unless otherwise indicated
in transcript]

ADMITTED

State's Exhibit Number 1 [Photograph]	49
State's Exhibit Number 2 [Marijuana]	101
State's Exhibit Number 3 [Photograph]	103
State's Exhibit Number 4 [Photograph]	103
State's Exhibit Number 5 [Photograph]	103
State's Exhibit Number 6 [Photograph]	103
State's Exhibit Number 7 [Croak Cocaine]	106
State's Exhibit Number 8 [MDMA]	106
State's Exhibit Number 9 [Photograph]	107
State's Exhibit Number 10 [Photograph]	107
State's Exhibit Number 11 [Plastic Container]	108
State's Exhibit Number 12 [Photograph]	109
State's Exhibit Number 13 [Photograph]	109
State's Exhibit Number 14 [Photograph]	110

INDEX TO EXHIBITS, continued

[Exhibits pre-marked by counsel unless otherwise indicated
in transcript]

ADMITTED

State's Exhibit Number 15 [Scanner]	110
State's Exhibit Number 16 [Photograph]	111
State's Exhibit Number 17 [Scale]	111
State's Exhibit Number 18 [Photograph]	112
State's Exhibit Number 19 [Scale]	112
State's Exhibit Number 20 [Photograph]	113
State's Exhibit Number 21 [Marijuana and Razor Blade]	113
State's Exhibit Number 22 [Photograph]	114
State's Exhibit Number 23 [Sandwich Bags]	114
State's Exhibit Number 24 [Photograph]	115
State's Exhibit Number 25 [Photograph]	115
State's Exhibit Number 26 [Scale]	115
State's Exhibit Number 27 [Photograph]	116
State's Exhibit Number 28 [Shotgun]	117

INDEX TO EXHIBITS, continued

[Exhibits pre-marked by counsel unless otherwise indicated
in transcript]

ADMITTED

State's Exhibit Number 29 [Shotgun Shells]	117
State's Exhibit Number 30 [Photograph]	119
State's Exhibit Number 31 [Photograph]	119
State's Exhibit Number 32 [Photograph]	120
State's Exhibit Number 33 [Marijuana]	120
State's Exhibit Number 34 [Marijuana]	120
State's Exhibit Number 35 [Marijuana]	121
State's Exhibit Number 36 [Marijuana]	122
State's Exhibit Number 37 [MDMA]	122
State's Exhibit Number 38 [MDMA]	122
State's Exhibit Number 39 [Photograph]	123
State's Exhibit Number 40 [Photograph]	123
State's Exhibit Number 41 [Handgun]	123

INDEX TO EXHIBITS, continued

[Exhibits pre-marked by counsel unless otherwise indicated
in transcript]

ADMITTED

State's Exhibit Number 42 [Photograph]	125
State's Exhibit Number 43 [Cocaine]	125
State's Exhibit Number 44 [Cocaine]	125
State's Exhibit Number 45 [Small Baggie]	126
State's Exhibit Number 46 [Box for Scales]	127
State's Exhibit Number 47 [Shoe Box]	128
State's Exhibit Number 48 [Photograph]	129
State's Exhibit Number 49 [Shower Bag]	129
State's Exhibit Number 50 [Photograph]	130
State's Exhibit Number 51 [Crack Cocaine]	130
State's Exhibit Number 52 [Photograph]	131
State's Exhibit Number 53 [Photograph]	131
State's Exhibit Number 54 [Timberland Box and Marijuana]	132
State's Exhibit Number 55 [Photograph]	132
State's Exhibit Number 56 [Rental Receipt]	91

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

PROCEEDINGS

THE COURT: All right. What are y'all up to now?

MR. FLEMING: We're ready for trial, Your Honor.

THE COURT: All right. Ready to bring the jury in?

MR. FLEMING: Yes, Your Honor.

MS. TANNER: The State is ready, Your Honor.

THE COURT: Jamie, the jury has not been sworn. Do you have the indictments down there? There should be four or five of them.

[Off the record momentarily]

MS. TANNER: Your Honor, pursuant to the sequestration order, I have sent all of my witnesses out, other than my case officer, McIntosh, and my first witness, Johnson.

THE COURT: Okay. Now, do y'all want me to tell the jury that I was disposing of two cases that were set for trial this week or not?

MR. FLEMING: Yes, sir.

MS. TANNER: I think --

THE COURT: So then they won't think -- blame it on either one of y'all, it seems like.

MS. TANNER: Yes, sir. I would appreciate

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 that.

2 MR. FLEMING: Yes, sir.

3 THE COURT: And let's -- where is a bailiff
4 when you need one? I need the jury brought in.

5 [Off the record momentarily]

6 THE BAILIFF: Jurors are ready to enter.

7 THE COURT: Okay.

8 [Whereupon, the jury enters the courtroom at
9 10:17 a.m.]

10 THE BAILIFF: The jurors are all present.

11 THE COURT: Okay. The jury is unsworn. Let's
12 swear them in.

13 THE CLERK OF COURT: Please stand and raise
14 your right hand.

15 [Whereupon, the jury is duly sworn by the
16 clerk of court as follows: do you solemnly swear or
17 affirm that you shall well and truly try and true
18 deliverance make between the State of South Carolina
19 and the accused at the bar and a true verdict give
20 according to the evidence, so help you God]

21 THE CLERK OF COURT: Thank you.

22 THE COURT: Okay. Jurors, we're ready to move
23 into the trial. I appreciate y'all getting here
24 promptly at 9:30. And we were ready to go at 9:30.

25 I have permission of the attorneys to tell you

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 this so you won't be blaming it on the attorneys. The
2 solicitor's office lists cases for trial this week.
3 And as you are already aware, Judge Mullen is here and
4 I'm here conducting trials of individuals accused of
5 commission of a crime. Two of the individuals who
6 were on the trial list who've been in jail for a while
7 decided to plead guilty, and so I accepted those
8 pleas.

9 Normally, a plea only takes four or five
10 minutes, so I didn't mind doing that, but they had a
11 lot of things they wanted to hand up about why people
12 shouldn't get so much time, and so forth and so forth,
13 and it just took a while. But once you get into it, I
14 can't then just say, sorry, you can't tell me anything
15 else. I have to listen to the whole everything
16 everybody says to fairly evaluate how much time I give
17 someone who pleads guilty, based on the nature of the
18 crime, their prior record, their personal lifestyle,
19 all of the above. But these attorneys and the
20 defendant have been sitting here through all of that.

21 And I kind of reprimanded some of the
22 attorneys. I said, you know, y'all don't represent
23 that this won't take but a minute, when it's going to
24 take this long, when I've got a jury back there who
25 thinks we're sitting out here drinking coffee, which I

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 could use but I don't have any. All right?

2 Now, that being said, forget about that.

3 Forget about that two people pled guilty.

4 This gentleman, Mr. Saunders, has pled not
5 guilty. There's no inference of guilt against him
6 because he's been charged. He's presumed innocent of
7 all charges. And I went over the charges with you
8 yesterday. I'm going to do it again.

9 In order to obtain a conviction on any of
10 these documents, which are called indictments, as I
11 briefly explained to you yesterday, the State has to
12 convince all twelve of you jurors beyond a reasonable
13 doubt that Mr. Turuk Saunders committed a crime
14 embraced within the indictment. Okay? I say embraced
15 within the indictment: the charges -- except for one
16 charge, I believe -- are drug-related charges and they
17 charged possession with intent to distribute.

18 And it may be you could have an option of
19 finding him guilty, or not guilty, or guilty as
20 charged, or guilty of a lesser included charge of
21 simple possession of some of these substances. I
22 don't know the facts in the case. But it takes a
23 unanimous decision of you twelve jurors to decide the
24 case.

25 Madam Forelady, again, you don't get paid any

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 more than anybody but once deliberations commence you
2 act as spokesperson for the jury, you preside over the
3 deliberations, and if questions occur you write them
4 down with some specificity and I will try to answer
5 the question.

6 But my function is to, you know, make rulings
7 on the admissibility of the evidence and to instruct
8 you on the law. I am not the fact finder, so don't
9 send back a question is he guilty or not guilty. Hey,
10 that's why y'all are here. All right?

11 But Mr. Saunders is presumed innocent. No
12 burden on his part to prove that he's not guilty.
13 The State, again, has a burden of proof beyond a
14 reasonable doubt.

15 Now, not necessarily in the order in which
16 anything happened, but just in the order in which
17 these indictments were handed to me, the first
18 indictment I'm looking at charges Mr. Saunders with
19 possession with intent to distribute ecstasy.

20 The legislature, jurors, has designated
21 various substances as being controlled. If it's -- a
22 substance is controlled. Unless you're otherwise
23 authorized by law to have it, pursuant to a valid
24 prescription or some other recognized exception, it's
25 illegal for you to have a controlled substance.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 One of the substances that is controlled is
2 ecstasy. In order to obtain a conviction for
3 possession with intent to distribute ecstasy, the
4 State has to prove that Mr. Saunders had actual or
5 constructive possession. Actual possession, you know,
6 many ways to do that is this is my pen. This is my
7 pen. You know, actual possession, constructive
8 possession, close enough for me to reach; I know it's
9 right there. That's simple. I'll explain that to you
10 in a little more detail. So it's against the law
11 unless you're otherwise authorized or empowered to
12 have ecstasy in your possession.

13 The State has got to prove that you had
14 ecstasy in your possession; that it was, in fact,
15 ecstasy; that you know it was ecstasy. Okay?

16 In addition, the State charges Mr. Saunders
17 not only with possession but with possession with
18 intent to distribute. That means not only did he have
19 it in his possession, that he knew it was in his
20 possession and that it was, in fact, ecstasy, but he
21 intended to give it away, sell it, transfer it,
22 distribute it to some other person.

23 All right. Now, after the facts come in, the
24 State -- and I'm not suggesting Mr. Saunders is guilty
25 of anything. I don't know the facts. Haven't been

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 over the facts. It's a little different in a civil
2 trial than a criminal trial. Civil trials, you know,
3 a judge brings the lawyers in, finds out everything
4 about it, smooth it over. Criminal trial, can't
5 really talk to them too much about it. They put it up
6 and I hear it the first time like y'all hear it.
7 Obviously, I know what the charges are because I have
8 read the indictments. But don't look to me for any
9 guidance on the facts, because you jurors are the fact
10 finders.

11 So to prove intent to distribute, which is
12 what he's charged with on ecstasy, oftentimes it might
13 not be difficult. It's like -- he's not charged, I
14 don't think -- well, just take Tylenol II, which he's
15 not charged with. And somebody has that and you would
16 like some and say, do you have any Tylenol II, say,
17 yeah, I've got some right here; would you like to buy
18 it. You know, they don't -- if they have it
19 illegally, that's obviously clear evidence that they
20 intended to distribute it.

21 The State can prove intent to distribute by
22 direct evidence and circumstantial evidence. And you
23 jurors are going to pass upon all the evidence that's
24 admitted in the case. Direct evidence is where
25 someone testifies to something that he or she has

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 observed through the senses. It might not be right,
2 but if they testify to it, that is direct evidence.
3 Circumstantial evidence, you know, is where if you
4 take a proven fact and from that fact you infer the
5 existence of other facts. Any inferences you draw
6 from proven facts have to be reasonable. But it's
7 just like if concrete had just been poured there and
8 it was not dry -- we're not CSI -- but if an animal
9 went through, walked through, and nobody saw it but
10 you looked and you saw the tracks and it looked like
11 dog tracks, not cat tracks, you would say a dog walked
12 through it. Okay? That's circumstantial evidence.

13 The law makes no differentiation between the
14 weight given to direct evidence and circumstantial
15 evidence. The State can prove a case by direct
16 evidence, can prove a case by circumstantial evidence.
17 But they have the burden of proof, not the defendant.

18 The second indictment charges Mr. Saunders
19 with possession with intent to distribute cocaine.
20 Again, he's presumed innocent of this charge. The
21 State has the burden of proof. It's the same law that
22 applies to it. Cocaine is a controlled substance.
23 Unless you have a prescription for it or are otherwise
24 lawfully entitled to have it, if you've got it in your
25 possession you're guilty at least of possession. The

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 State has got to go further to obtain a conviction as
2 charged to show that not only did Mr. Saunders have
3 actual or constructive possession of the cocaine but
4 that he intended to sell it, distribute it, or give it
5 away, in order to obtain a conviction.

6 The next indictment, the same thing.
7 Possession with intent to distribute marijuana. Same
8 day. Marijuana, again, is a controlled substance.
9 You can have that legally more -- by prescription more
10 often than other type drugs but unless you have a
11 prescription for it or are otherwise enabled by law to
12 have it, if you possess it it's illegal.

13 And, again, the State not only charges Mr.
14 Saunders with possessing marijuana, which means in
15 order to obtain a conviction they've got to show that
16 he had it in his actual or constructive possession,
17 that it was, in fact, marijuana, and that he knew it
18 was marijuana. Like if somebody slipped up behind you
19 and you had a knapsack on your back and dropped
20 cocaine in there and you didn't even know it was in
21 there, you know, you wouldn't be guilty of it even
22 though you had constructive possession of it at that
23 point.

24 So the State has got to connect all the dots.
25 And they've got to show, to get a conviction, that not

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 only did he have marijuana in his possession, that the
2 substance in question was marijuana but that he
3 intended to give it away, sell it, or transfer it to
4 somebody else.

5 The next indictment charges that he, being
6 Mr. Saunders, committed the crime of trafficking in
7 cocaine over ten grams but less than twenty-eight
8 grams. Trafficking is just a weight-based charge,
9 more or less. Trafficking in its general terms means
10 dealing in, trading in. But to obtain a conviction,
11 the State has to prove that a defendant had a
12 controlled substance in his possession and the
13 controlled substance weighed more than, in this case,
14 ten grams. You can forget about the less than twenty-
15 eight grams.

16 The weight situation in an indictment governs
17 a penalty. If a person was guilty of trafficking and
18 had more than twenty-eight grams, the indictment would
19 allege that and the penalty would increase. But you
20 aren't concerned with penalties, in any event. The
21 penalty -- if a person is convicted, the judge
22 sentences. You don't even speculate as to what the
23 judge might give them, because the judge doesn't ever
24 know until it's all over, you know.

25 I mean, I don't sit here and say, boy, I hope

1 they convict him, I'll give him x, or, boy, I hope
2 they convict him, I'll give him probation. You know,
3 you listen to it all, because I don't know anything
4 about the case until it's all over. And if he's found
5 not guilty he doesn't get sentenced, so why should I
6 even speculate on what I'm going to give him. All
7 right?

8 But bottom line, don't speculate as to what
9 the judge might give somebody on a sentence. The
10 legislature has provided penalties and a range of
11 penalties and if a person is convicted, they get
12 sentenced within that range.

13 All right. So trafficking is a weight-based
14 situation. You could not find Mr. Saunders guilty of
15 trafficking unless crack cocaine, in his possession,
16 actual or constructive, with his knowledge, exceeded
17 in weight ten grams. If it was under ten grams, might
18 be guilty of possession with intent to distribute but
19 would not be guilty of trafficking, under the statute
20 as charged.

21 Trafficking in all drugs is classified by the
22 legislature as a crime of violence. All right? I
23 know you would think that armed robbery is a crime of
24 violence, you know, murder, manslaughter, assault and
25 battery with intent to kill. They are. But the

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 legislature can classify anything as a crime of
2 violence because they're the legislature. They pass
3 the laws. And they have said anybody that engages in
4 trafficking in controlled substances commits a crime
5 of violence.

6 And trafficking -- I mentioned that it's a
7 crime of violence, which normally I wouldn't even tell
8 you because he's also charged in this indictment with
9 possession of a firearm during the commission of a
10 violent crime. The violent crime that they alleged is
11 trafficking. And they say display a firearm or a
12 knife. I don't know. But a deadly weapon is
13 something that will cause severe harm or could result
14 in death. It could just be a hammer, you know.

15 But, anyway, deadly weapon while committing a
16 violent crime. And normally you would think a deadly
17 weapon, committing murder, committing armed robbery or
18 something like that. But it's an add-on charge. In
19 other words, it has a separate penalty.

20 But you could not find Mr. Saunders guilty of
21 possession [sic] of a violent crime unless you found
22 that he was guilty of trafficking. If you didn't find
23 him guilty of trafficking, you wouldn't even consider
24 that indictment. The verdict is not guilty.

25 You could find him guilty on everything except

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 trafficking and still you could not possibly find him
2 guilty of this because those other crimes are not
3 classified by the legislature, the ones he's charged
4 with, except for trafficking, as being crimes of
5 violence.

6 Now, this is how the trial operates. I just
7 covered it in its briefest term. You will pass upon
8 all the evidence admitted in the case. That includes
9 testimony, any documents that are introduced, any
10 reports that are introduced. You will weigh it and,
11 decide whether the State has met its burden of proof.
12 It's up to you to decide which testimony is believable
13 and it's up to you to decide what weight you jurors
14 contribute to the totality of the evidence.

15 But to set the stage for you, the State is
16 going to make a brief opening statement. You need to
17 pay -- through the solicitortrix. You need to pay
18 attention. Now, the opening statement will not be
19 evidence, but she's going to outline for you the
20 State's position. Pay attention to that. You know,
21 her statement is not evidence. She was not there.
22 She just has investigated the case and is going to
23 tell you the State's position and how they think they
24 will meet their burden of proof beyond a reasonable
25 doubt. After that, defense counsel will be entitled

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 to make an opening statement. Doesn't have to make an
2 opening statement. And then we'll start calling the
3 witnesses.

4 We'll take a break about every hour to twenty-
5 five minutes, to an hour and forty-five minutes. It's
6 hard to break a witness right in mid sentence, you
7 know. And if y'all will just pay attention. If
8 anybody needs an earlier break, I mean, I'm looking
9 over there all the time. I'm not sitting here working
10 crossword puzzles. So just raise your hand and we'll
11 take a break. But generally it will be an hour and
12 twenty-five minutes to an hour and forty-five. And
13 because of the delay today, I don't know that we'll
14 finish today, but we'll see how it goes.

15 And understand, any time anybody is charged
16 with the commission of a crime, we're in a serious
17 situation. So the State and the defense need your
18 total concentration on what transpires. You don't
19 want to find somebody guilty unless the State has met
20 its burden of proof beyond a reasonable doubt. So
21 don't think that they're spending too much time with a
22 particular witness because, having practiced law for a
23 long time, you talk to a witness about what they're
24 going to say and then you put them on the stand and
25 they don't exactly say that. And you can't testify

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 for them, so it takes a little longer to get back to
2 the point. Because you don't deal with professional
3 witnesses. Y'all, I think, understand that.

4 Okay, Ms. Tanner.

5 MS. TANNER: May it please the Court, Your
6 Honor?

7 THE COURT: Sure.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- - -
- - -
- - -

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

OPENING STATEMENT

MS. TANNER: Good morning, ladies and gentlemen. Welcome to jury service.

The case you're getting here this week is about drug trafficking and distribution. I know right now it's the political season and you hear a lot of stuff on television right now about small businesses. It's in the newspapers, it's on TV. It's all the talk right now about the condition of small business.

I want you this week to think and to see that drug trafficking and distribution is a small business. It's run like a small business. You think of a small business. What does it take to run a small business? Well, you've got to rent office space, you've got to surround yourself by maybe a handful of trusted coworkers, you've got to have the tools and ability to package and present a product, and you've got to have customers. The same with drug trafficking. The same with drug distribution, only it's an illegal small business.

What you're going to hear about this week is that between February the 22nd and 23rd of 2007, it was discovered that Turuk Sanders -- Saunders was running a drug-trafficking distribution business. He was running it out of [REDACTED] in Beaufort.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 That's here in Beaufort County. You're going to hear
2 evidence he rented some office space, 11 Bay Pines
3 Road, Beaufort. You're going to hear that he had a
4 handful of trusted cohorts with him. You're going to
5 hear that he had the tools to package and present his
6 product and for the purpose of selling to customers.
7 That was his business.

8 You're going to hear that he had a pretty
9 diverse inventory, as well. He had a good business.
10 You're going to hear that he was in possession of
11 crack cocaine, he was in possession of powder cocaine,
12 he was in possession of marijuana, and ecstasy, which
13 is the chemical name of MDMA, the short version of a
14 very long chemical name. But ecstasy. So he's got
15 quite a storefront in his small business, and he
16 prepares to distribute. He was open for business here
17 in Beaufort County.

18 And at the end of this case, ladies and
19 gentlemen, I'm going to ask you to hold him
20 responsible for his business and find him guilty of
21 all counts: trafficking crack cocaine, because it was
22 more than ten grams; possession with intent to
23 distribute powder cocaine, because it was under that
24 ten-gram realm, but more than one; possession with
25 intent to distribute marijuana, for the same reason;

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 possession with intent to distribute ecstasy; and
2 possession of a firearm during the commission of a
3 violent offense, because he also had a security system
4 in his office. There were guns located.

5 So at the end of this trial, I'll ask you to
6 find him guilty, hold Turuk Saunders responsible for
7 being an illegal business man here in Beaufort County.
8 Thank you.

9 MR. FLEMING: May it please the Court, Your
10 Honor?

11 THE COURT: Sure.

12 MR. FLEMING: Solicitor.

13
14
15
16
17
18
19
20
21
22
23 - - -
24 - - -
25 - - -

OPENING STATEMENT

MR. FLEMING: The absolute most important thing, number one thing in a small business, customers.

I agree there was a small business operating at [REDACTED] but Turuk Saunders was a customer. It's wrong. He shouldn't have been, but that's all the evidence can show. Turuk Saunders is not guilty of trafficking in crack cocaine. He is not guilty of possession with the intent to distribute cocaine or marijuana or ecstasy, and he certainly didn't have possession of a firearm.

He was at the wrong place at the wrong time. And that is what the evidence will show. Because the fact of the matter is Turuk had showed up to his brother's trailer twenty minutes before the police served a search warrant. Because he had gone in -- his brother is a dope dealer, so where better to buy marijuana so you could smoke it but from your brother. And he's there.

And as you can see, he clearly chose the wrong time to be there because what actually happened is at the same time he's there, a bunch of these fellows come in with a search warrant to search the property. And Turuk is there. He hears a loud noise coming in

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 from the back door because of the SWAT team.

2 This is a no-knock warrant and what that means
3 is they don't say, hey, guys, we're coming in. They
4 sneak in. I mean, that's common. You've seen that on
5 television and things.

6 The back door is sort of kicked in. Turuk is
7 sort of near the front door, hears them, and goes, oh,
8 my gosh, takes a couple of steps out the front door,
9 drops the little marijuana that he has. It was about
10 five grams of marijuana. And you'll hear that they
11 weighed it. Drops it right on the front door, he's
12 arrested, and that's it. That's his sole involvement
13 in this thing.

14 And of course they're going to tell you that
15 it's greater. But they're just guessing. They're
16 completely guessing because there's absolutely no
17 evidence, because the truth is that Turuk had lived in
18 this trailer. He rented this trailer from a guy named
19 Bobby Jenkins back in 2004. Robert Jenkins, we all
20 know him as Bobby, was a SLED agent for a long time
21 and was renting this trailer to him and in 2004.

22 But in May of 2006, almost eight months before
23 this search warrant was served, before this happened,
24 Turuk had moved out. He had moved with his girlfriend
25 Tyece Brown and moved all the way out to --

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 technically, it's Seabrook, 11 -- 145 William Campbell
2 Road. On May the 6th, 2006, he signed a lease and he
3 moved out to Seabrook. We sort of call it Sheldon.
4 And the people who know that area would probably
5 consider it Sheldon. That's almost to the very end of
6 Beaufort County towards the -- all the construction on
7 Highway 17.

8 He signed that lease. He went to SCE&G. He
9 cut off the power service to 11 Bay Pines Road, where
10 this search warrant was served, and he transferred it
11 over to William Campbell where he lives.

12 But he let his brother sort of continue the
13 lease. Didn't have to put down a security deposit.
14 His brother probably would have a little trouble
15 getting a place anyway, being that he's not the most
16 savory character in the world. And, you know, you
17 can't choose your family. And that's how it is.

18 But his brother, Akeem Saunders, and two of
19 his buddies, these kids were enterprisers. They were
20 small-business people, just like the solicitor said.
21 You've got a Jonathan Kelly and Jarret Jackson. They
22 were all there when the search warrant came down. And
23 I believe this gentleman right here [indicates] caught
24 Akeem Saunders with the crack that they're talking
25 about, trying to shove it down the toilet. Clearly in

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 control, clearly in possession, of that stuff.

2 Akeem Saunders was charged with these offenses
3 and pled guilty, admitted to his role in it. Jonathan
4 Kelly was charged and pled guilty. Jarret Jackson was
5 charged and pled guilty. Interestingly enough, there
6 were apparently two other purchasers, customers, there
7 at the same time, a woman named Tenecia or something
8 like that. She was charged with simple possession of
9 marijuana, and I think she pled guilty to that. And
10 I'll tell you about it a little bit later.

11 And a fellow named Elijah Clark was also
12 present. He was charged with possession. And, ladies
13 and gentlemen, I'm here to tell you, that's what Turuk
14 Saunders is guilty of, of possessing the marijuana,
15 five grams. The charge is actually possession of
16 twenty-eight grams or less of marijuana. And the
17 truth is he's guilty of it, and you should find him
18 guilty of that charge. But there is absolutely no
19 evidence that he committed any other offense
20 whatsoever.

21 And that's why we're in front of you today,
22 because he's an innocent man on those charges, he's
23 presumed innocent, there are no facts against him, and
24 the State has to prove this case beyond every
25 reasonable doubt. That's not some whimsical doubt,

1 folks. That is every other reasonable explanation.

2 I have already told you at least one, and
3 there are many other reasonable excuses, about why he
4 was there and what happened. The judge is -- I feel
5 confident that at the end of this trial the judge is
6 going to tell you something and he's going to explain
7 to you a little bit more law.

8 And he's going to talk to you. He's going to
9 say that the mere presence of a defendant at the scene
10 of a crime is insufficient proof that they're guilty
11 of that crime. He's going to tell you that the mere
12 presence of a defendant where a controlled substance
13 is found is insufficient proof that he himself
14 possessed or intended to possess and distribute those
15 drugs. And even more importantly, he's going to tell
16 you -- I feel confident that he's going to explain to
17 you that the mere association of a defendant with
18 criminals, like his own brother, is insufficient proof
19 to find him guilty. That is the law, and the judge is
20 going to tell you that.

21 And that is the sole evidence that they have
22 against Turuk, because while he is responsible for
23 possessing that five grams of marijuana, he's simply
24 not responsible for what his brother and those kids
25 did.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 You know, it's like another small business.
2 When you go to the grocery store to Bi-Lo or to Publix
3 and you go in there and you buy some tomatoes, all
4 right, and you walk out with your tomatoes, you're
5 responsible for the tomatoes. You're not responsible
6 for the steak, the milk, the eggs, cereal, that's in
7 the store. That's someone else's responsibility.
8 You're responsible for the thing that you bought, and
9 that was the marijuana that he bought and that's what
10 he's responsible for.

11 And so at the end of this case you're going to
12 be asked to return to your jury room and deliberate,
13 and determine, and I am confident that you will agree
14 that Turuk Saunders is guilty of possession of twenty-
15 eight grams or less of marijuana but that there is no
16 evidence sufficient to prove him guilty of any of the
17 remaining charges, and your verdict will be a true and
18 just verdict of not guilty on the remaining charges.
19 Thank you.

20 Thank you, Your Honor.

21 THE COURT: Okey-dokey.

22 MS. TANNER: Thank you, Your Honor. The State
23 calls Captain Scott Johnson to the stand.

24 THE COURT: Okay.

25 [Whereupon, Mr. Johnson comes forward]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 [Whereupon, Mr. Johnson is duly sworn by the
2 clerk of court as follows: do you solemnly swear or
3 affirm that the testimony you give to the Court shall
4 be the truth, so help you God]

5 THE WITNESS: I do.

6 THE CLERK OF COURT: Please be seated, and
7 state your full name.

8 [Whereupon, Mr. Johnson takes the witness
9 stand]

10 THE WITNESS: Scott Johnson.

11 MS. TANNER: Good morning, Captain.

12 THE WITNESS: Good morning.

13 - - - - -

14 SCOTT JOHNSON,

15 Having Been First Duly Sworn,
16 was Examined and Testified as Follows:

17 DIRECT EXAMINATION

18 BY MS. TANNER:

19 Q. Where are you employed?

20 A. With the Beaufort County Sheriff's Office.

21 Q. And how long have you been with the sheriff's
22 office?

23 A. For twenty years.

24 Q. What is your capacity or job duties with the
25 sheriff's office?

MIA PERRON, CCR, CVR-CM

-33-

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. I'm the SWAT commander.

2 Q. All right. What does SWAT mean?

3 A. Special Weapons And Tactics.

4 Q. And what is I guess your main function at the
5 sheriff's office as SWAT?

6 A. We serve warrants and apprehend suspects that
7 could be armed and dangerous or have a propensity for
8 violence.

9 Q. And do you have special training above and
10 beyond what other members of the sheriff's office would
11 have?

12 A. Yes, we do.

13 Q. And what kind of training do you have?

14 A. We have extensive weapons training, building
15 entry-clearing techniques, and the use of special tools to
16 do our job with.

17 Q. And what kind of special -- you said house-
18 clearing techniques.

19 A. Yes.

20 Q. What is that?

21 A. That's the ability to quickly gain entry into
22 a location and detain suspects in a safe manner, which
23 obviously means officer safety on our part.

24 Q. And what is the point or the purpose behind
25 that?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. It is -- there's a couple of different
2 reasons. One is to obviously detain suspects safely; also
3 to keep from destruction of evidence; and, also, the quick
4 entry and clearing also keeps them from arming themselves.

5 Q. Captain Johnson, how long have you been the
6 leader of this team?

7 A. For ten years now.

8 Q. So you were the leader back on February the
9 23rd, 2007?

10 A. Yes, ma'am.

11 Q. And were you part of an operation at 11 Bay
12 Pines Road in Beaufort?

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

14 Q. And is that here in Beaufort County?

15 A. Yes, it is.

16 Q. Can you tell me how you came to be involved in
17 this operation?

18 A. Because I'm the SWAT commander, the --
19 Lieutenant JoJo Woodward, who is the drug-team commander,
20 we work very closely together and when there is a search
21 warrant to be served, they request the SWAT team to serve
22 that warrant.

23 Q. And did you do that?

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

25 Q. And did you come up with a plan of attack or

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 how you would carry out this operation?

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

3 Q. And what was the basic plan that you had for
4 that night?

5 A. The basic plan was for the SWAT team to exit
6 the vehicle on Bay Pines Road, which is right in front of
7 the location. Because prior intelligence told us that
8 there was a vehicle in the driveway, we did not want to
9 drive in and exit the vehicles there. We exited the
10 vehicle on Bay Pines Road and walked through a small
11 wooded area that led us to the back of the residence.
12 That was our entry point. We wanted to go in the back
13 door.

14 Q. And why would you want to go in the back door
15 versus the front door?

16 A. Prior intelligence told us that the people
17 that were coming in and out of the house was using the
18 back door, so we like to enter into the door that we know
19 that it's not obstructed and that people are using.

20 Q. Now, how do you go about making entry? Did
21 you make entry at 11 Bay Pines?

22 A. Yes, we did.

23 Q. Can you describe for the jury how that went
24 down?

25 A. Yes, ma'am.

MIA PERRON, CCR, CVR-CM

-36-

1 As I said earlier, we approached from the
2 back. It was an outer-opening door, which we have special
3 tools that we actually open the door with. At the time
4 that we were working on the door to open it, there was an
5 individual that poked his head out the back, one of the
6 back windows, of the trailer. And we identified ourselves
7 as the sheriff's office. That individual, you know, went
8 back into the window and then shortly thereafter we made
9 entry into the residence and secured all of the people
10 inside.

11 Q. How many members of your team were out there
12 that night?

13 A. Ten.

14 Q. And did you all enter through that one door?

15 A. Yes, ma'am, all the SWAT team did.

16 Q. And you said when someone poked their head out
17 a window, they see you and you identified yourself?

18 A. Absolutely. Yes, ma'am.

19 Q. As law enforcement?

20 A. Yes, ma'am.

21 Q. And this is prior to you making entry?

22 A. It was right at the same time that we were
23 breaching the back door.

24 Q. Is that a concern that now you've been
25 spotted?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, ma'am. It is a concern of ours because
2 now the surprise of the operation is not there.

3 Q. And once you do make entry, do you come in
4 contact with any people?

5 A. I come in contact with an individual that was
6 just exiting the bathroom.

7 Q. And is that in any relation to the window that
8 the person stuck their head out?

9 A. Yes, it is.

10 Q. And what type of contact do you have with this
11 person?

12 A. Identified -- well, we always announce the
13 sheriff's office when we enter into a location. And I was
14 far enough back in the stack of officers where that's
15 where I ended up at, and the suspect that I dealt with was
16 coming out of the bathroom and he was detained and cuffed.

17 Q. In what condition did you find the suspect?

18 A. He was wet when we -- when I made contact with
19 him and he got on the ground and I cuffed him and started
20 patting him down, I noticed he was wet. At first I
21 thought he was bleeding, because his body was wet, and
22 then once I realized it was just water and he was --
23 basically, his arms and his body was kind of covered with
24 water.

25 Q. And what room did you find him coming from?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. From the bathroom.

2 Q. Once your team enters, what method do you
3 follow for clearing the house?

4 A. At every room we come to, we dump two SWAT
5 officers in as we go and they dominate and clear that room
6 as we go. So, basically, we don't clear -- pass an area.
7 We always have officers go into every room as we penetrate
8 deeper into the building.

9 Q. Captain Johnson, I know this has been a couple
10 of years ago. Do you have some memory of the layout of
11 this residence?

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

13 MS. TANNER: Your Honor, could I have him come
14 off the stand? I would like to have him sketch --

15 THE COURT: Sure. You can do that.

16 [Whereupon, the witness complies]

17 Q. [Ms. Tanner] Captain Johnson, if you could
18 just sketch out the layout of this residence, as far as
19 the rooms that you recall and the road that you're talking
20 about, and how you guys came in. If you would draw a
21 diagram for us.

22 A. [Whereupon, the witness complies]

23 THE COURT: All right. Now, jurors, this is
24 not CSI. I'm just going to make a wild assumption
25 this is not going to be exactly to scale. Okay?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. As good as I can get it.

2 Q. [Ms. Tanner] All right. If you could kind of
3 describe for the jury where you guys came from and how you
4 made entry.

5 A. Bay Pines Road. Our SWAT van stopped right
6 here. We exited here. This is the wooded area right in
7 here. We skirted the woods and came to the rear of the
8 location, went up the small stairwell, three or four
9 stairs onto like a little wooden porch, and right there
10 was the front door. As we were at the front -- I'm sorry.
11 As we were at the back door -- sorry -- back door, a black
12 male stuck his head out this window right here, which
13 later was the -- we realized was the bathroom.

14 We identified ourselves. He popped back in
15 the window, and we made entry into this back door, which
16 entered into a kitchen. The kitchen had a wall here, and
17 then there was a hallway. Team members quickly came in
18 and flooded the entire house.

19 My position was right here when a suspect came
20 out, and he was taken down right here in front at the door
21 to the bathroom.

22 Q. Captain Johnson, do you recall how many
23 subjects your team detained were inside the house?

24 A. Four inside, and one right out the front door.

25 MS. TANNER: Thank you, sir. If you can

1 return to the stand.

2 [Whereupon, the witness complies]

3 MS. TANNER: Does that block you?

4 MR. FLEMING: Thank you.

5 Q. [Ms. Tanner] Captain Johnson, once your team
6 has detained objects [phonetic] in the house and secured
7 the residence, what do you do then?

8 A. We exit the location and do a 360-degree
9 security around the location while the drug task force
10 processes evidence, deals with the occupants inside.

11 MS. TANNER: Thank you, sir. I have no
12 further questions. Please answer anything defense
13 counsel has.

14 MR. FLEMING: Mr. Johnson, how are you?

15 THE WITNESS: Good. You?

16 MR. FLEMING: Good. Thank you very much for
17 asking. I appreciate it.

18 CROSS-EXAMINATION

19 BY MR. FLEMING:

20 Q. Y'all came into the back door. And I think
21 you testified earlier that it was almost instantaneous
22 from the point where you saw the individual stick his head
23 out and when y'all effected entry?

24 A. Yeah. When we were -- when we were dealing
25 with the door, yes, sir.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Okay. How did you get the door? Did you kick
2 it in, push it in, or --

3 A. Actually, it was an outer-opening door, which
4 we had to do a pry technique, or use a halogen tool and a
5 ram, and the door actually opens out.

6 Q. Okay. And then y'all run in and, in fact, the
7 fellow that you see in the bathroom you catch coming out
8 of the bathroom?

9 A. Actually, I did not identify him as that same
10 person. I just know I dealt with a person coming out of
11 the bathroom.

12 Q. And in that bathroom, located next to the
13 toilet you found a Crown Royal bag?

14 A. I did not locate it.

15 Q. Are you aware there was a Crown Royal bag
16 there?

17 A. I was aware, yes, sir.

18 Q. And in that Crown Royal bag was nineteen grams
19 of crack cocaine?

20 A. I can't --

21 Q. You don't know that?

22 A. No, sir.

23 Q. And some ecstasy.

24 But you wouldn't doubt that that's what was
25 found?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. I saw the Crown Royal bag. I have no idea
2 what the contents were.

3 Q. Do you know the names of the other people that
4 were apprehended inside the place?

5 A. No, sir. It's been so long ago.

6 Q. Do you know the names of the people that were
7 arrested outside of the trailer?

8 A. No.

9 Q. Do you -- are you aware that there was a car
10 filled with four people in the front --

11 A. I do know that because we walked by that going
12 to the entry point.

13 Q. Okay. Do you know what happened to those
14 people?

15 A. I have no idea. I suspect they're detained.
16 They were within the scope of the search warrant.

17 Q. Okay. Your job really was to enter the
18 building and secure it?

19 A. Correct.

20 Q. Okay. Sort of sitting here.

21 None of these kids drew weapons on you; right?

22 A. No.

23 Q. Okay.

24 A. No.

25 Q. And this takedown happened what, in a matter

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 of less than a minute?

2 A. Seconds.

3 Q. Seconds?

4 A. Yes.

5 Q. So it was pretty quick and instantaneous?

6 A. Yes.

7 MR. FLEMING: All right. I don't have
8 anymore questions. Thank you.

9 MS. TANNER: Nothing further. May this
10 witness be excused?

11 THE COURT: Sure. Free to go.

12 [Whereupon, the witness is excused and exits
13 the witness stand]

14 MS. TANNER: The State calls Andy Faucett.

15 THE COURT: Jurors, it will take just a
16 minute. We sequestered the witnesses. That doesn't
17 mean put them up in a motel or anything. It's just
18 they're outside the courtroom so they can't hear what
19 somebody else says.

20 [Whereupon, Mr. Faucett comes forward]

21 THE CLERK OF COURT: Raise your right hand.

22 [Whereupon, Mr. Faucett is duly sworn by the
23 clerk of court as follows: do you solemnly swear or
24 affirm that the testimony you give to the Court shall
25 be the truth, so help you God]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 THE WITNESS: Yes, I do.

2 THE CLERK OF COURT: Please be seated. State
3 your full name and please spell your last name.

4 [Whereupon, Mr. Faucett takes the witness
5 stand]

6 THE WITNESS: Andrew Paul Faucett.

7 F-A-U-C-E-T-T.

8 MS. TANNER: Good morning or afternoon. Good
9 morning, Investigator Faucett.

10 THE WITNESS: Good morning.

11 - - - - -

12 ANDREW P. FAUCETT,

13 Having Been First Duly Sworn,

14 was Examined and Testified as Follows:

15 DIRECT EXAMINATION

16 BY MS. TANNER:

17 Q. Where are you employed?

18 A. I am a police officer with the City of
19 Westminster in Colorado.

20 Q. So you're now in law enforcement out in
21 Colorado?

22 A. Yes, ma'am.

23 Q. And in 2007, where were you employed?

24 A. I was a deputy sheriff with the Beaufort
25 County Sheriff's Office.

MIA PERRON, CCR, CVR-CM

-45-

State vs. Turek Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And how long did you work with the Beaufort
2 County Sheriff's Office?

3 A. From 1999 in September till November,
4 September or November, of 2007.

5 Q. And in 2007, what were your duties and
6 responsibilities with the Beaufort County Sheriff's
7 Office?

8 A. At that time I was -- my position was a staff
9 sargent, with the multi-agency drug task force, as a field
10 supervisor.

11 Q. Officer Faucett, did you participate in an
12 investigation in February of 2007 at 11 Bay Pines Road in
13 Beaufort County?

14 A. Yes, ma'am.

15 Q. And what was your involvement in that
16 investigation?

17 A. My involvement was, along with the rest of the
18 team, surveillance, traffic stops, part of a search
19 warrant being issued, on the search team.

20 Q. And were you present when the search warrant
21 was executed on this location?

22 A. Yes, ma'am.

23 Q. And where were you located? We've heard from
24 Captain Johnson that SWAT was involved. Were you involved
25 with the SWAT part of it?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. I was in a trailing group of individuals or of
2 officers actually going into the property itself. My
3 ending -- my assigned area was the front of the residence
4 or the structure.

5 Q. So when SWAT initially makes entry in the
6 back, where are you located?

7 A. I was near the front door, coming through the
8 front of the yard approaching the direct front of the
9 trailer. And that was my area of responsibility: any
10 vehicles, persons, to secure until SWAT cleared the inside
11 and made it secure for entry for other officers.

12 Q. And while that is going on, do you have
13 contact with any person in the front of the house?

14 A. Yes, ma'am.

15 Q. Can you describe how that person comes to you?

16 A. Initially, there was -- when I -- when we went
17 through the property or started approaching the front of
18 the trailer, there was a vehicle, a small compact car, I
19 believe white in color, parked in the front. It was a
20 short distance from the front of the trailer and the front
21 door, occupied by four people I believe.

22 As soon as the SWAT team come in or went
23 around the back side and we took our positions towards the
24 front -- this is all very quickly -- a gentleman jumped
25 out of the front door and was immediately challenged and

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 taken into custody at that time.

2 Q. The front door of the residence?

3 A. The front door of the residence.

4 Q. And did you see him come out of the front
5 door?

6 A. Yes, ma'am.

7 Q. And did he have anything with him when he came
8 out of the front door?

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

10 Q. And did you get a good look at what that was?

11 A. Yes, I did.

12 Q. What did he do with that?

13 A. When he exited the front door of the
14 residence, he dropped a clear, cellophane baggie which
15 was later tested positive for being marijuana, a bag of
16 marijuana.

17 Q. Are you able to identify the person that came
18 out of that front door with the bag of marijuana?

19 A. Yes, ma'am.

20 Q. All right. And who do you identify him as?

21 A. His name is Turuk Saunders.

22 Q. Sir, do you see Turuk Saunders in the
23 courtroom today?

24 A. I do.

25 Q. Would you please point him out.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. He's sitting at the defense table, next to
2 counsel.

3 MS. TANNER: If I may approach the witness,
4 Your Honor?

5 THE COURT: Okay.

6 [Whereupon, Ms. Tanner proffers documents to
7 Mr. Fleming]

8 MR. FLEMING: Without objection.

9 Q. [Ms. Tanner] Show you State's Exhibit 1. Can
10 you identify this item?

11 A. Yes. That's a bag of marijuana sitting next
12 to the front door on the front concrete steps of the
13 residence.

14 Q. And this is the bag that you observed
15 Mr. Saunders toss as he ran out the front door?

16 A. Yes. He dropped it. It wasn't so much a
17 throw. It was a drop, though.

18 MS. TANNER: Your Honor, the State moves
19 Exhibit 1.

20 THE COURT: Okay.

21 [Whereupon, State's Exhibit Number 1 is
22 admitted into evidence by the Court]

23 MS. TANNER: If I may publish to the jury?

24 THE COURT: Sure.

25 [Whereupon, Ms. Tanner proffers documents to

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 the jury]

2 JUROR: Can I see that again? Okay. Thank
3 you.

4 Q. [Ms. Tanner] Officer Faucett, are you also
5 part of the investigation that then takes place inside the
6 residence?

7 A. Yes, ma'am.

8 Q. And are you part of the team that observes and
9 collects evidence?

10 A. Yes.

11 Q. And what type of things do you observe within
12 this residence?

13 A. after the residence was secured by members of
14 the SWAT team and after dealing with the people out on the
15 front patio or the front yard of the residence and -- a
16 search of the residence was then conducted. And it was
17 broke down into assigned areas by drug team members. My
18 assignment was the kitchen area, a bedroom designated as
19 number one, as well as the living room.

20 Q. And did you have a -- as the drug task force,
21 how many members of the drug task force would have been
22 participating?

23 A. There was eight or nine or ten of us.

24 Q. And do you have someone who was assigned as
25 the case officer or the lead officer in that organization

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 or that operation?

2 A. Yes, ma'am.

3 Q. And who was that in this case?

4 A. That was officer -- or Sargent Robin McIntosh.

5 Q. And is that who you would have reported back
6 to with any discoveries you made in the house?

7 A. Yes.

8 Q. Now, in the kitchen: did you make any
9 observations about the evidence in that room?

10 A. Yes.

11 Q. And what did you find?

12 A. If I can refer back to a copy of the report,
13 just to refresh my memory?

14 MS. TANNER: If I may approach, Your Honor?

15 THE COURT: Sure.

16 [Whereupon, Ms. Tanner proffers documents to
17 the witness]

18 [Whereupon, the witness reviews documents]

19 A. In the kitchen -- the kitchen was located in
20 the back of the residence, and you could enter it through
21 the front living room. And then the back door came into
22 the kitchen, as well. In that kitchen is -- was a kitchen
23 table. If you came in the back door, the kitchen table
24 would be on your left-hand side.

25 On that table was items I would designate as

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 drug paraphernalia. There were plastic baggies; there was
2 a radio police scanner that was sitting on the table;
3 there was a digital pocket scale, for weighing whatever,
4 that was broke down into grams. You could do grams or
5 ounces on the scale itself.

6 Q. [Ms. Tanner] Are these items that you turned
7 over to Sargent McIntosh?

8 A. Actually, any items that were found, our
9 instructions when we conduct a search in this manner, any
10 search warrant, was if you locate it, that's where it
11 stays, until it's photographed and collected by the person
12 that is designated by the case officer to collect that
13 evidence, in order to maintain the integrity of the chain
14 of evidence, the chain of custody.

15 Q. Officer Faucett, while you participated in a
16 search, you didn't actually touch or collect evidence --

17 A. No.

18 Q. -- is that correct?

19 A. No.

20 Q. You were a part of the arrest of Turuk
21 Saunders?

22 A. Yes.

23 Q. And you assisted in the search?

24 A. Yes.

25 Q. Are you the one who actually places Turuk

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Saunders under arrest that day?

2 A. Yes.

3 Q. And is that done immediately?

4 A. Yes, ma'am.

5 MS. TANNER: Thank you, sir. Please answer,
6 anything defense counsel has.

7 MR. FLEMING: Hello, Mr. Faucett.

8 THE WITNESS: Good morning, sir.

9 MR. FLEMING: How are you?

10 THE WITNESS: I'm doing well.

11 MR. FLEMING: Good to have you back.

12 THE WITNESS: Thank you.

13 CROSS-EXAMINATION

14 BY MR. FLEMING:

15 Q. The marijuana that you found on the front
16 porch that you saw Turuk I guess you described as dropped,
17 that happened as he was exiting the front door?

18 A. Yes, sir.

19 Q. And that was in conjunction with the entry of
20 the SWAT team through the back door?

21 A. Yes, sir.

22 Q. Okay. The marijuana that you found, in your
23 experience you're able to sort of eyeball it and
24 understand that it was probably around five grams of
25 marijuana?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. I would have to say it was at least five grams
2 probably, yes.

3 Q. Okay. Y'all have a lab person I think by the
4 name of Jeanie Roberts, don't you?

5 A. No. She's not a lab person.

6 Q. Does she test marijuana?

7 A. She is certified in field -- or testing
8 marijuana, yes, sir.

9 Q. Okay. When she tests marijuana, or other
10 qualified members of the sheriff's department test
11 marijuana, do they also weigh it at the same time they
12 test to determine it?

13 A. Yes, sir.

14 Q. Well, I guess what you would then -- you would
15 defer to the weight of this marijuana to whoever tested
16 it?

17 A. I don't think I understand what you're --

18 Q. Well, do you know how much it weighed?

19 A. I would have to refer back to the initial
20 report that was conducted --

21 Q. Well, if I told you the initial report says
22 roughly five grams, would you agree with that?

23 A. I would believe that, yes, sir.

24 Q. All right. That's all. I was just saying
25 somebody I think weighed it --

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, sir.

2 Q. -- and whoever weighed it, you would trust
3 them; right?

4 A. Yes, sir.

5 Q. Okay. Good. Thank you.

6 There were -- did you take the pictures? The
7 solicitor showed you one picture. Where's -- I think this
8 picture. Wasn't there a lot more pictures taken?

9 A. Yes, sir.

10 There was a videotape of the entire -- prior
11 to any searching of a location, the entire location to be
12 searched identified in the warrant is videotaped by a
13 designated officer. That is a collateral duty of one of
14 the members of the search team, to videotape everything.

15 And then where items are located by individual
16 team members, who are, again, designated to search certain
17 areas of the structure, once they identify something --
18 that's one reason why it's not touched. It is
19 photographed by the person that's designated to photograph
20 and videotape, then it's collected by usually that person.
21 And in this particular case, I can't recall who that was.
22 And then it's collected and handed over to the case
23 officer.

24 Q. It sounds like a meticulous procedure to make
25 sure that evidence is not mishandled?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Absolutely.

2 Q. Okay. You don't want to ruin any character of
3 the evidence; right?

4 A. Right.

5 Q. For instance, you don't want to move it?

6 A. Absolutely.

7 Q. You want it videotaped and photographed just
8 like it was?

9 A. If at all possible, yes.

10 Q. Yeah, obviously. If it's --

11 A. Yes, sir.

12 Q. -- a smoking candle or something you have to
13 put out, that would be different.

14 A. Yes, sir.

15 Q. Right?

16 And, in fact, that's what y'all did here in
17 picture 1?

18 A. Yes.

19 Q. Okay. It was photographed just like it laid?

20 A. Absolutely, yes.

21 Q. Okay. And I think there were sixty or seventy
22 pictures taken of other evidence found at the scene;
23 right?

24 A. Yes.

25 Q. And those also were taken just as they lay?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes.

2 Q. Or to be fair -- if it was a container that
3 had something in it, the picture would be taken of the
4 container and then carefully removed to show the contents
5 of the container; right?

6 A. Yes, sir.

7 Q. Okay.

8 A. Yes.

9 Q. To be fair.

10 A. Yes. Absolutely.

11 Q. Okay. I'm not trying to trick you. I just --

12 A. No, sir.

13 Q. -- want to know.

14 All right. Now, of those pictures, were there
15 pictures taken of the kitchen that you were responsible
16 for?

17 A. Yes.

18 Q. Okay. Did you take those pictures?

19 A. No.

20 Q. Okay. But have you seen those pictures?

21 A. Oh. I've reviewed them briefly, yes, sir.

22 Q. Okay. Can I show you those pictures that the
23 solicitor has?

24 A. Sure. Sure.

25 MR. FLEMING: May I see those? One moment,

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Your Honor.

2 THE COURT: Okay.

3 [Whereupon, Ms. Tanner proffers documents to
4 Mr. Fleming]

5 MS. TANNER: They're all mixed in with --

6 MR. FLEMING: Well, because they're your
7 pictures, what I did was printed off black-and-white
8 copies. Can I just use these and then --

9 MS. TANNER: Which ones do you want? I can
10 pull them for you.

11 MR. FLEMING: I've got them by number on your
12 disk and I can tell you the numbers.

13 How about I just use these for now and then we
14 can supplement. Okay?

15 Q. [Mr. Fleming] You had just talked, Officer,
16 about a scanner in the kitchen?

17 A. Yes.

18 Q. Is that right?

19 A. Yeah.

20 Q. Did you observe the scanner?

21 A. Yes.

22 Q. I'm going to show you this picture. I'm
23 not -- I'm identifying it by the number that's contained
24 in the disk of the sheriff's department.

25 A. Yes.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Okay? This one is identified as picture
2 number 12. Does that look like a fair representation of
3 the scanner?

4 A. This appears to be a scanner, sir, with a date
5 on it of 2/23/2007. I don't remember what brand it was.
6 I --

7 Q. Okay. Let's assume for my questioning that I
8 have reprinted the pictures and this is the picture that
9 the sheriff's office gave me of the scanner you saw.

10 A. Yes.

11 Q. All right? This scanner looks like a radio to
12 me. Okay? Like you hold it like a radio?

13 A. Yes, sir.

14 Q. Okay. So a person would hold this scanner in
15 their hand?

16 A. Yes.

17 Q. Okay. I'm going to go through these and see.
18 It's hard for me to tell. You said in the kitchen that
19 there were also some what you indicated were drug
20 paraphernalia. For instance, baggies --

21 A. Yes, sir. A digital --

22 Q. And it's --

23 A. -- scale, things like that.

24 Q. Okay. Baggies: I assume you would package a
25 quantity of drugs to sell them?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes.

2 Q. Okay. And there were also scales and I assume
3 that is to weigh the product that you're selling?

4 A. Yes, sir.

5 Q. Okay. And I don't have a --

6 MR. FLEMING: I am going to need you to get me
7 a copy of that. I don't have any kitchen photographs
8 showing the scales. I want the jury to see the
9 scales.

10 MS. TANNER: I plan on introducing it with
11 another witness.

12 MR. FLEMING: All right.

13 Q. [Mr. Fleming] Then what we'll do is I'll just
14 ask you about those scales and then we'll show the jury
15 the pictures later.

16 A scale -- they're like this big? You see
17 my --

18 A. Yes, sir.

19 Q. Right like --

20 A. They --

21 Q. -- this size?

22 A. They come in all kinds.

23 Q. And you just sort of --

24 A. This one is numerically -- or the description
25 in the report designates that it's a DigiScale, which

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 would tell me, in my experience -- or DigiWeigh, which
2 would tell me in my experience in seeing these things that
3 this is a digital scale, probably flat, maybe an inch and
4 a half, two inches in height, maybe six-by-six square,
5 with a round circular or square circular sensitive pad on
6 top with a digital readout on it. That's what --

7 Q. And so it's sort of a flat thing?

8 A. Yeah.

9 Q. So a person using it would place dope on it
10 and weigh it?

11 A. Whatever they wanted to weigh, sir.

12 Q. Well, got you.

13 A. Yes, sir.

14 Q. Okay. And it would sort of be an interactive
15 thing? They would have to actually use the equipment?

16 A. Yes, sir.

17 Q. Okay. And I think that's the extent of what
18 you testified.

19 Now, when you observed those items, that
20 paraphernalia, you did not touch it?

21 A. Best that I can recall, no.

22 Q. Okay. You did not -- you did not manipulate
23 it in any way; you preserved it as exactly the condition
24 that it was in?

25 A. The best I remember, yes, sir.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And then I think you testified that Robin
2 McIntosh was responsible --

3 This [indicates] is Ms. McIntosh; correct?

4 A. Yes, it is.

5 Q. And she's responsible for the collection of
6 this evidence?

7 A. No, sir.

8 She is the case officer who that evidence is
9 turned over to her. She --

10 Q. That's what I mean.

11 A. Yes, sir. And the --

12 Q. She secures the evidence?

13 A. She secures the evidence.

14 Q. Okay. I think -- because you had referred to
15 a report. You didn't have your own report; right?

16 A. No, sir.

17 Q. You told -- the report that you referred to,
18 for the jury's edification, Ms. McIntosh wrote; is that
19 right?

20 A. Sargent McIntosh prepared the entire case.

21 Q. Okay. I'm just talking about the report.

22 A. Yes, sir.

23 Q. Okay. And she prepared that from information
24 that you and other officers provided to her?

25 A. Absolutely.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Okay. You did not yourself make a report?

2 A. No, sir.

3 Q. You did not take any notes?

4 A. No, sir.

5 Q. You did not make an additional report we don't
6 know about?

7 A. No supplements.

8 Q. Okay. Nothing?

9 A. No, sir.

10 Q. You are testifying from here, your brain, and
11 here, Robin McIntosh's report?

12 A. And what I -- yes, sir. What I recall.

13 Q. Okay. And were you -- did you participate in
14 the arrest of Akeem Saunders?

15 A. Akeem was located inside of the residence and
16 he was detained, secured, arrested, taken into custody,
17 whichever term you choose to use, inside the residence by
18 SWAT team members.

19 Q. Okay. Did you participate in the arrest of
20 Elijah Clark?

21 A. Mr. Clark was present during the arrest.

22 Q. Did you arrest him or did you observe him
23 being arrested?

24 A. I don't remember putting handcuffs on him. I
25 believe if he was inside the residence the SWAT team did

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 that.

2 Q. Okay. Did you participate in the arrest of
3 Jonathan Kelly?

4 A. I don't recall where Jonathan Kelly was
5 located. In reviewing the report, without looking at it
6 right now, I think he was also inside the residence.

7 Q. Did you participate in the arrest of Jarret
8 Jackson?

9 A. Yes, I did.

10 Q. Okay. Where was he arrested?

11 A. I believe he was arrested in the front yard,
12 sitting -- he was one of the occupants of the white motor
13 vehicle, the compact, out front.

14 Q. That's sort of the problem with memory. Do
15 you want to look at the file again and --

16 A. Sure.

17 Q. -- see?

18 That's the problem with relying on your
19 memory. You need to look at that thing.

20 [Whereupon, the witness reviews documents]

21 A. Is that another --

22 Q. [Mr. Fleming] It's arrest of subject number
23 five in the report.

24 A. Subject five?

25 Q. Yeah.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Did he initially tell -- lie to officers and
2 tell them his name was Dwayne Ferribee [phonetic]?

3 A. That -- yes, sir.

4 Q. Okay. He was inside the house -- the trailer?

5 A. He was inside the residence.

6 Q. He wasn't the guy in the car?

7 A. No, they were -- that's another person in
8 another case.

9 Q. Okay. This cat, Jarret Jackson, he said -- he
10 lied to the police and said his name was Dwayne Ferribee
11 [phonetic]?

12 A. That's what I --

13 Q. Right.

14 A. -- read in the report, yes, sir.

15 Q. And but y'all figured it out?

16 A. I didn't figure that out.

17 Q. Somebody did?

18 A. Officer McIntosh did.

19 Q. I got you. She did. All right.

20 But there was a car out front. I think you
21 already testified about that.

22 A. Yes, sir.

23 Q. Okay. It was in the front of the trailer?

24 A. Yes, sir.

25 Q. All right. There were four individuals in

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 that?

2 A. Yes.

3 Q. There was a Tenia Ballard?

4 [Whereupon, the witness reviews documents]

5 Q. [Mr. Fleming] Page 4.

6 [Whereupon, the witness reviews documents]

7 A. Yes, sir. I believe --

8 Q. [Mr. Fleming] All right.

9 A. I believe she was in the vehicle.

10 Q. All right. Tenia Ballard.

11 And there was also Lafayette Brown was in the
12 vehicle?

13 A. Yes.

14 Q. Both of those individuals were actually
15 arrested for marijuana possession; is that right?

16 A. And an alcohol violation, I believe.

17 Q. And alcohol --

18 A. Yes.

19 Q. -- in an automobile?

20 A. Yes, sir.

21 Q. And then there were two people, Preston Warren
22 and Timothy Morgan, who were present in the vehicle?

23 A. Yes.

24 Q. But they were not charged with any drug
25 offenses?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. They were all younger individuals and I --

2 Q. Okay.

3 A. -- that data isn't on this report.

4 Q. When y'all were getting ready to serve the
5 search warrant, didn't y'all, in fact, see Lafayette Brown
6 walk out of the house?

7 A. I didn't see Lafayette Brown walk out of the
8 house.

9 Q. Okay. When you arrived, he was already in the
10 vehicle?

11 A. I know what was told to me about an individual
12 leaving the back of the residence walking around to the
13 front --

14 Q. That's hearsay, and I'm not going to ask you
15 about that.

16 A. Yes, sir.

17 Q. Okay?

18 All right. Did you -- were you involved in
19 the search of any other vehicles in the front of the
20 house?

21 A. No, sir.

22 Q. Okay.

23 [Whereupon, Mr. Fleming reviews documents]

24 MR. FLEMING: One moment, Your Honor.

25 THE COURT: Sure.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 [Whereupon, Mr. Fleming and Ms. Smith confer]

2 MR. FLEMING: I have no more questions. Thank
3 you, sir.

4 MS. TANNER: Just briefly.

5 REDIRECT EXAMINATION

6 BY MS. TANNER:

7 Q. Officer Faucett, what is a police scanner?

8 A. It's a scanner that picks up frequencies.

9 Q. What can you hear on it?

10 A. It depends on what's around. You can hear CB
11 transmissions. Some of them you can -- if the band width
12 or the range is high enough, you can actually get radio
13 stations on them. That's a more high-tech scanner.

14 Unfortunately, for -- certain people that use
15 scanners in Beaufort County, our transmissions here are
16 digitally encrypted and it's a jumping pattern. You might
17 hear them say one thing one time, and then it jumps. It's
18 multiple frequencies, so it's real hard for anybody to
19 really hear what the police are doing on a scanner.

20 Q. But back in 2007, was it possible to hear
21 police transmissions on a police scanner?

22 A. Yes. Brief transmissions, yes, ma'am.

23 MS. TANNER: Nothing further.

24 THE COURT: Do you want him to hang around, or
25 can he be excused?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MS. TANNER: May this witness be excused?

2 MR. FLEMING: Absolutely.

3 THE COURT: Is he going to stay in Beaufort,
4 or is he going to go back to Colorado?

5 MS. TANNER: I'm trying to talk him into
6 staying in Beaufort.

7 THE COURT: All right. Wherever you would
8 like to go, you're free.

9 THE WITNESS: Yes, sir. Thank you.

10 [Whereupon, the witness is excused and exits
11 the witness stand]

12 MS. TANNER: May we approach, Your Honor?

13 THE COURT: I think we might just take a
14 break.

15 MS. TANNER: That's what I was going to ask
16 you.

17 THE COURT: Good idea.

18 All right. Jurors, don't talk about the case
19 during this or any breaks. Just step out.

20 [Whereupon, the jury exits the courtroom at
21 11:26 a.m.]

22 THE BAILIFF: The jury is clear, Your Honor.

23 THE COURT: Okay.

24 MS. TANNER: Thank you, Your Honor. That was
25 going to be my request --

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MR. FLEMING: Yes.

2 THE COURT: All right. You've got a couple to
3 run until about one o'clock if we start back in twelve
4 minutes?

5 MS. TANNER: Yes, sir.

6 THE COURT: All right.

7 [Whereupon, a recess is taken from 11:30 a.m.
8 to 11:40 a.m.]

9 THE COURT: Okay. Are y'all ready if the jury
10 is ready?

11 MS. TANNER: The State is ready, Your Honor.

12 MR. FLEMING: The defense is ready.

13 MS. TANNER: Your Honor, before they come in,
14 just real quickly for the record.

15 I had a conversation with Mr. Fleming.
16 There's one witness, she's a chain witness, who
17 basically takes the evidence from Ms. McIntosh. She's
18 in the evidence room when it's taken, she puts it on a
19 shelf, drops the drugs in the drug box. And I believe
20 he's agreed to stipulate I don't need to put her up on
21 the stand to say that she went from one corner of the
22 room to the other.

23 THE COURT: All right. Who was that?

24 MS. TANNER: Ramona Cooper.

25 THE COURT: All right.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MR. FLEMING: That is correct, Your Honor.

2 THE COURT: All right.

3 THE BAILIFF: Jurors are ready to enter.

4 THE COURT: Okay.

5 [Whereupon, the jury enters the courtroom at
6 11:42 a.m.]

7 THE BAILIFF: The jurors are all present.

8 THE COURT: Okay.

9 MS. TANNER: Thank you, Your Honor. The State
10 calls JoJo Woodward.

11 [Whereupon, Mr. Woodward comes forward]

12 [Whereupon, Mr. Woodward is duly sworn by the
13 clerk of court as follows: do you solemnly swear or
14 affirm that the testimony you give to the Court shall
15 be the truth, so help you God]

16 THE WITNESS: I do.

17 THE CLERK OF COURT: Please be seated, and
18 state your full name.

19 [Whereupon, Mr. Woodward takes the witness
20 stand]

21 THE WITNESS: Joey Woodward.

22 MS. TANNER: Good afternoon, Mr. Woodward.

23 - - -

24 - - -

25 - - - - -

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

JOEY WOODWARD,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. TANNER:

Q. Where are you employed?

A. Beaufort County Sheriff's Office.

Q. And how long have you been with the sheriff's
office?

A. Eighteen years.

Q. And what is your current duties and
responsibilities with the sheriff's office?

A. I'm the drug task force commander for the
county.

Q. What is a drug task force?

A. A drug task force is a task force comprised of
different organizations, agencies, within the county or
within other counties. Currently, we have Jasper County
and the Bluffton Police Department.

Q. And they all work with you and members of the
Beaufort County Sheriff's Office?

A. They do.

Q. And what is your main goal and target?

A. We go after narcotics offenders.

Q. And how long have you been doing that kind of

1 work?

2 A. Pretty much my whole career.

3 Q. And how long have you been the leader of this
4 drug task force here in Beaufort County?

5 A. Since 2002.

6 Q. And you are Lieutenant; is that correct?

7 A. Lieutenant Woodward.

8 Q. Lieutenant Woodward, can you describe for the
9 jury basically how you go about conducting your
10 investigations with the drug task force?

11 A. Well, you know, we receive information,
12 whether from concerned citizens, anonymous tips, utilizing
13 C.I. and things of that nature.

14 Q. What's a C.I.?

15 A. A C.I. is a confidential informant.

16 Q. And what do you do with that information?

17 A. You know, we analyze the information and we
18 assign it to officers and we go out and try to validate
19 whether, you know, the lead is good or bad.

20 Q. And what kind of tools would you use to try
21 and decide if that information is good or bad?

22 A. Well, you can physically go out and make sure
23 that it's credible information. You can send sources to
24 it, or you can actually go out and physically do it
25 yourself.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And do you do things such as conduct
2 surveillance?

3 A. We do.

4 Q. Are you ever involved in the actual purchase
5 of narcotics?

6 A. We are.

7 Q. And how do you do that?

8 A. Again, you know, utilizing confidential
9 informants, or police officers. Sometimes you get lucky
10 and people don't know that you're actually a law
11 enforcement officer when you do this.

12 Q. And when you're conducting things such as
13 surveillance, in your vast experience with the drug task
14 force on these types of investigations, what kind of
15 things are you looking for? Are there indicators that you
16 as a drug task force commander look for?

17 A. Yes. You know, we want to know how much
18 traffic is coming to the residence or apartment complex,
19 any known offenders are coming to the residence. You
20 know, you just check out the history of the location, who
21 lives there if that's available to you, things of that
22 nature.

23 Q. Do you actually sit up and watch one of these
24 places?

25 A. I have many times.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Now, in your investigation, if you are able to
2 gather enough information to get a search warrant for a
3 residence, once you get inside the residence are there any
4 indicators or things you look for?

5 A. Yes.

6 Q. And what would be some examples of indicators
7 you're looking for for drug trafficking?

8 A. Well, you start off actually with the drugs,
9 the narcotics. Usually you find large quantities of
10 marijuana, cocaine, you know, pain medication.

11 You're also looking for phone ledgers, cell
12 phones, any type of devices they can communicate with.
13 You would also have scales, whether it be digital or just
14 regular household scales. You're looking for weapons,
15 large sums of cash.

16 And here recently we see a lot of like electronics:
17 scanners, things of that nature.

18 Q. Now, you mentioned scales. Why would
19 something as simple as a scale be an indicator? Based on
20 your experience.

21 A. Well, you would have a -- a drug trafficker
22 would bring in a quantity of drugs and then if you were to
23 go in there to purchase it, he would weigh it out to make
24 sure you got what you paid for.

25 Q. And in your experience, how do you often see

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 these types of drugs packaged?

2 A. They're all pretty much used in sandwich bags,
3 your common sandwich bags, Ziplock or whatever, and they
4 either weigh it out and put it in that baggie or they
5 sometimes use like a Walmart bag. They'll cut the
6 corners, the corner of the baggies, and they'll zip-tie
7 it. It's according to how much you get.

8 Q. In your experience, how would you say it's
9 generally broken down? How would crack, for example, be
10 sold?

11 A. Usually, it's in pieces.

12 Q. By pieces --

13 A. Be like twenty -- they call it twenties,
14 forties, you know, quarters. It's just according to what
15 you're there to buy.

16 Q. And if I bought a twenty, what am I actually
17 buying?

18 A. You're buying what they call \$20 worth of
19 crack cocaine.

20 Q. And how big is that?

21 A. It's according to, you know, how generous the
22 drug dealer is. I mean, but normally, if you look at the
23 pinkie on your finger it could be about the size of your
24 pinkie nail.

25 Q. So for twenty bucks I get a pinkie-nail worth

State vs. Turuk 'Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 of crack?

2 A. That's right.

3 Q. In your experience, how long would that last
4 me if I'm a regular user?

5 A. Not long.

6 Q. Now, Lieutenant Woodward, were you involved,
7 as commander of the drug task force, at the execution of a
8 search warrant at 11 Bay Pines Road here in Beaufort
9 County February the 23rd, 2007?

10 A. I was.

11 Q. What was your initial duty or responsibility
12 at that location?

13 A. I actually did surveillance.

14 Q. And were you conducting surveillance, a
15 continuing surveillance, when SWAT arrives?

16 A. I was.

17 Q. Were you conducting surveillance prior to SWAT
18 arriving?

19 A. Yes, ma'am.

20 Q. How long would you say you had been conducting
21 surveillance that day, prior to SWAT's arrival?

22 A. Pretty much all day.

23 Q. Now, close in time to SWAT arriving, do any
24 other vehicles arrive not related to the drug task force
25 or SWAT?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. We had one vehicle arrive around the same time
2 the SWAT team was about to come and jump out.

3 Q. And what happens with those people?

4 A. They were detained by --

5 Q. Outside the residence?

6 A. Outside the residence. In the vehicle.

7 Q. And those people don't go in?

8 A. No.

9 Q. Well, what about thirty minutes prior to SWAT
10 arriving? Anybody show up?

11 A. Not to my knowledge.

12 Q. And you were there when SWAT arrives?

13 A. Yes, ma'am.

14 Q. You were there when Turuk Saunders runs out
15 the front door?

16 A. Yes, ma'am.

17 Q. And you were conducting surveillance --

18 MR. FLEMING: I would object to the leading
19 nature of the question.

20 THE COURT: All right. She's just trying to
21 move it along.

22 But you can't do it if he objects.

23 MS. TANNER: Got you.

24 Q. [Ms. Tanner] Based on the surveillance you
25 conducted, where was Turuk Saunders located half an hour

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 to SWAT hitting the house?

2 A. I'm not sure. He would probably be in the
3 house, because I didn't see him outside the house.

4 Q. You didn't see him pull up?

5 A. No, ma'am.

6 Q. You didn't see him suddenly arrive twenty
7 minutes before SWAT?

8 A. No, ma'am.

9 Q. And how long did you say you were there?

10 A. Pretty much most of the afternoon until the
11 search warrant was executed.

12 Q. Now, were you also part of the execution of
13 the search warrant inside the residence?

14 A. Yes, ma'am.

15 Q. And you told the jury about some indicators
16 for drug trafficking. Did you find any of those
17 indicators inside [REDACTED] Road?

18 A. Yes, ma'am.

19 Q. All right. What types of things did you find
20 that got your attention as a drug task force commander?

21 A. Observation was I saw marijuana, scales. The
22 first thing I noticed was actually a scanner. I was in
23 the kitchen area and that's where these items were
24 located, along with baggies and things of that nature.

25 Q. How about -- you mentioned large sums of cash?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Right. There was some cash there. And also
2 there was some weapons.

3 Q. And weapons, as well.

4 A. [No response]

5 MS. TANNER: The Court's indulgence. I just
6 want to make sure I haven't missed anything.

7 [Whereupon, Ms. Tanner reviews documents]

8 Q. [Ms. Tanner] Lieutenant Woodward, as far as
9 the residence, can you describe the appearance of the
10 residence? Where it's located, what's around it.

11 A. It's a trailer that's located on Piney Grove.
12 As you turn off Shankum Road, it's there on your left-hand
13 side. It's kind of got a dirt drive where people would
14 come up. And most of everything is around the rear of the
15 residence. It's kind of like you can't -- if you were in
16 the back yard, you couldn't see it from the front yard.

17 Q. Are there a lot of neighbors?

18 A. No, not really. There's not -- you don't have
19 like a next-door neighbor that they can look into their
20 yard. There's wooded -- it's wooded around the back side
21 and the front side.

22 Q. Would you describe this as a secluded area?

23 A. I would, yes.

24 MS. TANNER: Thank you, sir. Please answer
25 anything the defense --

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MR. FLEMING: Mr. Woodward, I would say good
2 morning but it is now afternoon. How are you?

3 THE WITNESS: It is, yes, sir.

4 MR. FLEMING: Just briefly.

5 REDIRECT EXAMINATION

6 BY MR. FLEMING:

7 Q. You were conducting surveillance on this
8 trailer. And I believe you actually even videotaped some
9 of that surveillance; correct?

10 A. Right.

11 Q. Okay. I think there's maybe ten, fifteen
12 minutes of videotape --

13 A. Right.

14 Q. -- is that correct?

15 A. Right.

16 Q. And no more?

17 A. Right.

18 Q. And that -- okay. You actually physically
19 videotaped that?

20 A. Right.

21 Q. Okay. And in that -- and in that videotape,
22 at no time did you ever see Turuk Saunders come or leave
23 that trailer, did you?

24 A. That's right.

25 Q. Okay. Furthermore, you -- now, did you make a

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 written report in this case?

2 A. No, sir.

3 Q. Okay. Did you make any handwritten notes?

4 A. No, sir.

5 Q. Did you make any supplemental reports?

6 A. No, sir.

7 Q. Okay. So everything that you are testifying
8 from is from your memory?

9 A. That would be right.

10 Q. Okay. Did you relay information about what
11 you observed to Robin McIntosh?

12 A. Yes, sir.

13 Q. Did -- are you aware that -- did she then make
14 the report in this case?

15 A. That's right.

16 Q. Okay. You indicated that there was an
17 automobile that arrived just shortly to the -- before the
18 execution of this search warrant?

19 A. Right.

20 Q. And that you observed that automobile arrive?

21 A. Right.

22 Q. Okay. And that no one got out of that
23 vehicle?

24 A. Not that I could see, no, sir.

25 Q. Not that you could see?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Right.

2 Q. Okay. Your vision was somewhat skewed by
3 where you were?

4 A. Right.

5 Q. Right?

6 And you couldn't see everything that was going
7 on?

8 A. I could see a good bit. I just -- the vehicle
9 when it pulled in, the same time the SWAT team had pulled
10 up.

11 Q. Okay. And that's your memory?

12 A. That's right.

13 Q. And you also said that you did not see
14 Mr. Saunders arrive roughly thirty minutes ahead --

15 A. That's right.

16 Q. -- of time?

17 I think you used the word probably; right?

18 A. Yeah.

19 Q. Okay. That means you're not certain?

20 A. That's right.

21 Q. Okay. And you just don't know?

22 A. Well, I didn't see any other vehicle arrive
23 before that vehicle.

24 Q. When -- after this search warrant was served,
25 did you search the vehicles in the parking lot or in the

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 area?

2 A. No, sir.

3 My main concern was what was going on with the
4 whole search warrant and I was in the kitchen area.

5 MR. FLEMING: Okay. That's all the questions.

6 Well, one second, Your Honor. I'm sorry.

7 THE COURT: Okay.

8 [Whereupon, Mr. Fleming and Ms. Smith confer]

9 MR. FLEMING: I don't have anymore questions,
10 Judge.

11 MS. TANNER: Nothing further. May this
12 witness be excused?

13 THE COURT: Sure.

14 THE WITNESS: Thank you.

15 [Whereupon, the witness is excused and exits
16 the witness stand]

17 MS. TANNER: The State calls Bobby Jenkins.

18 [Whereupon, Mr. Jenkins comes forward]

19 THE CLERK OF COURT: Raise your right hand.

20 [Whereupon, Mr. Jenkins is duly sworn by the
21 clerk of court as follows: do you solemnly swear or
22 affirm that the testimony you give to the Court in
23 this trial shall be the truth, so help you God]

24 THE WITNESS: Yes, I do.

25 THE CLERK OF COURT: Please be seated and

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 state your full name.

2 [Whereupon, Mr. Jenkins takes the witness
3 stand]

4 MS. TANNER: Good afternoon, Mr. Jenkins.

5 THE WITNESS: Good afternoon.

6 - - - - -

7 BOBBY JENKINS,

8 Having Been First Duly Sworn,

9 was Examined and Testified as Follows:

10 DIRECT EXAMINATION

11 BY MS. TANNER:

12 Q. Mr. Jenkins, where are you currently employed?

13 A. Currently with the coroner's office of
14 Beaufort County.

15 Q. And what are you doing with the coroner's
16 office here in Beaufort County?

17 A. Transport officer.

18 Q. So you pick up dead people?

19 A. Yes, ma'am.

20 Q. All right. Now, prior to -- when did you
21 start there?

22 A. Started at the coroner's office in January of
23 2009.

24 Q. And prior to that, what did you do for a
25 living?

MIA PERRON, CCR, CVR-CM

-85-

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. I was a special agent with the South Carolina
2 Law Enforcement Division, or SLED.

3 Q. And how long did you work with SLED?

4 A. For twenty-eight years.

5 Q. So have you actually retired from SLED now?

6 A. Yes, ma'am.

7 Q. And your second career is with the coroner's
8 office?

9 A. Yes, ma'am.

10 Q. Now, Mr. Jenkins, do you have anything that
11 provides you with any supplemental income outside of your
12 retirement and your current occupation?

13 A. Yes, ma'am. I have several rental properties.

14 Q. And, Mr. Jenkins, is one of those rental
15 properties 11 Bay Pines Road in Beaufort?

16 A. Yes, ma'am, it is.

17 Q. What kind of residence is [REDACTED]

18 A. It's a double-wide rental trailer.

19 Q. And how long have you owned that?

20 A. Since the early '80s. Probably 1982 or '83.

21 Q. And have you always rented it?

22 A. Yes, ma'am.

23 Q. Were you renting it in February of 2007?

24 A. Yes, ma'am.

25 Q. Who was your renter in February of 2007?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Turuk Saunders.

2 Q. And how long had Mr. Saunders been renting
3 from you?

4 A. He initially rented on August of 2004, I think
5 it was.

6 Q. So he had been there almost three years?

7 A. Yes, ma'am.

8 Q. Is he the sole renter from you --

9 A. Yes, ma'am.

10 Q. -- at that location?

11 A. Yes, ma'am.

12 Q. And what type of rental agreement did you have
13 with Mr. Turuk Saunders?

14 A. It was a month-to-month agreement.

15 Q. And how did you have payments set up?

16 A. He was to pay \$550 per month.

17 Q. And he could stop it at any month, or you
18 could stop it at any month?

19 A. Yes, ma'am.

20 The only thing I requested was a thirty-day
21 notice.

22 Q. And in February of 2007, had he given you any
23 kind of notice that he was moving out?

24 A. No, ma'am, he hadn't.

25 Q. How about his monthly payments? Was he up to

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 date on those?

2 A. Yes, ma'am, he was.

3 Q. And how did he generally go about making his
4 monthly payment to you?

5 A. The payments were made in cash. Most of the
6 time he would make them or Ms. Brown would make them.

7 Q. Who is Ms. Brown?

8 A. She was an acquaintance of Mr. Saunders.

9 Q. And was she a renter of that residence?

10 A. No, ma'am.

11 I think she was just making the payments for
12 him, possibly. But I'm not sure who was actually living
13 in it, but she would always make the payments if he didn't
14 make them.

15 Q. Now, did you ever have contact with Mr. Turuk
16 [phonetic] at that residence?

17 A. Probably on two, no more than three, occasions
18 when I was called to go out there because of a malfunction
19 of some appliance or some equipment in the trailer.

20 Q. And when that occurred, who called you about
21 the problem?

22 A. Mr. Saunders or Ms. Brown.

23 Q. And when you went out to the trailer, who did
24 you meet there?

25 A. Mr. Saunders.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. All right. And this Turuk Saunders that you
2 had a rental agreement with at 11 Bay Pines Road, do you
3 see him in the courtroom?

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

5 Q. Could you point him out, please.

6 A. The gentleman in the darker suit that just
7 stood up.

8 Q. Now, this defendant is the one renting your
9 property at 11 Bay Pines Road?

10 A. Yes, ma'am, he was.

11 Q. Did you have any system for keeping track of
12 the payments that Mr. Saunders made to you?

13 A. No, ma'am.

14 The payments were always made on time or prior
15 to the time the payment was due monthly.

16 Q. And once that payment was made, did you
17 document it in any way?

18 A. Yes, ma'am. Through receipts.

19 Q. You kept receipts?

20 A. Yes, ma'am. Copies of the receipts.

21 MS. TANNER: May I approach the witness, Your
22 Honor?

23 THE COURT: You can do it.

24 Q. [Ms. Tanner] Show you what's been marked as
25 State's Exhibit 56. If you could identify these items.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MS. TANNER: There are several pages, Your
2 Honor. I've made them one exhibit and put them
3 together.

4 THE COURT: All right.

5 [Whereupon, the witness reviews documents]

6 A. Yes, ma'am. These are rental receipts written
7 by me to Mr. Saunders and others for the monthly rental
8 payments.

9 Q. [Ms. Tanner] These are copies of your actual
10 receipts?

11 A. Yes, ma'am.

12 Q. And, in fact, those copies were made in your
13 presence and Mr. Fleming's presence from your actual
14 receipt book; is that correct?

15 A. Yes, ma'am, that's correct.

16 MS. TANNER: Your Honor, the State moves 56
17 into evidence.

18 THE COURT: All right.

19 MR. FLEMING: I would object to several of the
20 documents in here as that he did not write those
21 receipts.

22 THE COURT: All right.

23 Q. [Ms. Tanner] Can you identify all those
24 receipts from your receipt book?

25 [Whereupon, the witness reviews documents]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. The receipts that were not actually written by
2 me were written by my fiancé to Mr. Saunders for the
3 rental property at [REDACTED] [REDACTED] On occasion when
4 I may have been out of town, the money would have been
5 taken to her and she wrote the receipt from one of my
6 receipt books.

7 Q. [Ms. Tanner] Right. Following your
8 instructions?

9 A. Yes, ma'am.

10 MS. TANNER: Your Honor, State's 56 is in?

11 THE COURT: It's in.

12 [Whereupon, State's Exhibit Number 56 is
13 admitted into evidence by the Court]

14 Q. [Ms. Tanner] Mr. Jenkins, for every one of
15 those receipts from August of 2004 through February of
16 2007, who was that receipt for rent made out to?

17 A. Mr. Saunders.

18 Q. The Mr. Saunders in the courtroom today?

19 A. Yes, ma'am.

20 Q. Anyone else?

21 A. No, ma'am.

22 MS. TANNER: Thank you, Mr. Jenkins. I have
23 no further questions.

24 - - -

25 - - -

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

CROSS-EXAMINATION

BY MR. FLEMING:

Q. You would write the receipt for Mr. Saunders, even if he was not the one who brought the money to you; isn't that right?

A. That's correct.

Q. Okay. Now, let's talk about your knowledge of the activities that were occurring in your trailer. Okay? I've known you for a long time. You've been a SLED agent for how many years?

A. Twenty-eight years.

Q. You, like Detective Woodward, would know if some bad stuff was going down, if you saw it; right?

A. Yes, sir. If I saw it.

Q. And I am absolutely certain, Mr. Jenkins, I am absolutely certain, that if you observed illegal activity in your trailer, you would have done something about it, wouldn't you?

A. Yes, sir, I would have.

Q. That leads me to the conclusion, would you agree, that you didn't see anything illegal going on in your trailer?

A. No, sir. I was never at the trailer unannounced.

Q. Exactly. You never were at the trailer, so

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 you don't even know who was living there, do you?

2 A. Not absolutely positive. I know who rented
3 the trailer.

4 Q. You know who paid you some money?

5 A. Yes, sir.

6 Q. August -- or in 2004 Mr. Saunders paid you one
7 of those receipts, \$550, and a 550-dollar security
8 deposit; right?

9 A. That is correct, sir.

10 Q. Okay. Akeem Saunders is his brother. Do you
11 know Akeem?

12 A. No, sir, I don't.

13 Q. Okay. Akeem Saunders was his brother. Would
14 you be shocked to learn that Akeem was living in your
15 trailer?

16 A. No, sir, I wouldn't be shocked.

17 Q. Okay. And I have talked to you about this
18 before. You are aware that in May of 2006, Turuk Saunders
19 signed a lease to move out to Seabrook; right?

20 A. No, sir, I'm not aware of that.

21 Q. You did not see the document that I showed
22 you --

23 A. No, sir.

24 Q. -- yesterday?

25 A. No, sir, I did not see it.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. The first time that I ever talked to you about
2 this case was when?

3 A. On yesterday.

4 Q. Yesterday.

5 The first time you ever showed me these
6 documents was when?

7 A. Yesterday.

8 Q. Three years after the arrest. Okay?

9 A. Yes, sir.

10 Q. And at that time, didn't I show you this
11 handwritten copy of a residential lease between the
12 Universal Tabernacle and Turuk Saunders and Tyece Brown?
13 Didn't I show you that handwritten lease? Or do you not
14 remember me showing it to you?

15 A. No, sir, I do not remember seeing this lease.

16 Q. Okay. Didn't I reference and show you a copy
17 of the SCE&G records showing that in May of 2006, Turuk
18 Saunders cancelled his electric service at 11 Bay Pines
19 Road? Didn't I reference that?

20 A. No, sir, I don't remember this, either.

21 Q. You don't remember me --

22 A. No, sir.

23 Q. -- telling you that?

24 Those -- when you move -- Mr. Jenkins, when a
25 person moves and they get a new place, is it customary --

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 I mean, you're a landlord. Is it customary that they sign
2 a lease at their new place?

3 A. Possibly so. It would be between them and the
4 landlord.

5 Q. Okay. As a landlord, is it customary when a
6 person leaves one residence and moves to another, do they
7 transfer their electric service there?

8 A. I think it would be in some instances.

9 Q. Okay. And that is pretty indicative of
10 someone moving, isn't it?

11 A. I think it would be in some instances.

12 MR. FLEMING: I don't have anymore questions,
13 Judge. Thank you.

14 MS. TANNER: Just briefly.

15 REDIRECT EXAMINATION

16 BY MS. TANNER:

17 Q. Mr. Jenkins, you said you never went to that
18 residence unannounced; is that correct?

19 A. That is correct.

20 Q. The only time you went out there during the
21 three years he was renting from you was when he called you
22 out there --

23 A. Yes, ma'am. Or Ms. Brown.

24 Q. -- not his brother, not some other person?

25 Turuk Saunders.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, that's correct.

2 MS. TANNER: Thank you, sir. No further
3 questions.

4 MR. FLEMING: One more, Your Honor.

5 RECROSS-EXAMINATION

6 BY MR. FLEMING:

7 Q. That was before May of 2006, wasn't it?

8 A. I'm not sure about the dates, Mr. Fleming.

9 MR. FLEMING: Okay. Thank you, sir.

10 THE COURT: You can step down.

11 THE WITNESS: Thank you, sir.

12 [Whereupon, the witness is excused and exits
13 the witness stand]

14 MS. TANNER: May we approach?

15 [Whereupon, an off-the-record bench conference
16 is held]

17 THE COURT: All right. Just lining up
18 witnesses, you know.

19 We're going to break for lunch. Be back at
20 1:30. About an hour and fifteen minutes.

21 Don't talk about the case.

22 [Whereupon, the jury exits the courtroom at
23 12:11 p.m.]

24 THE BAILIFF: The jury is clear, Your Honor.

25 THE COURT: Okay. All right. 1:30.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MS. TANNER: Thank you, sir.

2 [Whereupon, a recess is taken from 12:13 p.m.
3 to 1:31 p.m.]

4 THE COURT: Is the State ready?

5 MS. TANNER: The State is ready, Your Honor.

6 THE COURT: Defense ready?

7 MR. FLEMING: Yes, sir.

8 THE COURT: Bring them in.

9 [Off the record momentarily]

10 THE BAILIFF: The jury is ready to enter.

11 THE COURT: Bring them in.

12 [Whereupon, the jury enters the courtroom at
13 1:33 p.m.]

14 THE BAILIFF: The jury is all present.

15 THE COURT: You may proceed.

16 MS. TANNER: Thank you, Your Honor. The State
17 calls Robin McIntosh to the stand.

18 THE COURT: All right.

19 [Whereupon, Ms. McIntosh comes forward]

20 [Whereupon, Ms. McIntosh is duly sworn by the
21 clerk of court as follows: do you solemnly swear or
22 affirm that the testimony you give the Court will be
23 the truth, so help you God]

24 THE WITNESS: I do.

25 THE CLERK OF COURT: Please be seated and

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 state your full name.

2 [Whereupon, Ms. McIntosh takes the witness
3 stand]

4 THE WITNESS: Robin McIntosh.

5 MS. TANNER: Hello, Ms. McIntosh?

6 THE WITNESS: Hi.

7 - - - - -

8 ROBIN MCINTOSH,

9 Having Been First Duly Sworn,

10 was Examined and Testified as Follows:

11 DIRECT EXAMINATION

12 BY MS. TANNER:

13 Q. Where are you employed?

14 A. Beaufort County Sheriff's Office.

15 Q. And what are your current duties with the
16 sheriff's office?

17 A. Currently, I'm in charge of the media
18 relations as the public information officer.

19 Q. And how long have you been working with the
20 sheriff's office?

21 A. Since October of 2002.

22 Q. And in 2007, what were your duties and
23 responsibilities?

24 A. I was assigned to the drug task force for the
25 Beaufort County Sheriff's Office.

MIA PERRON, CCR, CVR-CM

-98-

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Ms. McIntosh, were you involved in an
2 investigation at [REDACTED] Road in Beaufort?

3 A. Yes, I was.

4 Q. And what was your specific duty at that
5 operation?

6 A. I was assigned as the primary case officer for
7 that investigation.

8 Q. And as primary case officer, what does that
9 entail?

10 A. Basically, it was I in charge of the execution
11 of the search warrant, the documentation during the search
12 warrant, and the collection of evidence.

13 Q. And as part of that, did you also document who
14 was located on scene once the search warrant was executed?

15 A. Yes, I did.

16 Q. And can you tell the jury who all was located
17 at this residence?

18 A. If I can refer to my --

19 Q. Yes, ma'am.

20 A. -- incident report?

21 [Whereupon, the witness reviews documents]

22 A. Inside the residence we made contact with a
23 defendant, Akeem Saunders. He was located outside the
24 hallway bathroom by members of the SWAT team.

25 Elijah Clark was found on the floor in what we

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 called bedroom number one, again, by the SWAT team.

2 Defendant Jonathan Kelly was found hiding, in
3 a closet in bedroom number two, by the SWAT team.

4 Defendant Dwayne Ferribee [phonetic] was found
5 hiding under a bed in bedroom number two by the SWAT team.

6 Q. [Ms. Tanner] You said Ferribee. Was it
7 determined later that he had a different name?

8 A. Yes, it was. It was determined his name was
9 Jarret Jackson after further investigation.

10 Q. And did you come in contact with a Turuk
11 Saunders?

12 A. Members of DTF did come in contact with Turuk
13 Saunders when he exited the front entrance of the
14 residence.

15 Q. And, Ms. McIntosh, you said you were
16 responsible for documenting and collecting evidence; is
17 that correct?

18 A. That's correct.

19 MS. TANNER: May I approach the witness, Your
20 Honor?

21 THE COURT: Okay.

22 Q. [Mr. Fleming] I'm going to show you what's
23 been marked as State's Exhibit 1 first. It's already been
24 entered as State's Exhibit 1.

25 Can you identify this item?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, I can.

2 Q. And what is depicted in that photograph?

3 A. A cellophane bag containing suspected
4 marijuana.

5 Q. And as part of your investigation, why is that
6 piece of evidence relevant?

7 A. This was what was dropped on the front porch
8 of the residence by defendant Turuk Saunders upon his exit
9 from the residence.

10 Q. And I will show you what's been marked as
11 State's Exhibit Number 2. Can you identify this item?

12 A. Yes, I can.

13 Q. And how can you identify that item?

14 A. I was the one who packaged it. This is my
15 handwriting on the package and this was the item that I
16 placed in this evidence bag.

17 Q. And what is that item?

18 A. This would be the marijuana collected from the
19 front step that's pictured in that photograph.

20 MS. TANNER: Your Honor, at this time the
21 State moves Exhibit 2 into evidence.

22 MR. FLEMING: Without objection.

23 THE COURT: Okay.

24 [Whereupon, State's Exhibit Number 2 is
25 admitted into evidence by the Court]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MS. TANNER: Thank you. If I may publish to
2 the jury?

3 THE COURT: Sure. You can do it.

4 [Whereupon, Ms. Tanner proffers documents to
5 the jury]

6 [Whereupon, the jury reviews documents]

7 MS. TANNER: May I approach, Your Honor?

8 THE COURT: All right.

9 Q. [Ms. Tanner] Show you what's been marked
10 State's Exhibits 3, 4, 5 and 6. Can you identify those
11 items?

12 A. Yes, I can.

13 Q. And State's Exhibit 3, what would be depicted
14 in that?

15 A. This would be the bathroom located next to the
16 kitchen in the residence.

17 Q. And is that a fair and accurate depiction of
18 how it appeared the day you saw it?

19 A. Yes, it is.

20 Q. And State's Exhibit Number 4?

21 A. Number 4 appears to be, again, the bathroom,
22 with a closeup of the -- a Crown Royal bag beside the
23 toilet in the bathroom.

24 Q. And is that a fair and accurate depiction of
25 how you observed it that day?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, it is.

2 Q. And State's Exhibit 5?

3 A. 5 is another closeup picture of the Crown
4 Royal bag located beside the toilet. This time the
5 contents were removed for photograph.

6 Q. And State's Exhibit 6?

7 A. Exhibit 6 is, again, a closeup photograph of
8 the materials that were removed from the bag.

9 Q. And both of those are fair and accurate
10 depictions of how you observed them that day?

11 A. Yes.

12 MS. TANNER: Your Honor, at this time the
13 State moves 3, 4, 5 and 6 into evidence.

14 MR. FLEMING: We have no objection, Your
15 Honor.

16 THE COURT: Okay.

17 [Whereupon, State's Exhibit Number 3 is
18 admitted into evidence by the Court]

19 [Whereupon, State's Exhibit Number 4 is
20 admitted into evidence by the Court]

21 [Whereupon, State's Exhibit Number 5 is
22 admitted into evidence by the Court]

23 [Whereupon, State's Exhibit Number 6 is
24 admitted into evidence by the Court]

25 [Whereupon, Ms. Tanner proffers documents to

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Mr. Fleming]

2 [Whereupon, Mr. Fleming reviews documents]

3 MS. TANNER: May I approach, Your Honor?

4 THE COURT: Okey-dokey.

5 Q. [Ms. Tanner] Show you State's marked Exhibits
6 7 and 8.

7 MS. TANNER: If I may publish the photographs
8 to the jury, Your Honor? I'll just pass --

9 THE COURT: Pass them around.

10 MS. TANNER: -- pass these around.

11 [Whereupon, Ms. Tanner proffers documents to
12 the jury]

13 Q. [Ms. Tanner] Can you identify State's Exhibit
14 Number 7?

15 A. Yes. Number 7 is a bag of suspected crack
16 cocaine.

17 Q. And do you know where that item came from in
18 relevance to the last exhibits?

19 A. This was the item pictured in the photograph
20 that came from the Crown Royal bag in the bathroom.

21 Q. State's Exhibit 8?

22 A. Exhibit 8 would be the suspected MDMA ecstasy
23 pills that were also found in the Crown Royal bag.

24 Q. And, Ms. McIntosh, did -- are you the one who
25 actually collected these items and placed them in those

1 bags?

2 A. Yes, I am.

3 Q. Did you do anything to alter or change these
4 items prior to securing them?

5 A. I did not alter them; however, we do perform
6 field tests upon collection of these items.

7 Q. What is a field test?

8 A. A field test consists of using what's called a
9 NIK kit. It can detect the presence of a specific
10 narcotic.

11 And in this case we used a NIK kit for
12 cocaine. It would detect the presence of a cocaine
13 base in the crack cocaine. And it's in the form of a
14 swab.

15 And we also used a MDMA ampule, which allows
16 us to take a very tiny portion of the suspected MDMA, put
17 it in an ampule, and it will turn a certain color to
18 detect the presence of MDMA.

19 Q. And did you perform a NIK test on any item in
20 this item number 7?

21 A. Yes, we did.

22 Q. And what was the result of your NIK test?

23 A. It tested positive for a cocaine base being
24 present.

25 Q. And item 8: did you perform a NIK test?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. We did.

2 Q. And the results?

3 A. It tested positive for the presence of MDMA.

4 Q. And are you responsible for turning those
5 items into evidence?

6 A. Yes, I am.

7 MS. TANNER: Your Honor, the State moves 7 and
8 8 into evidence.

9 MR. FLEMING: Without objection.

10 THE COURT: Okay.

11 [Whereupon, State's Exhibit Number 7 is
12 admitted into evidence by the Court]

13 [Whereupon, State's Exhibit Number 8 is
14 admitted into evidence by the Court]

15 MS. TANNER: I'll publish these to the jury
16 without passing them around.

17 And all items will be in the jury room with
18 the jury later --

19 THE COURT: Right.

20 MS. TANNER: -- if anybody doesn't get a good
21 look now.

22 [Whereupon, Ms. Tanner proffers documents to
23 the jury]

24 MS. TANNER: Your Honor, may I approach?

25 THE COURT: Go. Do it.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. [Ms. Tanner] Show you state's Exhibits 9 and
2 10.

3 Can you identify these items?

4 A. 9 is a picture of the living-room area of the
5 residence. And Number 10 would be a closeup picture of
6 the plastic container that was located on one of the seats
7 in the living room that contained suspected marijuana and
8 a package of Black & Mild cigars.

9 Q. Is that a fair and accurate depiction of how
10 it appeared that day?

11 A. Yes, it is.

12 MS. TANNER: Your Honor, the State moves 9 and
13 10 into evidence.

14 THE COURT: All right.

15 MR. FLEMING: Without objection.

16 [Whereupon, State's Exhibit Number 9 is
17 admitted into evidence by the Court]

18 [Whereupon, State's Exhibit Number 10 is
19 admitted into evidence by the Court]

20 Q. [Ms. Tanner] State's Exhibit Number 11: can
21 you identify this item?

22 A. Yes, I can. This would be the plastic
23 container pictured in Number 9 and 10, photos 9 and 10.

24 Q. And did you secure this piece of evidence?

25 A. Yes, I did.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And what did you do with it once you secured
2 it?

3 A. It was submitted into evidence.

4 Q. Did you do anything to alter or change it in
5 any way before you entered it into evidence?

6 A. No. We did not field test for marijuana.

7 MS. TANNER: The State moves 11 into evidence.

8 THE COURT: All right.

9 MR. FLEMING: Without objection, Your Honor.

10 [Whereupon, State's Exhibit Number 11 is
11 admitted into evidence by the Court]

12 MS. TANNER: I will publish 9 and 10 to the
13 jury. And 11.

14 [Whereupon, Ms. Tanner proffers documents to
15 the jury]

16 MS. TANNER: Your Honor, may I approach?

17 THE COURT: All right.

18 Q. [Ms. Tanner] Show you State's 12 and 13. If
19 you can identify these two items.

20 A. Yes, I can.

21 Q. What is 12?

22 A. 12 would be a picture of a bookcase located in
23 the living-room area of the residence.

24 And Number 13 would be a small plastic
25 cellophane bag that was located on the bottom shelf,

1 that's depicted here in this picture, that contained
2 suspected crack cocaine.

3 Q. And the photograph in 12, that's a fair and
4 accurate depiction of how you saw it that day?

5 A. Yes, it is.

6 Q. And 13: you collected that item?

7 A. Yes, I did.

8 Q. And you placed it in that bag?

9 A. Yes, I did.

10 Q. And turned it into secure evidence?

11 A. Yes, I did.

12 MS. TANNER: The State moves 12 and 13 into
13 evidence.

14 THE COURT: All right.

15 MR. FLEMING: Without objection.

16 [Whereupon, State's Exhibit Number 12 is
17 admitted into evidence by the Court]

18 [Whereupon, State's Exhibit Number 13 is
19 admitted into evidence by the Court]

20 [Whereupon, Ms. Tanner proffers documents to
21 the jury]

22 Q. [Ms. Tanner] Ms. McIntosh, to review: we
23 have collected evidence from the front porch?

24 A. Yes, ma'am.

25 Q. The bathroom?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, ma'am.

2 Q. And now the living room?

3 A. Yes, ma'am.

4 [Whereupon, Ms. Tanner and Mr. Fleming confer]

5 Q. [Ms. Tanner] Show you what's been marked as
6 State's Exhibit 14. Identify this item.

7 A. This is a picture of a table located in the
8 kitchen inside of the residence.

9 Q. And State's Exhibit 15?

10 A. This is the programmable held-held scanner
11 that we located on the kitchen table depicted in the
12 photograph.

13 Q. And they were in the kitchen of the house?

14 A. That's correct.

15 Q. And is this a fair and accurate depiction of
16 how you observed it that day?

17 A. Yes, it is.

18 Q. And did you collect item 15?

19 A. Yes, I did.

20 MS. TANNER: The State moves 14 and 15 into
21 evidence.

22 MR. FLEMING: Without objection.

23 THE COURT: All right.

24 [Whereupon, State's Exhibit Number 14 is
25 admitted into evidence by the Court]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 [Whereupon, State's Exhibit Number 15 is
2 admitted into evidence by the Court]

3 Q. [Ms. Tanner] Show you State's Exhibit 16 and
4 17. Can you identify State's 16?

5 A. 16 is another photograph of the table located
6 in the kitchen.

7 Q. And 17?

8 A. And 17 is a black DigiWeigh scale that was
9 located on the table in the kitchen also pictured in the
10 photograph.

11 Q. Is the photograph a fair and accurate
12 depiction of how you found it that day?

13 A. Yes, it is.

14 Q. And 17: is that something that you collected
15 and preserved?

16 A. Yes, it is.

17 MS. TANNER: State moves 16 and 17.

18 MR. FLEMING: Without objection.

19 THE COURT: Okay.

20 [Whereupon, State's Exhibit Number 16 is
21 admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 17 is
23 admitted into evidence by the Court]

24 [Whereupon, Ms. Tanner proffers documents to
25 the jury]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MS. TANNER: Your Honor, may I approach?

2 THE COURT: All right.

3 Q. [Ms. Tanner] Show you State's Exhibits 18 and
4 19. Can you identify State's Exhibit 18?

5 A. 18 is a photograph of a scale that was
6 collected from the kitchen counter in the residence.

7 Q. And 19?

8 A. 19 is the scale pictured in the photograph.

9 Q. And is that photograph in 18 a fair and
10 accurate depiction of how you found it?

11 A. Yes, it is.

12 Q. And 19: did you collect that yourself and
13 preserve it for evidence?

14 A. Yes, I did.

15 MS. TANNER: The State moves 18 and 19 into
16 evidence.

17 MR. FLEMING: Without objection.

18 THE COURT: Okay.

19 [Whereupon, State's Exhibit Number 18 is
20 admitted into evidence by the Court]

21 [Whereupon, State's Exhibit Number 19 is
22 admitted into evidence by the Court]

23 Q. [Ms. Tanner] Show you State's Exhibit 20 and
24 21. Can you tell me what is depicted in State's 20?

25 A. This is a picture, a closeup, of two razor

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 blades along with a small suspected quantity of marijuana
2 on the kitchen table.

3 Q. And State's 21?

4 A. 21 would be the razor blade and the collected
5 marijuana pictured in the photograph.

6 Q. And is 20 a fair and accurate depiction of how
7 you found it that day?

8 A. Yes, it is.

9 Q. And is 21 something you collected and
10 preserved for evidence?

11 A. Yes, it is.

12 MS. TANNER: The State moves 20 and 21 into
13 evidence.

14 MR. FLEMING: Without objection.

15 THE COURT: Okay.

16 [Whereupon, State's Exhibit Number 20 is
17 admitted into evidence by the Court]

18 [Whereupon, State's Exhibit Number 21 is
19 admitted into evidence by the Court]

20 Q. [Ms. Tanner] Show you State's 22 and 23. Can
21 you identify what is in State's 22?

22 A. 22 is a photograph of a box of cellophane
23 sandwich bags located on the kitchen table.

24 Q. And 23?

25 A. 23 would be the pictured sandwich bags,

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 container of sandwich bags.

2 Q. And 22 is a fair and accurate depiction of how
3 it appeared that day?

4 A. Yes, it is.

5 Q. 23 is something you collected and preserved
6 for evidence?

7 A. Yes, it is.

8 MS. TANNER: The State moves 22 and 23 into
9 evidence.

10 MR. FLEMING: Without objection.

11 THE COURT: All right.

12 [Whereupon, State's Exhibit Number 22 is
13 admitted into evidence by the Court]

14 [Whereupon, State's Exhibit Number 23 is
15 admitted into evidence by the Court]

16 Q. [Ms. Tanner] Show you States 24, 25 and 26.
17 Can you identify what's in State's Exhibit 24?

18 A. 24 is a photograph of the microwave on the
19 kitchen counter top.

20 Q. And State's 25?

21 A. 25 is a closeup of a scale that was located on
22 top of the microwave in the kitchen.

23 Q. 26?

24 A. And 26 would be the pictured scale on top of
25 the microwave.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And are 24 and 25 fair and accurate depictions
2 of how it appeared that day?

3 A. Yes, they are.

4 Q. And 25: is that something you collected and
5 preserved for evidence?

6 A. Yes, it is.

7 MS. TANNER: Your Honor, the State moves 24,
8 25 and 26 into evidence.

9 MR. FLEMING: Without objection.

10 THE COURT: Okay.

11 [Whereupon, State's Exhibit Number 24 is
12 admitted into evidence by the Court]

13 [Whereupon, State's Exhibit Number 25 is
14 admitted into evidence by the Court]

15 [Whereupon, State's Exhibit Number 26 is
16 admitted into evidence by the Court]

17 Q. [Ms. Tanner] Ms. McIntosh, going back to
18 items in the kitchen, and it starts with Exhibit 14, the
19 police scanner, the black scale, the second black scale,
20 the blue scale, the razors, baggies, what kind of
21 proximity are these pieces of evidence within each other?

22 A. Many of them are located on the kitchen table
23 within very close proximity to each other. It's a small
24 kitchen, so the other items were merely feet away from the
25 others on the kitchen table.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. All right. Let's move to the bedrooms. As
2 part of your investigation, did you designate numbers to
3 any bedrooms?

4 A. We did.

5 Q. And what's the purpose in doing that?

6 A. One, it makes it easier for documentation
7 purposes, where we collect any materials from, when we
8 make assignments to officers that are going to be
9 assisting in the search so they know exactly which bedroom
10 they're designated to search.

11 Q. [Ms. Tanner] Starting with I guess -- well,
12 I'll show you this exhibit and you tell me which bedroom
13 it is.

14 I'll show you 27 and 29. Can you tell me
15 what's displayed in Exhibit 27?

16 A. 27 is a picture of a shotgun that was located
17 in bedroom number one, what we designated as bedroom
18 number one.

19 Q. And is that a fair and accurate depiction of
20 how you found it?

21 A. Yes, it is.

22 MS. TANNER: State moves 27 into evidence.

23 MR. FLEMING: Without objection.

24 THE COURT: Okay.

25 [Whereupon, State's Exhibit Number 27 is

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 admitted into evidence by the Court]

2 Q. [Ms. Tanner] State's Exhibit 29.

3 A. 29 would be a plastic grocery bag containing
4 shotgun shells located in close proximity to the shotgun
5 pictured in Number 28.

6 Q. And did you collect item 29 --

7 A. I did.

8 Q. -- and preserve for evidence?

9 A. I did.

10 MS. TANNER: State moves 29 into evidence.

11 MR. FLEMING: Without objection.

12 THE COURT: Okay.

13 [Whereupon, State's Exhibit Number 29 is
14 admitted into evidence by the Court]

15 Q. [Ms. Tanner] Show you what's been marked as
16 State's Exhibit 28. Can you identify the contents of
17 State's Exhibit 28?

18 A. 28 would be the shotgun that we collected from
19 bedroom number one.

20 Q. And did you collect this item and preserve for
21 evidence?

22 A. I did.

23 MS. TANNER: The State moves 28 into evidence.

24 MR. FLEMING: Without objection.

25 THE COURT: All right.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 [Whereupon, State's Exhibit Number 28 is
2 admitted into evidence by the Court]

3 MS. TANNER: If I may publish to the jury?
4 This has been cleared and checked for safety.

5 THE COURT: All right.

6 [Whereupon, the jury views State's Exhibit
7 Number 28]

8 Q. [Ms. Tanner] And these items were found in
9 bedroom one, is what you designated it?

10 A. That's correct.

11 Q. Show you State's 30, 31 and 32. Can you
12 identify these items?

13 A. 30 would be a photograph of what we designated
14 as bedroom number three, which appeared to be the master-
15 bedroom of the residence.

16 Q. Bedroom three is actually the master bedroom?

17 A. Yes.

18 Q. State's Exhibit 31?

19 A. 31 is a closeup of the bed that was located in
20 bedroom number 3, with several grocery bags containing
21 suspected marijuana.

22 Q. And State's 32?

23 A. 32 is a closeup of the marijuana that was in
24 the grocery bags on the bed.

25 Q. And are these fair and accurate depictions of

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 how you observed it that day?

2 A. Yes, they are.

3 MS. TANNER: The State moves 30, 31 and 32
4 into evidence.

5 MR. FLEMING: Without objection.

6 THE COURT: All right.

7 [Whereupon, State's Exhibit Number 30 is
8 admitted into evidence by the Court]

9 [Whereupon, State's Exhibit Number 31 is
10 admitted into evidence by the Court]

11 [Whereupon, State's Exhibit Number 32 is
12 admitted into evidence by the Court]

13 Q. [Ms. Tanner] Show you State's 33 and 34.
14 State's Exhibit Number 33: can you identify this item?

15 A. Yes.

16 33 contains several of the marijuana -- bags
17 of marijuana that were located on the bed in bedroom
18 number three.

19 Q. And 34?

20 A. 34 is the additional bags of marijuana located
21 on the bed.

22 Q. And 33 and 34, are these items depicted in
23 State's Exhibits photographs 30, 31 and 32?

24 A. Yes.

25 Q. And did you collect these items?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, I did.

2 Q. And turned them into evidence?

3 A. Yes, I did.

4 Q. Did you do anything to alter or change before
5 you put them into evidence?

6 A. No. We did not field test the marijuana.

7 MS. TANNER: Your Honor, the State moves 33
8 and 34 into evidence.

9 MR. FLEMING: Without objection.

10 THE COURT: All right.

11 [Whereupon, State's Exhibit Number 33 is
12 admitted into evidence by the Court]

13 [Whereupon, State's Exhibit Number 34 is
14 admitted into evidence by the Court]

15 [Whereupon, Ms. Tanner proffers exhibits to
16 the jury]

17 MS. TANNER: If I may approach?

18 THE COURT: Okay.

19 Q. [Ms. Tanner] Show you State's Exhibit 35,
20 36, 37, and 38. Can you tell me what is depicted in
21 State's 35?

22 A. 35 is a photograph of a grocery bag,
23 containing suspected marijuana, that was located on the
24 bed in bedroom number three.

25 Q. This item is located along with 33 and 34

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 that's going around to the jury right now?

2 A. Yes. That's correct.

3 Q. And is that a fair and accurate depiction of
4 how you found it that day?

5 A. Yes, it is.

6 MS. TANNER: The State moves 35 into evidence.

7 MR. FLEMING: Without objection.

8 THE COURT: Okay.

9 [Whereupon, State's Exhibit Number 35 is
10 admitted into evidence by the Court]

11 Q. [Ms. Tanner] State's Exhibit 36?

12 A. 36 contains the suspected marijuana and the --
13 some of the containers that were located in the bag on the
14 bed in bedroom number three.

15 Q. 37?

16 A. 37 contains suspected MDMA tablets, also
17 located in the bag.

18 Q. MDMA tablets, do they have another name that's
19 more common?

20 A. Ecstasy.

21 Q. Ecstasy?

22 A. They're also known as ecstasy.

23 Q. And 38?

24 A. 38 would be a partial pill, that was suspected
25 to be additional MDMA, also located in the bag.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And the relevancy to 36, 37, and 38 with the
2 photograph would be?

3 A. They were all -- all of these items were
4 located in the grocery bag that's pictured in the
5 photograph.

6 Q. And you collected these items and turned them
7 into evidence yourself?

8 A. Yes, I did.

9 MS. TANNER: State moves 36, 37, and 38 into
10 evidence.

11 MR. FLEMING: Without objection.

12 THE COURT: All right.

13 [Whereupon, State's Exhibit Number 36 is
14 admitted into evidence by the Court]

15 [State's Exhibit Number 37 is admitted into
16 evidence by the Court]

17 [State's Exhibit Number 38 is admitted into
18 evidence by the Court]

19 MS. TANNER: If I may approach?

20 THE COURT: You can do it.

21 Q. [Ms. Tanner] Show you State's 39, 40, and 41.
22 Can you tell us what is depicted in State's Exhibit 39?

23 A. 39 is a picture of a small table that was
24 located in bedroom number three, kind of a night stand, in
25 between a recliner and the bed.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And State's 40?

2 A. 40 is a closeup of a handgun that was located
3 on top of that table in the bedroom.

4 Q. And 41?

5 A. 41 is the handgun pictured in the photograph.
6 It's a .9 millimeter Highpoint semiautomatic weapon.

7 Q. And State's 39 and 40, are they fair and
8 accurate depictions of how you found those items that day?

9 A. Yes, they are.

10 Q. And 41: is that an item you collected and
11 turned into evidence yourself?

12 A. Yes, it is.

13 MS. TANNER: The State moves 39, 40, and 41
14 into evidence.

15 MR. FLEMING: No objection.

16 THE COURT: All right.

17 [Whereupon, State's Exhibit Number 39 is
18 admitted into evidence by the Court]

19 [Whereupon, State's Exhibit Number 40 is
20 admitted into evidence by the Court]

21 [State's Exhibit Number 41 is admitted into
22 evidence by the Court]

23 MS. TANNER: 41 has been secured with a safety
24 zip.

25 [Whereupon, Ms. Tanner proffers documents to

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 the jury]

2 Q. [Ms. Tanner] Was item 41 loaded when you
3 found it?

4 A. Yes, it was. It had an eight-round magazine,
5 as well as one round loaded in the chamber. It was fully
6 loaded at the time.

7 MS. TANNER: May I approach?

8 THE COURT: You can approach.

9 Q. [Ms. Tanner] 42, 43, and 44.
10 Can you tell us what is depicted in State's
11 42?

12 A. 42 is a photograph of the top of the dresser
13 located in bedroom number three, and pictured in it is a
14 bag of suspected powder cocaine.

15 Q. And State's 42 and 43? I'm sorry. 43 and 44.

16 A. 43 is the original packaging that the cocaine
17 was packaged in at the time it was located.

18 44 is the cocaine. It was since placed in
19 another plastic bag for analyzation by the lab.

20 Q. And 42 is a fair and accurate depiction of how
21 you found it that day?

22 A. Yes, it is.

23 Q. And 43 as part of 44 are items you turned into
24 evidence?

25 A. Yes, they are.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And did you do anything to alter or change
2 items 43, 44, prior to turning them into evidence?

3 A. The powder cocaine, the suspected powder
4 cocaine, was field-tested using the NIK kit.

5 Q. And what were the results of the NIK kit?

6 A. It did show a -- yield a positive result for
7 cocaine base.

8 Q. Now, when you perform these tests, how much of
9 that cocaine is used to conduct that test?

10 A. It only requires a minuscule amount.
11 Basically, you can dip the tip of a pointed object, like
12 a knife or something, in it just enough to barely get a
13 sample. You swipe it across the swab and it will
14 immediately turn blue, like a bright blue, if the presence
15 of cocaine is detected.

16 MS. TANNER: The State moves 42, 43 and 44
17 into evidence.

18 MR. FLEMING: Without objection.

19 THE COURT: Okay.

20 [Whereupon, State's Exhibit Number 42 is
21 admitted into evidence by the Court]

22 [State's Exhibit Number 43 is admitted into
23 evidence by the Court]

24 [State's Exhibit Number 44 is admitted into
25 evidence by the Court]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. [Ms. Tanner] And we are still in the master
2 bedroom --

3 A. That's correct.

4 Q. -- with these items?

5 A. Yes.

6 Q. State's 45.

7 [Whereupon, Ms. Tanner reviews exhibits]

8 Q. [Ms. Tanner] All right. We're up to 45?

9 A. Yes, ma'am.

10 Q. Can you tell me what is within State's 45?

11 A. 45 is a portion of a small plastic baggie with
12 a corner of it torn off. It was located in bedroom number
13 three on the floor.

14 Q. Is that a fair and accurate -- I'm sorry.

15 Is that piece of evidence something you
16 collected and preserved for evidence?

17 A. Yes, it is.

18 MS. TANNER: The State moves 45 into evidence.

19 MR. FLEMING: Without objection.

20 THE COURT: Okay.

21 [Whereupon State's Exhibit Number 45 is
22 admitted into evidence by the Court]

23 Q. [Ms. Tanner] Show you State's 46. Can you
24 identify that item?

25 A. Yes, I can.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 It is a box for a DigiWeigh handheld scale.
2 It was located behind the TV, in bedroom number three, on
3 the floor.

4 Q. In the master bedroom with these other items?

5 A. Yes.

6 Q. And did you collect that items?

7 A. I did.

8 Q. And turned it into evidence?

9 A. Yes, I did.

10 MS. TANNER: The State moves 46 into evidence.

11 MR. FLEMING: Without objection.

12 THE COURT: Okay.

13 [Whereupon, State's Exhibit Number 46 is
14 admitted into evidence by the Court]

15 [Whereupon, Ms. Tanner proffers exhibits to
16 the jury]

17 MS. TANNER: If I may approach?

18 THE COURT: You can approach.

19 Q. [Ms. Tanner] State's 47: can you identify
20 this item?

21 A. 47 is a Nike shoe box that was found
22 underneath the bed in bedroom number three. When it was
23 opened, it contained a small amount of marijuana with a
24 Ziplock bag.

25 Q. And where in bedroom three was it found?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Under the bed.

2 Q. And did you collect this item and turn it into
3 evidence?

4 A. I did.

5 MS. TANNER: State moves 47 into evidence.

6 MR. FLEMING: Without objection.

7 THE COURT: Okay.

8 [Whereupon, State's Exhibit Number 47 is
9 admitted into evidence by the Court]

10 MS. TANNER: If I may approach?

11 THE COURT: You can approach.

12 Q. [Ms. Tanner] State's 48 and 49.

13 Can you tell me what is depicted in State's
14 48?

15 A. 48 is a picture of a recliner -- or a seat
16 located in bedroom number three, and on it there was a
17 blue shower bag containing a box of razor blades.

18 Q. And State's 49?

19 A. 49 is the shower bag depicted with the razor
20 blades.

21 Q. Is 48 a fair and accurate depiction of how it
22 appeared that day?

23 A. Yes, it is.

24 Q. And 49: did you collect that item?

25 A. I did.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And have you examined the contents of that
2 item?

3 A. I have.

4 Q. And the contents of State's 49 would be?

5 A. It's a white box containing razor blades, like
6 straight-razor blades, along with a Crown Royal bag.

7 Q. And you collected that item and turned it into
8 evidence?

9 A. I did.

10 MS. TANNER: The State moves 48 and 49 into
11 evidence.

12 MR. FLEMING: Without objection.

13 THE COURT: Okay.

14 [Whereupon, State's Exhibit Number 48 is
15 admitted into evidence by the Court]

16 [Whereupon, State's Exhibit Number 49 is
17 admitted into evidence by the Court]

18 [Whereupon, Ms. Tanner and Mr. Fleming confer]

19 [Whereupon, Ms. Tanner proffers exhibits to
20 the jury]

21 MS. TANNER: May I approach?

22 THE COURT: You can approach.

23 Q. [Ms. Tanner] State's 50 and 51.

24 Can you tell me what has been depicted in
25 State's 50?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. 50 is a photograph of the floor, in front of
2 the dresser, in bedroom number three and pictured is a
3 small rock of suspected crack cocaine.

4 Q. And 51?

5 A. 51 is the suspected crack cocaine that was
6 collected in this photograph.

7 Q. And 50 is a fair and accurate depiction of how
8 you found it that day?

9 A. Yes, it is.

10 Q. And 51 is something you collected and turned
11 into evidence?

12 A. Yes, it is.

13 MS. TANNER: The State moves 50 and 51 into
14 evidence.

15 MR. FLEMING: Without objection.

16 THE COURT: All right.

17 [Whereupon, State's Exhibit Number 50 is
18 admitted into evidence by the Court]

19 [Whereupon, State's Exhibit Number 51 is
20 admitted into evidence by the Court]

21 [Whereupon, Ms. Tanner proffers exhibits to
22 the jury]

23 MS. TANNER: May I approach?

24 THE COURT: You can approach.

25 Q. [Ms. Tanner] 52, 53 and 54.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Can you tell me what is depicted in State's
2 52?

3 A. 52 is the small bathroom that was located in
4 the master bedroom, bedroom number three. Beside the
5 toilet in that bathroom was located a Timberland box,
6 which is depicted in this photograph.

7 Q. 53?

8 A. 53 are the contents of that box, which were a
9 large quantity of marijuana in a Ziplock bag.

10 Q. And 54?

11 A. 54 is the Timberland box located beside the
12 toilet, and inside contains the marijuana that was
13 located.

14 Q. And are 52 and 53 fair and accurate depictions
15 of how these items appeared that day to you?

16 A. Yes, they are.

17 MS. TANNER: The State moves 52 and 53 in.

18 MR. FLEMING: Without objection.

19 THE COURT: All right.

20 [Whereupon, State's Exhibit Number 52 is
21 admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 43 is
23 admitted into evidence by the Court]

24 [Whereupon, Ms. Tanner proffers exhibits to
25 the jury]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. [Ms. Tanner] 54: is this an item that you
2 picked up and collected and turned into evidence?

3 THE COURT: Yes, it is.

4 MS. TANNER: We would also move 54 into
5 evidence.

6 MR. FLEMING: Without objection.

7 THE COURT: All right.

8 [Whereupon, State's Exhibit Number 54 is
9 admitted into evidence by the Court]

10 Q. [Ms. Tanner] Can you tell me what is shown in
11 State's 55?

12 A. 55 is the bed located in the master bedroom,
13 bedroom number three. This is a photograph of the box
14 spring underneath the top mattress and in it is -- the
15 money was located on the box springs.

16 Q. And is it a fair and accurate depiction of how
17 you found it that day?

18 A. Yes, it is.

19 MS. TANNER: The State moves 55 into evidence.

20 MR. FLEMING: Without objection.

21 THE COURT: Okay.

22 [Whereupon, State's Exhibit Number 55 is
23 admitted into evidence by the Court]

24 Q. [Ms. Tanner] Ms. McIntosh, was this money
25 counted?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, it was.

2 Q. How much cash did it turn out to be?

3 A. \$1,569.

4 Q. Now, all of these last items, everything on
5 the bar here, things still going around the jury box, all
6 those items were found in the master bedroom?

7 A. Yes, they were.

8 Q. None of these items were found in bedroom two;
9 is that correct?

10 A. No. That's correct.

11 Q. And bedroom two you said is where Mr. Kelly
12 and Mr. Jackson were located?

13 [Whereupon, the witness reviews documents]

14 A. Yes. Mr. Kelly and Mr. Jackson were located
15 in bedroom number two.

16 Q. [Ms. Tanner] When you turn a piece of
17 evidence into -- when I say turn it into evidence, what
18 does that mean? Where do these items go?

19 A. Well, it depends on the materials.

20 Any drug materials that need to be tested, the
21 marijuana would be submitted for testing by Corporal Jean
22 Roberts.

23 Any of the other narcotics or suspected
24 narcotics would be sealed in a best bag for further
25 analysis by our drug chemist, Rita Berry.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 The other items are all turned in -- the best
2 bags are dropped into a secure drop-box where only certain
3 personnel are allowed to access them.

4 The rest of the materials are submitted to
5 evidence clerks.

6 MS. TANNER: I have no further questions.
7 Please answer anything defense counsel has.

8 THE COURT: Okay.

9 MR. FLEMING: Thank you.

10 Ms. Tanner is taking up all the space up here.
11 She did leave this one spot open, so I'm going to use
12 it.

13 CROSS-EXAMINATION

14 BY MR. FLEMING:

15 Q. You are the Robin McIntosh that we read in the
16 newspaper now?

17 A. Yes, sir.

18 Q. So in the Beaufort Gazette or Island Packet
19 it's the spokesperson Robin McIntosh. That's you?

20 A. Yes, sir, it is.

21 Q. You have a busy job.

22 The day that we're talking about, you had
23 indicated earlier that your role was the primary case
24 officer. And I think you just physically described what
25 you did.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, sir.

2 Q. Right?

3 One of the things, however, that is also your
4 duty, is that you wrote the report?

5 A. Yes, sir.

6 Q. And every witness that has testified, that has
7 been a police officer involved in this case, none of them
8 wrote a report?

9 A. Not to my knowledge, sir.

10 Q. Okay. They told you what they observed?

11 A. Yes.

12 Q. And then you wrote it down?

13 A. That's correct.

14 Q. And so as far as I'm concerned, and I've been
15 led to believe -- and I think it's the truth -- the only
16 written report in this case was written by you?

17 A. I believe there was also a report, a
18 supplemental report, written by the SWAT officers that
19 made contact --

20 Q. That's right.

21 A. -- inside the residence.

22 Q. You're right.

23 You understand what I'm given is given all
24 together?

25 A. Yes, sir.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. I think you're referring to the Heir's report?

2 A. Yes. There was one written by Staff Sargent
3 Heirs.

4 Q. Staff Sargent Heirs.

5 Let me ask you a little bit -- I'm going to
6 sort of go through this for a moment. You indicated that
7 the people that were arrested --

8 Akeem Saunders was arrested; correct?

9 A. That is correct.

10 Q. And Mr. Saunders pled guilty to those
11 offenses; is that right?

12 A. That's what I've been told, yes.

13 Q. Well, you're the case officer. I'm sure
14 you're aware of it.

15 A. Yes.

16 Q. Okay. Also, Elijah Clark was arrested and he
17 pled guilty to charges associated with his actions that
18 day?

19 A. That's correct.

20 Q. Okay. And Jonathan Kelly, who I think is also
21 known as Willie, referred to as Willie in your -- Willie
22 Kelly? One of those alias --

23 [Whereupon, the witness reviews documents]

24 Q. [Mr. Fleming] Well, excuse me. Willie --

25 A. Willie --

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. -- James Kelly.

2 A. Yes. Willie James. That's correct.

3 Q. Okay. But I think his technical name is
4 Jonathan Kelly?

5 A. That's correct.

6 Q. Mr. Kelly was charged in this case and pled
7 guilty to charges associated with involvement in this --

8 A. That's correct.

9 Q. -- small businesses, as the solicitor referred
10 to?

11 And then Jarret Jackson you said was found in
12 the place. And he pled guilty to the charges?

13 A. That's correct.

14 Q. Is that correct? Okay.

15 There were other people, however, found at the
16 scene; correct? There were four people found in the
17 automobile?

18 A. Yes, there were.

19 Q. Okay. And, in fact, two of those people were
20 charged with drug-related crimes; right? Tania Ballard --

21 A. Yes.

22 Q. -- and Lafayette Brown?

23 A. Correct.

24 Q. And Tania Ballard, you actually, because you
25 were the female on the scene -- and I think it's

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 appropriate and your policy, the sheriff office's
2 policies, a female searches a female when at all possible?

3 A. If it's possible, yes.

4 Q. And, in fact, it was possible at that time and
5 you were able to search her?

6 A. Absolutely.

7 Q. And I think you uncovered some marijuana on
8 her?

9 A. Yes. That's correct.

10 Q. And y'all were able to determine that she had
11 that marijuana from Lafayette Brown, another guy in the
12 car?

13 A. Yes.

14 Q. Who just moments before had come out of the
15 back door having purchased that marijuana?

16 A. That's correct.

17 Q. Okay. And both of those individuals pled
18 guilty to the possession of that marijuana?

19 A. That's correct.

20 Q. Okay. Other fellows, Preston Warren and
21 Timothy Morgan who were in the automobile, just had some
22 traffic-type offenses but not drug related; is that
23 correct?

24 A. Preston Warren was charged with an AVC
25 violation.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. That's alcohol; right?

2 A. Yes.

3 Q. Yeah.

4 A. And that was for an open container that was in
5 the vehicle.

6 Q. Uh-huh.

7 A. And I believe that was --

8 Q. The extent of the charges?

9 A. That was the extent, yes.

10 Q. Okay. And y'all were -- and Officer Heirs
11 actually indicated as they were approaching from the rear
12 -- you remember Captain Johnson's testimony concerning how
13 they approached from the rear?

14 A. Yes, I do.

15 Q. The special SAU, I think is the name of it.

16 A. Yes.

17 Q. They came in. And Heirs was a part of that
18 team; correct?

19 A. That is correct.

20 Q. Okay. And he actually reported that he saw
21 this individual walk from the back right as they -- before
22 they were getting ready to serve the search warrant? They
23 were sort of hidden back up in that tree line that they
24 showed? This thing right here. He saw this Lafayette
25 Brown guy, later identified, coming out of the back and

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 walking back to the front?

2 A. I don't believe I have that documented in my
3 report --

4 Q. Let me show it to you, if I can.

5 A. Please.

6 Q. Okay. Sargent Heirs. Page 1 of 1. I've
7 actually highlighted it.

8 A. I'm sorry. I'm looking at the wrong report.
9 Thank you.

10 Yes, that's correct.

11 Q. Okay. And so we sort of figure out what
12 happened there; right?

13 A. Yes.

14 Q. With that thing.

15 Now, when you are securing this evidence -- I
16 think the solicitor made it very clear, and even Andy
17 Faucett made it very clear, that you wanted to preserve
18 the evidence in the way that it was found?

19 A. That's correct.

20 Q. Because all evidence has some potential
21 evidentiary value?

22 A. Yes.

23 Q. Okay. And some of the things that you
24 recovered were not -- first of all, there are other things
25 that were recovered that aren't in this stash of stuff --

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes.

2 Q. -- right?

3 Okay. We may talk about that in just a
4 minute. But they were handled and treated the same way
5 that you handled and treated this evidence; correct?

6 A. Yes.

7 Q. Now, I want to ask you real quickly about this
8 statement. Let me read you a statement and see if you
9 agree with it. Okay? And I'm going to read it verbatim:
10 [reading] that people in general, drug traffickers
11 included, maintain evidence of residency, occupancy,
12 and/or ownership of premises and locations described in
13 the warrant to include telephone, utility bills, cancelled
14 checks, bank statements, keys, rental lease agreements,
15 tax returns, et cetera.

16 Would you agree with the -- with that
17 statement? be willing to swear to it under oath?

18 A. In general, yes.

19 Q. Okay. And, in fact, y'all looked for these
20 types of documents in this trailer?

21 A. Yes, we did.

22 Q. Okay. And you did not find one of those
23 documents related to Turuk Saunders, did you?

24 A. No, we did not.

25 Q. Okay. Now, the next thing I want to read to

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 you, since we have that out -- and see if you agree with
2 this: [reading] that drug traffickers take or cause to be
3 taken photographs of themselves, their associates, their
4 property, and their product, and these photographs are
5 usually in their possession.

6 Would you agree with that statement?
7 Something you would be willing to swear to under oath?

8 A. Yes.

9 Q. Okay. And, in fact, you found a picture, at
10 least one picture, in bedroom three?

11 A. We found a camera in bedroom three.

12 Q. Now, I want to go back over this real quickly.
13 You did find a picture in bedroom three that --

14 MR. FLEMING: I'm going to have to look
15 through real quick.

16 [Whereupon, Mr. Fleming reviews documents]

17 [Whereupon, Mr. Fleming and Ms. Tanner confer]

18 Q. [Mr. Fleming] Look at this picture. This is
19 State's 39. Look up at the top there. There's a square,
20 folded picture?

21 A. Yes. I see that.

22 Q. And that picture does not include Turuk
23 Saunders, does it?

24 A. I do not know. I don't recall the details of
25 that picture.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. You certainly have not identified Turuk
2 Saunders in that picture.

3 A. No, sir, I have not.

4 Q. Nowhere in your report has Turuk Saunders been
5 identified --

6 A. No, sir --

7 Q. -- in this picture.

8 And no agent has told you that that's Turuk
9 Saunders --

10 A. No, sir.

11 Q. -- in that picture; correct?

12 A. No, sir.

13 Q. Okay. That is bedroom three, sort of the
14 situs of a lot of this stuff?

15 A. Correct.

16 Q. Right?

17 According to that statement I just read to
18 you, that would lead one to believe that bedroom three was
19 related to the person in this picture.

20 A. That is possible, yes.

21 Q. Okay. About thirteen inches from that gun
22 that you found; correct?

23 A. [No response]

24 Q. Also included in State's Exhibit 39 is a
25 plethora of things, including that camera that you

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 mentioned?

2 A. Correct.

3 Q. Right?

4 And there are medicine bottles in that
5 picture. Can you see those for me?

6 [Whereupon, the witness reviews documents]

7 A. Yes, I can see them.

8 Q. [Mr. Fleming] All right. Those medicine
9 bottles -- we've all had prescriptions. Those medicine
10 bottles, prescribed by a doctor. And what does it have on
11 there?

12 A. I do not know.

13 Q. Well, when you get a prescription, doesn't it
14 always include your name?

15 A. That's correct

16 Q. Okay. Turuk Saunders' name is not on this
17 prescription pill [sic], is it?

18 A. I don't know.

19 Q. The prescription bottle?

20 A. I don't know.

21 Q. Okay. Nowhere in your report do you indicate
22 that Turuk Saunders is -- name is on this prescription?

23 A. No, sir.

24 Q. And no officer has told you --

25 A. No, sir.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. -- that they were on there?

2 All right. There are various documents and
3 other things in there, as well. Do you see next to the
4 Coca-Crispies thing here, there is the edge of a written
5 document?

6 A. Yes, sir.

7 Q. Okay. And that written document does not
8 belong to, nor does it have, Turuk Saunders' name on it,
9 does it?

10 A. I'm not aware if it does, no.

11 Q. Okay. And, again, nobody has told you that it
12 has?

13 A. No, sir.

14 Q. None of the officers involved in this?

15 A. No, sir.

16 Q. Right?

17 MR. FLEMING: And set this aside for just a
18 second. I apologize for getting it out of order, but
19 -- okay. Do this right here.

20 Q. [Mr. Fleming] The -- there is --

21 [Whereupon, Mr. Fleming and Ms. Tanner confer]

22 Q. [Mr. Fleming] Show you these in total. Show
23 you these in total. I'm not going to -- well, let me just
24 go through them, instead of you --

25 A. Okay.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. -- having to go through every one of them.

2 This document here is not identified. But you
3 would agree with me all the questions that the solicitor
4 asked you concerning the reasonable or accurate
5 representation of the scene, et cetera -- can you see that
6 document?

7 A. Yes.

8 Q. Okay. And that document -- I mean, excuse me.
9 In this picture there is a CarQuest document?

10 A. That is correct.

11 Q. Right?

12 CarQuest is a, I'm sure, a car-parts place?

13 A. Yes.

14 Q. Okay. And this -- nothing indicated on this
15 document linked Turuk Saunders to this document in any
16 way, did it?

17 A. I'm not aware that it did, no.

18 Q. Okay. And you haven't been told it has?

19 A. No.

20 Q. Presumably, one of the officers looked at it
21 and did not say -- would have told you if Turuk Saunders'
22 name was on it?

23 A. I would assume so, yes.

24 Q. Okay. There are various documents and
25 subscriptions listed in this picture. Look at this

1 picture here. You took that. Excuse me. You didn't take
2 it. But you're aware of the scene?

3 A. Yes.

4 Q. Sort of a trash bag almost --

5 A. Yes.

6 Q. -- in many ways; right?

7 A. Correct.

8 Q. A trash bag.

9 And in there there are actually three or four
10 magazines?

11 A. That's correct.

12 Q. Okay. And none of those subscriptions of
13 those magazines were for Turuk Saunders, was it?

14 A. Not that I'm aware of.

15 Q. Okay. And any of the documents contained in
16 these were not related to Turuk Saunders?

17 A. Not that I'm aware of.

18 Q. Okay. Who's the person who has the gloves on?

19 A. I couldn't tell you from that photograph.

20 Q. Do y'all routinely wear gloves in those
21 circumstances?

22 A. Yes, we did.

23 Q. Is that so as not to taint the evidence --

24 A. Yes. And --

25 Q. -- and also to protect yourself?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Correct.

2 Q. Okay. Dual purpose?

3 A. Yes.

4 Q. Okay. There is -- this picture is I believe
5 on top of the microwave; is that right?

6 A. Yes. That's correct.

7 Q. Okay. And on top of the microwave there was
8 that scale, the blue scale, that you have already
9 identified into evidence; correct?

10 A. That's correct.

11 Q. Okay. This is a different shot, I guess. And
12 there's a document right behind that; right?

13 A. That's correct.

14 Q. Okay. And that document right next to this
15 scale is not in any way related or identified as being
16 owned by or related to Turuk Saunders, is it?

17 A. Not that I'm aware of, no.

18 Q. All right. This picture is, in fact, what?

19 A. This would be parole documentation for a
20 Jarret Jackson.

21 Q. Jarret Jackson?

22 A. That's correct.

23 Q. One of the guys found in the house?

24 A. That's correct.

25 Q. Who ultimately pled guilty; correct?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, that's correct.

2 Q. Showing that he had been placed on probation?

3 A. That is correct.

4 Q. It's actually this is sort of -- it's signed
5 by who? Lisa Alsten?

6 A. Alsten. Yes, that's correct.

7 Q. That's her right over there?

8 A. [No response]

9 Q. Okay. Jarret Jackson's probation document,
10 this was found in what room?

11 A. I believe that was found in -- I'm sorry. Let
12 me check real quick.

13 [Whereupon, the witness reviews documents]

14 A. That was found in bedroom number one.

15 Q. [Mr. Fleming] Okay. And that's a kind of
16 document -- that statement I read to you about various
17 documents of ownership and occupancy, that's the kind of
18 document you're talking about, isn't it?

19 A. Generally, yes.

20 Q. Generally. Okay.

21 THE COURT: No time constraints at all, but
22 about how much longer do you think you're going to be?

23 MR. FLEMING: I might be some time. If you
24 would like to take a break --

25 THE COURT: That's what I'm thinking.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MR. FLEMING: Yes, sir. I think it's a good
2 time to take a break.

3 THE COURT: So we'll just give the jury the
4 test. If any one of them can tell us which exhibit
5 was 7, 14, and 41, we'll take a break. Oh, no, they
6 weren't paying attention.

7 All right. Jurors, don't talk about the case.

8 [Whereupon, the jury exits the courtroom at
9 2:42 p.m.]

10 THE BAILIFF: The jury is clear, Your Honor.

11 THE COURT: You can step down.

12 THE WITNESS: Okay.

13 [Whereupon, the witness exits the witness
14 stand]

15 MR. FLEMING: She's still on the stand and
16 obviously can't --

17 THE COURT: Yes. Can't talk.

18 MR. FLEMING: -- can't talk.

19 THE COURT: Well, you can talk, but not about
20 the case. You know the rules.

21 [Off the record momentarily]

22 THE COURT: Mr. Fleming, just out of idle
23 curiosity, those pictures that you're flipping up, are
24 they in evidence? They're not in evidence --

25 MR. FLEMING: They're not moved yet.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 THE COURT: I understand.

2 MR. FLEMING: I'm debating. I --

3 THE COURT: That's all right.

4 MR. FLEMING: I'll see. I was going to talk
5 to my co-counsel about that issue.

6 THE COURT: Okay.

7 [Whereupon, a recess is taken from 2:43 p.m.
8 to 2:57 p.m.]

9 THE COURT: The jury rapped on the door and
10 said they were ready to reconvene, so bring them in.

11 Ms. Tanner, how much more do you have time-
12 wise? I don't care about numbers.

13 MS. TANNER: Hour, hour and a half.

14 THE COURT: All right. That's fine. We'll
15 finish here today. That's all I was thinking. Think
16 of whether you want to go today or tomorrow.

17 MR. FLEMING: Your Honor, I have a SCE&G
18 witness. May I excuse that witness and call her back
19 tomorrow?

20 THE COURT: Sounds like it's reasonable.

21 [Whereupon, the jury enters the courtroom at
22 2:57 p.m.]

23 THE BAILIFF: The jury is all present.

24 THE COURT: You may proceed.

25 MR. FLEMING: Thank you, Your Honor.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

CONTINUED CROSS-EXAMINATION

BY MR. FLEMING:

Q. Ms. McIntosh, I was showing you some pictures. And the next picture I was going to show you is from this table. It's been identified as State's Exhibit 16. And you will see -- you identified that as a table where?

A. This will be in the kitchen.

Q. In the kitchen.

Okay. And on -- in this picture it shows various items: bread, a telephone, a McDonald's cup, some -- what are those -- cigars, a scale, another telephone, and a document on it. And this document is a patient visitor information form; right?

A. Correct.

Q. And you will agree with me that that is not Turuk Saunders' medical document?

A. As far as I know.

Q. Okay. The next picture I have is State's Exhibit 27, which shows the shotgun -- here you go -- that you have right there.

A. Yes, sir.

Q. And adjacent to that is a box?

A. That's correct.

Q. Do we have that box?

A. I don't believe so, no.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Okay. In that box are some documents, and
2 none -- do you see that?

3 A. Yes, sir.

4 Q. And none of those documents are related to
5 Turuk Saunders?

6 A. No, sir.

7 Q. Okay. Within inches of the shotgun.

8 The next picture that I have is there is a --
9 there it is. The picture of the coat. Let's see where
10 that is. I'm just going to show you this one. It's black
11 and white. But this is a picture of that Nascar coat. Do
12 you see?

13 A. Yes, sir.

14 Q. Okay. And in that picture there are two
15 things I would like for you to talk about. First, there
16 is a briefcase.

17 A. Yes, sir.

18 Q. And then there is a backpack.

19 A. That's correct.

20 Q. Do you have any -- either of those items?

21 A. No, sir.

22 Q. Okay. When your officers investigate that,
23 there were no documents in either the briefcase or the
24 backpack in any way related to Turuk Saunders, was there?

25 A. None that I know of, sir.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. When your -- now, there are photographs of at
2 least four phones that I see. Would you agree that's,
3 approximation, at least four?

4 A. I believe so.

5 Q. Okay. And I am certain that your agents
6 looked at those phones to determine the telephone numbers
7 and ownership of those phones?

8 A. I would assume so, yes.

9 Q. Okay. And not one of those phones is owned by
10 Turuk Saunders, is it?

11 A. None that I know of.

12 Q. And no numbers associated with those phones
13 are in any way related to Turuk Saunders?

14 A. I don't believe so.

15 Q. Now, the next thing that we talked about:
16 there are various pictures there. There's a lot of --
17 there's a picture of a closet where there's a lot of
18 clothes hanging up. And y'all did not identify any
19 clothing in the trailer belonging to Turuk Saunders?

20 A. No, we were not able to do that.

21 Q. Shoes?

22 A. No, sir.

23 Q. Okay. Didn't find any other bills, like a
24 phone bill or a cable bill or anything like that?

25 A. No, sir.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Okay. And after the search warrant was
2 served, they did a sweep of the -- it's not a parking lot,
3 but the adjacent area outside where people park?

4 A. Yes.

5 Q. Okay. And we know about the automobile with
6 the four people in it.

7 A. That's correct.

8 Q. Okay? There was also a white F-150 out there
9 belonging to Turuk Saunders, wasn't there?

10 A. There was a vehicle. I don't recall who it
11 belonged to.

12 Q. Nonetheless, when they searched that vehicle,
13 they found no evidence of drugs or drug paraphernalia in
14 that truck, did they?

15 A. None that I'm aware of, no.

16 Q. Found no items, whatsoever, illegal in any way
17 in that truck?

18 A. None that I'm aware of, no.

19 Q. Okay. Now, when Turuk was arrested right up
20 front next to that State's Exhibit 1, or whatever it was,
21 with the marijuana that you identified?

22 A. Yes, sir.

23 Q. Okay. You said it was wrapped in cellophane?

24 A. Yes. It was in a cellophane bag.

25 Q. Okay. And it ultimately came back to be

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 approximately five grams?

2 A. Yes, sir.

3 Q. Okay. And in -- when he was arrested, right
4 at that point -- I know this is silly, but he wasn't
5 wearing any gloves; right?

6 A. No, sir, he was not.

7 Q. And I asked you in that picture, the agents
8 wear gloves?

9 A. That's correct.

10 Q. And you had indicated that one of the reasons
11 -- not just safety, but one of the reasons is that you
12 don't contaminate evidence. For instance, you don't --
13 when you grab the gun, you don't leave a fingerprint?

14 A. Correct.

15 Q. Okay. And every single document -- excuse me
16 -- item that we have here -- and I'm going to just sort of
17 generally -- this item right here, the smiley face with
18 the marijuana in it: Turuk Saunders' fingerprints weren't
19 found on this, were they?

20 A. No, sir.

21 Q. The scanner that you have to hold in your hand
22 to use, Turuk Saunders' fingerprints weren't found on
23 that, were they?

24 A. No, sir.

25 Q. The scale in which you have to weigh the dope

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 in this business, Turuk Saunders' fingerprints weren't
2 found on that item, were they?

3 A. No, sir.

4 Q. The shotgun that you found next to those
5 documents not related to Turuk Saunders, his fingerprints
6 weren't on this weapon, were they?

7 A. No, sir.

8 Q. The pistol found next to the picture that
9 isn't Turuk Saunders, his fingerprints were not on that
10 weapon, were they?

11 A. No, sir.

12 Q. And the containers of marijuana found in this
13 exhibit, these plastic containers that presumably the
14 trafficker, or whatever they want to call it, grabbed,
15 Turuk Saunders' fingerprints are not on that, are they?

16 A. No, sir.

17 Q. Okay. The bags where all of this marijuana
18 was contained do not contain Turuk Saunders' fingerprints;
19 correct?

20 A. No, sir.

21 Q. And this box that when you open it up there's
22 a bunch of dadgum marijuana here, none of the -- somebody
23 opened it up, the drug dealer opened it up, but Turuk
24 Saunders' fingerprints aren't on this, are they?

25 A. No, sir.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Or the bag inside?

2 A. No, sir.

3 Q. The plastic baggies that the drug dealer pulls
4 out one at a time, this box Turuk Saunders' fingerprints
5 weren't on?

6 A. No, sir.

7 Q. And the razor blades presumably used to
8 package this stuff, Turuk Saunders' fingerprints weren't
9 on them?

10 A. No, sir.

11 Q. And this picture -- the Crown Royal bag, this
12 is where -- the Crown Royal bag in the bathroom, that's
13 where Captain Johnson said Akeem Saunders was?

14 A. That's correct.

15 Q. And Akeem Saunders had those wet hands,
16 presumably shoving stuff down the toilet?

17 A. Yes, sir.

18 Q. Okay. And none of these bags had Turuk
19 Saunders' fingerprints on them, did they?

20 A. No, sir.

21 Q. The shoes in there aren't Turuk Saunders'?

22 A. Not that we know.

23 Q. His fingerprints aren't anywhere in that
24 bathroom, that's for sure; right?

25 A. As far as I know.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. Okay. Now, I sent -- I faxed to you through
2 the sheriff's office, for your investigative file, a copy
3 of a residential lease. Have you seen it?

4 A. No, sir, I have not.

5 Q. Okay. You have not been shown this?

6 A. No, sir, I have not.

7 Q. Okay. Or I'll just double check and make sure
8 you haven't seen it.

9 [Whereupon, the witness reviews documents]

10 Q. [Mr. Fleming] You haven't seen this?

11 A. No, sir, I have not.

12 Q. Okay. Or the SCE&G letter?

13 A. No, sir, I have not.

14 Q. They haven't shown you that, either?

15 A. No, sir.

16 Q. Okay. We've already been over the
17 fingerprints. There are other items in the house,
18 including bottles, cans, dishes, Heineken beer cans, that
19 kind of stuff, right, and nowhere at all is Turuk
20 Saunders' DNA on any of those; is that correct?

21 A. No, sir.

22 [Whereupon, Mr. Fleming and Ms. Smith confer]

23 MR. FLEMING: Your Honor, I have no more
24 questions. Thank you.

25 THE COURT: Okay.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

REDIRECT EXAMINATION

BY MS. TANNER:

Q. Ms. McIntosh, let's be clear. Have any items from this crime scene been tested for anyone's DNA?

A. No, sir, they -- no, ma'am, they have not.

Q. So we don't know if Turuk Saunders' DNA is there or not because it's never been tested for?

A. That's correct.

Q. Likewise, have any of these items been tested for fingerprints?

A. No, ma'am, they have not.

Q. So we don't know if Turuk Saunders' fingerprints are on these items or not, because they haven't been tested?

A. That's correct.

Q. They very well could be, but we didn't test for them?

A. That's correct.

Q. Are fingerprint tests something that's common in drug investigations?

A. No, not in my experience.

Q. And why is that? Is it just a high number of people involved --

MR. FLEMING: Object to the leading nature of the question.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MS. TANNER: I'm sorry.

2 Q. [Ms. Tanner] Why would that be? Why wouldn't
3 you -- why wouldn't you test a bag of marijuana for
4 fingerprints?

5 A. In this particular incident there were a
6 number -- there were four defendants located inside the
7 house. At the time, we were not trying to determine who
8 lived at the house, who may have handled it. We knew that
9 there were four people inside, so likely there could have
10 been fingerprints from any one or all of those individuals
11 on those items.

12 Q. And you said about being in the house. Do you
13 know whether or not Turuk Saunders sleeps or just works in
14 that house?

15 A. I do not.

16 Q. Do you know if any of those other four people
17 sleep or just work in that house?

18 A. I do not.

19 Q. Would the answer to that question affect your
20 investigation of a drug trafficking case at all?

21 A. At that time, I did not.

22 Q. Mr. Fleming asked you about finding bills in
23 Turuk Saunders' name in this house. Did you find
24 electricity bills in this house with anyone else's name?

25 A. We did not.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. He asked you about the clothing. Do you know
2 who the clothing belongs to?

3 A. I do not.

4 Q. So you don't know if it doesn't belong to
5 Turuk Saunders?

6 A. That's correct.

7 Q. He asked you about cell phones. Do you know
8 who those cell phones belonged to?

9 A. We do not.

10 Q. You don't know if they don't belong to Turuk
11 Saunders?

12 A. Correct.

13 Q. He also asked you about the people out in the
14 car, about their various charges and their involvement.
15 What did your investigation reveal about their involvement
16 in this case? Why were they there?

17 A. According to Tenia Ballard, they had gone
18 there to purchase marijuana. One of the other individuals
19 --

20 [Whereupon, the witness reviews documents]

21 A. -- I believe Lafayette Brown was the one who
22 had actually purchased the marijuana from the location
23 and had later asked Ms. Ballard to conceal it when we
24 approached them.

25 Q. [Ms. Tanner] So these were customers?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. That was our indication, yes.

2 Q. And Mr. Fleming also specifically asked you
3 about the four other people in the house and what happened
4 to them.

5 A. That's correct.

6 Q. He asked you about Jonathan Kelly and he asked
7 you hasn't Jonathan Kelly pled guilty. Isn't it true that
8 he pled to possession?

9 A. Correct.

10 Q. That the trafficking charges were dismissed
11 against Jonathan Kelly?

12 A. That is my knowledge.

13 Q. He asked you about Jarret Jackson. He asked
14 you about his charges and the fact that he pled guilty.
15 Isn't it true that he pled to simple possession?

16 A. That is my knowledge, yes.

17 Q. And that the trafficking and the PWID,
18 possession with intent to distribute, charges were
19 dismissed against Jarret Jackson?

20 A. Yes, ma'am.

21 Q. He asked you about Elijah Clark.

22 A. Yes.

23 Q. Isn't it true that Elijah Clark's charges were
24 reduced to possession?

25 A. That's correct.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. He asked you about Akeem Saunders.

2 A. Yes, ma'am.

3 Q. This is the one caught assisting flushing --

4 A. Correct.

5 Q. -- some of the drugs.

6 Now, he did plead guilty to the distribution
7 charges; is that correct?

8 A. Yes, ma'am.

9 Q. Because he's caught trying to flush a portion
10 of these drugs?

11 A. Correct.

12 Q. And Mr. Turuk Saunders is charged with
13 trafficking crack?

14 A. Correct.

15 Q. Possession with intent to distribute cocaine?

16 A. Correct.

17 Q. Possession with intent to distribute
18 marijuana?

19 A. Correct.

20 Q. Possession with intent to distribute ecstasy?

21 A. Correct.

22 Q. And possession of a firearm during the
23 commission of a violent offense?

24 A. That's correct.

25 Q. And that's why we're here today?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, ma'am.

2 MS. TANNER: I have no further questions.

3 MR. FLEMING: I don't have any questions,

4 Judge. Thank you.

5 THE COURT: You can step down.

6 THE WITNESS: Thank you.

7 [Whereupon, the witness is excused and exits
8 the witness stand]

9 MS. TANNER: The State calls Jean Roberts.

10 THE COURT: Okay.

11 [Whereupon, Ms. Roberts comes forward]

12 THE CLERK OF COURT: Left hand on the Bible.
13 Raise your right hand.

14 [Whereupon, Ms. Roberts is duly sworn by the
15 clerk of court as follows: do you solemnly swear or
16 affirm that the testimony you give to the Court shall
17 be the truth, so help you God]

18 THE WITNESS: I do.

19 THE CLERK OF COURT: Please be seated and
20 state your full name.

21 [Whereupon, Ms. Roberts takes the witness
22 stand]

23 THE WITNESS: My name is Jean Roberts Linker.

24 MS. TANNER: Good afternoon, Ms. Roberts.

25 THE WITNESS: Good afternoon.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

JEAN ROBERTS-LINKER

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. TANNER:

Q. Where are you employed?

A. Beaufort County Sheriff's Office.

Q. And how long have you been working with the
sheriff's office?

A. Ten years now.

Q. Prior to the sheriff's office, what did you
do?

A. I was an active-duty marine.

Q. How many years were you in the marine corps?

A. Twenty-one and a half years.

Q. So this is a second career?

A. It is.

Q. Congratulations.

Now, at the sheriff's office, what are your
duties and responsibilities?

A. I am the evidence technician for the Hilton
Head office, satellite office.

Q. And evidence tech: what does that mean? What
do you do?

A. I receive the evidence that the officers

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 collect on the scene and I either store it in Hilton Head,
2 or for the general sessions cases I transport it over here
3 to the main evidence office in Beaufort.

4 Q. And in 2007, did you also have an additional
5 responsibility involving the analysis of certain evidence?

6 A. I did. I was analyzing marijuana.

7 Q. And what kind of special training or
8 background did you have to do that particular job?

9 A. Our chemist, Renita Berry, ran a class. I
10 attended a week class and she certified me. That allowed
11 me to analyze it.

12 Q. So you've had specialized training in the
13 analysis of marijuana?

14 A. Yes, ma'am.

15 Q. And that was active and in force in 2007?

16 A. Yes, it was.

17 MS. TANNER: Your Honor, for that purpose I
18 would like to declare this person an expert in the
19 analysis of marijuana.

20 MR. FLEMING: I don't have any objection to
21 her being qualified as an expert, limited to
22 marijuana.

23 THE COURT: All right. It just means she's
24 got training so she can identify controlled
25 substances. Of course, she might not be telling the

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 truth. I'm not suggesting she is. But she's entitled
2 to testify about it.

3 Go ahead.

4 MS. TANNER: Thank you.

5 Q. [Ms. Tanner] Ms. Roberts, you've been
6 informed that your presence is required in a sheriff's
7 office's case number 2007-0223-038?

8 A. Yes, ma'am.

9 Q. And did you perform analysis in that case?

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

11 Q. And that is the State of South Carolina versus
12 Turuk Saunders?

13 A. Yes, ma'am.

14 Q. At the conclusion of your analysis, did you
15 prepare a report --

16 A. I did.

17 Q. -- with your results? Your findings?

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

19 [Whereupon, Ms. Tanner proffers documents to
20 Mr. Fleming]

21 MS. TANNER: May I approach the witness, Your
22 Honor?

23 THE COURT: Okay.

24 Q. [Ms. Tanner] Show you State's Exhibit 57. Is
25 this your report?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, ma'am, it is.

2 Q. And it is prepared with the results of your
3 findings and the analysis of the evidence in this case?

4 A. The marijuana evidence, yes, ma'am.

5 Q. The marijuana evidence.

6 Okay. We will start -- it might take me a
7 minute to get the numbers matched up, because my numbers
8 are going to be different than your numbers. Your number
9 3 is my number 1 -- number 2.

10 All right. State's Exhibit Number 2 I believe
11 is your number 3. Can you identify this item?

12 A. Yes, ma'am. It was our number 3. I signed
13 for it on February the 26th, 2007.

14 Q. Thank you, ma'am.

15 And did you perform an analysis on this item?

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

17 Q. All right. This has already been entered into
18 evidence as marijuana collected from the front porch.

19 What were your findings upon your analysis of this item?

20 A. I did a microscopic test and a chemical test
21 and I found that marijuana was present.

22 Q. Did you perform any further testing?

23 A. At the same time, I weighed it and I found
24 that there was 5.02 grams in it.

25 Q. Thank you, ma'am.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MR. FLEMING: Solicitor?

2 MS. TANNER: Yes, sir?

3 MR. FLEMING: I would be willing to stipulate
4 to her tests on the remaining items listed in her
5 report so as to save us time going through step by
6 step on each one of them, Your Honor.

7 THE COURT: Okay.

8 MS. TANNER: I appreciate that. I just want
9 to be clear that I have indicated the amounts and
10 weights of each item. I think that will become
11 important to the jury, the amounts in this case.

12 Q. [Ms. Tanner] Your number 4 and my Number 33,
13 which has been entered into evidence, did you perform an
14 analysis on these items?

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

16 Q. And can you tell us the results and the
17 weights of those items?

18 A. The result was that I did find marijuana.
19 There were three bags in this bag. And I did not make a
20 total of them. One bag weighed 220.63 grams, one bag
21 weighed 22.67 grams, and one bag weighed 17.86 grams.

22 Q. And this has previously been identified as
23 bags found on the bed in the master bedroom. If my math
24 is correct, that's 261 grams point 16 of marijuana in
25 that -- those three bags.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. [No response]

2 Q. Then I have State's 34, which has also been
3 identified and entered into evidence. It's been
4 identified as also on the bed in the bedroom, master
5 bedroom. Can you tell me the results of that analysis?
6 Or did you perform an analysis on this item?

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

8 Q. Can you tell us the results?

9 A. I found that all four bags that were in this
10 bag were positive for marijuana. One bag weighed 32.76
11 grams, one bag weighed 25.55 grams, one bag was 55.53
12 grams, and one bag was 20.53 grams.

13 Q. And I believe the math on that is 134.37
14 grams. Does that sound right?

15 A. [Indicates affirmatively]

16 Q. I will show you State's Exhibit 36 that's been
17 entered, identified as also being on the bed in the master
18 bedroom. Did you perform an analysis on this item? Or
19 these items?

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

21 Q. What were your results?

22 A. They were positive. I found -- there were
23 twelve items in this bag: 0.77 gram, 1.60 gram, 0.19
24 gram, 2. -- excuse me -- 2.82 gram, 1.31 gram, 2.39 gram,
25 1.05 gram, 6.15 gram, 12.36 gram, 23.75 gram, 11.65 gram,

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 and 0.05 gram.

2 Q. Show you what's been marked as State's 21,
3 razor blades found with marijuana, suspected marijuana.
4 Did you perform an analysis on these items?

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

6 Q. And the results?

7 A. I found 0.10 grams of marijuana.

8 Q. State's 11, substance inside the yellow box.
9 Did you perform an analysis on that item?

10 A. Yes, ma'am.

11 Q. And your results?

12 A. 0.47 gram.

13 Q. State's 47: did you perform an analysis on
14 the contents of this item?

15 A. Yes, ma'am.

16 Q. And was that marijuana, as well?

17 A. Yes, ma'am.

18 Q. And how much?

19 A. 0.08 grams.

20 Q. Thank you.

21 State's 54: did you perform an analysis on
22 this item?

23 A. Yes, ma'am.

24 Q. And was this marijuana, as well?

25 A. It was.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And what would be the weight on this package?

2 A. 218.97 grams.

3 Q. One other item. I don't believe we moved

4 Number 11 in. I won't ask you about that one.

5 Total weight of the marijuana you analyzed in
6 this case: you did a sum total?

7 A. My total was 684.81 grams, but we were minus
8 the .55 that you didn't ask me about.

9 Q. Minus the .55.

10 And converted to ounces, how many would that
11 be?

12 A. The original on my report is 24.155 ounces.

13 Q. Minus the .55 that's unrelated?

14 A. Right.

15 MS. TANNER: Thank you, ma'am. I have no
16 further questions. Please answer anything defense
17 counsel has.

18 MR. FLEMING: As much as I would like to speak
19 with Ms. Roberts and catch up, I don't think I have
20 any questions for you. Thank you.

21 THE COURT: You may step down.

22 THE WITNESS: Thank you, sir.

23 [Whereupon, the witness is excused and exits
24 the witness stand]

25 THE COURT: I guess she's released; right?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 MS. TANNER: May this witness be excused?

2 THE COURT: Sure.

3 MS. TANNER: The State calls Renita Berry.

4 [Whereupon, Ms. Berry comes forward]

5 THE CLERK OF COURT: Left hand on the Bible.

6 Raise your right hand.

7 [Whereupon, Ms. Berry is duly sworn by the
8 clerk of court as follows: do you solemnly swear or
9 affirm that the testimony you give to the Court shall
10 be the truth, so help you God]

11 THE WITNESS: Yes, I do.

12 THE CLERK OF COURT: Please be seated and
13 state your full name.

14 THE WITNESS: Thank you.

15 [Whereupon, Ms. Berry takes the witness stand]

16 THE WITNESS: Renita L. Berry.

17 [Whereupon, Ms. Tanner and Mr. Fleming confer]

18 MS. TANNER: Good afternoon, Ms. Berry.

19 THE WITNESS: Good afternoon.

20

21

22

23

24

25

- - -

- - -

- - -

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

RENITA L. BERRY,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. TANNER:

Q. Where are you employed?

A. Beaufort County Sheriff's Office.

Q. And in what capacity do you work for the
sheriff's office?

A. I'm a forensic chemist.

Q. What is a forensic chemist?

A. A forensic chemist is simply a chemist that --
or a scientist that applies application of science to the
law.

Q. And what kind of training and background do
you have to get you there?

A. Okay. I have a degree in chemistry from the
University of South Carolina. I also have a masters in
management.

But I've also worked for South Carolina Law
Enforcement Division, commonly known as SLED. And I was
at SLED for about four years, and it was there that I
received the majority of my training as a forensic
chemist. Throughout the years I've attended various
trainings and seminars that keep you abreast on the

MIA PERRON, CCR, CVR-CM

-175-

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 different methods and procedures and different drugs that
2 are out there.

3 Q. And in your capacity as a forensic chemist,
4 have you ever testified in court?

5 A. Yes, I have.

6 Q. And have you been declared an expert in
7 forensic chemistry?

8 A. Yes, I have.

9 MS. TANNER: Your Honor, at this time the
10 State moves Ms. Berry as an expert in forensic
11 chemistry.

12 MR. FLEMING: I would stipulate that she is an
13 expert in forensic chemistry.

14 THE COURT: Okay.

15 MS. TANNER: Thank you.

16 Q. [Ms. Tanner] Ms. Berry, did you perform
17 analysis on pieces of evidence collected in the State of
18 South Carolina versus Turuk Saunders?

19 A. Yes, I did.

20 Q. And the conclusion of your analysis, did you
21 produce reports with your findings?

22 A. Yes, I did.

23 Q. First, I'll show you State's Exhibit 55.

24 MS. TANNER: May I approach?

25 THE COURT: [Indicates affirmatively]

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 [Whereupon, Ms. Tanner proffers documents to
2 the witness]

3 THE WITNESS: Thank you, ma'am.

4 MS. TANNER: You're welcome.

5 Q. [Ms. Tanner] Is this your report?

6 A. Yes, it is.

7 Q. Starting with what's been entered as State's
8 Exhibit 51, you performed an analysis on this item.

9 A. Yes, I did.

10 Q. This has been identified as a rock substance
11 found on the floor of bedroom -- master bedroom. Can you
12 tell me the results of your analysis?

13 A. Cocaine base found, 0.25 grams.

14 Q. What is cocaine base? What is the difference
15 in that and just what you would hear as cocaine?

16 A. The biggest difference between cocaine usually
17 is that cocaine hydrochloride, or the powder form, and
18 cocaine base is that one is -- with the cocaine base,
19 people usually refer to it as cocaine crack or crack
20 cocaine. You're able to smoke cocaine crack, whereas you
21 can't cocaine hydrochloride.

22 Q. So what comes first, the powder cocaine or the
23 cocaine crack?

24 A. The cocaine -- the powder.

25 Q. And what causes it to become cocaine crack?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. There's a procedure that it goes through where
2 you're adding -- you're adding -- baking soda is one of
3 the things that they add to change that cocaine powder or
4 cocaine salt to cocaine base, cocaine crack.

5 Q. So there's actually a process or cooking to
6 get the new substance?

7 A. Yes, there is.

8 Q. Are the tests that you perform able to
9 determine the difference between crack and regular powder
10 cocaine?

11 A. Yes. Through a series of tests we can
12 determine the difference.

13 Q. Without getting over our head, too technical,
14 what kind of tests and how do you perform your analysis?

15 A. Okay. There are a series of presumptive tests
16 that we use, mainly color tests, where you're adding
17 various chemicals to the substance and you wait for what
18 we call a color change.

19 With cocaine hydrochloride or the powder
20 cocaine, cocaine base, there is a difference in when you
21 actually see that color change that helps you to determine
22 whether or not it's cocaine -- regular cocaine powder or
23 cocaine base.

24 We also use what we call the gas
25 chromatography mass spectrometer as a confirmatory test.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 And what the mass spec is going to do is confirm whether
2 or not it is cocaine. It won't distinguish between the
3 two for me, but it will tell me that it is cocaine.

4 There's another instrument that we use, it's a
5 FTIR, and it's another confirmatory test. Now, with the
6 FTIR, once I run my analysis on it, it will determine
7 whether or not it's cocaine base or whether or not it's
8 cocaine hydrochloride or cocaine powder.

9 So along with the presumptive tests that were
10 used, and then with the confirmatory test used in the
11 FTIR, you're able to determine whether or not it's cocaine
12 hydrochloride or cocaine base or crack cocaine.

13 Q. Show you what's been entered as State's
14 Exhibit 13, taken out of the living room. Did you perform
15 an analysis on this item?

16 A. Yes, I did.

17 Q. And what were your results?

18 A. Cocaine base or cocaine crack, 0.02 grams.

19 Q. Okay. Show you State's Exhibits 43 and 44.
20 Have you performed an analysis on those items? This has
21 been identified as a baggie of suspected cocaine from the
22 dresser in the master bedroom.

23 A. Yes, I did. And cocaine found, 5.26 grams.

24 Q. Now, you said cocaine this time. Is that the
25 powder cocaine?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, it is the powder cocaine.

2 Q. And how much did that turn out to be?

3 A. 5.26 grams.

4 Q. Ms. Berry, I'll also show you what's been
5 marked as State's Exhibit 59. Is that your report?

6 A. Yes, it is.

7 Q. Show you what's been marked as State's Exhibit
8 Number 7, or entered as State's Exhibit 7, found in the
9 bathroom. Did you perform an analysis on this item?

10 A. Yes, I did.

11 Q. What were your results?

12 A. Cocaine base found, 19.16 grams.

13 Q. So that's over 19 grams of crack cocaine?

14 A. Yes, it is.

15 Q. Show you what's been entered as State's
16 Exhibit Number 8, pills found along with the crack. Did
17 you perform an analysis on that item?

18 A. Yes, I did.

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

20 A. There were a variety of tablets in this bag,
21 several different items. The first was nineteen green,
22 round tablets. And do you want me to read the results or

23 --

24 Q. Yes, ma'am.

25 A. Methamphetamine and

1 methylenedioxymethamphetamine, or commonly referred to as
2 MDMA, and ketamine was found for the green tablets. Then
3 there were darker green tablets, three of those, and after
4 analysis it was determined that those tablets were
5 methamphetamine and methylenedioxymethamphetamine, again,
6 MDMA. For the next item, item -- on my report, item 5,
7 was one orange tablet and that was
8 methylenedioxymethamphetamine, MDMA. I'm just going to
9 start saying MDMA so I don't get tired-tongue.

10 Number 6, or my number 6, 1 bluish-green
11 tablet, and that was methamphetamine and MDMA. One pink
12 tablet, and that was methamphetamine and MDMA. And that
13 was for this one.

14 Q. How many pills, total, were in that bag?

15 A. Twenty-five.

16 Q. And these are all MDMA?

17 A. Yes.

18 Q. Is there another -- is there a street name for
19 MDMA?

20 A. Usually referred to as ecstasy.

21 Q. They're all the same substance, basically.
22 Why are they different colors? Does that not affect the
23 make-up?

24 A. It depends on the cook, I guess you may say,
25 and what he or she is making when they are making the

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 tablets. They all have different designs on them, so if
2 they have different designs or different colors then I
3 have to treat them as separate items.

4 And so based on what was in that combined
5 group of pills, I was able to separate them out based on
6 the different colors and designs.

7 All had MDMA in the tablets but some -- the
8 first one I read also had methamphetamine and ketamine,
9 whereas the other ones only had methamphetamine and MDMA.

10 Q. Does that affect I guess the effect, on a
11 person when they take it? Is there a difference in the
12 pills?

13 A. There is a difference in the pills. And there
14 are a lot of studies that have been done. And we know
15 that if -- there's a different make up of the tablets
16 because depending on the cook and what they're actually
17 adding. They may be adding, for one, ketamine, or a lot
18 of caffeine. Or something else that's added is LSD at
19 certain times. And so you have that tablet. It just
20 depends on how it was made and who made it will determine
21 what's in it. And so you just have to analyze each one,
22 not assuming that you know what's there. You analyze each
23 one and determine what's there. And it does affect the
24 body in different ways.

25 Q. And this MDMA, street name ecstasy, is this an

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 illegal substance?

2 A. Yes, it is.

3 Q. Give you State's 37 and 38, starting with 37.

4 Did you perform an analysis on items in 37?

5 A. Yes, I did.

6 Q. And how many items were in item 37?

7 A. There were six different items.

8 Q. Can you tell me the results?

9 A. Okay. For the first item, from my paperwork,
10 is item 9: and twenty-one green tablets, methamphetamine
11 and MDMA along with ketamine found.

12 For the next, it was three light purple
13 tablets and mekaline -- methamphetamine and MDMA.

14 And there was one with two brown-pink tablets,
15 and that was methamphetamine along with MDMA.

16 And there was one pill, yellow tablet, and
17 that was methamphetamine along with MDMA.

18 Then two green round tablets: and
19 methamphetamine along with MDMA.

20 Q. Now, you said six items. How many pills were
21 actually in State's Exhibit 37?

22 A. Twenty-nine, total.

23 Q. And I've also handed you State's Exhibit 38.
24 Did you perform an analysis on this item?

25 A. Yes, I did.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 Q. And what were your results?

2 A. Okay. Methamphetamine and MDMA found. And
3 that was one yellow tablet.

4 MS. TANNER: Thank you, Ms. Berry. I have no
5 further questions.

6 THE WITNESS: Thank you.

7 MS. TANNER: Answer anything the defense has.

8 THE WITNESS: Thank you.

9 MR. FLEMING: Hello, Ms. Berry.

10 THE WITNESS: Hello.

11 MR. FLEMING: How are you doing?

12 THE WITNESS: I'm doing well, thank you.

13 MR. FLEMING: Just briefly.

14 CROSS-EXAMINATION

15 BY MR. FLEMING:

16 Q. When you perform an analysis on these items,
17 you don't take a position as to who distributed,
18 controlled, or even possessed these substances, do you?

19 A. No, I don't.

20 Q. You simply tell what they are?

21 A. Exactly.

22 Q. Now, I noticed, and I was listening, about
23 your training. And you got some fairly extensive training
24 in science with regards to your field and part of that
25 training as a scientist was at SLED; is that right?

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 A. Yes, it was.

2 Q. And I want to take you back to your SLED days.
3 Well, let me start right now. Doesn't -- didn't I just
4 read in the newspaper that y'all have a new lab at
5 Beaufort County Sheriff's Office?

6 A. Yes, we do.

7 Q. A crime lab?

8 A. Yes.

9 Q. Okay. Are you affiliated with that?

10 A. Yes, I am.

11 Q. Okay. And that's different than the lab that
12 you had in 2007; right?

13 A. Different?

14 Q. Well, in 2007 you had a drug-analysis lab?

15 A. Yes.

16 Q. You -- the thing I'm talking about now is the
17 new lab, the crime -- a different crime lab where they can
18 do additional types of testing?

19 A. Well, currently, with the new lab we'll be
20 able to continue with the drug analysis testing, perform
21 DNA testing on samples, and fire debris or arson samples.
22 And that's what we'll be able to do in the future. Or
23 what we're in the process of doing.

24 Q. Okay. And that's a really good thing for us
25 here at Beaufort County. Before then, that kind of work

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 had to be done through the SLED crime lab; is that right?

2 A. Yes.

3 Q. Okay. And when you were at SLED, and in --
4 currently it's divided up into divisions; is that right?

5 A. Different sections, yes.

6 Q. Okay. And your division was called what?

7 A. Drug identification.

8 Q. Okay. And there are other divisions. So when
9 you walk in, it's almost like a department store. There's
10 men's clothes and there's women's clothes and there's
11 shoes and there's -- when you walked into SLED, it would
12 be drug identification, there would be like a firearms
13 area; right? Or it's actually floors?

14 A. Yes.

15 Q. Right?

16 And there's a floor for DNA?

17 A. Yes.

18 Q. And trace evidence like hair fibers and things
19 like that?

20 A. Yes.

21 Q. Okay. And there's a fingerprint department?

22 A. Latent prints. Yes.

23 Q. Latent prints. And there's a -- what other
24 things?

25 A. Putting me on the spot. Toxicology. They had

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 a toxicology department, arson department, trace. And a
2 lot of those different disciplines fall within a
3 particular department. For instance, the arson also falls
4 under trace. And that just depends on what lab you're
5 going to, how they have their departments arranged. But
6 DNA laboratory, of course, it's always a part because
7 that's more in the line of biology type work. So that
8 stays separate from the areas that fall into chemistry
9 that you may be able to divide up into like toxicology,
10 drug chemistry and trace analysis. They all fall under
11 chemistry. So it depends on the actual agency and how
12 they have their departments laid out.

13 Q. And each one of those departments are staffed
14 with scientists just like you, aren't they?

15 A. They're staffed with trained scientists, yes.

16 Q. And they're able to perform their work just
17 like you perform yours?

18 A. Yes.

19 Q. And they're available to law enforcement
20 throughout the state when --

21 A. Yes, they are.

22 Q. -- when they are asked to assist?

23 A. Yes.

24 Q. And so, for instance, if I wanted to find out
25 if there was a fingerprint on this box, I could sent it to

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 SLED?

2 A. Yes, .

3 Q. And they could run the test?

4 A. Yes.

5 MR. FLEMING: I don't have anymore questions.

6 Thank you, Ms. Berry.

7 MS. TANNER: No further questions. May this
8 witness be released?

9 THE COURT: You may be released.

10 THE WITNESS: Thank you, Your Honor.

11 [Whereupon, the witness is excused and exits
12 the witness stand]

13 MS. TANNER: May we approach?

14 THE COURT: All right.

15 [Whereupon, an off-the-record bench conference
16 is held]

17 THE COURT: Okay. Jurors, we're just going to
18 break for the night. Don't talk about it. Can't
19 finish anyway. So have a good night.

20 Be back in the morning, you know, a reasonable
21 hour, 9:30. We'll crank it up. We're not going to do
22 any other things in the morning, other than I do have
23 some hearing at 9:00 but it shouldn't take --

24 Incidentally, court reporter, 9:00 in the
25 morning.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 -- but it shouldn't take but fifteen minutes.
2 So have a good night.

3 [Whereupon, the jury exits the courtroom at
4 3:49 p.m.]

5 THE BAILIFF: The jury is clear, Your Honor.

6 THE COURT: All right. Mr. Saunders --

7 MR. SAUNDERS: Yes, sir.

8 THE COURT: -- the State may have another
9 witness, they may not, but when they conclude their
10 case -- and the only reason I'm mentioning it to you
11 now is because we've got a few minutes. And I know
12 Mr. Fleming has been over this with you. But you have
13 the right to present a defense or not, you know, and
14 you have the right personally to testify or not. As
15 Mr. Fleming I'm sure has told you, there are good
16 reasons to testify, good reasons not to testify. But
17 that's your decision. For instance, if you've got a
18 prior record, a criminal record, they can maybe bring
19 it out. If they do, I tell the jury that they
20 couldn't consider that on whether you were guilty or
21 not, you know, but it's whether they felt that it
22 somehow impacted your credibility and so forth.

23 Bottom line, you don't have to make that
24 decision as we speak. But it's something to be
25 thinking about because it's a serious decision.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 And I don't know. Mr. Fleming, should we go
2 over what his prior record is, if any, just so he can
3 think about whether it's going to come in or not?

4 MR. FLEMING: Yes, Your Honor.

5 And I would -- I would like to go ahead,
6 since we've got the time, and address the issue of
7 whether or not pursuant to the rules if you make a
8 finding that, in fact, the probative value of those
9 prior convictions do not outweigh the prejudice,
10 especially because the prior convictions are almost
11 identical to the things he's being tried for.

12 THE COURT: All right. What's his prior
13 record? Because I don't know.

14 MR. FLEMING: I've got it right here, Your
15 Honor. And I am not sure what the -- may I just hold
16 up what's been presented to me? Or give it to you? I
17 think I've highlighted it.

18 [Whereupon, Mr. Fleming proffers documents to
19 the Court]

20 MR. FLEMING: Attached with that also are
21 certified -- or I assume copies of certified documents
22 of the prior convictions.

23 MS. TANNER: Only certified copies of the drug
24 convictions.

25 MR. FLEMING: That's correct.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

1 THE COURT: And if he doesn't testify, of
2 course I tell the jury they can't consider his failure
3 to testify, on whether the State has met its burden of
4 proof and so forth. So that's just something to think
5 about.

6 Anything else I can help y'all with?

7 MS. TANNER: Nothing from the State.

8 THE COURT: All right. Well, since y'all have
9 time, you need to bring in the possible verdict form,
10 somebody does, and any charges you want me to do. If
11 you want me to charge inferences on weight, you need
12 to have the amounts that you --

13 MS. TANNER: Yes, sir.

14 THE COURT: -- and so forth.

15 All right. See y'all shortly. 9:30 in the
16 morning.

17 MS. TANNER: Thank you, sir.

18 [JURY TRIAL ADJOURNS AT 3:55 P.M.]
19
20
21
22
23
24
25

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 25, 2010

C E R T I F I C A T E

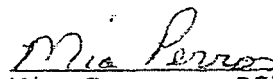
STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable J. Ernest Kinard, Jr., on Tuesday, May 25th, 2010.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 30th day of December, 2010.


Mia Perron, CCR, CVR-CM
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CCR, CVR-CM

-194-

COPY

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) FOURTEENTH JUDICIAL CIRCUIT
 COUNTY OF BEAUFORT) INDICTMENT NO.: 2007-GS-07-0505
 2007-GS-07-0506
 2007-GS-07-0507
 2007-GS-07-0508
 2007-GS-07-0509

STATE OF SOUTH CAROLINA)
)
 VS.)
)
 TURUK SAUNDERS,)
)
 DEFENDANT.)
 _____)

JURY TRIAL

VOLUME 3 OF 3

held before the Honorable J. Ernest Kinard, Jr.
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Beaufort County Courthouse
 Beaufort, South Carolina
 on Wednesday, May 26, 2010, Commencing at 9:31 a.m.

SUSAN "MIA" PERRON, CCR, CVR-CM
 Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 31865
 Charleston, South Carolina 29417-1865
 1-706-231-6028

COPY

INDEX TO EXHIBITS

[Exhibits pre-marked by counsel unless otherwise indicated
in transcript]

	PAGE
State's Exhibit Number 57 [Report - J. Roberts]	92
State's Exhibit Number 58 [Report - R. Berry]	92
State's Exhibit Number 59 [Report - R. Berry]	92

COURT'S EXHIBITS

Court's Exhibit Number 1 [Note from Jury]	95
Court's Exhibit Number 2 [Note from Jury]	111
Court's Exhibit Number 3 [Note from Jury]	111

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

PROCEEDINGS

THE COURT: Okay. What's the State's position?

MS. TANNER: The State is ready, Your Honor.

I believe we have one matter for outside the presence of the jury.

My next witness, he does have a prior criminal history and I think defense counsel and I will have arguments about whether or not that should be -- he should be allowed to cross-examine him about that. He's got a 1996 conviction for a burglary charge. It is more than ten years old.

I think our disagreement will be that while he got out on the YOA sentence in '97, he had some magistrate's court offense or some reason that he was revoked and did not complete that sentence until 2002, he said.

THE COURT: Well, that comes in --

MS. TANNER: Okay.

THE COURT: -- under the cases.

MS. TANNER: And other than that, I don't think there's anything else on his rap sheet that qualifies.

MR. FLEMING: I believe that's correct, Your Honor. I'll look at it again, but I believe that's

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 correct.

2 My major concern -- and I would move to
3 exclude the sum total of his testimony on the --
4 excuse me one second, Your Honor, and let me get --

5 404(b), the -- I am told that the witness --
6 and it appears that the witness is prepared to testify
7 that sometime prior to the service of this search
8 warrant, which is obviously the focus of this case,
9 Mr. Reeves will allege that Mr. Saunders ostensibly
10 was selling dope to another fellow.

11 That is a prior bad act. It is not
12 encompassed within the charges that he is charged with
13 and, as such, under 404(b) we would move to suppress
14 the entire testimony.

15 MS. TANNER: Your Honor, this absolutely goes
16 to identity. Their defense has been, I was just there
17 to buy marijuana from my dirty brother. This goes to
18 the identity of the defendant as the one who is there
19 trafficking, which is what he is charged with. It is
20 the day --

21 THE COURT: Tell me more.

22 MS. TANNER: As to --

23 THE COURT: I don't have enough information.

24 MS. TANNER: On his testimony?

25 THE COURT: When is he going to testify that

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 this gentleman, Mr. Saunders, was dealing in dope?

2 MS. TANNER: The day that the search warrant
3 was executed. It was executed early-morning hours --

4 THE COURT: All right. Well, if it's that
5 day, it can come in; if it's not that day, it can't
6 come in.

7 MS. TANNER: It's that day. It's February the
8 22nd, which is while they're doing surveillance on the
9 house while they're getting the search warrant. The
10 search warrant is executed the early-morning hours of
11 the 23rd. But it's within twelve hours.

12 THE COURT: If it's within twelve hours, that's
13 part of the deal.

14 MS. TANNER: Yes, sir. Thank you, Your Honor.

15 MR. FLEMING: And then one last point. And I
16 don't know what the solicitor's decision on this is,
17 and I bring it up as a matter of caution.

18 There is an allegation that several years, or
19 some time in that range -- there is an allegation that
20 my client in some way insinuated a threat to this
21 witness about him testifying. And even if true, I
22 would still -- I would still argue that that is not
23 admissible in this trial. It certainly may come up at
24 some point in some other relevant nature.

25 THE COURT: You can't bring that up. But I

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 don't know how the trial progresses.

2 MS. TANNER: Yes, sir.

3 MR. FLEMING: And then, Your Honor, I have one
4 additional witness that I was -- as a result of what I
5 was told that this witness was going to testify to,
6 which was in my opinion very different than what he
7 said in his statement to the police a long time ago.
8 I just talked to a witness literally twelve minutes
9 ago who can ostensibly rebut what this individual is
10 saying. I didn't prepare for that particular witness,
11 because this person is saying something completely
12 differently than that. The person's name is --

13 THE COURT: What is he going to say?

14 MR. FLEMING: He is going to say that my
15 client, in fact -- William Reeves, her witness, is
16 going to testify that he and a guy named Andre went to
17 the trailer. Andre will testify that Turuk was not
18 there, which is in direct contravention of what --

19 THE COURT: All right. He can testify to that
20 if that's all he can testify to.

21 MR. FLEMING: But he has not been put on the
22 witness list and therefore he has not been -- his name
23 has not been vetted with the jury. And that's why I
24 bring it up.

25 THE COURT: If any jurors have contact with

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 him, we can't put him up.

2 MR. FLEMING: I understand that.

3 THE COURT: That's all. All right.

4 MS. TANNER: If the only reason is to impeach
5 this -- he can impeach my witness while he's on the
6 stand.

7 THE COURT: Yeah. But he has other -- an
8 independent person that will do it. But we didn't
9 know your witness was going to show.

10 It's all justified. It can come in.

11 MS. TANNER: Okay.

12 THE COURT: Just for that, though.

13 MS. TANNER: I'm having Mr. Fleming's witness'
14 rap sheet run. As soon as we get that brought over
15 there may be issues about that, as well.

16 THE COURT: Well, we have to take a break
17 after that witness, anyway, so --

18 MS. TANNER: Yes, sir.

19 THE COURT: All right. Bring them in.

20 MS. TANNER: Your Honor, if I can get my jury
21 in the courtroom -- I'm sorry -- my witness before the
22 jury comes in?

23 THE COURT: Sure.

24 [Off the record momentarily]

25 THE BAILIFF: Jurors ready to enter.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 [Whereupon, the jury enters the courtroom at
2 9:38 a.m.]

3 THE BAILIFF: The jury is present.

4 THE COURT: All right, jurors. I appreciate
5 y'all getting back on time. And I've been here since
6 8:15, really haven't stopped, so I'll apologize to
7 start with, y'all. Ten minutes late. The most
8 important case that we have. But I've got all of them
9 here to deal with for another month.

10 Okay. You may proceed.

11 MS. TANNER: Thank you, Your Honor. The State
12 calls William Reeves to the stand.

13 THE COURT: All right. Mr. Reeves, come
14 around.

15 [Whereupon, Mr. Reeves comes forward]

16 THE CLERK OF COURT: Please your left hand
17 there, and raise your right hand for me.

18 [Whereupon, Mr. Reeves is duly sworn by the
19 clerk of court as follows: do you solemnly swear or
20 affirm the testimony you give to the Court shall be
21 the truth, the whole truth, and nothing but the truth,
22 so help you God]

23 THE WITNESS: Yes, sir.

24 THE CLERK OF COURT: Would you also spell your
25 last name for the record, please.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE WITNESS: Spell it?

2 THE CLERK OF COURT: Please.

3 THE WITNESS: R-E-E-V-E-S.

4 THE CLERK OF COURT: Thank you, sir. You can
5 have a seat.

6 THE COURT: All right. Spell it again until
7 you get it right.

8 [Whereupon, Mr. Reeves takes the witness
9 stand]

10 MS. TANNER: Good morning, Mr. Reeves.

11 THE WITNESS: Good morning, ma'am.

12 - - - - -

13 WILLIAM REEVES,

14 Having Been First Duly Sworn,

15 was Examined and Testified as Follows:

16 DIRECT EXAMINATION

17 BY MS. TANNER:

18 Q. Mr. Reeves, are you from the Beaufort County
19 area?

20 A. Yes, ma'am.

21 Q. Did you grow up here?

22 A. Yes, ma'am.

23 Q. And what area of Beaufort County did you grow
24 up in?

25 A. Lady's Island. Lady's Island, and downtown

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Beaufort.

2 Q. And your family is from here?

3 A. Yes, ma'am.

4 Q. Your parents?

5 A. Yes, ma'am. My father was a detective for
6 Beaufort city.

7 Q. And are you employed?

8 A. Yes, ma'am.

9 Q. What type of work do you do?

10 A. Transportation.

11 Q. And are you married?

12 A. Yes, ma'am.

13 Q. How long have you been married?

14 A. Four years.

15 Q. Do you have any children?

16 A. Not with my wife. I've got eight all
17 together.

18 Q. And I know you're employed, married, a family
19 man right now.

20 A. Yes, ma'am.

21 Q. In your past, as a youngster did you get into
22 a little trouble?

23 A. Yes, ma'am.

24 Q. What kind of trouble?

25 A. Well, eighteen, I did a burglary -- well, two

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 burglaries and I ended up going to prison for it.

2 Q. So you served your time for that?

3 A. Yes, ma'am.

4 Q. What year was that?

5 A. '96.

6 Q. And other than that, did you have any trouble
7 with the law?

8 A. Criminal, no, ma'am. I had some issues with
9 family court.

10 Q. Family court?

11 A. Yes, ma'am.

12 Q. Child support problems?

13 A. Yes, ma'am.

14 Q. With eight kids?

15 A. Yes, ma'am.

16 Q. Taking care of that now?

17 A. Yes, ma'am. Trying my best.

18 Q. I'm going to ask you, Mr. Reeves --

19 THE COURT: Jurors, this is how it operates.

20 Any time a witness takes the stand, with a few
21 exceptions they can bring out that the person has a
22 prior criminal record. That does not necessarily mean
23 -- other than it's just evidence in the case. It's
24 for you to consider if, because of that record, the
25 person's credibility is impacted. That's just

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 something you take into consideration, along with
2 their appearance.

3 Happens to every witness that testifies.

4 Okay? They will be able to bring it out if the person
5 has a prior criminal record.

6 MS. TANNER: Thank you, Judge.

7 Q. [Ms. Tanner] Mr. Reeves, I'm going to ask you
8 about a specific day, February the 22nd, 2007. Did you
9 have an occasion to go to 11 Bay Pines Road over in
10 Beaufort?

11 A. Yes, sir [sic].

12 Q. Can you tell me and the jury: what was your
13 purpose for going to that residence?

14 A. I was -- my brother-in-law -- actually, my
15 sister and my brother-in-law and my girlfriend at the
16 time, we decided to go there, wanted to -- my brother-in-
17 law wanted to buy cocaine and he wanted us to ride with
18 him.

19 Q. And who was driving?

20 A. My brother-in-law.

21 Q. About what time of day was this? Do you
22 recall?

23 A. Between 7:00 and 8:00, somewhere around there.
24 It was in the --

25 Q. P.M.?

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 A. -- evening. Yes, ma'am.

2 Q. And who were you going to see at 11 Bay Pines
3 Road to buy cocaine?

4 A. My brother-in-law was going to see Big-T.

5 MR. FLEMING: Objection. What his brother-in-
6 law was going to do is hearsay.

7 THE COURT: Well, that could be, but he's in
8 the car with him. It's not necessarily true what he
9 says.

10 Go ahead.

11 Q. [Ms. Tanner] Did you know why you were going
12 to --

13 A. Yes, ma'am.

14 Q. -- Bay Pines 11 [sic]?

15 A. Yes, ma'am.

16 Q. Why were you going there?

17 A. To purchase cocaine.

18 Q. From whom?

19 A. From Big-T.

20 Q. And who is Big-T?

21 A. I guess your defendant.

22 Q. Do you know his real name?

23 A. Turuk. I never knew his last name until
24 recently.

25 Q. His first name is what?

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 A. Turuk.

2 Q. Turuk.

3 Do you see Big-T in the courtroom?

4 A. Yes, ma'am.

5 Q. Can you point at him, please.

6 A. Right there.

7 Q. What's he wearing?

8 A. Black suit jacket, white shirt, tie.

9 MS. TANNER: Please have the record reflect
10 he's indicated the defendant.

11 Q. [Ms. Tanner] All right. So do you guys --
12 you guys actually wind up at 11 Bay Pines Road?

13 A. Yes, ma'am.

14 Q. And do you follow through with what you went
15 there for?

16 A. Yes, ma'am.

17 Q. All right. Describe for the jury what you
18 did.

19 A. Okay, ma'am.

20 My sister, my girlfriend, stayed in the car.
21 My brother-in-law wanted me to go inside the trailer with
22 him. We went inside the trailer. When we went inside
23 through a back door, I stayed in the kitchen area. My
24 brother-in-law and T walked towards the back. About
25 fifteen minutes or so, they came back out. And we made a

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 little reference about a scanner that was sitting in their
2 kitchen, and then we left.

3 Q. All right. And when you left, did you have
4 anything?

5 A. Yes, ma'am.

6 Q. What did you have?

7 A. A quarter of cocaine.

8 Q. Now, did your brother-in-law -- you said your
9 brother-in-law went to the back of the trailer with who?

10 A. With Turuk.

11 Q. Turuk?

12 A. That's right.

13 Q. Big-T?

14 A. Big-T. Sorry.

15 Q. Anybody else go with them?

16 A. Not to my knowledge, no, ma'am. I do not
17 remember anybody else going back there, because they were
18 in the front playing video games and then he got up and
19 left and went back --

20 Q. Who got up and left?

21 A. I did, when my brother-in-law came in.

22 Q. Okay. So it's just the two of them that go in
23 the back?

24 A. Yes, ma'am. That's what I saw.

25 Q. And who comes out?

State vs. Turck Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 A. Just the both of them.

2 And like I say, my brother-in-law came in the
3 kitchen area. Because when you come from the back I guess
4 you've got to -- you know, when you come from the back of
5 the trailer, the kitchen is right there and then you can
6 make a right and the living room is right there.

7 So he went back in the living room. My
8 brother-in-law came out making a little reference about
9 the scanner, and we walked out of the back.

10 Q. And when you left you had cocaine?

11 A. Yes, ma'am.

12 And my sister jumped in the driver's seat.
13 My sister drove. And then my brother-in-law got in the
14 passenger seat. I got back in the back seat.

15 Q. Were you able to leave the house?

16 A. Yes, ma'am.

17 Q. Were you there when police arrived at the
18 house?

19 A. Not at all. No, ma'am.

20 Q. But later you had contact with the police?

21 A. Yes, ma'am.

22 Q. And did you guys get caught with those drugs?

23 A. My brother-in-law, he actually suitcased.

24 Q. What does that mean? Suitcased.

25 A. He stuck the cocaine up his anal area.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Q. Got you.

2 Was that later discovered, to your knowledge?

3 A. No. Never.

4 Q. How about you? Did you get busted with
5 anything?

6 A. Yes, ma'am. I had a little bit of marijuana
7 that I already had on me.

8 Q. Did you get charged?

9 A. Yes, ma'am.

10 Q. And do you have any deals with the State as
11 far as your charges? Are you getting promised any credit
12 on anything you're doing here?

13 A. No, ma'am. Not at all.

14 Q. What's your brother-in-law's name?

15 A. Andre Benjamin.

16 Q. Do you get along with him?

17 A. For my sister's sake, yes, ma'am.

18 Q. Your sister's sake. He's married to your
19 sister?

20 A. Yes, ma'am.

21 Q. What's your sister's name?

22 A. Keisha Benjamin.

23 MS. TANNER: Thank you, Mr. Reeves. Please
24 answer anything defense has.

25 THE WITNESS: Yes, ma'am.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 MR. FLEMING: Please the Court, Your Honor?

2 THE COURT: Okay.

3 CROSS-EXAMINATION

4 BY MR. FLEMING:

5 Q. Mr. Reeves, the solicitor talked about the
6 fact that you had a burglary conviction?

7 A. Yes, sir.

8 Q. And she then asked you, and I quote, other
9 than that, any trouble with the law. And your answer was?

10 A. Family court.

11 Q. Okay. And that's it?

12 A. Yes, sir.

13 Q. But that's not true, is it?

14 A. As far as criminal convictions and stuff like
15 that, yes, sir, that's it.

16 Q. Okay. In 1998, weren't you convicted of
17 criminal domestic violence?

18 A. I didn't believe I was convicted. I went
19 to -- I went to jail for it but I've never been convicted,
20 as far as I knew. I never went to jail or got sentenced
21 to a certain amount of time or anything else like that, or
22 paid a fine or anything.

23 Q. Okay. So you went to jail for it but you
24 weren't convicted?

25 A. Yes, sir.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Q. You didn't think it was important to let the
2 solicitor know that, or this jury?

3 A. Sir, as far as my understanding of a
4 conviction like that, sir, I thought as far as a
5 conviction goes I have to be sentenced and go to prison
6 for CDV. Never.

7 Q. In addition to the burglary that you were
8 willing to tell us about, you were also convicted of a
9 grand larceny in 1996, weren't you?

10 A. Those came along with the burglary charges.
11 Yes, sir.

12 Q. You were also arrested in this case? The case
13 we're talking about.

14 A. Yes, sir.

15 Q. Okay. You were charged with possession of
16 marijuana.

17 A. Yes, sir.

18 Q. Let's talk about that marijuana.

19 A. Okay.

20 Q. You just told this jury that you had it on
21 you.

22 A. Yes, sir.

23 Q. Correct?

24 A. Yes, sir.

25 Q. And you told them you had it earlier?

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 A. Yes, sir.

2 Q. Are you saying that you didn't buy it at the
3 trailer?

4 A. No, sir.

5 Q. Okay. Where did you buy it?

6 A. I do not remember, sir.

7 Q. But you're absolutely certain that you didn't
8 buy it from that trailer?

9 A. From what I remember, yes, sir, I didn't.

10 Q. Okay. You now very clearly look over and
11 point at Mr. Saunders and affirmatively say, golly, gee,
12 he was here -- he was there, right there.

13 A. Yes.

14 Q. Absolutely no question?

15 A. Yes, sir.

16 Q. And that was, in your mind, the day you spoke
17 to police?

18 A. Yes, sir.

19 Q. Absolutely clear?

20 A. Yes, sir, he was there.

21 Q. Okay. And, in fact, within forty-five minutes
22 to an hour of being arrested for possession of this
23 marijuana --

24 A. Yes, sir.

25 Q. -- that you had on you --

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 A. Yes, sir.

2 Q. -- the police asked you to handwrite a
3 statement about what happened that night, didn't they?

4 A. Yes, sir.

5 Q. And you wrote that statement?

6 A. Yes, sir.

7 Q. May I show you a copy?

8 A. Okay.

9 [Whereupon, Mr. Fleming proffers documents to
10 the witness]

11 Q. [Mr. Fleming] I want you to take all the time
12 you need in the world to read that.

13 [Whereupon, the witness reviews documents]

14 Q. [Mr. Fleming] Have you had enough time?

15 A. Yes, sir.

16 Q. Can you explain why that statement is
17 different than what you just told this jury?

18 A. In this right here -- in this right here said
19 I bought a dime of weed from Turuk.

20 Q. Okay. I'm going to read it line-by-line --

21 A. Yes, sir.

22 Q. -- so we can go through and you can explain to
23 this jury which version of the truth it is.

24 A. Okay, sir.

25 Q. Did you promise the police that you would tell

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 the truth in this statement?

2 A. Yes, sir.

3 Q. You told them this was the truth?

4 A. Yes, sir.

5 Q. [Reading] Tonight I rode with my sister,

6 Keisha --

7 A. Keisha.

8 Q. -- Benjamin and her husband, Andre Benjamin,
9 to a house off Bay Pines Road. When we left the house, we
10 were pulled over.

11 We know that's true; right?

12 A. Yes, sir.

13 Q. [Reading] At the house I bought a dime of
14 weed.

15 Did you write that in this statement?

16 A. Yes, sir. Yes, sir, I did.

17 Q. Which truth are we supposed to believe?

18 A. Okay. Can I say something, sir?

19 Q. Absolutely. You're the witness.

20 A. Okay. Now, that was -- that was a while -- a
21 couple of years ago. And from what my memory was, as far
22 as now I thought I had that weed on me. Now, I never -- I
23 never gave anybody in that trailer money to buy weed.
24 Now, I know that my brother-in-law went there to buy coke
25 and maybe I gave him money to get weed. I never bought

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 none. I know that I did have weed and when I got arrested
2 it was on me.

3 I completely apologize to the Court because
4 now that I read this statement and -- this sounds weird,
5 but now that I read the statement, I know -- I remember
6 now that I did give my brother-in-law money to get weed
7 and I had the weed on me. And he gave that to me when we
8 got in the car because when we got in the car he showed me
9 he had the 'caine, too, sir.

10 Q. And there is nothing in this statement that
11 says you gave your brother-in-law money to buy weed. So
12 how in the world did you just come up with that?

13 A. Sir, when I wrote that statement in the jail,
14 sir -- when I wrote that statement in the jail, I was
15 writing everything that I could remember what was going on
16 at that time, sir.

17 Q. Weren't you really writing anything you could
18 think of --

19 A. No, sir.

20 Q. -- to get your own bottom out of a crack?

21 A. No, sir, not at all.

22 Q. Not at all?

23 A. No, sir. No, sir.

24 Q. Weren't worried at all about being arrested
25 for dope?

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 A. No, sir, not at all.

2 Q. Convicted felon arrested for dope?

3 A. No, sir. And I can tell you why, sir. Just,
4 please.

5 Q. Sure.

6 A. The reason being is because when that car got
7 pulled over and my wife -- when I called from the jail, my
8 wife told me they found crack in that car and my brother-
9 in-law tried to pin that on my wife. I told the drug-task
10 force officer that it was mine because I would rather go
11 to prison than allow my girlfriend to go to prison for
12 something that wasn't hers. And then when she -- when she
13 came to the detention center and she told me what
14 happened, then I told the detective the truth.

15 Q. So what you're really saying is that you're
16 willing to lie at any point to help someone or yourself?

17 A. No, sir.

18 I just did what I feel a noble man would do.
19 I would not -- I do not want to see my wife go to jail or
20 prison for something she didn't do, even if that meant I
21 had to go for her.

22 Q. That is noble.

23 [Reading] After being arrested and sent to
24 jail --

25 I'm reading again.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 A. Yes, sir.

2 Q. [reading] -- I was calling and Andre got on
3 the phone, told me that they found crack in a jewelry box
4 and basically asked me to say it's mine.

5 A. Yes, sir.

6 Q. Is that true?

7 A. Yes, sir.

8 Q. Where in here did you say Andre shoved crack
9 in unmentionable places?

10 A. I didn't.

11 Q. A jewelry box isn't a euphemism for a bottom,
12 is it?

13 A. No, sir. That's -- no.

14 Q. You didn't say the truth.

15 A. No, sir. I'm sorry, sir. Crack and cocaine
16 are two different things. Andre sold crack. That's his
17 job. That's what he did. He sold crack. I knew he had
18 that, sir. The cocaine is completely different.

19 Q. And where in this statement do you say Andre
20 sold crack?

21 A. I didn't put it in there, sir.

22 Q. It says -- you say: [reading] the only reason
23 I said that was to save them from that charge, but now I
24 can't take that.

25 A. Uh-huh.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Q. You said -- I'm sorry. I need to stop. I
2 want to be fair. Okay?

3 [Reading] I knew that if I didn't say that,
4 that everyone, including Kim, would go to jail.

5 That's what you just told us; right?

6 A. Yes, sir.

7 Q. All right. So I said: [reading] I did it, it
8 was mine.

9 Right?

10 A. As far as the crack charge, yes, sir.

11 Q. So you lied to the police and told them that
12 the crack was yours?

13 A. Yes, sir, I did. I told the officer that over
14 the phone while I was at the detention center. And the
15 only reason I did that, sir, is because I was already at
16 the jail. They were still free.

17 Q. You say: [reading] honestly --

18 Now, I guess your chivalry ends about forty-
19 five minutes later because you say: [reading] honestly,
20 the crack is not mine.

21 A. No, sir. No. You're right. I wasn't
22 disputing what you said, sir.

23 Q. Okay. [Reading] Honestly, the crack is not
24 mine. I was saying it to keep the charge off my girl.
25 The only reason I said that was to save them from that

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 charge.

2 So for about forty-five minutes you're saving
3 them, and then you throw them under the bus?

4 A. No, sir. That's after my wife -- I'm sorry.
5 That's after my girlfriend had gotten booked to the
6 detention center and she told me that they tried to blame
7 it on her.

8 Q. Okay. [Reading] I said that that I -- that
9 was to save them from that charge, but now I can't take
10 that.

11 A. When I say them I mean my sister and my wife,
12 my girlfriend.

13 Q. [Reading] It was not mine. The weed is mine.
14 The crack belongs to Andre.

15 A. Yes, sir.

16 Q. Okay. So crack and cocaine are different in
17 your mind?

18 A. They're actually --

19 Q. Physically different --

20 A. -- in that situation --

21 Q. I just want to make sure you agree with me --

22 A. Yes, sir.

23 Q. -- on that.

24 A. I do.

25 Q. Now, the only mention of anybody in this

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 entire statement that you write is: [reading] the house
2 belongs to a guy called Big-T.

3 Right?

4 A. Yes, sir.

5 Q. Where in this statement do you say Big-T sold
6 that dope?

7 A. I didn't.

8 Q. Where in the statement do you even say that
9 Big-T was there?

10 A. I didn't.

11 Q. Mr. Reeves, you were charged with possession
12 of marijuana.

13 A. Yes, sir.

14 Q. Correct?

15 A. Yes, sir.

16 Q. You gave multiple statements, clearly none of
17 them completely honest; right?

18 A. I guess you --

19 Q. And you finally told a story that they liked
20 and so your marijuana charge was dismissed?

21 A. No, sir.

22 Q. Is your marijuana charge dismissed?

23 A. Well, it was nol-prossed, yes, sir.

24 Q. Nol-prossed.

25 A. Yes, sir.

Jury Trial, Volume 3 of 3
May 26, 2010

Q. The State dismissed your charge, didn't they?

A. Yes, sir.

MR. FLEMING: I don't have any more questions,
Judge.

THE COURT: Okay.

MS. TANNER: Yes, sir. May we approach?

THE COURT: All right.

[Whereupon, an off-the-record bench conference
is held]

BY MS. TANNER:

Q. Mr. Reeves, I know Mr. Fleming has tried to
question you about your statement.

A. Yes.

Q. That night when you were stopped by the
police, at that point are you part of some big
investigation into Big-T, or are you dealing with what
you're charged with?

MR. FLEMING: I would object to the leading
nature of this question.

THE COURT: Well, he can answer if he knows.

A. I was part of a traffic stop.

Q. [Ms. Tanner] He also asked you about the only
time you mentioned anybody at the house is Big-T. Who is
Big-T?

MIA PERRON, CCR, OVR-CM

-31-

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 A. Turuk.

2 Q. How long have you known Big-T?

3 A. I've known him for a while.

4 Q. Are you familiar with Big-T?

5 A. Yes, ma'am.

6 Q. Are you familiar with Turuk?

7 A. Yes, ma'am.

8 Q. You know this defendant?

9 A. Yes, ma'am. All our families grew up
10 together. All our families, even our parents' parents,
11 their parents.

12 Q. So you're not just going off on a two-minute
13 identification of a Big-T selling cocaine --

14 A. No, ma'am.

15 Q. -- to Andre? You know him --

16 A. Yes, ma'am.

17 Q. -- before you went there?

18 A. Yes, ma'am.

19 Q. And you've known him after?

20 A. Yes, ma'am.

21 Q. Now, Mr. Fleming asked you about your
22 marijuana charge from the traffic stop being dismissed.
23 When was that dismissed?

24 A. After it was -- during that time, right after
25 -- like I guess two or three days after I had been

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 arrested.

2 Q. How long have you known me?

3 A. I just met you probably two hours ago.

4 MS. TANNER: All right. Thank you, sir.

5 Please answer anything else that Mr. Fleming has.

6 MR. FLEMING: I don't have anymore questions.

7 THE COURT: You can step down. Free to go.

8 MS. TANNER: Thank you. May this witness be
9 excused?

10 THE COURT: Sure. I imagine he would like to
11 get out of here.

12 [Whereupon, the witness is excused and exits
13 the witness stand]

14 MS. TANNER: Your Honor, with that, the State
15 rests.

16 THE COURT: Okay. Well, just to be on the
17 safe side, I let you introduce that shotgun into
18 evidence but let's just mark it as a State's Exhibit.
19 I'm not going to let it go back to the jury room. For
20 all I know, one of them brought a shotgun shell and
21 say, we're going to have a quick verdict on this --

22 MS. TANNER: Yes, sir. There is a photograph
23 in evidence of it, as well.

24 THE COURT: That's right. They've seen it.

25 If they need to see it again, we can -- before you go

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 back. But y'all know what a shotgun is. It doesn't
2 need to go back to the jury room.

3 Once the State rests, that just means they are
4 putting up no more evidence at this time. When that
5 happens, I have to go over the whole case with the
6 attorneys and talk about what defense's plans are and
7 so forth. It takes a little while. It might be
8 longer than ten or twelve minutes, so don't knock and
9 say y'all are ready to come back because it'll just
10 take us a little while. But as quick as we can, we'll
11 bring you back. Okay?

12 So don't talk about the case yet.

13 [Whereupon, the jury exits the courtroom at
14 10:02 a.m.]

15 - - - - -

16 MOTION FOR A DIRECTED VERDICT

17 THE COURT: Okay. The State has rested. What
18 say the defense, if anything?

19 MR. FLEMING: Your Honor, at this time I would
20 move for a directed verdict on all charges but the
21 lesser included offense of possession of marijuana. I
22 believe the State has failed to carry their burden of
23 proof, even at the lowest standard, on all but the
24 possession of marijuana and, as such, I would move for
25 a directed verdict.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE COURT: Well, we were in a little trouble
2 until the last witness testified. The last witness,
3 as you in your heart of hearts know, if believed by
4 the jury in the light most favorable, which version
5 they believe, shows not only that he owned the house,
6 had control of the house, was dealing out of the
7 house.

8 I can't grant your DV on any charges, since
9 the drugs were in the house, so forth and so forth.

10 MR. FLEMING: Thank you.

11 THE COURT: Okay. Now, you've talked over
12 with Mr. Saunders, Mr. Fleming, I'm sure, whether he's
13 going to testify or not. Do you need me to question
14 him any further, or have you made your decision?

15 MR. FLEMING: No, sir, he is not going to
16 testify.

17 THE COURT: All right. So he can still change
18 his mind at any time.

19 You're aware of that, Mr. Saunders?

20 MR. SAUNDERS: Yes, sir. Right now I am.

21 THE COURT: But you do plan to put up some
22 witnesses?

23 MR. FLEMING: Yes, sir. But I need about five
24 minutes to digest -

25 THE COURT: You've got as much time as you

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 want.

2 Here is all I'm querying you about. I need to
3 know the time. We may have to order lunch for the
4 jurors.

5 MR. FLEMING: I would say -- I can't predict
6 cross-examination. I would say that the witnesses I
7 would put up would be less than six or seven minutes
8 apiece.

9 THE COURT: Well, then, how many witnesses do
10 you have?

11 MR. FLEMING: I have two, potentially three.
12 And that's the conversations I need to have.

13 THE COURT: All right. So we crank it back
14 up, you should be through by eleven o'clock, give or
15 take ten minutes?

16 MR. FLEMING: Yes, sir.

17 THE COURT: All right. And we'll send the
18 jury out while we go over the charge. We can order
19 lunch for them at that time.

20 MR. FLEMING: Yes, sir.

21 THE COURT: And then y'all aren't going to
22 argue that long, are you? It doesn't matter to me.

23 MR. FLEMING: I doubt it.

24 THE COURT: Ms. Tanner, you're talking about
25 arguing what? thirty minutes, forty-five?

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 MS. TANNER: I'm pretty short on closing, so
2 thirty minutes would be a long one for me.

3 THE COURT: And, Mr. Fleming, thirty or forty-
4 five, or until they start crying, whichever one comes
5 first?

6 MR. FLEMING: Whichever. Get an alleluia,
7 I'll sit down.

8 THE COURT: Yeah. All right. Okay. We're at
9 ease.

10 [Whereupon, a recess is taken from 10:08 a.m.
11 to 10:26 a.m.]

12 THE COURT: Okay. Defense ready?

13 MR. FLEMING: Yes, Your Honor.

14 After further discussions and review, we have
15 decided that we will not be calling any witnesses.

16 THE COURT: Okay. Well, that changes a few
17 things.

18 MR. FLEMING: Yes, sir. And I --

19 THE COURT: Not that it matters.

20 [Off the record momentarily]

21 MS. TANNER: Yes, sir.

22 With that new development: I've been trying
23 to prepare, and focusing on one thing. I would
24 request a few minutes to get my thoughts together --

25 THE COURT: That's why --

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 MS. TANNER: -- for closing.

2 THE COURT: That's why we didn't let them
3 bring the jury in, one.

4 MS. TANNER: Yes, sir.

5 THE COURT: Two, looking over the verdict
6 forms, which is all I've looked at --

7 MS. TANNER: Yes, sir.

8 THE COURT: -- they all look okay to me except
9 the trafficking in cocaine. A lesser included could
10 be PWID cocaine. But with his record, it probably
11 doesn't matter. But, you know, whatever you want to
12 do on that. Just discuss it with him. It carries --
13 with his prior record --

14 MR. FLEMING: Yes, sir.

15 THE COURT: -- it carries beyond the
16 trafficking anyway.

17 MR. FLEMING: We are not requesting a lesser
18 included charge.

19 THE COURT: Okay. On that one charge.

20 MR. FLEMING: Yes, sir.

21 THE COURT: And then while you're collecting
22 your thoughts, I'll run over requests to charge.

23 MS. TANNER: Yes, sir.

24 THE COURT: Just let me know when you're
25 ready.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 [Off the record momentarily]

2 THE COURT: Of course, Mr. Fleming, on the
3 verdict forms, now, the jury could simply find him
4 guilty of simple possession. It's not on here. If
5 you --

6 MR. FLEMING: Possession of less than twenty-
7 eight grams is --

8 THE COURT: I'm not talking about that one.
9 I'm talking about guilty of possession with intent to
10 distribute cocaine, or not guilty.

11 MR. FLEMING: That is correct. I may have to
12 contemplate that. But if you'll give me five seconds.

13 THE COURT: And the same thing holds true for
14 ecstasy. On the verdict form it's guilty or not
15 guilty.

16 MS. TANNER: Your Honor, under State vs. Cude
17 -- and I may be mispronouncing that, C-U-D-E- -- I can
18 give you the cite.

19 If their defense is it's not mine, then he
20 can't argue simple possession if it is over the
21 inference weight, is my understanding of the reading
22 of Cud, Cude, however you say it. It is a --

23 THE COURT: Well, he didn't object. I'm only
24 clearing it on the record.

25 MS. TANNER: Yes, sir.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 I know he's contemplating it, and in
2 preparation of him coming back and changing his mind,
3 that would be the State's position.

4 THE COURT: All right. I'll be back in eight
5 minutes, then we'll roll.

6 [Whereupon, a recess is taken from 10:35 a.m.
7 to 10:39 a.m.]

8 THE COURT: Now, Mr. Fleming, historically I
9 don't send the indictments themselves back unless you
10 want it, because it's got that true bill on the back
11 and all of that.

12 MR. FLEMING: We do not want it.

13 THE COURT: Okay. So if I may, I'm willing to
14 send back the front page if somebody makes a copy and
15 so forth. But I just read it them, more or less.

16 All right. Ms. Tanner, are you ready?

17 MS. TANNER: Unless you're willing to give me
18 eight more minutes, I'm ready.

19 THE COURT: Well, you're ready. You've been
20 working on it since '07, haven't you?

21 All right. Bring them in.

22 [Off the record momentarily]

23 THE BAILIFF: Jurors ready to enter.

24 THE COURT: Bring them in.

25 [Whereupon, the jury enters the courtroom at

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 10:42 a.m.

2 THE BAILIFF: The jury is present.

3 THE COURT: Okay. Jurors, after consultation
4 and going over the whole case, the defense has decided
5 not to put up any additional evidence. Remember, the
6 defendant does not have to prove he's not guilty at
7 all. Tactile reasons for not putting up anything. If
8 you don't introduce evidence, you get to have the
9 closing argument, bottom line. Pay attention.

10 I said closing argument. I don't like to
11 really say argue, because you don't get to talk back.
12 Summations. Okay? Ms. Tanner is ready to sum up for
13 you.

14 MS. TANNER: May it please the Court?

15 THE COURT: Sure.

16 MS. TANNER: Mr. Fleming.

17

18

19

20

21

22

23

24

25

- - -

- - -

- - -

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

CLOSING ARGUMENT

MS. TANNER: This is a summation. And like I told you at the beginning of this case, this case is about a small business, an illegal small business but a small business, nonetheless. You've heard more about it. Now you know a little more about this business. You now know that it was Big-T's house-of-fun at 11 Bay Pines Road here in Beaufort County. Big-T's house. Big-T's small business.

So what did you learn about this business? You learned you had lots to pick from at Big-T's house. If you want marijuana, we've got marijuana. You want cocaine? We got cocaine. You want ecstasy? We've got ecstasy, and we've got lots of different colors. Pick one. You like green? You like red? You like peach? Pick one. Maybe you like crack. We've got lots of crack.

Business is good at Big-T's house. How do we know it's so good? Well, first, you've got a good inventory. You've got lots to pick from. It helps with the competition.

What do we also know? We know that according to Lieutenant Woodward, who's got extensive background in drug sales, that he told you that a twenty, twenty-dollar, crack rock is about the size of a thumb nail.

State vs. Tuzuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Probably about the size of this piece that was found
2 on the floor, laying on the floor, in the master
3 bedroom. Twenty bucks. You're looking at twenty
4 bucks laying on the floor. Business is so good, they
5 leave \$20 laying on the bedroom floor. If that's \$20,
6 business is good at Big-T's house.

7 Business is good. If business is good, you've
8 got to have security. We've got pistols, we've got
9 shotguns. If business is good, you've got to be
10 secure. Business is so good, I've got to hide my cash
11 between the mattresses. Over \$1,000 shoved between
12 mattresses. Business is good at Big-T's house. But
13 maybe it's good because we've got a whole production
14 line. Three different digi-scales spread out across
15 the kitchen. You've got to cut, you've got to weigh,
16 you've got to package. All over the house. In the
17 living room, maybe if somebody wants to test drive
18 before they buy, here's your smiley face box, a little
19 happy face; come try the product. Sitting on the arm
20 of a chair in the living room when you come in. But
21 we've got to be careful. The cops might be listening.
22 We've got our police scanner. We've got to know what
23 they're doing, too. Luckily, as you heard from
24 Officer Faucett, those things don't work as good as
25 hoped. A lot of digital recordings now for law

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 enforcement cut some of that out. They don't have the
2 same eyes on law enforcement as they used to have.
3 But in 2007 that was a tool. That was a tool of the
4 trade. A box of razor blades. Tools of the trade.
5 Scales in the bedroom. Tools of the trade. He's even
6 got marijuana by the toilet. It's a full-service
7 business. We've got what you need. We've got what
8 you want. Come see Big-T.

9 How do we know it's Big-T's house, though?
10 There's a lot of people in the house the day of
11 arrest. Two in a bedroom where nothing was found.
12 They pled to simple possession charges. The brother,
13 Akeem, is flushing some of the good stuff. He's
14 participating. There's no question he's part of it.
15 But don't little brothers do what big brother wants?
16 He's helping with the family business. He's going to
17 be flushing, himself.

18 But what's Big-T doing? When SWAT knocks down
19 that back door, Big-T takes off out the front door.
20 He didn't know, because the scanner wasn't working,
21 the drug task force was waiting out front. He knew
22 SWAT was coming in the back; he went out the front.
23 He had a little product. That's what he had in his
24 hand when they kicked the door in. This [indicates]
25 was in his hands. He dropped it. Some more of Big-

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 T's product.

2 Now, how do we know it's Big-T's house?

3 Follow the money. Are you paying the rent for

4 somebody else's house? Since August of 2004, Turuk

5 Saunders had been paying rent faithfully and on time

6 and in this case, five fifty every month, until --

7 from 2002 until his business was closed February of

8 2007. Ever single receipt is made out to Turuk

9 Saunders. Big-T's house.

10 And the last witness you heard from, William:

11 William was a little scared. He came across like he

12 was nervous on the stand. No question about it. Who

13 wants to come do this? But he said, we went to this

14 house to see Big-T. And what did they do? They saw

15 Big-T. Then he pointed. That's Big-T; I know him,

16 know his family, grew up here; no question; I know

17 Big-T; and what did I do, I bought from Big-T in Big-

18 T's house, cocaine, marijuana. Two-stop shop.

19 Defense counsel wants you to believe, he told

20 you in opening statement, no, no, my client just got

21 there twenty minutes before the SWAT team came kicking

22 in the front door; he came to buy marijuana from his

23 dirt-bag brother. Well, somehow the surveillance team

24 missed him getting there twenty minutes before. They

25 didn't see him come in. They didn't see him come in

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 twenty minutes before, because he had been there.
2 Remember Williams said, we got there around -- what
3 did he say? About eight o'clock or so on the 22nd.
4 The SWAT team said they got there early-morning hours
5 of the 23rd. That's not twenty minutes before. Big-
6 T's been in the house. Big-T's been wheeling and
7 dealing, doing business all night. He didn't get
8 there twenty minutes before. And he wasn't buying
9 marijuana from his brother. Why would he buy
10 marijuana from his brother? If he's paying rent --
11 according to them, he's paying rent for his brother.
12 His brother is giving him a little marijuana back.
13 He's paying five fifty a month for this place. It's
14 just not a believable story.

15 Now, as -- we're not talking about crack
16 rocking somebody's pocket. We're not talking about a
17 little marijuana stuck behind somebody's ear. This
18 stuff is all over that house. It's in the kitchen,
19 it's in both bathrooms, it's in the bedroom, it's
20 under the bed, it's under the front porch. Look at
21 these photographs. It's in the living room. It's all
22 over the house. His house. He's responsible. This
23 is his business.

24 There's been some hint by the defense maybe he
25 didn't live there, maybe he was having electricity at

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 another house paid for. Okay. Do you have to live in
2 your office? No. Do you take your work home? No.
3 Would it make sense that if this is in the office, you
4 might want to sleep somewhere else in case that
5 scanner is not working too good and the police show
6 up?

7 Ladies and gentlemen, the defense is going to
8 get a chance to talk to you. They're going to give
9 you their version again. But keep in mind, keep in
10 mind, the simple facts. I have to present you facts.
11 I have to show you things. I have to show you proof.
12 I have to show you police scanners. I have to show
13 you scales, cutting devices, drugs, money, guns. I
14 brought you those things. I brought you the simple
15 facts.

16 The simple facts are this is his house, 11 Bay
17 Pines Road. Had been for three years. He paid for
18 it. He's responsible for it. He was there while his
19 business was being operated. He's holding someone's
20 product. It's all over the house. How is he not part
21 of the business? He's there. It's all over the
22 place. He's running out the front door as SWAT kicks
23 in the back. Why are you doing it? If you're there
24 to buy a little weed, what are you running from?

25 Big-T was running a small drug business.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Maybe not small. Maybe it's a big business. But he's
2 running a business out of 11 Bay Pines Road in
3 Beaufort, here in Beaufort County. He was running a
4 business. Look at him. That's not some street dog.
5 That's a business man. That's a business man. Big-T
6 is a business man.

7 But Big-T is guilty. I ask you to go back in
8 the jury room and come back and find him guilty. He
9 is guilty of trafficking crack.

10 The judge will tell you that if you have more
11 than ten grams of crack, it's trafficking. This is
12 nineteen grams of crack. More than ten. He is guilty
13 of possession with intent to distribute cocaine. You
14 can infer that if it's more than a gram he possessed
15 with the intent to distribute, which is different than
16 just possessing it to use it. He's possessing it
17 because he's going to distribute it. You can consider
18 the weight. You can also consider that it's packaged
19 in a way that can be sold. You can consider the
20 surrounding circumstances, the fact that he's got
21 implements to cut it up and sell it. You can consider
22 the fact that there's testimony he sold cocaine that
23 day. He possess cocaine with the intent to distribute
24 it.

25 The same with ecstasy. All these little

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 pills, all these little fun, cute, colored pills.
2 These are illegal drugs. People use them illegally.
3 People buy them to use them. The law will tell you
4 that if have more than fifteen, you can think that it
5 was with the intent to distribute. They gave it some
6 funny number. They think, well, if you have less than
7 fifteen, maybe you're keeping them to use it, maybe
8 you're going to sell them. There are twenty-five in
9 this bag and there are twenty-nine in this bag. Way
10 more than fifteen. Also in individual little baggies
11 ready for sale. You can consider that shows intent to
12 distribute.

13 The same with marijuana. The same thing. The
14 judge will give you the weight, what is an inference,
15 what you can think is meant for distribution. Is this
16 personal use? Are you going to smoke all this today?
17 Are you going to cut it up? Are you going to put it
18 in little baggies, all the little baggies, and you're
19 going to sell it? You heard testimony they're called
20 dime bags. Dime bags are for sale. Possession with
21 intent to distribute.

22 And, finally, he's been charged with -- and I
23 ask you to come back with a guilty verdict -- for
24 possession of a weapon during the commission of a
25 violent crime. If you find him guilty of trafficking,

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 the judge will tell you it's a violent offense. And
2 if you possess a firearm or a weapon -- feel free to
3 pick one -- he is guilty of possessing a firearm
4 during the commission of that violent offense,
5 trafficking.

6 I appreciate your attention during this case.
7 It has been very important. I ask you to hold him
8 responsible for the business that he was conducting in
9 Beaufort County, and come back and find him guilty.
10 Thank you, ladies and gentlemen.

11 MR. FLEMING: May it please the Court, Your
12 Honor?

13 THE COURT: Sure.

14 MR. FLEMING: Madam Solicitor.
15
16
17
18
19
20
21
22
23
24
25

- - -
- - -
- - -

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

CLOSING ARGUMENT

1
2 MR. FLEMING: On May the 10th of 2006, Turuk
3 Saunders left that trailer to live with his girlfriend
4 at Seabrook. On May the 12th of 2006, he went to
5 SCE&G and he transferred his power bill to his new
6 address. At that point he left that place and his
7 brother moved in. And we all know what happened.

8 The State has done an exceptional job of
9 proving that Akeem Saunders, Elijah Clark, Jonathan
10 Kelly -- and what was the other kid's name -- Jarret
11 Jackson were dealing dope. They've done an
12 exceptional job of proving that. But they have
13 cobbled together a weak prosecution with no proof
14 against Turuk, because of what the law says.

15 The Judge has told you, and will tell you
16 again, that they have the burden of proof, that they
17 must prove each and every allegation against Turuk
18 Saunders beyond every reasonable doubt. The judge
19 will tell you what a reasonable doubt is. I think
20 what it will say is a reasonable doubt is the kind of
21 doubt that would cause a reasonable person to hesitate
22 to act in their everyday affairs. That's what the
23 Supreme Court says.

24 And it's a little bit confusing. You can
25 break it down. A reasonable person -- we would all

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 assume -- I think I'm reasonable. And y'all are
2 reasonable -- cause us as reasonable people to
3 hesitate to act in their everyday affairs. And if
4 they don't prove it beyond that reasonable doubt,
5 they've proved nothing and you are sworn to return a
6 verdict of not guilty.

7 So what is that reasonable doubt? And a wise,
8 wise person explained it to me and I'm going to try to
9 do the same thing. This is a bottle of Tylenol, 100
10 tablets. I think we've all seen this before. It
11 could be Advil, it could be Alleve, or anything else.
12 And what if I told you that 99 of these tablets are
13 Tylenol and one of them is cyanide? Looks exactly the
14 same. You can't tell the difference. You came to me
15 and you said, man, I have got a killer headache; do
16 you have anything for it, and I showed you this
17 bottle, would you hesitate to take a pill from this
18 bottle? Of course you would. You're reasonable, and
19 that would cause you to hesitate to act. Even though
20 you're ninety-nine percent sure of the outcome, that
21 one percent of doubt is a reasonable doubt. And that
22 is the burden that they must overcome.

23 There are two types of proof, fundamentally,
24 in any case that you will find in this courtroom. The
25 solicitor has tried many, many cases, I have tried

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 many, many cases in this courtroom. If you combine
2 all of our cases together and multiply them, we
3 haven't even gotten close to how many cases the judge
4 has tried. But every case is the same. You have two
5 types of evidence: witnesses that tell you things,
6 what they saw, what they observed; and physical
7 evidence. So let's break it down and talk about the
8 witnesses and what the witnesses should have told you.

9 First of all, they talked about -- and
10 Detective Woodward came in and talked about the high
11 traffic that was coming in and out of this building,
12 of this CVS pharmacy, for God's sake -- the high
13 traffic that was coming in and out -- and yet the only
14 witness that they could produce is that guy William
15 Reeves, who couldn't tell the truth to get himself out
16 of a wet paper bag. That's it. Of all those people
17 that came in and out of that trailer, that's the only
18 guy? And I wonder how they got him to change his
19 testimony to testify. We'll talk about that in a
20 minute.

21 They also talked about witnesses who would
22 testify -- or the witnesses that typically testify,
23 surveillance. The commander talked to you about how
24 they surveillance -- they put surveillance out. And
25 they even had a video. Y'all didn't see it. Y'all

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 didn't get a chance to see it, and they didn't offer
2 it, but there's a videotape. And the reason that they
3 didn't show you the videotape is because while I'm
4 sure it showed all those four kids in the house, it
5 never once showed Turuk Saunders at all. Because I
6 promise you, if it did, it would have been the first
7 thing they played for you.

8 Now, another thing that the witnesses would
9 tell you, if there was such: confidential informants.
10 Confidential informants. You heard the commander talk
11 about it. They get somebody to go in. They wear a
12 videotape, a video camera literally that small, and
13 they walk into that trailer and -- I'm not going to do
14 it to y'all. But Ms. McIntosh is the dope dealer --
15 and she's a fine person and she's not a dope dealer --
16 but by explanation, and she -- I walk up to her and
17 say, please sell me a such and such. And she hands it
18 to me. It's all on videotape.

19 And that's what a confidential informant does.
20 And there is not one -- they couldn't do that in this
21 CVS pharmacy? They couldn't do that? They certainly
22 didn't do it to Turuk Saunders, because I promise you,
23 you would have seen it if such a piece of evidence
24 existed.

25 There was -- there were four people at the

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 scene beyond the ones that ultimately pled guilty to
2 this, okay, sitting in that car who presumably, ten
3 minutes before the search warrant, had bought
4 narcotics in the place. Did they have those witnesses
5 come up to this witness stand and tell you who they
6 bought it from? Because I promise you, if it was from
7 Turuk Saunders, they would have. They have brought
8 nobody but that Reeves guy, who we'll talk about
9 later.

10 They did -- and, really, they did call some
11 very credible witnesses; for instance, my old friend
12 Andy Faucett. He testified, plain as day, to exactly
13 what happened. He's a credible witness, and he told
14 you what happened. And it's the truth. Turuk dropped
15 that bag of marijuana right at the front steps, scared
16 to death because obviously he's breaking the law.

17 And I don't know which one. They've sort of
18 crammed them all together to make y'all think they're
19 all related. You see how it works. They don't want
20 you to separate it out. They want to put it all
21 together and just sort of lump it in and say, oh, just
22 ignore the facts. Okay?

23 The facts are that all of this stuff was
24 packaged wholesale. Okay? Wholesale, like Sam's
25 Club. Big hunks of it all together. But the only

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 thing that Turuk had was the retail end of it, what
2 you get when you buy it. If he's sitting there
3 dealing it, he's going to have a wholesale part of it.

4 I mean, this thing -- you heard Captain
5 Johnson testify this thing happened in seconds. There
6 was no time. He's standing by the front door. He
7 could not have, according to this -- the way that this
8 thing is drawn out -- I know it's sideways. But if
9 they came in from the back door, he had to be standing
10 next to that front door and literally walk out, almost
11 as if you are at the checkout counter. And you know
12 how the checkout counter is always at the door and you
13 have your stuff and you're getting ready to leave?
14 Well, that's what he was doing. And as soon as that
15 noise comes in he goes out the front door because,
16 man, he knows he messed up. He knows it. I mean,
17 it's illegal. You can't buy marijuana. And he knows
18 it. Of course he's going to run. And he gets caught.
19 And you should hold him responsible for that.

20 The other credible witness, Captain Johnson,
21 told you exactly what happened. He's a heck of a guy,
22 man. That's a tough job coming in on that SWAT team
23 stuff. They do it right. It was perfect the way they
24 did it. Absolutely nobody got hurt. Everything like
25 that. Did a good job. He's a credible witness.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 And even Mr. Woodward, although it pained him
2 to admit it, he wasn't keeping very good surveillance
3 of the place during this time because if you recall, I
4 asked him, are you sure. He said, well, no, I'm not
5 sure; I'm not sure what I saw.

6 And, in fact, we know, we're absolutely
7 positive, that Lafayette Brown, an occupant in the
8 automobile in the front of that trailer, we're
9 absolutely positive that that guy walked into the
10 building, bought marijuana, and walked back out. Yet
11 Woodward, the commander, did not see that, didn't see
12 it at all.

13 That's a pretty important thing to see if
14 you're surveilling a drug thing. And what that tells
15 us is -- and he was very honest about it. He said,
16 look, I didn't have -- I didn't have a very good view
17 of it. And you remember -- I think you'll remember
18 that -- said, I couldn't see it completely. And so he
19 doesn't know who came and went. And he really wasn't
20 paying that much of attention. But he did not see
21 Turuk Saunders anywhere in this thing. And that's a
22 fact.

23 Now, we know that Turuk lived in Seabrook, and
24 we know that -- and it really is fundamentally the
25 reason that we're here, is because Turuk had rented

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 this trailer in 2004 and lived there for a long time,
2 so people know, up until May, that it was his trailer.
3 Just like Mr. Reeves said, oh, it was Turuk's trailer,
4 remember, in the statement. And we'll get to it
5 again. That's the only thing he said is the trailer
6 belonged to Turuk. He didn't say that Turuk was
7 there, or anything like that. And of course he makes
8 that assumption, because Turuk had lived in that
9 trailer for three years. He had no way of knowing
10 that he had already moved out, that he wasn't there.
11 He's just making an assumption about when he writes
12 his statement.

13 But they want you to in some way -- they're
14 implying I guess without any evidence that because
15 Bobby Jenkins came in and testified that somebody,
16 including Turuk, came and paid rent, that he is in
17 some way in control of this place, et cetera. And
18 I've got some problems with that.

19 And quite frankly, it pains me to discuss
20 this, because he is a former SLED agent. But a former
21 SLED agent who doesn't know that all of this is going
22 on in his trailer means that you're not paying one
23 stinking ounce of attention to what's going on,
24 including who lives there, who's paying the rent, or
25 anything, because I've never been a SLED agent and I

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 can tell what's going on. And all of y'all can, too.
2 And if he even paid one iota of attention, he would
3 have known it.

4 He was very uncomfortable on that stand. He
5 didn't know -- and he go on -- he goes on to say, I
6 wrote those receipts in his name whether he brought
7 the money or not. He testified that another girl
8 brought him money half the time. He doesn't know when
9 he saw Turuk there over the three or four years of
10 this thing. And it was certainly before May of 2006.
11 He doesn't remember seeing the lease, or remember
12 seeing the SCE&G documents, in twenty-four hours. He
13 doesn't have any explanation for that.

14 But the most important thing and the thing
15 that causes me the most concern is, quite frankly,
16 he's the owner. There's just as much evidence -- let
17 me stop for just a second. I'm not suggesting Bobby
18 did anything wrong or illegal or participated in this
19 case. But what I'm saying is if you stand back and
20 simply look and say, okay, the theory of the State's
21 case is that because Turuk lived or paid rent there,
22 he must be guilty. Well, change it a little bit and
23 say, well, Bobby Jenkins owned the trailer; he must be
24 guilty. You mean to tell me he didn't know all this
25 was going on? Hmm. Sounds funny.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Now, obviously he's been given deference
2 because he's a law man. And I don't think that he
3 would do that, either. But the same exact evidence
4 that they allege against Turuk is valid against Bobby
5 Jenkins. And so if Bobby Jenkins isn't guilty,
6 neither is Turuk. I mean, it's as simple as that.

7 However, the thing that bothers me is is that
8 when Bobby Jenkins found out that this was going on,
9 you know, Lord knows what he did. But he says he's
10 got these receipts and he kept detailed records and
11 everything. And what I don't understand is I looked
12 through these things. I got them before.

13 I had them twenty-four hours longer than y'all
14 have had them. And I look at these receipts and do
15 you know that he claims to have received \$550 from
16 Turuk Saunders on February 2nd, 2007, in receipt
17 number 576658, this receipt number, yet Cleo White,
18 his girlfriend -- remember he said his girlfriend --
19 also took \$550 from Turuk Saunders on the same exact
20 date? I can promise you nobody pays rent twice.
21 Which means the problem is he didn't pay any attention
22 to the receipts he was writing, who brought it. I'm a
23 landlord and I know that all you care about is getting
24 paid and you don't care. You just want that money in,
25 and that's it. And you look at these receipts. It's

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 clear. It's clear.

2 Now, the last witness, the last witness. The
3 case clearly had no evidence and they had to figure
4 out how they were going to link Turuk Saunders to this
5 thing. So they dig deep, dig deep in a case file, and
6 they find a guy who they dismissed the charges on. I
7 don't know why they dismissed the charges. I think
8 maybe it has something to do with, I don't know,
9 testimony? Because he gave a statement the day that
10 he was arrested that is so clearly in contradiction to
11 what he testified to you, that the question is which
12 lie will you believe. The one he did before? He
13 admitted three times that he lied to get either
14 himself or someone else out of a jam.

15 If a person is willing to lie -- let me ask it
16 this way. Would you lend him \$100 of your hard-earned
17 money and trust upon trust that he'll give it back?
18 Because that's the same type of trust that you have to
19 place in him. I wouldn't give him a stinking red cent
20 because he stood up on that stand, after putting his
21 hand on the Lord God's bible, and told you -- told the
22 solicitor, misled the solicitor, and said, I've never
23 had any other run-ins with the law.

24 Five minutes later I asked him, well, you just
25 told these people that under oath; you got convicted

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 of a criminal domestic violence charge; how do you
2 have the audacity to testify to these people that
3 you're telling the truth? And he didn't -- apparently
4 he didn't know that he had written a statement, that I
5 could catch him in the lies that he caught -- that he
6 said. I didn't buy the marijuana from that house; I
7 had it on me; I didn't buy the marijuana from that
8 house; I had it on me. I bought a dime of weed; at
9 the house, I bought a dime of -- I mean, one of them
10 is a lie. I don't know which one it is. But if you
11 believe him, you're believing a liar.

12 And the only thing in this statement that he
13 said about Turuk Saunders, the only thing at all, was
14 the house belongs to a guy called Big-T. Not once did
15 he say that Turuk Saunders was there. Certainly he
16 didn't say Turuk Saunders was dealing dope. Don't you
17 think that's what you're going to put in the statement
18 if you're willing to tell the truth? Of course not.
19 He came in here and testified to the story that got
20 him the farthest, period, because a convicted burglar
21 didn't get charged with the dope that he confessed to.
22 As we call it in my business, that is a slam dunk
23 case. A prosecutor one day out of law school could
24 convict him, and yet they dismissed the case because
25 he finally said what they liked.

State vs. Turuk Saunders
Jury Trial, Volume 2 of 3
May 26, 2010

1 Now, if, in fact, there are no credible
2 witnesses, then there is another type of evidence and
3 that is what we call physical evidence. And I think
4 it's pretty clear already through this case that there
5 is no physical evidence linking Turuk Saunders in any
6 way to this case. In fact -- in fact --

7 And I think what I want to do just briefly is
8 I want y'all instead of -- instead of going through
9 this in meticulous order, I want to think of every one
10 of these clean flat surfaces -- clean means not rough,
11 clean means not muddy or anything like that -- clean,
12 flat surfaces, every one of these, including these
13 bags, this thing, these cups -- God knows what those
14 things are -- all of that stuff and ask yourself --
15 even this gun right here -- all this other stuff, and
16 ask yourself whose fingerprints are on it. Because
17 the person who is dealing this dope had to, as a
18 matter of fact, touch each one of these things at some
19 point.

20 Do you want to know whose fingerprints are on
21 it? Do you want to know? Because if you do, they
22 have by definition failed in their burden of proof,
23 because it is a question that is unanswered. It is
24 one of many of the pills in this bottle. And without
25 that evidence, you cannot be certain that he did it.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 There are two reasons, there are two reasons,
2 that you don't fingerprint. Renita Berry, the
3 scientist, testified and she testified very clearly
4 SLED has a lab that does nothing but test these things
5 for fingerprints; nothing at all. Look, how do you
6 open this box? You grab it. This is the perfect
7 surface for a fingerprint. Renita, if I took this up
8 there, could they test for fingerprints? Oh,
9 absolutely. And they didn't do it.

10 And there are two reasons that you don't do
11 it: because you don't want to know the result because
12 they know the fingerprint is not going to be on there;
13 or the other reason, and this I believe is the truth,
14 just like Ms. McIntosh said, we had the four guys.
15 She testified on redirect examination, we didn't do
16 the fingerprints because we had the four guys, the
17 four guys, four guys who pled guilty. Not Turuk
18 Saunders. As an afterthought, I guess they say Turuk
19 Saunders. And the other physical evidence you would
20 expect to find comes right out of the statements that
21 I read to you. Drug traffickers take or cause to be
22 taken photographs of themselves, their associates,
23 their property, their product, and these photographs
24 are usually in their possession.

25 There is a photograph next to the gun, next to

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 all of this stuff in the, quote, master bedroom where
2 she's focused on the whole time, and the person in
3 that photograph, who I -- I feel strongly I know who
4 it is, but they didn't present anybody. I can tell
5 you it's not Turuk Saunders. But the person in that
6 photograph is the person responsible for this stuff,
7 just like the person responsible for the trafficking
8 of the crack cocaine.

9 Now, you remember when she said -- when she
10 said, again, people, in general, drug traffickers
11 included, maintain evidence of residency, occupancy,
12 and/or ownership of premises and locations described
13 herein: telephone and utility bills, canceled checks,
14 bank statements, keys, tax returns or, I don't know,
15 probation documents, hospital documents, briefcases
16 full of documents, backpacks full of documents,
17 documents laying on various tables, documents in plain
18 view, and every single one of those things would link
19 and join Akeem Saunders, Jonathan Kelly and those
20 other kids.

21 Every one of those documents do exactly what
22 they contend they do. They link those four guys to
23 that place and in this business. And there's not one
24 of those documents in any way related to Turuk
25 Saunders. Nothing. You can't have it both ways. If

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 this stuff shows controlled ownership, the lack of
2 this stuff must show the opposite, no control, no
3 ownership. And there is nothing, nothing, like that.

4 And then you've got no clothing, no personal
5 items, toiletries, anything like that. You've got
6 pill bottles in there clearly issued by a doctor with
7 the prescription on it. You can tell exactly what it
8 is, and it's not Turuk Saunders. It's the people
9 responsible for this stuff.

10 Then they search his truck that's out front,
11 how he got there. Nothing in it. The only thing that
12 he has, as the judge will say, dominion and control
13 over, is his truck. I keep all kinds of stuff in
14 my -- well, I've got a car now, but I used to have a
15 truck. And I keep all kinds of stuff: workout
16 clothes, golf clubs, sometimes hunting stuff. I mean,
17 you can tell who I am by stuff I've got laying around
18 in my car. Nothing illegal about this guy. Like the
19 solicitor said, he's not a street thug. There's
20 nothing about him, except he smokes marijuana.

21 And the solicitor made it very clear about
22 what the four people in the house pled guilty to. She
23 said that three of them pled guilty to various forms
24 of possession of this very dope, this exact dope right
25 here. But one guy pled to the whole stuff. Okay?

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Why did Akeem Saunders -- the only one who pled to the
2 crack cocaine and the other kids didn't.

3 They're clearly more involved in this and in
4 control than any way Turuk Saunders could be, and they
5 weren't charged with it. Akeem was because he's
6 kneeling it down shoving it. He is in dominion and
7 control of that crack cocaine, period, end of story.
8 That's why he pled guilty. That's why they were
9 willing to dismiss the big charges against those other
10 guys, because they didn't have dominion and control.
11 And of course neither did Turuk Saunders. And so,
12 quite frankly, that fact alone completely eliminates
13 that charge from any further discussion, because he
14 has no -- there is no evidence of dominion and
15 control, as the judge will say. Which eliminates the
16 gun, both guns, because it's not illegal to have a
17 gun, at least the second amendment says that, only
18 unless you're trafficking, which he was not. And so
19 those two charges are all -- are immediately
20 eliminated, not to mention the lack of fingerprints or
21 evidence of control.

22 Now, that leaves the stuff scattered about the
23 house which each and every one of those defendants
24 admitted was theirs. Admitted was theirs. As I said
25 before, the State has done an exceptional job of

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 proving that those four guys are guilty. But they've
2 done nothing else at all but prove that Turuk had 5.2
3 grams of marijuana that he had just purchased already
4 packaged for sale. And they've proved that he is
5 merely present. And the judge, again, will tell you
6 what mere presence is. The mere presence of a
7 defendant where a crime has occurred, or the mere
8 association by a defendant with people who have
9 committed that crime, is insufficient proof that the
10 defendant has committed a crime.

11 And, finally, I have been reading in the
12 newspaper and following a story that's really
13 troubling. And I know y'all probably have seen it,
14 too. And it happened in Kurdistan, on the border of
15 Kurdistan and Iran. Three college students, young
16 kids, were doing something stupid and they were at the
17 wrong place at the wrong time. Something compelled
18 these kids to go hiking in the mountains of Kurdistan
19 on the Iranian border. And they were hiking. God
20 knows what it looks like. I don't even want to know.
21 But they're hiking, and they cross the Iran border.
22 And that is a crime. Now, they didn't know they were
23 doing it. But that is a crime, and they were arrested
24 by the Iranian government.

25 But they weren't just arrested for crossing

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 the border, something stupid that they did, but the
2 prosecutor brought charges and accused them of spying
3 for our country, a ludicrous charge with no proof and
4 yet, lo and behold, they were convicted. And their
5 mothers have just gone recently to see them, begging
6 for their release, despite the lack of proof, despite
7 anything else.

8 They were convicted because the prosecution in
9 Iran always wins. When they say it is, you don't get
10 to challenge it. This is the United States of
11 America, and we require proof. And we have a jury,
12 not some government, that decides. We have a jury who
13 takes a very serious oath that if there is no proof,
14 that it is their duty to return a verdict of not
15 guilty.

16 Turuk Saunders was doing something stupid. He
17 was buying marijuana. And Turuk Saunders was in the
18 wrong place at the wrong time. But just because the
19 prosecutor says he's guilty of other charges doesn't
20 make it the truth.

21 Hold him responsible for possessing that
22 marijuana. Take that verdict form, look at it where
23 it says possession of twenty-eight grams or less of
24 marijuana, check guilty. He will be punished. He is
25 not guilty of the remaining charges. Thank you.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

CHARGE OF THE COURT

THE COURT: Okay, Jurors. Coming into the final phase of the trial. I'm going to instruct you on the law and then you're going to retire and return verdicts on these five charges.

You recall when we started the trial I held up these documents. I told you they were indictments. I'm not going to send them back to you, you know. They allege the commission of five separate crimes, all arising out of the same date. You've been in the courtroom -- February the 23rd, 2007. They allege that Turuk Lamar Saunders in Beaufort County on or about February the 23rd of 2007 committed four drug-related crimes -- that's controlled substance crimes -- and they allege that while committing a crime of violence, which trafficking in cocaine is, he possessed a firearm. That's the five charges: four drug charges, and a charge involving possession of a firearm while committing a violent crime, trafficking in crack cocaine being a violent crime.

Now, I explained to you at the start that Mr. Saunders is presumed innocent. There's absolutely no burden on his part to prove that he's not guilty. The State has the entire burden of proof. In order to obtain a conviction on any of the indictments -- and

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Mr. Saunders and the State are each entitled to an
2 independent evaluation of each indictment. Okay? The
3 State must convince twelve jurors unanimously, beyond
4 a reasonable doubt, that Mr. Saunders committed a
5 crime embraced within one of the indictments.

6 Now, beyond a reasonable doubt, you've heard
7 it a good bit. It's just constitutionally defined or
8 defined by our Supreme Court as the kind of doubt that
9 would cause a reasonable person to hesitate to act. I
10 always say an ordinary person to hesitate to act,
11 because they told me in freshmen English you don't use
12 the definition to define the definition. But the
13 Supreme Court probably didn't pay attention when they
14 were in freshmen English. So would cause an ordinary
15 person to hesitate to act. But to go just a little
16 farther, and no farther than that, proof beyond a
17 reasonable doubt is doubt that leaves you firmly
18 convinced of the defendant's guilt. If after you view
19 all of the evidence you have -- you are not firmly
20 convinced that the defendant is guilty, you would have
21 a reasonable doubt and you would give him the benefit
22 of that doubt and find him not guilty.

23 Now, the fact that the indictments have issued
24 creates no inference of guilt against him. Okay?

25 He's just charged. That's what the indictments are.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
- May 26, 2010

1 They are allegations. They are charging papers. So
2 once an individual is charged, the individual can
3 plead guilty or not guilty. If he pleads not guilty,
4 which Mr. Saunders has done, that places the burden of
5 proof on the State. Mr. Saunders remains presumed
6 innocent. That presumption stays with him throughout
7 the trial.

8 Now, obviously, Mr. Saunders did not testify.
9 That's not evidence in the case. You are not to
10 discuss his failure to testify or to present evidence,
11 because he doesn't have any burden to prove that he's
12 not guilty. So that's not an issue in the case.
13 Don't even mention that when you are deliberating.

14 Now, Madam Forelady, once deliberations
15 commence, you serve as spokesperson for the jury and
16 you preside over the deliberations. Your vote, of
17 course, counts no more than any other juror. Someone
18 has to kind of preside. And after the jurors have all
19 agreed on the verdict, you would sign the verdict
20 form. Twelve jurors have to agree, but I don't need
21 twelve signatures there.

22 Alternate juror, you've been with us
23 throughout. When I include -- conclude these
24 instructions, which is what I'm doing right now, I'm
25 going to ask the jurors to step out. At that point,

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 if you would just stay in the courtroom. I'll try to
2 remember to tell you again but if I don't, the bailiff
3 might stop you and send you back in. But you need to
4 pay attention because even as I speak, a knock might
5 come on the door a child fell down at school, broke
6 their arm, and somebody has to run. So listen until I
7 say everybody step out. At that point if they're all
8 still with us, you remain in here.

9 Now, not in any particular order, jurors, I'm
10 going to go over the indictments in just a second.

11 But Madam Forelady, I'm giving you the law in
12 the abstract. All right? I'm not fact-specific about
13 it. I'm not the fact finder. When I -- I am going to
14 instruct you in a little bit on possession with intent
15 to distribute various narcotics. It's the same
16 instructions irrespective of who is charged. All
17 right? It's the same law. It applies in cases
18 involving possession with intent to distribute drugs.
19 It's the same law when a person is charged with
20 possessing a firearm while committing or attempting to
21 commit a violent crime. I'm not directing it to that,
22 although obviously we're talking about in this case a
23 shotgun, and a weapon, neither of which I'm going to
24 let come back to you. But, you know, they are weapons
25 if he possessed them while committing a violent crime,

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 which I'm not suggesting he did.

2 If questions occur during deliberation, Madam
3 Forelady, you have the right to write them down and I
4 will confer with counsel and see if I can answer the
5 question. However, I can't tell you how to decide the
6 case. You know, they wouldn't have had y'all here if
7 they wanted me to decide the case. So don't speculate
8 as to how the judge thinks we should rule. It's up to
9 you to decide whether the State has met its burden of
10 proof on any and all of the indictments that will be
11 submitted to you.

12 I can't, Jurors -- don't ask your foreman to
13 ask me to present any additional evidence. For
14 instance, it might be that you, having watched a lot
15 of TV, would like to have asked a witness who
16 testified another question or two. I'm sorry. You
17 have to base your decision on the admitted evidence
18 and if a question was not asked, you can't speculate
19 as to what the answer would have been.

20 In addition, if you like to have had another
21 witness testify: there will be no more witnesses.
22 You can't call witnesses. That's the litigants'
23 decision as to which witnesses to present.

24 If you saw something during the course of the
25 trial and there was no objection to it, you can

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 consider what you saw or what you heard. If a
2 document was officially introduced into evidence, it
3 will be with you while you deliberate. Okay? Except
4 for the two weapons. And if y'all want to see them,
5 you know, you can come back out in the courtroom and
6 we can show them to you. Again, they're not going
7 back to the jury room.

8 Certain other things were presented or
9 questioned, people were questioned about, you can
10 consider the answers you heard. But if a document
11 itself was not introduced into evidence, it will not
12 be back there. So don't say, we would like to see
13 that document in detail. You can consider what
14 questions were asked from it, but I can't send it
15 back.

16 I can't tell you what inferences you should
17 draw, either, from the totality of the evidence.
18 That's your function. So don't ask me to help you
19 with any of that.

20 Now, not in any particular order. The first
21 document I'm looking at charges Mr. Saunders with
22 possession with intent to distribute ecstasy. Ecstasy
23 is a controlled substance. Ecstasy is a -- we'll just
24 call it a drug or a controlled substance or a narcotic
25 that you cannot legally possess unless you're

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 otherwise authorized by law to dispense or have it
2 pursuant to a prescription.

3 Cocaine, same thing. He's charged -- he,
4 being Mr. Saunders -- with possession with intent to
5 distribute cocaine on the date in question. Cocaine,
6 again, is a controlled substance. It's a narcotic.
7 It's a drug you cannot have the drug in your
8 possession unless you were authorized to dispense it
9 or administer the drug or otherwise permitted to by
10 law.

11 Marijuana, the third indictment I'm holding
12 up, charges Mr. Saunders on that date with possession
13 with intent to distribute marijuana. Marijuana,
14 again, another controlled substance, another drug,
15 another narcotic that you cannot have in your
16 possession legally unless you are authorized to
17 administer it or dispense it or otherwise have it
18 pursuant to a valid prescription or otherwise
19 authorized to transport it from point to point.

20 The next indictment alleges that Mr. Saunders
21 committed the crime of trafficking in crack cocaine.
22 As I've basically explained to you, trafficking
23 alleges that you have in your possession more than ten
24 grams of crack cocaine. This particular indictment
25 alleges more than ten but less than twenty-eight. The

State vs. Turik Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 State has to prove beyond a reasonable doubt that he
2 had knowingly in his possession, illegally, over ten
3 grams of crack cocaine.

4 That's the basic charges, except for the
5 weapons charge. If you do not find Mr. Saunders
6 guilty of trafficking in cocaine, he's obviously not
7 guilty of possessing a weapon while engaging in the
8 commission of a violent crime, since the other crimes
9 charged are not classified by the legislature as being
10 violent crimes.

11 Now, that's the allegations of the indictment.
12 I'm going to explain the law as it applies to
13 possession with intent to distribute, and so forth, in
14 just a little bit.

15 You, jurors, and you alone, pass upon the
16 credibility of the witnesses who have testified. Now,
17 I'm just going to give you some keys. I'm not
18 addressing them to any particular witness. They go to
19 all the witnesses. Among the things that you would
20 consider is whether a witness is -- the appearance of
21 the witness, whether the witness' testimony is
22 consistent or inconsistent. Obviously, the
23 opportunity that a witness had to see, hear, or
24 observe what a witness testified to should be
25 considered by you. Whether testimony given by a

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 witness becomes stronger or, in your opinion, is made
2 weaker by other testimony or other evidences in the
3 case is up to you. You can consider any interest that
4 a witness has in the outcoming of the proceedings, any
5 bias that a witness has. You're not bound, jurors, to
6 accept in its totality the testimony of any particular
7 witness. You have the absolute right to pick and
8 choose portions of testimony that you feel believable.
9 After you've decided which testimony is believable,
10 the relative weight that you attribute to testimony is
11 entirely up to you jurors.

12 Now, during the trial, jurors, several
13 individuals were qualified as experts. That just
14 means it was conceded that through education,
15 training, work experience, the individual had obtained
16 more knowledge in a particular field than you or I
17 have. Once that's done, an expert is entitled to give
18 opinions within their field of expertise. When you
19 are evaluating expert testimony, you use the test that
20 you would use in evaluating testimony from anybody,
21 plus you would take further into account the
22 underlying facts on which a witness, expert witness,
23 based his or her opinion. So the fact that a person
24 is qualified as an expert does not mean that the Court
25 vouches for that person. It's just that they have the

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 qualifications to give you opinions within their field
2 of expertise, which you, jurors, are free to accept or
3 reject.

4 In addition to testimony, jurors, obviously
5 spread out in front of you are various documents that
6 have been introduced into evidence. Those are
7 physical things that you will have with you. You can
8 consider anything and give such weight to any physical
9 evidence that has been introduced, from photographs to
10 all the other documents and instruments that have been
11 introduced into evidence.

12 Now, evidence consists of two types, jurors.
13 I explained to you about you have the right to pass
14 upon the believability or credibility of witnesses who
15 testify, and have given you some guidelines in
16 evaluating testimony. Direct evidence, jurors, is
17 where a witness testifies to something he or she has
18 observed through their senses. I further, of course,
19 told you that any time any witness testifies, with
20 very few exceptions, the State can bring out that the
21 person has a prior criminal record. That does not
22 mean you should necessarily disregard a person's
23 testimony. It's just if you feel it impacts on their
24 credibility, you can weigh it and consider it. So
25 while direct evidence is where a person testifies to

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 something that's transpired through their senses, it
2 might not be correct, it might not be accurate, but it
3 is direct evidence. It's just like if somebody opened
4 a door -- we've got thunderstorms going on right now,
5 you know -- says it's raining outside. It may or may
6 not be raining. If a person came in and let down an
7 umbrella, shook water off of it, and took a raincoat
8 off covered with water and shook it, we could assume
9 that it's raining outside. It might not be. They
10 might have just for mischief gone under a shower
11 somewhere. But the logical assumption would be that
12 it would be raining outside. So circumstantial
13 evidence is where you take a proven fact and from that
14 you exist -- or facts, you infer the existence of
15 another fact or facts. Direct evidence and
16 circumstantial evidence stand on the same footing.
17 The State has an absolute right to rely on both direct
18 evidence and circumstantial evidence in proving its
19 case. Remember, of course any time I say proving its
20 case, we're talking about beyond a reasonable doubt.

21 Now, on the drug charges involving marijuana,
22 cocaine, and ecstasy, all being controlled substances,
23 the State further must first prove that the defendant
24 had possession of those three substances. Each
25 substance charged is a separate determination by you,

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 jurors. But that's the first element that the State
2 must prove is that the defendant had actual possession
3 of the controlled substance or constructive possession
4 of a controlled substance. It applies to these three
5 charges of cocaine, marijuana, and ecstasy.

6 So actual possession means that the defendant
7 was in actual, physical custody of the controlled
8 substance, the narcotic or the drug. Constructive
9 possession means that the defendant had dominion or
10 control or the right to exercise dominion and control
11 over either the drug itself, the narcotic itself, or
12 the property on which the narcotic he's charged with
13 possessing with intent to distribute was found.

14 Mere presence at the scene where drugs are
15 found are not enough to prove possession. Actual
16 knowledge of the presence of the narcotics is strong
17 evidence of the defendant's intent to control its
18 disposition of use. A defendant's knowledge and
19 possession may be inferred where a substance is found
20 on property under the defendant's control. It's hard
21 to tell you what is dominion and control. That's just
22 facts in the case that you jurors will decide. It's
23 like if you were the driver of a car and narcotics
24 were found in the car on your lap and it's your car,
25 you pretty much bite the dust on that. If you are a

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 passenger in the car and drugs are right within your
2 location, you could infer that you had -- that that
3 person had dominion and control over it. But if drugs
4 were found in the trunk of the car and you're a
5 passenger, they don't make out a case against you. I
6 think you know it's just degrees of dominion and
7 control. But in order to -- where narcotics are not
8 found on the physical -- in the physical custody of an
9 individual, in other words, on their person, in the
10 area of circumstantial evidence and the State has to
11 convince you that constructive possession exists and
12 that the defendant had dominion and control over the
13 narcotics, the right to control the narcotics.

14 And of course the defendant has -- I mean, the
15 State has to prove beyond a reasonable doubt that the
16 substances in question were, in fact, controlled
17 substances. On the marijuana charge they've got to
18 convince you jurors unanimously, beyond a reasonable
19 doubt, that what the State claimed was marijuana was
20 marijuana. On the cocaine charge, they have to do the
21 same thing. And on the ecstasy charge they have to
22 convince you beyond a reasonable doubt that the
23 substance in question was, in fact, ecstasy.

24 The State on these three charges obviously has
25 to prove that the substances in question were in the

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 possession, actual or constructive, of the defendant.
2 If the substances were, in fact, the controlled
3 substances, that Mr. Saunders had them in his
4 possession and control, actual or constructive, in
5 Beaufort County on the date in question. But further
6 the State must convince you, on the charges of
7 possession with intent to distribute, that Mr.
8 Saunders intended to distribute the narcotics in
9 question. Distribute means to deliver other than by
10 administering or dispensing a controlled substance, a
11 drug, or a narcotic.

12 Intent may be shown by acts and conduct of a
13 defendant and from other circumstances from which you
14 may naturally and reasonably infer intent. So you can
15 consider all circumstances surrounding the case
16 presented by the State as to whether or not they've
17 met their burden of proof beyond a reasonable doubt on
18 the issue of -- whether they've convinced you that the
19 defendant not only possessed the drugs in question but
20 intended to distribute the drugs.

21 Now, in the law, inferences -- the legislature
22 passed a couple of things which you can consider which
23 is just evidence in the case. It's not binding. For
24 instance, if this were a marijuana case and the State
25 stopped someone with one marijuana cigarette, you

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 could not from that infer that the person intended to
2 sell it, give it away. They would have to say, well,
3 I've got this marijuana cigarette but I'm going to
4 sell it to somebody, you know, before you could obtain
5 a conviction. There would be no inference that arose
6 from just a small amount.

7 So on the issue of ecstasy, it's permissible
8 to infer -- you don't have to; it's just evidence in
9 the case -- that possession of -- and of course we're
10 talking about knowledgeable possession -- of more than
11 fifteen tablets, capsules, dosage units, or the
12 equivalent quantity of ecstasy, is evidence of
13 possession with the intent to distribute. That's just
14 evidence in the case. If a person by legislative
15 enactment does not possess that amount, the State
16 cannot even charge the person with possession with
17 intent to distribute that particular drug.

18 On the marijuana charge, possession of more
19 than twenty-eight grams, or one ounce of marijuana, if
20 the State proves that by -- beyond a reasonable doubt,
21 it would permit you to take into account so that you
22 could infer that the person possessed it with the
23 intent to distribute marijuana, but you're not bound
24 by that. That's just another little evidentiary thing
25 in the case.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 As far as cocaine is concerned, the statute on
2 cocaine says that if a person is in possession of more
3 than ten grains of cocaine, that raises a permissible
4 inference which only permits but does not require you
5 to infer a violation of possession with intent to
6 distribute.

7 Not that y'all will ask, but just a
8 forestalled question: a grain is approximately one-
9 fifteenth of a gram. Ten grains of cocaine is about
10 two-thirds of a gram of cocaine.

11 Now, the defendant is further charged with
12 trafficking in crack cocaine. The statute under which
13 he's charged is simply a weight-derived statement,
14 while trafficking has a popular meaning of exchange or
15 passing of goods or commodities or engaging in any
16 transfer of goods for money. The statute in question
17 says that any person who is knowingly in actual or
18 constructive possession of ten grams or more of crack
19 cocaine shall be guilty of trafficking in crack
20 cocaine; therefore, you cannot find a defendant guilty
21 of trafficking in crack cocaine unless you find that
22 there were ten grams or more of crack cocaine in his
23 possession and that he was aware of it and so forth.

24 By explaining that to you, I'm not commenting
25 on the evidence, of course. I'm just telling you

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 that's what the State has to prove beyond a reasonable
2 doubt.

3 Now, you must find the defendant guilty of
4 trafficking in crack cocaine before you could find him
5 guilty of possessing a weapon -- which is another
6 charge -- while committing a violent crime, since
7 trafficking in crack cocaine is the only violent crime
8 charged under the four other indictments, three other
9 indictments other than the trafficking charge. I'm
10 not suggesting, of course, that you find him guilty of
11 anything.

12 Now, jurors, I'm going to elaborate on a
13 couple of propositions of law. I intend no emphasis
14 one way or another by doing this. There are different
15 ways of saying the same thing, as you know.

16 Mere presence and prior knowledge that the
17 crime is going to be committed, without more, is
18 insufficient to constitute guilt. However, present at
19 a crime scene by prearrangement, to aid, encourage and
20 abet in preparation of a crime would make a defendant
21 guilty.

22 Jurors, two or more people may have possession
23 of the same drug and be convicted of having possession
24 of it. In addition, if a crime is committed by two or
25 more people who are acting together in the commission

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 of the crime, then both individuals are guilty of
2 committing the crime. So if several people, pursuant
3 to a common design or an unlawful act, set out
4 together to violate the laws of the State and one
5 actually does it and the other is participating with
6 it, the hand of one is the hand of all is just another
7 way of saying that.

8 To elaborate a bit on the mere presence
9 charge, again, no emphasis, it's just the law. The
10 mere presence of a defendant where a crime has
11 occurred, or the mere association of a defendant with
12 individuals who have committed a crime, is in and of
13 itself insufficient proof that a defendant has
14 committed a crime. Evidence that an individual is
15 present at the time a crime is committed is not,
16 standing alone, sufficient proof that the individual
17 committed a crime, thus, the mere presence of a
18 defendant on property where controlled substances are
19 kept or the mere association by a defendant with
20 people who possess controlled substances.

21 Jurors, you know, I represent to y'all that
22 I'm a speed reader, as they all know, so I can just
23 look down and read it or paraphrase. So mere
24 association by a defendant with people who possess
25 controlled substances is insufficient proof that the

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 defendant possessed a control substance. Evidence
2 that an individual is present at the time of sale
3 of a controlled substance is not in and of itself
4 sufficient proof that the individual had actual or
5 constructive possession of a controlled substance.
6 Possession requires more than mere presence. You take
7 all the facts and circumstances bearing on whether the
8 State has met its burden of proof beyond a reasonable
9 doubt before you can return a verdict of guilty.

10 Now, jurors, while you deliberate you will
11 have with you some verdict forms. The order in which
12 the verdict forms have been typed have no bearing.
13 For instance, on the charge of --

14 You can write on there which is which, just
15 the indictment numbers. We'll write that on there in
16 longhand.

17 On the charges of possession with intent to
18 distribute ecstasy, your verdict would be not guilty
19 or guilty. You only have two choices. The order in
20 which they are typed has no bearing. It takes a
21 unanimous decision to find an individual guilty. You
22 have to find the defendant in this particular case had
23 ecstasy, knew it was ecstasy, had actual or
24 constructive possession of it. The State has to
25 convince you of that beyond a reasonable doubt -- and

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 that he further intended to distribute it. All right?

2 On the cocaine charge, it's the same verdict
3 form. Either guilty or not guilty of possession with
4 intent to distribute cocaine. Just two possible
5 verdict forms. You can return that.

6 On the marijuana charge there is a separate
7 verdict form. You can find him not guilty of
8 possession with intent to distribute, you can find him
9 guilty of possession with intent to distribute, or you
10 could find him guilty of possession of less than
11 twenty-eight grams of marijuana. As I explained to
12 you, if you have more than twenty-eight grams in your
13 possession, it's permissible to infer that an
14 individual has intended to distribute the marijuana.

15 On the trafficking charge the verdict form is
16 simply, we find the defendant not guilty or guilty of
17 trafficking in crack cocaine.

18 On the possession of a weapon, you would have
19 to first find him guilty of the violent crime of
20 trafficking in crack cocaine before you could find him
21 guilty of possession of a weapon. You could find him
22 guilty, in any event, if the State didn't convince you
23 that it was his gun and so forth and so forth. But
24 the verdict form on that would be not guilty or
25 guilty.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Those are your verdict forms. Everything that
2 has been introduced into evidence will come back,
3 except for the weapons.

4 I'll need for you to step out. Don't start
5 deliberating quite yet.

6 Alternate juror, stay in the courtroom.

7 If I bring you back, I might have forgotten to
8 charge you something. It happens.

9 [Whereupon, the jury exits the courtroom at
10 12:01 p.m.]

11 THE BAILIFF: The jury is clear, Your Honor.

12 THE COURT: All right. Do y'all need anything
13 else?

14 MS. TANNER: Not for the jury charges, Your
15 Honor.

16 MR. FLEMING: No, sir.

17 THE COURT: All right. Y'all check the
18 evidence.

19 What do you want to do with the alternate
20 juror?

21 MS. TANNER: Whatever you see fit, Your Honor.

22 THE COURT: Well, I mean, you're not going to
23 have another trial, are you? Or are you?

24 MS. TANNER: No, sir. I'm not. I don't think
25 anyone --

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE COURT: Well, she's been here long enough.
2 Let's just let her go.

3 MS. TANNER: I think that's fair.

4 THE COURT: I'll get one of the bailiffs to
5 come back in because lunch should be here and you can
6 eat lunch before you go. But you're through for the
7 week.

8 THE ALTERNATE: Okay. Thank you.

9 THE COURT: And for three years, if you want
10 to be.

11 THE ALTERNATE: Can I have my things back from
12 the jury room?

13 [Whereupon, the alternate exits the courtroom]

14 MS. TANNER: One quick one, Your Honor.

15 My records indicated yesterday that I moved
16 57, 58, 59 into evidence. There was a little
17 confusion. The court reporter's records didn't
18 reflect that. I want to make sure that those are --
19 those are the last of the three drug reports. I
20 remember moving them in, but I want to confirm that.
21 But just in case there's some --

22 MR. FLEMING: To be very honest with you, I
23 made a specific note that you did not.

24 THE COURT: All right. Well, then, you
25 didn't.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 MS. TANNER: Sir?

2 THE COURT: If you didn't, you didn't. I
3 mean, I don't know. She reflects that you didn't, and
4 he recalls that you didn't.

5 MS. TANNER: I recall showing it to the
6 defense, marking it.

7 MR. FLEMING: You did. You did show it to me
8 and you did mark it. You did present it to the
9 witness.

10 THE COURT: Well, put it in. It's not going
11 to hammer it one way or the other. That's not what
12 it's going to ride or fall on. We don't dispute that
13 it weighs what it weighs and so forth. He didn't.

14 [Whereupon, State's Exhibit Number 57 is
15 admitted into evidence by the Court]

16 [Whereupon, State's Exhibit Number 58 is
17 admitted into evidence by the Court]

18 [Whereupon, State's Exhibit Number 59 is
19 admitted into evidence by the Court]

20 MS. TANNER: Do you want to go over it with me
21 one at the time?

22 THE COURT: Yeah, y'all run over them.

23 [Whereupon, evidence goes out to the jury at
24 12:28 p.m.]

25 [Whereupon, a recess is taken from 12:13 p.m.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 to 2:04 p.m.]

2 THE COURT: Okay. We're bringing the forelady
3 in.

4 [Whereupon, the foreperson enters the
5 courtroom at 2:05 p.m.]

6 THE COURT: Madam Foreperson, as usual, we
7 can't really answer or decipher your question. From
8 the attorneys' recollection, just say he was out there
9 a long time. There's no exact period of time. He was
10 out there most of the day.

11 THE FOREPERSON: Most of the day.

12 THE COURT: Most of the day.

13 Now, I know y'all watch TV. My court reporter
14 here is roughly down from 5,000 pages behind typing to
15 about 2500 pages behind typing. We don't have instant
16 access, so we can't print out and give them to you.
17 We are not denying you the right to hear anybody's
18 testimony if y'all would like to, but it's going to
19 sound the same. All we can do is replay it. Do you
20 understand? We hit the button. If the witness was up
21 there forty-five minutes, it will be forty-five more
22 minutes. We can do that. But it's going to sound the
23 same. Between the twelve of you, you will remember, I
24 think.

25 THE FOREPERSON: All right.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE COURT: But I can't have any real
2 meaningful conversation with you, other than to
3 tell you that's the best we can do on answering it.
4 We cannot send transcripts back to you. I have no
5 written charge I can send back to you. You know, if
6 you have a -- want to hear some more law, I can write
7 it down with specificity and I can address it. But I
8 can't -- y'all are the fact finders. We can play the
9 testimony back. It's going to sound the same. That's
10 all.

11 THE FOREPERSON: We have some different
12 recollections.

13 THE COURT: Well, that's what usually happens.
14 So if you can tie it down as to a particular thing,
15 maybe we can answer it without having to play
16 everything. But short of that, we can't.

17 THE FOREPERSON: So your answer to the
18 Woodward testimony is he was there most of the day?

19 THE COURT: That's the attorneys, you know.

20 THE FOREPERSON: That's what they're saying?

21 THE COURT: We can play all of that, but it
22 takes a long time to set it up and find it and play
23 it. Defense counsel, the prosecutortrix, is satisfied
24 with most of the day. They don't --

25 THE FOREPERSON: Okay.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE COURT: They don't differ on that. Or if
2 they did --

3 THE FOREPERSON: I'll take it back, then, and
4 see if that flies.

5 THE COURT: Yeah. Most of the day being until
6 the SWAT team arrived, you know.

7 THE FOREPERSON: Okay. Thank you.

8 THE COURT: Okay.

9 [Whereupon, Court's Exhibit Number 1 is marked
10 by the court reporter]

11 MR. FLEMING: Your Honor, while we are
12 waiting, can we -- since I was unsure about what he
13 said, can we go ahead and just cue that up, regardless
14 of whether they want to hear it, so we can confirm
15 that just in case --

16 THE COURT: She can find it. She can play it
17 back for you. And if it differs, we can write it on a
18 piece of paper and send it back --

19 MR. FLEMING: Yes, sir.

20 THE COURT: -- say we played it and he was out
21 there from 9:07 until the SWAT team arrived at 3:26.

22 MR. FLEMING: Okay. Thank you, sir.

23 [Whereupon, a recess is taken from 2:06 p.m.
24 to 2:52 p.m.]

25

- - -

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

VERDICT

THE COURT: Okay. I understand the jury has reached a verdict.

Is the State ready to receive the verdict?

MS. TANNER: The State is ready, Your Honor.

THE COURT: What about the defense?

MR. FLEMING: Yes, Your Honor.

THE COURT: Okay. Let's bring them in.

THE BAILIFF: The jury is ready to enter.

THE COURT: Bring them in.

[Whereupon, the jury enters the courtroom at 2:54 p.m.]

THE BAILIFF: The jury is present.

THE COURT: Okay. Madam Forelady, has the jury reached verdicts in the matter of --

THE FOREPERSON: Yes, Your Honor.

THE COURT: Have you signed the verdict forms?

THE FOREPERSON: Yes, I have.

THE COURT: If you would then just hand them to the bailiff.

I know you've been back there practicing reading them like you see on TV. That's not exactly what we do.

[Whereupon, the foreperson proffers documents to the bailiff. The bailiff proffers documents to the

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 Court]

2 [Whereupon, the courtroom reviews documents]

3 [Whereupon, the Court proffers documents to
4 the clerk of court]

5 THE CLERK OF COURT: In the matter of the
6 State of South Carolina, County of Beaufort, versus
7 Turuk Saunders, in the Court of General Sessions,
8 indictment number 2007-GS-07-00505, we, the jury, by
9 unanimous consent, find the defendant guilty of
10 possession of less than twenty-eight grams of
11 marijuana and guilty with possession with intent to
12 distribute marijuana.

13 In the matter of State of South Carolina,
14 County of Beaufort, versus Turuk Saunders, in the
15 Court of General Sessions, indictment number 2007-GS-
16 07-00506, we, the jury, by unanimous consent, find the
17 defendant guilty of possession with intent to
18 distribute cocaine.

19 In the matter of the State of South Carolina,
20 County of Beaufort, versus Turuk Saunders, in the
21 Court of General Sessions for indictment number 2007-
22 GS-07-00507, we, the jury, by unanimous consent, find
23 the defendant guilty of possession with intent to
24 distribute ecstasy.

25 In the matter of the State of South Carolina,

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 County of Beaufort, versus Turuk Saunders, in the
2 Court of General Sessions for indictment number 2007-
3 GS-07-00508, we, the jury, by unanimous consent, find
4 the defendant guilty of trafficking in crack cocaine.

5 And in the State of South Carolina, County of
6 Beaufort, versus Turuk Saunders, in the Court of
7 General Sessions for indictment number 2007-GS-07-
8 00509, we, the jury, by unanimous consent, find the
9 defendant not guilty in the use of a firearm during
10 the commission of a violent crime.

11 THE COURT: Okay. Any problem with the
12 verdict, other than I didn't explain it to them about
13 the three forms on there was confusing? We understand
14 that. Mr. Fleming basically said you could find him
15 guilty of possessing just a little bit and he was
16 charged with --

17 MR. FLEMING: I think it's still a consistent
18 verdict.

19 But I would request that the jury be polled.

20 THE COURT: Yes. We'll do that.

21
22
23
24
25

- - -

- - -

- - -

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

POLLING OF THE JURY

1
2 THE COURT: All right. Jurors, now don't get
3 excited. Polled doesn't mean you're going to get
4 hammered or anything. The deputy clerk is going to
5 call your names one at a time and he's going to ask
6 you if that was your verdict and if it's still your
7 verdict. He's not talking about when you went back
8 there to start deliberating. He's talking about when
9 he read it. Was that your verdict he read, is it
10 still your verdict. Okay?

11 THE CLERK OF COURT: As I call your name, if
12 you would raise your right hand so I know who you are.

13 Yarberry, Renee, juror number 247. Was that
14 your verdict?

15 MS. YARBERRY: Yes.

16 THE CLERK OF COURT: Is it still your verdict?

17 MS. YARBERRY: Yes.

18 THE CLERK OF COURT: Kelly, Dorothea, 113.
19 Was that your verdict?

20 MS. KELLY: Yes.

21 THE CLERK OF COURT: Is it still your verdict?

22 MS. KELLY: Yes.

23 THE CLERK OF COURT: Germon, Rachel, was that
24 your verdict?

25 MS. GERMON: Yes.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE CLERK OF COURT: Is it still your verdict?

2 MS. GERMON: Yes.

3 THE CLERK OF COURT: Parsons, Debra, 158. Was
4 that your verdict?

5 MS. PARSONS: Yes.

6 THE CLERK OF COURT: Is it still your verdict?

7 MS. PARSONS: Yes.

8 THE CLERK OF COURT: Moore, Eric, 145. Was
9 that your verdict?

10 MR. MOORE: Yes.

11 THE CLERK OF COURT: Is it still your verdict?

12 MR. MOORE: Yes.

13 THE CLERK OF COURT: Callahan, Rickey, 32.
14 Was that your verdict?

15 MR. CALLAHAN: Yes.

16 THE CLERK OF COURT: Is it still your verdict?

17 MR. CALLAHAN: Yes.

18 THE CLERK OF COURT: Watson, Lolita, 232. Was
19 that your verdict?

20 MS. WATSON: Yes.

21 THE CLERK OF COURT: Is it still your verdict?

22 MS. WATSON: Yes.

23 THE CLERK OF COURT: Glover, Linda, 74. Was
24 that your verdict?

25 MS. GLOVER: Yes.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE CLERK OF COURT: Is it still your verdict?

2 MS. GLOVER: Yes.

3 THE CLERK OF COURT: Lankin, Sandra, 119. Was
4 that your verdict?

5 MS. LANKIN: Yes.

6 THE CLERK OF COURT: Is it still your verdict?

7 MS. LANKIN: Yes.

8 THE CLERK OF COURT: Pinckney, Henry, 165.
9 Was that your verdict?

10 MR. PINCKNEY: Yes.

11 THE CLERK OF COURT: Is it still your verdict?

12 MR. PINCKNEY: Yes.

13 THE CLERK OF COURT: Hein, Wendi, 86. Was
14 that your verdict?

15 MS. HEIN: Yes, sir.

16 THE CLERK OF COURT: Is it still your verdict?

17 MS. HEIN: Yes, sir.

18 THE CLERK OF COURT: Putrello, Maurice, 167.
19 Was that your verdict?

20 MR. PUTRELLO: Yes.

21 THE CLERK OF COURT: Is it still your verdict?

22 MR. PUTRELLO: Yes.

23 THE CLERK OF COURT: The jury has been polled,
24 Your Honor.

25 THE COURT: Okay. Jurors, here's how it

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 shakes down. I used to just sentence everybody,
2 because that's what I do, and not even ask the jury if
3 they wanted to hang around. But then, you know, about
4 twenty years ago I started asking them if they wanted
5 to hang around. That's because I sentenced somebody
6 and they just passed out. You know when they pass out
7 because their head hits the floor. The jurors were
8 horrified. So I give you your option on it. I can
9 tell you he's got a prior record. I don't know it at
10 all, but the drug penalties escalate and he's looking
11 at lots of time.

12 If anybody -- if y'all would like to hang
13 around, you can hang around. If you want to go, you
14 can go.

15 You're through for the week. The bailiff will
16 collect your little thing.

17 The clerk says, but he's not promising, that
18 your checks will be mailed Friday. All right? He
19 thinks they'll be mailed Friday, but will be mailed
20 next week if not Friday.

21 If you need a statement saying you have been
22 here, though, you know, you can stop by the clerk's
23 office and they will give you that today.

24 So anybody that would like to leave, you can
25 leave. If you want to hang around, you can hang

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 around.

2 [Whereupon, the jury exits the courtroom at
3 3:02 p.m.]

4 THE COURT: Okay. What can I do for anybody?

5 MS. TANNER: I'll pass the sentencing sheets
6 to you.

7 THE COURT: Well, Mr. Fleming wants to make a
8 motion first.

9 - - - - -

10 RENEWED MOTIONS

11 MR. FLEMING: Yes. Well, I would renew all my
12 previous motions before the Court. And understand --
13 and I would ask the Court to allow me ten days in
14 which to make any further motions.

15 THE COURT: Sure. You can do that.

16 MR. FLEMING: Thank you, sir.

17

18

19

20

21

22

23 - - - - -

24 - - - - -

25 - - - - -

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

SENTENCING .

THE COURT: Okay.

MS. TANNER: Your Honor, you've heard a little bit about the prior record of Mr. Saunders. According to the State's records, this would be a third or greater drug conviction for Mr. Saunders. I have certified priors to hand up to Your Honor. Defense counsel has been provided copies of those. I will provide these to the clerk of court. There is one from Georgia. The remaining are from Beaufort County, South Carolina.

[Whereupon, Ms. Tanner proffers documents to the clerk of court]

MS. TANNER: There is a -- I will also note for Your Honor that his convictions from the '90s are actually under the name Turuk Frazier. I have confirmed that Turuk Frazier is Turuk Saunders. I will provide also to the Court his booking photo from the Beaufort County Detention Center as Turuk Frazier and you can see that it is Turuk Saunders for yourself, as well as a list of the charges he was booked in under that name.

The prior convictions being 2003 -- I'm sorry. 1993, he was convicted of distribution or sale of marijuana. H was given a YOA sentence at that time.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 He was also convicted of distribution of crack. He
2 has been convicted in '93 of possession of crack. In
3 '95, he was convicted of selling -- distribution of
4 crack cocaine. He was sentenced to ten years on that
5 offense. In '95 he also was convicted of another
6 distribution and sale of crack cocaine. That ran
7 concurrent with the ten years on the previous
8 distribution. There is a third distribution in '95
9 for crack cocaine, also to run concurrent with the ten
10 years.

11 And then a Georgia conviction is from 2005,
12 would be his most recent drug conviction. He was
13 charged there, possession with intent to distribute
14 marijuana. My conversations with authorities there,
15 he was pled to what they consider a lesser included
16 offense of possession of marijuana; however, for them
17 it is a felony and it still would be in line with our
18 sentence range for a general sessions offense.

19 So that would be one, two, three --

20 [Whereupon, Ms. Tanner reviews documents]

21 MS. TANNER: That makes a total of no less
22 than seven prior drug distribution convictions in
23 Mr. Turuk Frazier's past.

24 Looking over the remainder of his rap sheet he
25 has some driving offenses in 2002, but, again, the

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 bulk of his rap sheet being drug offenses.

2 THE COURT: All right.

3 MS. TANNER: Obviously, because of his prior
4 record, he's facing the mandatory twenty-five to
5 thirty on the trafficking offense. The State believes
6 he has earned every day of it and would be asking for
7 the thirty years.

8 THE COURT: All right. What about the PWIDs?
9 It's third and above?

10 MS. TANNER: They will all be third and above.
11 All convictions today are third or above, subsequent.

12 THE COURT: I don't know what -- ecstasy, that
13 doesn't come up on a third and above often. Is that
14 all the way up to thirty, also?

15 MS. TANNER: It's the same as marijuana.

16 THE COURT: Which is?

17 MS. TANNER: Which is -- third offense is I
18 believe -- I can pull it up.

19 THE COURT: Yes.

20 [Whereupon, Ms. Tanner reviews documents]

21 THE COURT: Now, the trafficking carries a
22 mandatory of a fine. I don't know. It's probably
23 \$100,000 for this, isn't it?

24 MS. TANNER: The fine?

25 THE COURT: It's mandatory.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 MS. TANNER: The fine is mandatory, yes, sir.

2 [Whereupon, Ms. Tanner reviews documents]

3 MS. TANNER: All right. For the marijuana and
4 the ecstasy, which is 44-53-370(b)(2): for a third or
5 subsequent offense it is a felony in prison no less
6 than five, no more than twenty, or fined not more than
7 \$20,000, or both.

8 THE COURT: All right. Cocaine, though, is up
9 to thirty, I believe, isn't it?

10 MS. TANNER: Third offense for the cocaine
11 is --

12 [Whereupon, Ms. Tanner reviews documents]

13 MS. TANNER: Must be in prison not less than
14 fifteen, nor more than thirty, or fined not more than
15 50,000, or both.

16 THE COURT: And the trafficking? I don't know
17 the --

18 MS. TANNER: And the trafficking is twenty-
19 five to thirty. And the --

20 THE COURT: Fine of what?

21 MS. TANNER: And the fine on trafficking --

22 THE COURT: The fine on trafficking is
23 mandatory. It's not mandatory on the other ones.

24 MR. FLEMING: 50,000.

25 THE COURT: All right. Mr. Fleming, what

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 about Mr. Saunders?

2 MR. FLEMING: You've heard my two days' worth
3 of statements on what we think the evidence showed.
4 However, twelve people certainly disagree.

5 At his age, after the service --

6 THE COURT: Which is how old? See, I don't
7 know that.

8 MR. SAUNDERS: Thirty-seven.

9 MR. FLEMING: Thirty-seven years old.

10 If he serves twenty-five years, which of
11 course he would have to serve the great majority of
12 that with no parole regardless of what the Court --

13 THE COURT: You discussed with him about it
14 being a violent crime and parole eligibility and all
15 of that?

16 MR. FLEMING: Yes, sir. Although it, you
17 know --

18 THE COURT: That wouldn't impact him too much.

19 MR. FLEMING: Yes, sir.

20 And the reality is that I would expect that
21 regardless of what the Court or anybody thinks about
22 him, which may be different than my opinion of him,
23 but after twenty-five years in prison I think that he
24 would certainly not pose any further -- that's a lot
25 of time to spend. We would simply ask -- and, you

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 know, to be honest with you, if it mattered, which it
2 doesn't because of the minimums.

3 I will tell you that during the time this took
4 place, he was going to school to get his automotive
5 degree, and got it, and got a job doing it.

6 And so -- of course, you haven't heard
7 anything from him since this event. But, you know,
8 again, I can't argue against the minimums; however, I
9 can't argue for the maximums. And that it be run
10 concurrent.

11 THE COURT: What about it, Mr. Saunders? Do
12 you want to say anything?

13 MR. SAUNDERS: Yes, sir. I've got a whole lot
14 to say.

15 THE COURT: All right.

16 MR. SAUNDERS: I ain't believe I be convicted
17 of, you know, something I ain't had a part of. I was
18 just trying to help my family out by leaving them in a
19 place because they had no place to go.

20 I've got three young kids. I went back to
21 school trying to do the right thing, you know. It's
22 just amazing I am convicted of something that really
23 doesn't belong to me. That's just the God-honest
24 truth.

25 And I just wanted to say I ain't -- I ain't a

State vs. Turik Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 threat in Beaufort. I ain't been no violent person.
2 You know, I really did try to get my life on track
3 until this happened, you know. I gained a lot of
4 respect from the community for a lot of things that I
5 have done, you know, because I'm good with the kids
6 and everything.

7 But I just ask that you be lenient as you can
8 because I got kids that I really think I need to get
9 back to. I know that might be asking a lot, but I
10 just apologize for what happened. Ain't nothing I can
11 really do about it. I came in here and told the
12 truth.

13 I know my past history, you know. That's why
14 I was trying to change my life.

15 THE COURT: Yes, your past history is pretty
16 bad. That's what does you in, you know, past history.

17 MR. SAUNDERS: But that's what I was saying.
18 I was on the path to changing my life. I mean, it
19 ain't like I wasn't on the path to changing my life
20 before this occurred, you know. I mean, I just feel
21 like I got caught in the wrong place at the wrong
22 time.

23 THE COURT: Okay. Well, on the marijuana
24 charge and the ecstasy charge, I sentence you to
25 twenty years. Everything is concurrent. On the PWID

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 cocaine I sentence you to twenty-seven; on the
2 trafficking, twenty-seven and \$50,000. Everything is
3 concurrent. And you do get credit for the time that
4 you have been in jail.

5 MR. SAUNDERS: It ain't no time to me. I
6 mean, I spent --

7 MR. FLEMING: Thank you, Judge.

8 MR. SAUNDERS: -- everything I had trying to
9 defend myself.

10 MS. TANNER: Thank you, Your Honor.

11 [Whereupon, Court's Exhibit Number 2 is marked
12 by the court reporter]

13 [Whereupon, Court's Exhibit Number 3 is marked
14 by the court reporter]

15 [JURY TRIAL CONCLUDES AT 3:15 P.M.]

16

17

18

19

20

21

22

23

24

25

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held hearing before the Honorable J. Ernest Kinard, Jr. , on Wednesday, May 26, 2010.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 30th day of December, 2010.


Mia Perron, CCR, CVR-CM
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CCR, CVR-CM

-112-

COPY

FORM 5

STATE OF SOUTH CAROLINA

County of BEAUFORTTURUK SAUNDERS, #199803

Full name and prison number (if any) of Applicant

v.

ALAN WILSON, ATTORNEY GENERAL
State of South Carolina

RESPONDENT.

IN THE COURT OF COMMON PLEAS

2012-CP-07-4095

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention BROAD RIVER CORRECTIONAL INSTITUTION, 4460 BROAD RIVER ROAD, COLUMBIA, SOUTH CAROLINA, 29210/ CONGAREE #112
2. Name and location of Court which imposed sentence BEAUFORT COUNTY COURT OF GENERAL SESSION, BEAUFORT COUNTY COURTHOUSE, BEAUFORT, S.C. 29902
3. Name(s) of co-defendant(s) (if any) JARRET JACKSON, AKEEM SAUNDERS, ELIJAH CLARK JONATHAN KELLY
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2007-GS-07-0505, 06, 07, 08, 09
 - (b) TRAFFICKING IN CRACK COCAINE, POSSESSION OF FIREARM

RECORDED 30 PM 2:57

- (c) (3 CT.'S) POSSESSION WITH INTENT TO DISTRIBUTE
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) MAY 26 2010 MARIJUANA 20 YRS., ECSTACY 20 YRS.,
 (b) TRAFFICKING 27 YRS., 50, 000 FINE ALL SENTENCE CONCURRENT
 (c) _____
6. Check whether a finding of guilty was made:
 (a) after a plea of guilty _____
 (b) after a plea of not guilty FOUND GUILTY
 (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
 (a) the name of each Court to which you appealed:
 i. SOUTH CAROLINA COURT OF APPEALS
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. AFFIRMED 2010-163446
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. JULY 25, 2012
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. UNPUBLISHED OPINION NO. 2012-UP-456
 ii. _____
 iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
 (a) N/A
 (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
- (b) INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHED
- (b) SEE ATTACHED (NOTE: APPLICANT PRESERVE'S HIS RIGHTS TO AMEND HIS APPLICATION PRIOR TO ANY HEARING)
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. DIRECT APPEAL
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. SOUTH CAROLINA COURT OF APPEALS
- ii. _____
- iii. _____
- iv. _____

GROUND'S FOR RELIEF WITH SUPPORTING FACTS

10 (a) APPLICANT'S RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE SOUTH CAROLINA LAW WAS VIOLATED AS A RESULT OF COUNSEL'S FAILURE TO OBJECT TO INADMISSIBLE HEARSAY AND CHARACTER EVIDENCE TESTIMONY REGARDING THE APPLICANT.

10 (b) APPLICANT'S RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE SOUTH CAROLINA LAW WAS VIOLATED AS A RESULT OF COUNSEL'S FAILURE TO OBJECT TO THE COURT ALLOWING EVIDENCE TO GO BACK TO THE JURY THAT WAS NEVER PROPERLY ADMITTED IN THE PRESENCE OF THE JURY.

10 (c) APPLICANT'S RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE SOUTH CAROLINA LAW WAS VIOLATED BY COUNSEL'S FAILURE TO PROPERLY INQUIRE INTO THE FACTS OF A JUROR WHO KNEW A WITNESS WHO WAS DUE AND DID TESTIFY.

10 (d) APPLICANT'S RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE SOUTH CAROLINA LAW WAS VIOLATED AS A RESULT OF COUNSEL'S FAILURE TO OBJECT TO THE COURT'S TESTIMONY AS TO THE APPLICANT'S CONDUCT AT THE CRIME SCENE WHERE SUCH TESTIMONY WAS NEVER VERIFIED BY ANY WITNESSES NOR THE EVIDENCE AS TO THE TIME OF ARRIVAL OF THE APPLICANT AT THE CRIME SCENE.

10 (e) APPLICANT'S RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE SOUTH CAROLINA LAW WAS VIOLATED WHEN TRIAL COUNSEL FAILED TO OBJECT TO THE PROSECUTOR'S CONTINUED REFERENCE TO HIM AS "BIG T" AFTER THE COURT'S RULING AND THE PROSECUTOR AGREEING THAT SUCH WOULD NOT HAPPEN.

10 (f) APPLICANT'S RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE SOUTH CAROLINA LAW WAS VIOLATED WHEN APPELLATE COUNSEL FAILED TO KNOW THE LAW OF THIS CASE BY FAILING TO ENSURE THAT ALL THE ISSUES RAISED WERE PRESERVED FOR PROPER REVIEW.

SUPPORTING FACTS

11(a) COUNSEL HAD ON HAND POTENTIAL WITNESSES WHO WOULD HAVE COUNTERED THE STATE'S ATTACK ON THE APPLICANT'S CHARACTER AND DISPROVE THE INADMISSIBLE HEARSAY. SEE DISCUSSION AT TR.P. 32, L. 1-5 THRU TR.P. 41, L. 1-25 ALSO, THE LEGITIMACY OF THE ILLEGALITY OF THE SEARCH WARRANT. WHERE THERE WAS TESTIMONY THAT SURVEILLANCE WAS CONDUCTED FOR OVER A YEAR BUT NO TESTIMONY WAS PROFFED ON THIS CRUCIAL POINT. AS THE SUPREME COURT HELD IN LOUDS V. STATE, 380 S.C. 454, 462, 670 S.E. 2D 646, 650 (2008) "COUNSEL'S STRATEGY IS REVIEWED UNDER " AN OBJECTIVE STANDARD OF REASONABLENESS", ID. AT 462, 670 S.E. 2D AT 650 (CITING INGLE V. STATE, 348 S.C. 467, 470, 560 S.E. 2D 401, 402 (2002))" TRIAL COUNSEL HAS A DUTY TO PERFORM A REASONABLE INVESTIGATION, WHICH AT A MINIMUM INCLUDES THE DUTY TO CONDUCT AN INDEPENDENT INVESTIGATION OF THE FACTS AND CIRCUMSTANCES OF THE CASE AND INTERVIEW POTENTIAL WITNESSES. ID. AT 460, 620 S.E. 2D AT 649".

SUPPORTING FACTS CONTINUED PAGE (2)

11 (b) TRIAL COUNSEL KNEW THAT IT WAS HIS RESPONSIBILITY TO KNOW THE LAW OF HIS CASE. HOWEVER, COUNSEL FAILED TO MAKE PROPER OBJECTION'S WHEN THE TRIAL COURT ADMITTED EVIDENCE INTO THE JURY ROOM OF DRUG REPORT'S THAT WERE NEVER PROPERLY ADMITTED IN THE PRESENCE OF THE JURY. COUNSEL'S ERROR'S WAS IN VIOLATION OF SOUTH CAROLINA RULES OF EVIDENCE. CITING RULE 103 (a) SCRB. THE COURT'S ACTIONS DENIED THE APPLICANT OF A FAIR TRIAL AND COUNSEL'S FAILURE'S WERE INEFFECTIVE.

11(c) TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO INVESTIGATE AND/OR CHALLENGE A POTENTIAL JUROR WHO ADMITTED DURING VOIR DIRE THAT HE KNEW A WITNESS BY THE NAME OF BOBBY JENKINS. COUNSEL FAILED TO ASK THE COURT TO IDENTIFY THE JUROR NOR DID COUNSEL ASK FOR FURTHER INQIRRY. SUCH CONDUCT RENDER COUNSEL'S ASSISTANCE INEFFECTIVE. COUNSEL'S FAILURE TO SCREEN OUT THE POTENTIAL BBIASED JUROR FOR ACCURATE INFORMATION CANNOT BE JUDGED FROM A EMPTY RECORD AND AND ONLY BE CONCLUDED AS BEING PREJUDICAL.

11(d) HAD TRIAL COUNSEL DID A COMPLETE AND THOROUGH INVESTIGATION OF THE FACTS IN RELATION TO THE LAW. COUNSEL WOULD HAVE DISCOVERED WITNESSE'S WHO WAS PRESENT AND WILLING TO TESTIFY. WHO WOULD HAVE PROVIDED TESTIMQNY THAT WOULD HAVE EXONERATED THE APPLICANT OF THE CHARGED CRIME AND PROVEN HE WAS NOT PRESENT AT THE LOCATION WHERE THE COURT INFORMED THE JURY HE WAS DURING THEIR DELIBERATION WITHOUT VERIFYING THE INFORMATION FROM THE RECORD. HOWEVER, THE ATTACHED SWORN AFFIDAVIT'S SUPPORT'S THE APPLICANT'S VERSION OF EVENT'S. SEE TR.P. 93, L. VOLUME 3 OF 3 L. 6-12.

11(e) TRIAL COUNSEL FAILED TO OBJECT AND PROTECT THE APPLICANT WHERE THE COURT HAD RULED AND THE STATE HAD AGREED NOT TO REFER TO THE APPLICANT AS "BIG T" HOWEVER, THE STATE DID REFERRED TO THE APPLICANT A TOTAL OF (23) TIMES AND AS A RESULT THE APPLICANT WAS DENIED A FAIR TRIAL. OUR SUPREME COURT OF SOUTH CAROLINA HAS HELD ON NUMEROUS OCCASSION SUCH CONDUCT IS ERROR. SEE STATE V. RAYMOND DAY, 341 S.C. 410, 535 S.E. 2D 431 (2000); ("PROSECUTOR'S REFERENCING DEFENDANT'S NICKMAN OF "OUT;AW" (23) TIMES DURING CLOSING ARGUMENT DEPRIVED DEFENDANT OF DUE PROCESS OF LAW."; STATE V. TUBBS, 333 S.C. 316, 509 S.E. 2D 815 (1999) (QUOTING DONNELLY V. DECHNISOFORO, 416 U.S. 637, 643, 94 S.CT., 1868, 1871, 40 L.ED. 2D 431, 437 (1974)).

11((f) THE VERY PREMISE OF OUR ADVERSARY SYSTEM OF CRIMINAL JUSTICE IS THAT PARTISAN ADVOCACY ON BOTH SIDES OF A CASE WILL BEST PROMOTE THE ULTIMATE OBJECTIVE THAT THE GUILTY BE CONVICTED AND THE INNOCENT GO FREE. HERRING V. NEW YORK, 422 U.S. 853, 862 (1975). IT IS THAT "VERY PREMISE" THAT UNDERLIES AND GIVES MEANING TO THE SIXTH AMENDMENT. IT "IS MEANT TO ASSURE FAIRNESS IN THE ADVERSARY CRIMINAL PROCESS. " UNITED STATES V. MORRISON, 449 U.S. 361, 364 (1981). "UNLESS THE ACCUSED RECEIVES THE EFFECTIVE ASSISTANCE OF COUNSEL, " A SERIOUS RISK OF INJUSTICE INFECTS THE TRIAL ITSELF." CUYLER V. SULLIVAN, 446 U.S. AT 343. THUS, THE ADVERSARIAL PROCESS PROTECTED BY THE SIXTH AMENDMENT REQUIRES THAT THE ACCUSED HAVE "COUNSEL ACTING IN THE ROLE OF AN ADVOCATE. " ANDERS V. CALIFORNIA, 386 U.S. 738, 743 (1967). APPELLATE COUNSEL PRESENTED ISSUE'S WHICH THEY KNEW HAD NOT BEEN PRESERVED AND OBJECTION'S WERE NOT IN THE RECORD BELOW TO SUPPORT EITHER ISSUE'S THEY RAISED. THEREBY RENDERING APPELLATE COUNSEL'S ASSISTANCE INEFFECTIVE AS TO THERE RAISING THESE FRIVOULOUS BEFORE THE COURT KNOWING THE LAW DID NOT ALLOW SUCH.

EXHIBIT ONE OF #5

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

AFFIDAVIT OF
TYECE BROWN

I, TYECE BROWN, HAVING BEEN FIRST DULY SWORN UPON MY OATH, DEPOSE AND SAY THAT THE MATTERS AND STATEMENTS HEREIN ARE TRUE AND I DECLARE UNDER THE PENALTY OF PERJURY.

ON MAY 24, 2010 I APPEARED AT THE BEAUFORT COUNTY COURTHOUSE AS A WITNESS IN THE CASE OF STATE V. TURUK SAUNDERS TO TESTIFY THAT I TYECE BROWN COLLECTED MONEYS FROM AKEEM SAUNDERS TO PAY RENT AT [REDACTED] IN BURTON, SOUTH CAROLINA FOR AKEEM. I ALSO WANTED TO TESTIFY THAT TURUK AND I LIVED AT [REDACTED] SEABROOK, SOUTH CAROLINA. WE ALSO HAVE A LEASE FROM THE UNIVERSAL OF TABERNACLE TO CONFIRM THIS STATEMENT. THE TRAILER IS OWNED BY GLEEN WATSON AND I WAS NEVER CALL UPON TO TESTIFY AT THE TRIAL BY TURUK'S LAWYER. MR. FLEMINGS DID ASK ME WOULD I TESTIFY ON MAY 24, 2010 BUT NEVER CALLED ME TO THE STAND AND I WAS PRESENT.

FURTHER AFFIANT SAYETH NOT,

S/ Tyce M. Brown
TYECE BROWN, AFFIANT

SWORN TO AND BEFORE ME THIS
25th DAY OF September, 2012

Betty J. Burt (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 01/29/2017

EXHIBIT THREE OF #5

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

AFFIDAVIT OF
ANDRE BENJAMIN

1, ANDRE BENJAMIN, HAVING BEEN FIRST DULY SWORN UPON MY OATH, DEPOSE AND SAY THAT THE MATTERS AND STATEMENTS HEREIN ARE TRUE AND I DECLARE UNDER THE PENALTY OF PERJURY.

1. FEBRUARY 22, 2007, I WENT TO 11 BAY PINE ROAD IN BEAUFORT COUNTY.

2. AS I WALKED INSIDE THE TRAILER WITH WILLIAM REESE THERE WAS ONLY TWO OTHER PEOPLE IN THE TRAILER BESIDE REESE AND I, AKEEM AND JARRET.

3. I SPOKE TO JARRET AS HE WAS PLAYING A VIDEO GAME BUT I DID GO TO THE BACK ROOM TO TALK WITH AKEEM BECAUSE I KNEW THAT AKEEM LIVED THERE.

4. AFTER WE LEFT THE TRAILER WE WERE PULLED OVER BY UNDERCOVER AGENTS AND REESE WAS CHARGED WITH THE MARIJUANA THAT I HAD PURCHASED FOR HIM.

5. MY WIFE, KEICA BENJAMIN EXPLAINED TO ME LATER ABOUT THE ACTIVITIES THAT REESE WAS INVOLVED IN AND SHE WANTED ME TO GO TELL THE TRUTH ABOUT THE ENTIRE SITUATION. I CONTACTED TURUK SAUNDERS GIRL FRIEND "TYECE", AND I INFORMED HER THAT I WANTED TO TESTIFY UPON HIS BEHALF.

6. MAY 24-26, 2010 I APPEARED AT THE BEAUFORT COUNTY COURTHOUSE ALONG WITH MY WIFE TO TESTIFY ABOUT WHAT TRULY HAD TRANSPIRED.

7. THAT DAY, THAT I ARRIVED AT THE TRAILER TURUK SAUNDERS WAS NOT THERE NOR DID WILLIAM REESE SEE HIM THERE AT 11 PINE BAY ROAD IN BEAUFORT COUNTY.

8. MY BROTHER INLAW WILLIAM REESE GAVE FALSE TESTIMONY UNDER OATH THROUGH OUT TURUK SAUNDERS ENTIRE TRIAL AND I WAS THERE AT THE COURTHOUSE TO TELL THE TRUTH ABOUT WHAT WAS WRONG TO BE MADE RIGHT.

FURTHER AFFIANT SAYETH NOT,

S/ Andre Benjamin
ANDRE BENJAMIN, AFFIANT
SCJD 100724991
eff 8-23-2016

SWORN TO AND BEFORE ME THIS
26th DAY OF October, 2012
[Signature] (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: Commission Expires
January 29, 2017

EXHIBIT FOUR OF #5

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

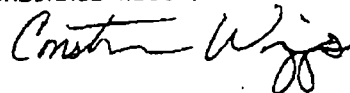
AFFIDAVIT OF
CONSTANCE WIGGS

I, CONSTANCE WIGGS, HAVING BEEN FIRST DULY SWORN UPON MY OATH, DEPOSE AND SAY THAT THE MATTERS AND STATEMENTS HEREIN ARE TRUE AND I DECLARE UNDER THE PENALTY.

AKEEM SAUNDERS AND I, RESIDED AT [REDACTED] SOUTH CAROLINA ALONG WITH JARRET JACKSON, ELIJAH CLARK AND WILLIE KELLY. AS AKEEM'S GIRLFRIEND ONE OF MY RESPONSIBILITIES WAS TO PAY THE BILL'S TO INCLUDE RENT TO MR. JENKINS AND THE LIGHT BILL'S. AKEEM ASKED ME TO PLACE THEM IN MY NAME AND I DID.

FURTHER AFFIANT SAYETH NOT,
S/

CONSTANCE WIGGS, AFFIANT



SWORN TO AND BEFORE ME THIS

29th DAY OF OCT 2012

(L.S.)

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 4-18-21

EXHIBIT FIVE OF #5

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

AFFIDAVIT OF
ELIJAH CLARK

I, ELIJAH CLARK, HAVING BEEN FIRST DULY SWORN UPON MY OATH, DEPOSE AND SAY THAT THE MATTERS AND STATEMENTS HEREIN ARE TRUE AND I DECLARE UNDER THE PENALTY OF PERJURY.

ON MAY 24, 2010 I WAS PRESENT AT THE BEAUFORT COUNTY COURTHOUSE TO TESTIFY THAT TURUK SAUNDERS WAS NOT A PART OF WHAT WAS GOING ON AT [REDACTED] NOR DID HE LIVED THERE. AKEEM SAUNDERS, JARRET JACKSON AND WILLIE KELLY WERE ALL LIVING IN THAT TRAILER ON FEBRUARY 22, 2007. I WAS ASKED BY CORY FLEMINGS TO TESTIFY ON THE 24TH OF MAY 2010 BUT WASN'T CALLED TO THE STAND TO TESTIFY. TYECE, THE SCE&G LADY, ANDRE BENJAMIN AND HIS WIFE KEICA WERE THERE TO TESTIFY BUT NONE OF US WERE CALLED. WE WERE TOLD BY MR. FLEMINGS THAT WE WERE NOT NEEDED AFTER (3) DAYS OF TRIAL.

FURTHER AFFIANT SAYETH NOT,

S/

Elijah Clark
ELIJAH CLARK, AFFIANT

SCDL101438451

4/3-28-2013

SWORN TO AND BEFORE ME THIS
24th DAY OF Oct., 2012

[Signature] (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 01/29/2017

EXHIBIT SIX PAGE'S 31-37...

SUPPORTING ISSUE 10 (a)

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 you?

2 MS. TANNER: As always.

3 THE COURT: All right.

4 MR. FLEMING: Next, and a little bit more
5 complicated, is there are -- if I can -- you're a
6 speed reader, so it won't take you long. I'll be
7 talking a little bit about the search warrant in the
8 case. May I just hand up my copy?

9 THE COURT: Sure.

10 MR. FLEMING: I'll show -- I have highlighted
11 some things. I'll show the solicitor so that she
12 won't be sandbagged.

13 [Whereupon, Mr. Fleming and Ms. Tanner confer]

14 [Whereupon, Mr. Fleming proffers documents to
15 the Court]

16 [Whereupon, the Court reviews documents]

17 THE COURT: I'm listening.

18 MR. FLEMING: All right. Thank you, sir.

19 There is -- there are several -- there are
20 several representations of events, that may or may
21 not have taken place, in the search warrant on the
22 basis of presumably the application for the search
23 warrant. I am told -- I am informed and believe that
24 none of the witnesses who made these representations
25 -- I don't mean law enforcement but I mean citizen

EXHIBIT SIX CONTINUED

State vs. Toruk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 witnesses -- are going to testify. As a result,
2 first and foremost, regardless of whether or not the
3 search warrant is valid or not, which I will address
4 later, I would move to exclude reference to those as
5 being both hearsay and primarily --

6 And, secondarily, a confrontation clause
7 violation because we have no way of cross-examining
8 the accusers of the allegations in there. Whether or
9 not the search warrant in and of itself is valid will
10 be another ruling. I'm talking about the
11 representations made in there without the declarant
12 being available to testify and be cross-examined, and
13 thus would move to suppress those statements.

14 ← And specifically there is a statement
15 concerning -- in the search warrant about my -- or
16 reference to somebody assume -- I assume they intend
17 it's my client, sold some marijuana out of the
18 trailer. Obviously, without that witness I believe
19 it would be hearsay and inadmissible. And that is
20 essentially my first evidentiary motion, Your Honor.)

★ 21 MS. TANNER: Your Honor, I believe the law
↓ 22 does provide that I can't put in statements of lay
23 witnesses if they're not going to testify; however,
24 from law enforcement I believe there will be some
25 information, that they gleaned from their

EXHIBIT SIX CONTINUED

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 MS. TANNER: Yes, sir.

2 THE COURT: It's just like why did you stop
3 that blue Chevrolet, it was a BOLO out, you know,
4 without going into how it was. It was, you know, a
5 BOLO said stop a blue vehicle. So there you go.

6 All right. What else?

7 MR. FLEMING: Thank you, Your Honor.

8 Then with regards to the search warrant
9 itself, I'm in a quandary. And I'll sort of explain
10 it to you for just a second and then you -- maybe we
11 can sort of move forward from that.

12 It is our belief, it is our position, that my
13 client neither owned, operated, stayed in, domiciled,
14 spent the night, or in any other way had any control
15 over the trailer in question. That would lend me to
16 the clear conclusion that he has no standing to
17 challenge a search warrant because he's not the
18 subject of the search.

19 THE COURT: He just happened to be there when
20 the search was conducted?

21 MR. FLEMING: That is correct. And that --

22 THE COURT: As I understand the facts. I
23 mean, I don't know anything.

24 MR. FLEMING: He was -- I believe that the
25 State will present testimony that my client was

EXHIBIT SIX CONTINUED

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 investigation, that would be admissible. Not
2 necessarily statements by other people, but as part
3 of the interviews of those people, information they
4 gleaned such as this address, suspects that could be
5 sought within, things of that nature. So I think that
6 would be admissible under the law enforcement
7 investigation, and things they acted upon, without
★ 8 using a statement of a third party.

9 THE COURT: Okay. Well, I don't know what
10 transpired. I do know that two alleged co-
11 conspirators have already pled guilty.

12 MS. TANNER: Yes, sir.

13 THE COURT: And under the general testimonial
14 rules, law enforcement can say, we went to the
15 premises based on a search warrant, without going
16 into how they got the search warrant. If it's
17 queried as to how it came about, then hearsay comes
18 in; if it's not, it doesn't come in. They can't
19 instigate it themselves, but he can open the door.
20 And he's been around. He knows that.

21 MS. TANNER: Yes, sir.

22 THE COURT: So reference as to what somebody
23 told them, they can't instigate it under the rules.
24 It might come in, though. It depends on how
25 the testimony develops during the trial.

EXHIBIT SIX CONTINUED

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 present when the search warrant was effected and he
2 was apprehended on the front-porch steps momentarily
3 after the initial entry.

4 ✓ THE COURT: On the front steps smoking a
5 marijuana cigarette and throwing the crack down? No.
6 ✓ Not really.

7 MR. FLEMING: I don't expect that particular
8 testimony, but --

9 ✓ THE COURT: We wouldn't be here, would we?

10 MR. FLEMING: No, sir.

11 However, as such, I however believe that
12 they're going to attempt to show that my client was
13 in some way in possession or control of that house
14 and, as a result, I believe that I am entitled to
15 challenge the search warrant, even though I don't
16 think my client has standing.

17 And the quandary that I find myself in is I
18 don't want to in any way prohibit my ability to argue
19 our position, which is that he has no ownership,
20 control, et cetera, but at the same time defend the
21 allegations of the search warrant.

22 THE COURT: Well, unfortunately, you can't
23 have it both ways.

24 MR. FLEMING: Well, then --

25 THE COURT: He was either -- he was just

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 there, which is your best position, in the abstract.
2 I don't know.

3 MR. FLEMING: Well, then, I will not choose to
4 have it both ways, then.

5 I will not challenge, then, the validity of
6 the search warrant, subject, of course, to the ruling
7 that you made concerning what was in it.

8 THE COURT: I don't know if -- if it develops
9 that somehow they say he was in ownership and
10 control, then it reverts back, doesn't it? If they
11 say he was in control of the premises, then that
12 relaxes certain rulings. But I don't know what's
13 going to transpire. So there you go.

14 MR. FLEMING: Well, to predict -- at my
15 peril here, to predict what I think will transpire,
16 I believe that they are going to call the physical
17 owner or the landlord, Robert Jenkins, and attempt
18 through his testimony to show that my client, at
19 the bare minimum, paid rent at this trailer. Whether
20 true or not, I believe that's what the testimony
21 will be.

22 And, again, you see my position. And I
23 will -- I do want my cake and eat it, too, but I am
24 certainly not going to jeopardize my client's
25 position concerning our contention that he has no

EXHIBIT SIX ENDING AT LINE ONE!

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 control.

2 THE COURT: Assuming it shakes down like that,
3 then that's just facts in the case. A says he
4 rented; he says he doesn't rent it. If he testifies,
5 which he certainly does not have to do. If they say
6 he rented it, he says he didn't rent it.

7 MR. FLEMING: Well, it seems then at this
8 juncture, then, barring something else, that I will
9 not challenge the validity of the search warrant,
10 again, subject to renewing or just reaffirming my
11 motion concerning the hearsay statements that would
12 not be admissible unless I open the door.

13 THE COURT: Got it.

14 MR. FLEMING: There is -- that, then,
15 eliminates a great portion of what we were going
16 to do this afternoon.

17 There are two other small matters, Your Honor.

18 I don't believe, then, that they are going to
19 then talk about an alleged marijuana sale earlier.
20 But I want to be very specific about that. It is
21 both contained in the search warrant, this
22 information, and also contained in an independent
23 report. There is a statement by an individual, a
24 witness by the name of Reeves, that -- concerning the
25 sale and the possible involvement of my client.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE COURT: Well, she's been here long enough.
2 Let's just let her go.

3 MS. TANNER: I think that's fair.

4 THE COURT: I'll get one of the bailiffs to
5 come back in because lunch should be here and you can
6 eat lunch before you go. But you're through for the
7 week.

8 THE ALTERNATE: Okay. Thank you.

9 THE COURT: And for three years, if you want
10 to be.

11 THE ALTERNATE: Can I have my things back from
12 the jury room?

13 [Whereupon, the alternate exits the courtroom]

14 MS. TANNER: One quick one, Your Honor.

15 My records indicated yesterday that I moved
16 57, 58, 59 into evidence. There was a little
17 confusion. The court reporter's records didn't
18 reflect that. I want to make sure that those are --
19 those are the last of the three drug reports. I
20 remember moving them in, but I want to confirm that.
21 But just in case there's some --

★ 22 MR. FLEMING: To be very honest with you, I
23 made a specific note that you did not.

24 THE COURT: All right. Well, then, you
25 didn't.

EXHIBIT 8 IN SUPPORT OF ISSUE 10(c)

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 anything about this case?

2 [Whereupon, there is no response]

3 THE COURT: Jurors, if you have ever while not
4 worked directly for law enforcement have ever been
5 employed -- and when I say you, I'm talking about
6 immediate family members -- with any entity that
7 takes a position of the use of narcotics in society.
8 And of course that would include a drug enforcement
9 agency, all drug enforcement agencies.

10 [Whereupon, there is no response]

11 THE COURT: Jurors, I have a list of potential
12 witnesses. I don't think the witnesses are present.
13 If they are present, if they would stand. I just
14 have the names, and sometimes I have some
15 information. If you know the individual or are
16 related to them, I need for you to stand.

17 Renita Berry, who's now formerly with the
18 Beaufort County Sheriff's Office. Elijah Clark.

19 If you know someone with the same or similar
20 name, just stand and the attorneys can tell us
21 whether the person you know is the name down of the
22 person who's going to testify.

23 Ramona Cooper, Beaufort County Sheriff's
24 Office; Andrew Faucett, Beaufort County Sheriff's
25 Office, formerly; Robby -- Bobby Jenkins, retired

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 SLED agent, now employed by the --

2 Just stand if you know somebody.

3 UNIDENTIFIED: Robert Jenkins. Robert
4 Jenkins.

5 THE COURT: How does it apply to you?

6 UNIDENTIFIED: Oh. How do I know him?

7 THE COURT: Yes.

8 UNIDENTIFIED: He was my classmate.

9 THE COURT: Can you be fair and impartial if
10 he testifies?

11 UNIDENTIFIED: Yes.

12 THE COURT: Okay. Thank you.

13 Scott Johnson, Beaufort County Sheriff's
14 Office; Robin McIntosh, Beaufort County Sheriff's
15 Office; Jean Roberts, Beaufort County Sheriff's
16 Office; JoJo Woodward, Beaufort County Sheriff's
17 Office; Betty Long; Jarret Jackson; Akeem Saunders;
18 Jonathan Kelly.

19 I can't read the writing on Brown. How do you
20 pronounce it?

21 MR. FLEMING: Tyece.

22 THE COURT: Tyece?

23 MR. FLEMING: Yes, Your Honor.

24 THE COURT: Tyece Brown.

25 [Whereupon, there is no response]

EXHIBIT 9 IN SUPPORT OF ISSUE 10. (d)

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 to 2:04 p.m.)

2 THE COURT: Okay. We're bringing the forelady
3 in.

4 [Whereupon, the foreperson enters the
5 courtroom at 2:05 p.m.]

6 ✓ THE COURT: Madam Foreperson, as usual, we
7 can't really answer or decipher your question. From
8 the attorneys' recollection, just say he was out there
9 a long time. There's no exact period of time. He was
10 out there most of the day.

11 THE FOREPERSON: Most of the day.

12 ✓ THE COURT: Most of the day.

13 Now, I know y'all watch TV. My court reporter
14 here is roughly down from 5,000 pages behind typing to
15 about 2500 pages behind typing. We don't have instant
16 access, so we can't print out and give them to you.
17 We are not denying you the right to hear anybody's
18 testimony if y'all would like to, but it's going to
19 sound the same. All we can do is replay it. Do you
20 understand? We hit the button. If the witness was up
21 there forty-five minutes, it will be forty-five more
22 minutes. We can do that. But it's going to sound the
23 same. Between the twelve of you, you will remember, I
24 think.

25 THE FOREPERSON: All right.

State vs. Turuk Saunders
Jury Trial, Volume 3 of 3
May 26, 2010

1 THE COURT: But I can't have any real
2 meaningful conversation with you, other than to
3 tell you that's the best we can do on answering it.
4 We cannot send transcripts back to you. I have no
5 written charge I can send back to you. You know, if
6 you have a -- want to hear some more law, I can write
7 it down with specificity and I can address it. But I
8 can't -- y'all are the fact finders. We can play the
9 testimony back. It's going to sound the same. That's
10 all.

11 THE FOREPERSON: We have some different
12 recollections.

13 THE COURT: Well, that's what usually happens.
14 So if you can tie it down as to a particular thing,
15 maybe we can answer it without having to play
16 everything. But short of that, we can't.

17 ✓ THE FOREPERSON: So your answer to the
18 Woodward testimony is he was there most of the day?

19 THE COURT: That's the attorneys, you know.

20 THE FOREPERSON: That's what they're saying?

21 THE COURT: We can play all of that, but it
22 takes a long time to set it up and find it and play
23 it. Defense counsel, the prosecutortrix, is satisfied
24 with most of the day. They don't --

25 ✓ THE FOREPERSON: Okay.

EXHIBIT 10 IN SUPPORT OF ISSUE 10 (e)

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

1 foundation for how they know that.

2 MS. TANNER: Agree in part, and disagree in
3 part. And the part that I agree: I intend to refer
4 to Turuk Saunders as Turuk Saunders or the defendant.
5 I don't intend to call him by a street name.
6 However, during the trial, as part of law
7 enforcement's investigation I believe it could come
8 out that they were looking for a Big-T. Now, I'm not
9 calling him that --

10 THE COURT: If the testimony is in there, it
11 comes in. That's all.

12 MS. TANNER: Yes, sir.

13 THE COURT: But it has to come in. Not
14 through hearsay. It has to come in.

15 MR. FLEMING: Your Honor, and that -- I agree
16 with what you just said. What I believe -- if I can
17 paraphrase: what the solicitor is saying is their --
18 the officers are going to testify we were looking for
19 Big-T. The problem is that the only reason they were
20 looking for big-T is the very hearsay that we're
21 talking about. And the -- this entire case is about
22 limiting --

23 THE COURT: Well, then, they could just say,
24 we're looking for the defendant. That doesn't hurt.
25 And, you know, if you go into it, how do you think

State vs. Turuk Saunders
Jury Trial, Volume 1 of 3
May 24, 2010

✓ 1 you're looking for the defendant, because everybody
✓ 2 knows he was Big-T, you know. But I can't protect
✓ 3 you all the way. I just --

4 MR. FLEMING: And I'm not -- I'm not asking
5 you to protect me.

6 I guess what she's saying is they're not going
7 to say why they were looking for him, just that they
8 were. And I object to that, as well, because I don't
9 think that that's what the search warrant says. But
10 I'm certainly not going to dance on that edge,
11 either.

12 THE COURT: You know, I haven't -- you know, I
13 haven't been in the case. Cases develop, and then we
14 see how they go.

15 MR. FLEMING: Well, and, again -- and I know
16 you're sick of me saying this. But, Judge, they're
17 going to say this before you really know anything
18 about the case. That's going to be the first three
19 words out of their mouth. And so you're not going to
20 really know any more than what you know now in terms
21 of that ruling.

22 So if I object, you will not know anything
23 else than what we do now, and what I'm trying to do
24 is sort of edify you a little bit so that you can
25 sort of know. And, you know, they clearly gained

III. THE TRIAL COURT ABUSED IT DISCRETION BY ALLOWING EVIDENCE TO GO BACK TO THE JURY THAT WAS NEVER PROPERLY ADMITTED IN THE PRESENCE OF THE JURY.

The trial court erred in admitting drug reports into evidence after the State rested its case. The solicitor realized after the jury was charged and sent to the jury room to deliberate that she had forgotten to move three drug reports into evidence. (R. 210, lines 18-20). The court decided to put the three reports into evidence by simply sending the reports back to the jury. (R. 211, lines 23-24). The court never re-opened the case and as a result, the three pieces of evidence were not properly admitted in the presence of the jury, in violation of South Carolina's Rules of Evidence. Exhibit 57, prepared by Jean Roberts-Linker, an evidence technician,

contained information regarding the analysis and weight of the marijuana found in the case. (R. 158, lines 20-24). Exhibits 58 and 59 were prepared by Renita Berry, a forensic chemist for the Beaufort County Sheriff's Office. (R. 233-239). Exhibit 59 was Berry's report which analyzed and listed the weight of the crack cocaine and ecstasy found in the trailer. (R. 237-239). Exhibit 58 was also prepared by Renita Berry, but was not discussed in the presence of the jury, the solicitor only referenced exhibit 55 and exhibit 59 when questioning Berry. (R. 168-170). The defense was never given the opportunity to object to the evidence coming into the trial during the testimony of Roberts and Berry because the three reports were never presented by the state as evidence during its case.

The decision to permit the state to re-open its case and present evidence lies within the discretion of the trial court. *State v. Green*, 350 S.C. 580, 567 S.E.2d 505 (Ct. App. 2002). For example, in *State v. Wren*, 470 S.E.2d 111 (Ct. App. 1996), the defendant was charged with trafficking in cocaine. After the state rested its case and the jury was sent to the jury room, the solicitor realized he forgot to move the drugs into evidence. *Id* at 112. The judge brought the jury back into the courtroom and allowed the solicitor to move the drugs into evidence in the presence of the jury. *Id*. The Court of Appeals held that Rule 103 of the South Carolina Rules of evidence governed the issue, noting that an erroneous ruling must affect a substantial right of the defendant. *Id* at 113; *citing* Rule 103(a) SCRE.

The court found that the state had introduced testimony concerning the chain of custody and the chemical testing confirming the substance was cocaine and held, "in light of this additional evidence of drugs, the trial court's admission of the drugs into evidence after the State rested its case did not affect a substantial right of the defendant." *Id.*

In *Green*, 567 S.E.2d at 509, the defendant was charged with trafficking in cocaine and crack cocaine, and distribution of each within one-half mile of a school. At the close of the State's case, the defendant moved for a directed verdict on the ground that the state failed to prove an essential fact related to an element of the offense, that Beaufort Academy was a school. *Id.* The trial court allowed the state to re-open its case and present testimony that Beaufort Academy was in fact a school. The court held, "because proof that Beaufort Academy is a school was an essential fact related to an element of each offense that the defendant was charged, the trial court did not err in allowing the State to re-open the evidence." *Id.*

In the present case, exhibits 57, 58, and 59 were not moved into evidence in the presence of the jury. The case was never re-opened. This violated the appellant's substantial rights because unlike the defendants in *Wren* and *Green*, the appellant was never given the opportunity to fully cross examine the witnesses regarding this evidence. Additionally, it is unclear whether exhibit 58 was even referenced by the solicitor during her examination of Berry. The evidence was

merely sent back to the jury after the case was closed without the court re-opening the case. While it may be proper for a court to re-open a case to allow additional evidence in certain circumstances, it should not be permitted to include evidence in a case that was never properly introduced before the jury. The appellant's due process rights to a fair trial were violated by the trial court's actions.

CONCLUSION

Based upon the foregoing argument and citations of authority, the Appellant, Turuk Saunders, should be afforded relief from the prison sentence imposed against him. The Appellant's convictions should be reversed and this case should be remanded for a new trial.

EXHIBIT EXHIBIT 10 (f) CONTINUED IN SUPPORT OF ISSUE 10(f)

II. THE TRIAL COURT VIOLATED THE APPELLANT'S DUE PROCESS RIGHTS BY FAILING TO OBTAIN THE NAME OF A POTENTIAL JUROR WHO KNEW A WITNESS WHO TESTIFIED AT HIS TRIAL.

It is fundamental that a defendant is entitled to a trial by an impartial and indifferent jury. South Carolina Constitution, Article 1, Section 14; United States Constitution Amendment VI. *see State v. Gullede*, 277 S.C. 368, 287 S.E.2d 488 (1982). To safeguard these rights, "it is required that the jury render its verdict free

from outside influences of whatever kind and nature.” *State v. Cameron*, 311 S.C. 204, 428 S.E.2d 10, 12 (Ct. App. 1993). “The trial judge has the duty to assure himself that every juror is unbiased, fair and impartial.” *Gulledge*, 277 S.C. at 370; citing *State v. Britt*, 237 S.C. 293, 117 S.E.2d 379 (1960); *State v. Holland*, 261 S.C. 488, 201 S.E.2d 118 (1973). Nevertheless, a juror that is related by blood or marriage to a police officer or deputy sheriff does not automatically disqualify the juror. *Gulledge*, 277 S.C. at 370; citing *State v. Cook*, 204 S.C. 295, 28 S.E.2d 842 (1944); *State v. Pitts*, 256 S.C. 420, 182 S.E.2d 738 (1971). However, the juror may be prejudiced, biased, or interested in the case for some alternative reason, such as a relationship with counsel, *Crosby v. Southeast Zayre Inc.*, 274 S.C. 519, 265 S.E.2d 517 (1980) and, depending upon the facts and circumstances, be subjected to challenge for cause or the exercise of a peremptory challenge. *Gulledge*, 277 S.C. at 370.

Therefore, the parties, through the court, “have a right to question jurors on their voir dire examination not only for the purpose of showing grounds for a challenge for cause, but also, within reasonable limits, to elicit such facts as will enable them intelligently to exercise their right of peremptory challenge....” *Id.* citing 50 C.J.S. Juries, § 279, *Peremptory Challenge*, p. 1066. For example, to protect the parties’ right to an impartial jury, the trial court must ask potential jurors whether they have formed an opinion about the case or are aware of any bias

or prejudice against one of the parties. *State v. Kelly*, 331 S.C. 132, 502 S.E.2d 99, 106 (1998); *citing State v. Cason*, 317 S.C. 430, 454 S.E.2d 888 (1995). It has been established in this State that trial judges and attorneys cannot fulfill their duty to screen out biased jurors without accurate information. *Kelly* 502 S.E.2d at 106.

Necessarily it is expected and required that jurors in their answers shall be completely truthful and that they shall disclose, upon a general question, any matters which might tend to disqualify them from sitting on the case for any reason. It therefore becomes imperative that the answers be truthful and complete. False or misleading answers may result in the seating of a juror who might have been discharged by the Court, challenged for cause by counsel or stricken through the exercise of peremptory challenge. *Id.*; *citing Gulledge*, 277 S.C. at 371, 287 S.E.2d at 490; *quoting Photostat Corp. v. Ball*, 338 F.2d 783 (10th Cir. 1964); *see also* 47 A.Jur.2d Jury §§ 195, 208-09 (1995).

Here, during voir dire, the court questioned the jurors to see if they knew any of the parties involved in the case or any of the potential witnesses who would testify at the trial. One of the potential jurors explained that he knew one of the witnesses, Robert Jenkins. (R. 10, lines 2-4). This unidentified juror informed the court that he was a classmate of Mr. Jenkins, but could be impartial if Jenkins testified. (R. 10, lines 9-11). This response was incomplete. The court never asked this juror his or her name, and as a result, it is unknown if this juror was on the appellant's jury. The court should have asked this unidentified individual to provide a name to the court so that the defendant could exercise a peremptory challenge. This unknown juror had a relationship with Mr. Jenkins, who was a witness during the appellant's

trial. Jenkins owned the trailer located at 11 Bay Road and testified that Saunders previously rented it from him. The defense in this case was that Saunders was not living at this trailer at the time of his arrest and as a result, the drugs found in it were not in his possession. Therefore, Jenkins testimony was important to the state's case. The attorneys in this case did not fulfill their duty to screen out the unidentified juror for potential biased without complete and accurate information. The trial court committed reversible error by neglecting to ask the juror to provide his name for the record and for the attorneys. The appellant could not receive a fair trial as a result of the trial judge's failure to ensure that every juror was unbiased, fair and impartial.

(c) the disposition thereof:

i. AFFIRMED CASE. NO. 2010 163446

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. JULY 25 2012

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. UNPUBLISHED OPINION NO. 2021-UP-456

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. NONE

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. NONE

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) POST CONVICTION RELIEF IS THE AVENUE TO RAISE THESE ISSUES
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? YES
 (b) your trial, if any? YES
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
YES

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. H. FLEMING, ESQUIRE, K& KIMBERY SMITH, ESQUIRE
MOSS, KUHN, & FLEMING, P.O. BOX 507 BEAUFORT, SOUTH CAROLINA
 ii. NICOLE NICOLETTE MACE
THE MACE LAW FIRM OF MYRTLE BEACH, 1341 44TH AVENUE NORTH
SUITE 205, MYRTLE BEACH S.C 29577
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. TRIAL
 ii. APPEAL
 iii. _____

19. State clearly the relief you seek in filing this application:

CONVICTION VACATED

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)
County of BEAUFORT)

VERIFICATION

I, TURUK SAUNDERS, #SCDC 199803, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Turuk Saunders
TURUK SAUNDERS, APPLICANT

SWORN to and subscribed before me this 2012
day of 27 NOV,

Eugene Keefe (L.S.)
Notary Public

My Commission Expires: My Commission Expires April 4, 2018

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, TURUK SAUNDERS, SCDC#199803, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Turuk Saunders
Applicant

SWORN or affirmed to and subscribed before me this
27 day of NOV, 2012.

Eugene Keith
Notary Public

My Commission Expires: My Commission Expires April 4, 2016

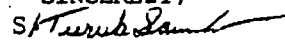
NOVEMBER 28, 2012

CLERK OF COURT
BEAUFORT COUNTY COURTHOUSE
102 RIBAUT ROAD
BEAUFORT, SOUTH CAROLINA 29902

RE: SAUNDERS V. STATE
POST-CONVICTION RELIEF APPLICATION
FILING

DEAR CLERK:

PLEASE FIND ENCLOSED MY APPLICATION FOR POST-CONVICTION RELIEF. WOULD YOU PLEASE FILE SAME AND RETURN ME THE APPLICATION'S COVER SHEET INDICATING THE CASE FILING NUMBER THEREON. I APPRECIATE YOUR ATTENTION TO THE ABOVE AND LOOK TO YOUR REPLY.

SINCERELY,

TURUK F. SAUNDERS, #199803
BRCI-MOULTRIE #
4460 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

ENCLOSURE

cc: FILE

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BEAUFORT	)	
	)	
TURUK SAUNDERS #199803,	)	Case No.: 2012-CP-07-4095
Applicant	)	
-versus-	)	AMENDED APPLICATION FOR POST
	)	CONVICTION RELIEF
STATE OF SOUTH CAROLINA,	)	
Respondent	)	

[Note: This application follows SCRCP Appendix of Forms, Form 5, as required by Rule 71.1(b), SCRCP.]

Defendant, by and through his undersigned attorney, hereby submits this Amended Application for Post Conviction Relief, seeking a vacation of his convictions and sentencing. This Application amends Defendant's *pro se* Application filed November 30, 2012.

1. Applicant is detained at Broad River Correctional Institution, 4460 Broad River Road, Columbia SC 29210.
2. The sentence was imposed by the Beaufort County Court of General Sessions, the Honorable J. Ernest Kinard, Jr. presiding.
3. Names of Co-Defendant(s): Akeem Saunders, Jarret Jackson, Elijah Clark, Jonathan Kelly.
4. The indictment numbers upon which and the offenses for which sentence was imposed:
 - (a) 2007-GS-07-0505 (PWID Marijuana);
 - (b) 2007-GS-07-0506 (PWID Cocaine);
 - (c) 2007-GS-07-0507 (PWID Ecstasy);
 - (d) 2007-GS-07-0508 (Trafficking Crack Cocaine 10-28 g);
5. The date upon which sentence was imposed and the terms of the sentence:

Defendant was sentenced concurrently for third and subsequent offenses as follows after being found guilty on the above counts by a jury on May 26, 2010:

 - (a) PWID Marijuana 3rd- 20 years;
 - (b) PWID Cocaine 3rd- 27 years;

2013 AUG 26 PM 10:24
 BEAUFORT COUNTY COURT
 CLERK OF COURT

(c) PWID Ecstasy 3rd - 20 years;

(d) Trafficking Crack 3rd - 27 years and \$50,000

6. A finding of guilty was made after a plea of not guilty.
7. The applicant did appeal from the judgment of conviction and sentence.
8. (a) Applicant appealed to the SC Court of Appeals
 - (b) Applicant's conviction and sentence was affirmed in Unpublished Opinion No. 2012-UP-456
 - (c) The date of each such result: affirmed on July 25, 2012
9. If you answered "no" to (7), state your reason for not so appealing: N/A
10. State concisely the grounds on which you base your allegations that you are being held in custody unlawfully:

Ineffective assistance of trial counsel

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

Trial counsel failed to properly challenge the issue of probable cause for issuance of the search warrant which led to the State's discovery of the drugs for which Applicant was charged.

Trial counsel failed to properly argue against the admissibility of testimony of Witness Reeves with regard to State v. Lyle and SCRE Rule 404(b), or under any other theory.

Trial counsel failed to argue and obtain a ruling on the admissibility of Defendant's prior record for the purposes of impeachment.

Trial counsel failed to fully discuss the benefits and pitfalls of Applicant testifying because he did not obtain a ruling on the admissibility of Applicant's prior convictions, thereby preventing Applicant from making a fully informed decision about whether or not he would testify.

Trial counsel failed to call exculpatory witnesses who would have refuted testimony offered by the State, despite their ability, availability and willingness to testify.

Trial counsel failed to properly renew and preserve the issue of the admissibility of Witness Reeves' testimony, thereby procedurally barring and preventing same from being considered on appeal.

Trial counsel failed to request a jury instruction from the Court regarding the limited purpose of admissibility of testimony admitted pursuant to State v. Lyle.

12. Prior to this application, Defendant has not filed any petitions, other than specified in (8) with this or any other Court.

13-16. N/A

17. Defendant was not represented by an attorney at his arraignment. He was represented by Cory H. Fleming at his trial and sentencing, and by Nicole N. Mace on his direct appeal.

18. Circuit Court motions, trial and sentencing:

Cory H. Fleming
P.O. Drawer 507
Beaufort, SC 29901

Appeal to SC Court of Appeals:

Nicole N. Mace
1341 44th Avenue N, Ste. 205
Myrtle Beach, SC 29577-5710

19. State clearly the relief you seek in filing this application:

Vacation of Defendant's convictions and sentencing.

20. Defendant is not under sentence from any other court.

Respectfully submitted,



Scott W. Lee
Attorney for Applicant
Post Office Box 2124
Beaufort, South Carolina 29901
(843) 986-9030

Beaufort, South Carolina

August 21, 2013

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	
	)	
	)	2012-CP-07-4095
Turuk Saunders, #199803.	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed November 30, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Beaufort County Clerk of Court. The Applicant was indicted at the March 2007 term of the Beaufort County Grand Jury for possession with intent to distribute marijuana (2007-GS-07-0505), possession with intent to distribute cocaine (2007-GS-07-0506), possession with intent to distribute ecstasy (2007-GS-07-0507), trafficking crack 10-28 grams (2007-GS-07-0508), and possession of a weapon during the commission of a violent crime (2007-GS-07-0509). Applicant was represented by Cory Fleming, Esquire.

The Applicant proceeded to trial. He was acquitted of the weapons charge and convicted of the remaining drug charges. The Applicant was sentenced by the Honorable Ernest Kinard to confinement for a period of 20 years for possession with intent to distribute marijuana and

ecstasy and 27 years for possession with intent to distribute cocaine and trafficking crack.¹ The sentences are to be served concurrently.

The Applicant filed a timely notice of appeal. His appeal was perfected by Nicole Mace, Esquire. The Court of Appeals affirmed his convictions and sentences. The Remittitur was sent August 10, 2012.

Attached herewith and incorporated herein are the records of the Beaufort County Clerk of Court regarding the subject convictions and the Applicant's records from the South Carolina Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failure to object to inadmissible hearsay and character evidence
 - b. Failure to object to the court allowing evidence to go back to the jury that was never properly admitting in the presence of the jury
 - c. Failure to inquire into the facts of a juror who knew a witness who was due and did testify
 - d. Failure to object to the court's testimony as to the Applicant's conduct at the crime scene where such testimony was never verified by any witnesses nor the evidence as to the time of arrival of the Applicant at the crime scene
 - e. Failure to object to the prosecutor's continued reference to him as "Big T" after court ruling and prosecutor agreeing it wouldn't happen
2. Ineffective assistance of appellate counsel.
 - a. Failure to know the law of the case by failing to ensure that all the issues raised were preserved for proper review.

¹ The Applicant's 27 years trafficking crack sentence also included a \$50,000 fine.

III.

The Applicant alleges ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record

does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant also alleges ineffective assistance of appellate counsel. A defendant is entitled to effective assistance of appellate counsel. Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). Although appellate counsel is required to provide effective assistance of counsel, "appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) citing Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308, 77 L.Ed.2d 987 (1983). "For judges to second-guess reasonable professional judgments and impose on ... counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy..." Jones, 463 U.S. at 754, 103 S.Ct. 3308.

Generally, in analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of trial counsel. See Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, in this case, we ask 1) whether appellate counsel's performance was deficient, and 2) whether Respondent was prejudiced by appellate counsel's deficient performance. Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003). The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of appellate counsel probably raises questions of fact that the record does

not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Each and every allegation contained within the application not herein before either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON
Assistant Attorney General

By: Ah R. WS
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

February 15, 2013.

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

TURUK SAUNDERS, #199803

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

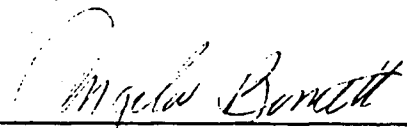
2012-CP-07-4095

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Melissa L. Azallion, Esquire
400 Main Street, Suite 100A
Hilton Head Island, South Carolina 29926

DATED this 25th day of February, 2013


 Angela Bennett, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT) CASE NO.: 2012-CP-07-04095

TURUK SAUNDERS,)
)
 APPLICANT,)
)
 VS.)
)
 THE STATE OF SOUTH CAROLINA,)
)
 RESPONDENT.)
 _____)

POST-CONVICTION RELIEF HEARING

held before the Honorable Deadra L. Jefferson
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Beaufort County Courthouse
 Beaufort, South Carolina
 on Tuesday, August 27, 2013, Commencing at 2:16 p.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 31865
 Charleston, South Carolina 29417-1865
 1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE APPLICANT: Scott W. Lee, Esquire
Attorney at Law
Post Office Box 2124
Beaufort, South Carolina 29901-2124

FOR THE RESPONDENT: Ashleigh Wilson, Esquire
Office of the Attorney General
Post Office Box 11589
Columbia, South Carolina 29211-1589

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	5
CORY FLEMING	
Direct Examination by Mr. Lee	10
Cross-Examination by Ms. Wilson	60
Redirect Examination by Mr. Lee	76
TURUK SAUNDERS	
Direct Examination by Mr. Lee	82
Cross-Examination by Ms. Wilson	91
TYECE BROWN	
Direct Examination by Mr. Lee	94
AKEEM SAUNDERS	
Direct Examination by Mr. Lee	98
Cross-Examination by Ms. Wilson	102
ANDRE BENJAMIN	
Direct Examination by Mr. Lee	106
Cross-Examination by Ms. Wilson	110
CORY FLEMING	
Direct Examination by Ms. Wilson	115
CLOSING ARGUMENT BY MR. LEE	118
CLOSING ARGUMENT BY MS. WILSON	150
COURT'S RULING	154
CERTIFICATE OF COURT REPORTER	169

INDEX TO EXHIBITS

MARKED/ADMITTED

State's Exhibit Number 1
[Affidavit]

117 / 117

Court's Exhibit Number 1
[Compilation of Documents]

59 /

Saunders vs. The State
PCR Hearing
August 27, 2013

PROCEEDINGS

1
2 THE COURT: This is Turuk Saunders vs. The State
3 of South Carolina, 2012-CP-074059. It's before the
4 Court on an application for Post Conversation Relief,
5 which was filed t looks like September. Or is that
6 November 30th? I can't make that out.

7 MR. LEE: It's November 30th, 2012, is when we
8 amended it.

9 THE COURT: Thank you. Yeah. November 30th of
10 2012.

11 The State filed a return, which is dated
12 February 25th of 2013. The applicant is currently
13 confined at the department of corrections. He was
14 convicted, after a jury trial, on 2007-505, possession
15 with the intent to distribute marijuana, possession
16 with the intent to distribute cocaine, 506, possession
17 with the intent to distribute ecstasy, 507,
18 trafficking ten to twenty-grams. Indictment 508, and
19 that was cocaine base. He was acquitted of possession
20 of a firearm during the commission of a violent crime.
21 He was represented at trial by Cory Fleming. He was
22 sentenced by Judge Kinard to a period of twenty years,
23 and twenty-seven years for the possession with the
24 intent to distribute cocaine and trafficking cocaine
25 base. All of these sentences were concurrent with one

MIA PERRON, CVR-CM-M

Saunders vs. The State
PCR Hearing
August 27, 2013

1 another.

2 He alleges ineffective assistance of counsel,
3 failure to object to inadmissible hearsay and
4 character evidence, failure to object to the Court
5 allowing evidence to go back to the jury that was
6 never properly admitted in the presence of the jury,
7 failure to inquire into the facts of a girl who knew a
8 witness who was due and did testify, failure to object
9 to the Court's testimony as to the applicant's conduct
10 at the crime scene where such testimony was never
11 verified by any witnesses nor the evidence as to the
12 time of the arrival of the applicant at the crime
13 scene, failure to object to the prosecutor's continued
14 reference to him as Big T after Court ruling and
15 prosecutor agreeing it wouldn't happen. And
16 ineffective assistance of appellate counsel: failure
17 to know the law of the case by failing to ensure that
18 all issues raised were preserved for proper review.

19 This case was subject to a direct appeal, which
20 was affirmed by unpublished opinion 2012-UP-456, which
21 dealt with the denial of the directed verdict as well
22 as the potential juror -- the juror who potentially
23 knew a witness, and the admissibility of certain
24 evidence.

25 The applicant is represented by Scott Lee. The

Saunders vs. The State
PCR Hearing
August 27, 2013

1 State is represented by Ms. Wilson.

2 Is the applicant ready to proceed?

3 MR. LEE: We're ready, Your Honor.

4 THE COURT: Is the State ready to proceed?

5 MS. WILSON: Yes, Your Honor, the State is
6 ready.

7 THE COURT: You may call your first witness.

8 MR. LEE: Thank you, Your Honor. May it please
9 the Court.

10 In an effort to streamline things, I have
11 prepared a booklet, which I have already provided to
12 Ms. Wilson --

13 If I could pass it up? May I approach?

14 THE COURT: Yes, sir.

15 MR. LEE: -- which includes several documents --

16 [Whereupon, Mr. Lee proffers documents to the
17 Court]

18 THE COURT: Thank you.

19 MR. LEE: -- that we'll be referring to.

20 And I would point out for the Court, as well,
21 that last week I filed an amended PCR motion in an
22 attempt to kind of tighten things up a little bit.
23 I've sent it to Ms. Wilson. She has it. And that was
24 filed I believe Friday of last week, or Thursday.
25 Anyway, the amended petition is in the packet. It's

Saunders vs. The State
PCR Hearing
August 27, 2013

1 the first thing in the packet, Your Honor.

2 THE COURT: Okay.

3 MR. LEE: Judge, with the Court's permission, I
4 may do things a little bit out of order just because I
5 think it'll make things go a little bit smoother. So
6 I would ask to be able to call Mr. Fleming first. I
7 typically call my client first, but I call --

8 THE COURT: It's up to you.

9 MR. LEE: -- Mr. Fleming.

10 I would call Mr. Fleming to the stand.

11 THE COURT: Sir, if you come down to be sworn.

12 [Whereupon, Mr. Fleming comes forward]

13 THE COURT: Please raise your right -- I'm
14 sorry. Do you want to put your file down?

15 [Whereupon, Mr. Fleming is duly sworn by the
16 Court as follows: do you swear or affirm the
17 testimony you give will be the truth]

18 MR. FLEMING: I do.

19 THE COURT: Sir, if you would have a seat for me
20 and state your full name for the record, spelling your
21 last name for the court reporter..

22 THE WITNESS: Yes, ma'am.

23 [Whereupon, Mr. Fleming takes the witness stand]

24 THE WITNESS: My name is Cory Fleming. F-L-E-M-
25 I-N-G.

Saunders vs. The State
PCR Hearing
August 27, 2013

1 THE COURT: Thank you. You may proceed.

2 MR. LEE: Thank you, Your Honor.

3 THE COURT: You're welcome.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

- - -

24

- - -

25

- - -

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

CORY FLEMING,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. LEE:

Q. Mr. Fleming, I think we know your
qualifications.

Did you represent Turuk Saunders at the trial
here in Beaufort County?

A. I did.

Q. And was that the extent of your involvement with
his case, other than filing a notice of appeal?

A. That's correct.

I think there were some transcript issues. We
stayed it until the transcript was obtained.

Q. All right. And just to kind of get the Court up
to speed, can you briefly kind of tell us what this case
was about?

THE COURT: You can put your file up there, if
you want to.

MR. FLEMING: Thank you.

A. Yeah. There was a sort of a classic -- I would
call it a classic drug investigation with what the locals
call the drug task force, manned by the head of it at the
time, and still currently, Joe-Joe Woodward.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 They allegedly got some complaints about
2 specifically dealing dope out of a particular trailer.
3 Obstinsively, they set up observation, sort of confirmed
4 that, if you will, the sort of short visits, the short in-
5 and-out visits, that kind of thing.

6 And, obstinsively, they followed a car and
7 effected some sort of a traffic stop on that car. Based
8 on the information that they gathered from the occupants
9 of that car, those -- at least one of those people, who
10 ended up being a principal witness in the case, testified
11 that they obtained drugs, they bought drugs from this
12 particular trailer.

13 As a result of that information and the
14 statements given, they went to a magistrate and got a
15 search warrant and then served the search warrant. And
16 during the service of the search warrant, they allegedly
17 found -- well, they found drugs and then charged basically
18 most everybody in the trailer with something and then they
19 charged Turuk with multiple counts of dealing drugs.

20 Q. [Mr. Lee] And in dealing with Mr. Saunders, do
21 you recall where he was, what his story was, as far as
22 when they executed the search warrant?

23 A. Well, the evidence that came out at trial was
24 that he was there and that he was leaving the front door
25 as the search -- sort of the, quote, raid team came in.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 And then one of the officers said that he threw down a bag
2 of marijuana at the time. And, in fact, that formed the
3 basis of our defense in this case.

4 Q. Other than the marijuana that was thrown down,
5 were there any drugs on Mr. Saunders?

6 A. Not that I'm aware of.

7 Q. Any other ones in the vicinity outside on the
8 porch, where he allegedly was, that you --

9 A. No.

10 And he also had a vehicle there and that was
11 empty of any drugs or anything regarding that.

12 Q. What was -- can you kind of tell us, the Court,
13 what his -- what the defense was at trial when you went to
14 trial?

15 A. Yes.

16 Well, it was -- you know, and I don't need to
17 explain this to you. But search warrant cases are
18 difficult oftentimes, especially when you're found there.
19 This was a little bit different and the reason for that
20 was there were so many people there, it was fairly clear
21 that Turuk didn't live there. Although he was there, it
22 was fairly clear he didn't live there.

23 And the decision on how to defend the case sort
24 of hinged on the appearance of a particular witness. And
25 that witness was going to be the one who identified Turuk

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 as being a person who was dealing the dope, because that
2 obviously gave you the dominion and control that they were
3 lacking, in my opinion, regarding any of the other
4 elements.

5 So even if the search warrant itself were valid,
6 and even if the search itself were valid, and even if all
7 of the things that they found were valid, they had nothing
8 in my belief that could prove beyond a reasonable doubt
9 that Turuk had anything to do with anything but a little
10 bag of weed that was in his pocket. And, you know, and
11 that was --

12 So our defense was essentially he was there --
13 you know, can't deny the obvious -- that he was not a part
14 of any of the drug conspiracy that appeared to be going on
15 or, as the solicitor phrased it, the business, and that he
16 was, in fact, there to buy weed from his brother, who was
17 also named Saunders.

18 Q. So essentially it's a mere presence defense?

19 A. That's absolutely true.

20 Q. And the witness you were talking about earlier,
21 is that Mr. Reeves?

22 A. That is. Yes.

23 Q. And Mr. Reeves was one of the occupants of a car
24 that apparently had been at the residence and was then
25 followed and pulled over by Drug Task Force?

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 A. That is correct. Yes.

2 Q. You talked about a -- and then apparently after
3 speaking with Reeves, finding some marijuana on him, they
4 utilized Reeves as part of the process for obtaining the
5 search warrant; is that correct?

6 A. That's my understanding, yes.

7 Q. They used his testimony or his --

8 A. The statement that -- yeah.

9 Q. And so you had a copy of the search warrant; is
10 that correct?

11 A. Oh. Sure. Sure.

12 Q. Okay. And I'm handing up to you --

13 MR. LEE: If I may approach the witness?

14 THE COURT: You may.

15 Q. [Mr. Lee] -- a document. Can you identify that
16 for me, sir?

17 [whereupon, the witness reviews documents]

18 A. Yeah. That's a copy of the search warrant. It
19 looks identical to the one I have in my file.

20 Q. [Mr. Lee] Okay. And where I've flipped over
21 and have it highlighted: in fact, they relied on Witness
22 Reeves as a basis for their probable cause for getting a
23 search warrant; correct?

24 A. Absolutely.

25 Q. And the statement that they attribute to Reeves

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 is that he went to this trailer and that he bought a dime
2 bag of weed from Big T; right?

3 A. That is correct.

4 Q. Now, you're also aware that -- well, let me back
5 up for a minute.

6 Motions in limine --

7 A. Uh-huh..

8 Q. -- did you ever argue to suppress the items
9 found as a result of the search warrant?

10 A. Well, I guess you could say I originally
11 intended to do that and brought it up in front of the
12 trial judge. When -- I'll explain why I didn't later.
13 But, ultimately, I did not argue any suppression
14 concerning the search warrant.

15 MR. LEE: I don't know how you want me to do
16 this. All this stuff is the stuff I gave you, as
17 well.

18 Q. [Mr. Lee] Have you reviewed the transcript,
19 Mr. Fleming?

20 A. I have, but I can't tell you verbatim.

21 Q. All right. If I can hand you up part of the
22 transcript.

23 MR. LEE: This is page 34. And it should go in
24 order, Ms. Wilson, more or less.

25 MS. WILSON: Just tell me the volume.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 MR. LEE: This is going to be volume 1, page 34.

2 Q. [Mr. Lee] Does that -- well, just look at it
3 real quick and I guess --

4 A. Yes.

5 Q. -- just refresh your recollection as to what
6 went down.

7 A. I specifically remember this.

8 Q. And what -- can you just tell us in general
9 terms why you decided not to go forward with the
10 challenging the search warrant?

11 A. I can.

12 As you'll see, I even stated in here, I said,
13 I'm in a quandary. And I explained it to Judge Kinard. I
14 said that our position is very clearly that my client has
15 no dominion and control over this house; that he was
16 merely a visitor himself. I think I said he neither
17 owned, operated, stayed in, domiciled, spent the night, or
18 in any other way had any control of the trailer in
19 question. And, therefore, what I originally raised was I
20 did not believe as a result of that that he had any
21 specific standing to object to the search of that
22 premises; however, I went on to say that I wanted to. I
23 said, I believe I'm entitled to challenge the search
24 warrant even though I don't think my client has standing.
25 And I meant standing by way of the owner or occupier of

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 that thing. And as is clear in the record, the judge
2 basically said that I can't have my cake and eat it, too.
3 And I felt like I was making a decision where I may be
4 jeopardizing my entire trial strategy by challenging this
5 -- at least that's how it seemed to me. And I think he
6 said -- well, it says what it says. But he said, you
7 can't have it both ways.

8 And so at that time, I made the decision that I
9 frankly didn't think that the challenge of the search
10 warrant was particularly strong. I thought, however, that
11 the defense we had otherwise, especially based on the fact
12 that I was of the impression that the witness, Reeves, was
13 not going to show up, that the strategy was definitely to
14 go forward with not jeopardizing at all his defense with
15 regards to that.

16 Q. When the judge essentially said you can't have
17 it both ways, did you contemporaneously object, for the
18 record, him not allowing you to argue?

19 A. It doesn't look -- it doesn't look like I really
20 said those words, no.

21 I think I just -- I think he sort of put it
22 into, it's your decision what you want to do. I think he
23 said, it's in your best position in the abstract, and he
24 basically dumped it back in lap. And I -- I made the
25 choice.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 So I didn't really object. I'm not sure that --
2 the colloquy was not -- the colloquy was not one of
3 motion, objection, et cetera. I probably could have
4 phrased it better. But, no, I did not.

5 Q. And even of us who have tried a case in front of
6 Judge Kinard knows that sometimes there is not a full
7 colloquy on the record.

8 A. That's right.

9 Q. Right.

10 So suffice it to say that there also was not a
11 proffer that was put on the record saying, Judge, I
12 understand your ruling, you're saying I can't do this but
13 this is what I would argue if you had allowed me to argue
14 it?

15 A. That is correct. I did not do that.

16 Q. Okay. And your concern at that point was I
17 think you said was standing?

18 A. Well, yes. Well, no.

19 I mean, my -- as I said in the transcript, I
20 felt like -- I felt like he had the right to challenge it
21 anyway, because they were going to allege that he had
22 control. At least it was clear as the trial went on that
23 they weren't alleging that he lived there, they were just
24 alleging that he, quote, worked there.

25 But the -- I felt like the fact that they were

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 going to try to show some sort of control gave him
2 standing. It was just I did not want to assert to the
3 Court that we believed he had any control. I didn't want
4 to get caught in that Hobson's choice, I guess is what you
5 call it.

6 Q. And I assume that before the case started you
7 kind of looked at some of the law, as far as the -- they
8 really don't say standing anymore. They call it, what, a
9 somebody has a reasonable expectation of privacy in the
10 premises; is that right?

11 A. That's right. Standing is just sort of a word
12 you use.

13 Q. And you -- at that point, you had been provided
14 some discovery that the State was intending to use in an
15 attempt to show that Mr. Saunders had some type of
16 control, ownership, dominion, something, over the property
17 in the form of some rent receipts that were paid for the
18 property; is that right?

19 A. Yeah.

20 I actually think I was shown those the morning
21 before trial.

22 Q. But before trial.

23 A. Yeah.

24 MR. LEE: And if I could approach the witness,
25 Your Honor.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Q. [Mr. Lee] That thing that's highlighted, can
2 you identify that?

3 A. Yeah.

4 Now, going strictly from memory, but I believe
5 this is a receipt that the witness, Robert Jenkins --

6 Q. Right.

7 A. -- testified to about receiving rent money
8 either from or on behalf of Turuk Saunders. And this was
9 a -- of course, I cross-examined him on these issues.

10 Q. Right.

11 A. But that is what that document appears to be.

12 Q. And that certainly is something that the State
13 used in their case-in-chief in order to show some type of
14 connection between Turuk and the property; right?

15 A. That is correct.

16 Q. And that receipt is actually I think for January
17 '07. The arrest was in February of '07; is that right?

18 A. I don't remember. I'm sorry. I don't remember
19 the date.

20 Q. Okay. Now, do you believe, or did you believe
21 at the time, that -- the State taking the position that he
22 had dominion and control of this property, did you think
23 that that would give him the reasonable expectation of
24 privacy he would need in order to challenge a certain
25 point just to get in the door?

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 A. I did.

2 I mean, I think that's even what I said. I said
3 I think the fact that they're going to allege that does
4 give him the right to challenge that.

5 Q. So perhaps -- and I realize the choice that you
6 had. But perhaps he did have the legal expectation of
7 privacy would have allowed a search warrant, should you
8 have decided to do it? Do you --

9 A. That's correct.

10 Q. -- agree with that?

11 A. I agree.

12 Q. And, quite frankly, the State would have been in
13 an even more difficult position because if they objected
14 saying he doesn't have standing to challenge the search
15 warrant, it would be very difficult for them to take a
16 contrary position in the trial that he does have all kinds
17 of control over the stuff and that's how we're getting the
18 drugs to Turuk; right?

19 A. I agree with that.

20 Although they did -- I think it was fairly clear
21 in the trial that they were not asserting that he had --
22 that he lived there in the classic sense. I think they
23 were -- I think the theory of their case, for what it's
24 worth, was that it wasn't really a home at all, it was
25 more of a business, I guess.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Q. Yes. As a matter of fact, the solicitor kept
2 saying Big T's house of drugs or something.

3 A. Drugs or --

4 Q. She kept --

5 A. -- something. That's correct.

6 Q. -- essentially suggesting that he was renting
7 the place to sell drugs out of, him and his --

8 A. For the purpose of selling drugs, yeah.

9 Q. All right. Now, let's get back to the --

10 Now, one more thing. Did you -- were you afraid
11 that the doctrine of judicial estoppel would somehow come
12 into play to prevent you from taking one position as to
13 the search warrant and then another position at trial that
14 we kind of say, we don't have any connection to it?

15 A. Well, I don't know that I formulated it quite
16 that specifically.

17 What I was afraid of is, as you know, in trial
18 you never really know what's going to happen.

19 Q. Right.

20 A. And I was afraid that I was getting ready to box
21 myself in on what I thought was our absolute best defense
22 under the circumstances, given the lack of physical
23 evidence or other information. Because you have to
24 understand, we were operating -- we were operating in the
25 entire trial under the theory that Mr. Reeves was not

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 going to show up. We were told that by the solicitor's
2 office. And for other reasons, I did not think Mr. Reeves
3 was going to show up. And that I thought was a
4 significant problem for the State, and I did not want to
5 jeopardize the -- or I did not want to create the
6 possibility that any of that information might backdoor
7 its way into court and before the jury.

8 Q. So you --

9 A. You could not -- I could not forecast how
10 exactly it would happen.

11 Q. Okay. And lawyers being a notoriously paranoid
12 group --

13 A. Yeah.

14 Q. -- that's how you --

15 A. That's correct. You know, opening doors is a
16 defense lawyer's worse --

17 Q. Right.

18 A. -- nightmare in the world.

19 Q. Okay. Do you think you can open a door in a
20 pretrial motion in limine for something that might come in
21 at trial?

22 A. No.

23 I don't think that I necessarily could, but I
24 don't know any other way to say this except to say that
25 you have to know your trial judge when you're trying a

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 case and you have to understand that how you handle
2 preliminary hearings can affect future rulings. And I did
3 have a concern about that, given the statement that he
4 made concerning that.

5 And that's I think the only way I could
6 really -- I can't give you any particular legal analysis
7 on it. All I can tell you is that my -- I believed
8 challenging that could affect the way that the judge
9 viewed the information, including, quite frankly,
10 potentially even a directed verdict. Which, quite
11 frankly, I thought was a possibility in this case given
12 the lack of information I thought was going to be
13 presented.

14 Q. All right. Well, let's talk about the search
15 warrant --

16 A. Okay.

17 Q. -- and had it been argued.

18 A. Yes.

19 Q. I'm handing you up, again, the search warrant.

20 A. Uh-huh.

21 Q. What information is on there that relates --
22 that the officers are testifying to under oath that
23 relates to Turuk Saunders? And I think I highlighted the
24 portion I was -- with regard to Reeves and Turuk Saunders.

25 A. In this warrant it doesn't say Turuk Saunders, I

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 don't believe.

2 Q. It just says Big T?

3 A. That's right. Uh-huh.

4 Q. All right. But you knew who that was they were
5 referring to?

6 A. I knew who it was. I believe that the police
7 officers alleged that they knew who it was. But I
8 specifically asked the Court to omit that information --

9 Q. Right. And we'll talk about --

10 A. -- later on.

11 Q. -- that in a second.

12 A. Yeah.

13 But, you know, from that perspective, that's
14 what I --

15 Q. So let me just fast forward a little bit.

16 The police writing in that affidavit say that
17 Reeves told them in a written statement that he bought a
18 dime bag of weed from Turuk Saunders or Big T; correct?

19 A. That's right.

20 Q. Now, is that true, what they said, or is it
21 consistent with the other evidence that was out there? Do
22 you know?

23 A. Well, I don't know what is or isn't true.

24 Q. That's a bad question.

25 A. Yeah.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Q. Right.

2 Well, let me just -- let me hand you up --

3 A. Yeah.

4 Q. And this is -- I'm trying to go in order.

5 But this is the statement from -- Mr. Reeves
6 gave a statement the night that he was arrested but the
7 day before the search warrant; right?

8 A. Uh-huh.

9 Q. Okay. Now, have you reviewed that statement --

10 A. Yes.

11 Q. -- are you familiar with it?

12 A. Yes.

13 Q. And, in fact, that statement says that he went
14 and bought a dime bag of weed. It doesn't say who it's
15 from. And then the last thing says the guy that owns the
16 trailer is named Big T; right?

17 A. That is correct.

18 Q. Now, are you also aware that -- so that is
19 arguably different from what's in the search warrant;
20 right?

21 A. Yes.

22 Well, it is arguably different. It is
23 potentially paraphrasing, as well, I guess.

24 Q. But that doesn't say that he bought it from
25 Big T?

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 A. No.

2 And I would -- if I were to argue it, I would
3 have argued that it was inconsistent.

4 Q. And you're aware that -- and when a judge, a
5 magistrate, is making a probable cause determination for a
6 search warrant, they have to make a commonsense, oh,
7 totality of the circumstances. And one of the things
8 they're supposed to consider is the voracity of the person
9 supplying information; correct?

10 A. That is correct.

11 Q. Do you agree with that?

12 A. I absolutely agree with it.

13 Q. So the only real person who's supplying
14 information in that search warrant to the police is
15 Mr. Reeves, correct, as to going in the house and
16 whatever's in the house; right?

17 A. Well, yeah, except I do believe there was
18 something in there about -- and I don't remember whether
19 there was just testimony about what was observed. They
20 were in the wood line, or something like that, or --

21 THE COURT: There's an affidavit from the
22 officer attesting to the voracity of the person who
23 supplied the information for the warrant, isn't there?

24 MR. LEE: No, ma'am.

25 THE COURT: What is the affidavit from the

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 officer that says they found lots of drug buys and
2 that this information is consistent or inconsistent?
3 Did I --

4 MR. LEE: Not as to Mr. Reeves.

5 THE COURT: -- misread that?

6 MR. LEE: Not as to Mr. Reeves.

7 THE COURT: I don't think it has to be specific
8 to Mr. Reeves, does it? I think it just has to be
9 supplied as to the information supplied for the
10 warrant, doesn't it?

11 MR. LEE: I'm talking about -- well, I'm not
12 sure I'm following you.

13 But I'm talking about the voracity of Mr.
14 Reeves, who was the gentleman who was stopped leaving
15 the house the night before, which they then --

16 THE COURT: It was a controlled buy, though,
17 wasn't it?

18 MR. LEE: No, ma'am.

19 They were looking at the house. They saw some
20 people --

21 THE COURT: It was under surveillance. I
22 thought I saw an affidavit. And I apologize for
23 interrupting, but --

24 MR. LEE: No, no. I'm glad you did.

25 THE COURT: -- that saves me having to ask

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 questions later --

2 MR. LEE: Sure. Sure.

3 THE COURT: -- to make sure I'm accurate --

4 MR. LEE: Please. Any time --

5 THE COURT: -- in my recollection.

6 MR. LEE: -- you can speed it up, I'm all for
7 that.

8 THE COURT: I thought that there was an
9 affidavit from -- and maybe I misread it.

10 [Whereupon, the Court reviews documents]

11 THE COURT: Yeah. I thought it was an affidavit
12 from -- I can't read this last name. I think --

13 MR. LEE: McIntosh.

14 THE COURT: -- it's McIntosh saying, the
15 information provided herein is based upon my own
16 investigation as well as the investigation of agents
17 of the Beaufort-Jasper Multi Agency Drug Task Force,
18 whose results have been provided to me.

19 MR. LEE: I think they put that in every --

20 THE COURT: But they do that for a reason.

21 MR. LEE: Well --

22 THE COURT: Yeah. They don't just throw that in
23 there. It's not superfluous language. It's thrown in
24 there to say that there's some rational basis and some
25 voracity to who we're dealing with. I thought I had

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 read it, but I just --

2 MR. LEE: Well, you know, if they're taking that
3 position that --

4 THE COURT: I don't know what position they're
5 taking.

6 MR. LEE: Yeah. Okay.

7 THE COURT: I just know why they put it in
8 there. Because I've read a lot of search warrants --

9 MR. LEE: I know.

10 THE COURT: -- and I've taken a lot of --

11 MR. LEE: -- yes, ma'am.

12 THE COURT: -- testimony -- because I haven't --

13 Q. [Mr. Lee] Let me ask you this. Was there any
14 evidence that the police had ever dealt with Mr. Reeves
15 before, as a confidential informant or otherwise?

16 A. None that I know of.

17 Q. Okay. Wrong place, wrong time --

18 A. In reference to your question earlier about
19 what -- about anything about his voracity, I don't think
20 there's anything about his voracity. The only thing I was
21 saying was there was surveillance showing the vehicle that
22 he was in, allegedly, Mr. Reeves was in --

23 Q. Right.

24 A. -- stopping two black males going in, coming
25 out --

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Q. Right.

2 A. -- and then --

3 So there was some -- there was some independent
4 verification of that. Whether or not --

5 Q. That he had -- that he had been there.

6 A. -- whether or not --

7 That he had been there.

8 Q. Right.

9 A. That's right.

10 Not -- no independent verification of what
11 occurred inside the home.

12 Q. Okay.

13 A. That's correct. It was purely Mr. Reeves' word.

14 Q. And, again, you're not aware of any of them ever
15 using Reeves before or him being reliable or anything like
16 that?

17 A. None. Zero.

18 Q. There was no evidence of that?

19 A. No. He was -- no.

20 Q. All right. I'm going to hand you up a document,
21 an incident report regarding the stop on the car in which
22 Mr. Reeves was in the night before the search warrant.

23 A. Yes.

24 Q. Are you familiar with that?

25 A. I'm not familiar with it. I was at the time,

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 but I -- this has certainly gone far beyond my memory.

2 Q. Okay. I understand. I have trouble remembering
3 what I had for lunch yesterday.

4 Now, isn't it true in that report that Mr.
5 Reeves, when he was pulled over, that he gave them a
6 false birth date?

7 MS. WILSON: Mr. Lee, is that in this packet?

8 I'm sorry, I --

9 MR. LEE: Yeah. It should be a McIntosh
10 supplemental report.

11 MS. WILSON: Okay. I'm sorry.

12 MR. LEE: Or McIntosh report.

13 [Whereupon, Mr. Lee and Ms. Wilson confer]

14 A. I mean, it does --

15 MR. LEE: May I approach, Your Honor? I believe
16 you have the --

17 THE COURT: Uh-huh.

18 MR. LEE: Okay.

19 A. It does say that he got nervous and says he --
20 you know, he didn't --

21 Q. [Mr. Lee] So he gave the police an incorrect
22 date of birth, because they thought he had some family
23 court warrants; correct?

24 A. That is correct. Uh-huh.

25 Q. So he actually lied to the police that night

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 about his date of birth --

2 A. Uh-huh.

3 Q. -- so that they wouldn't serve family court
4 bench warrants on him; right?

5 A. Looks like it.

6 Q. Okay.

7 A. Uh-huh.

8 Q. And then isn't it also true that later on that
9 day Mr. Reeves called Mr. Benjamin, who was another
10 occupant of the car, and had a conversation about the
11 ownership of the crack cocaine that was in the car? Isn't
12 that right? Remember that?

13 A. I remember that, only because I was -- I had
14 cross-examined him on multiple statements he had given.

15 Q. And Mr. Reeves essentially told the police,
16 initially, that the cocaine was his because he didn't want
17 his wife to get in trouble; right? Does that ring a bell?

18 A. That absolutely rings a bell.

19 Q. And all that happened before they got the search
20 warrant; right?

21 A. I can't -- it seems like it did, yes. I don't
22 think any of this --

23 THE COURT: Would you like some water?

24 THE WITNESS: No, ma'am. I've got a -- I'm just
25 coming on the back side of a cold and --

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 THE COURT: I just wanted to make sure you --

2 THE WITNESS: I'm fine. Thank you, though, very
3 much.

4 THE COURT: You're welcome.

5 You may continue.

6 Q. [Mr. Lee] I guess the point is there is at
7 least two instances where Mr. Reeves told the police
8 something that wasn't correct the night before --

9 MS. WILSON: Objection, Your Honor. He's
10 leading the witness.

11 THE COURT: I can't -- don't lead.

12 MR. LEE: Okay.

13 THE COURT: And if you-all could talk up for me,
14 too, because it's -- y'all are starting to sound a
15 little garbled. I can't hear you completely.

16 MR. LEE: Yes, ma'am.

17 THE COURT: That would help.

18 MR. LEE: And I'll slow down a little bit.

19 THE COURT: That's okay.

20 Q. [Mr. Lee] When challenging a search warrant,
21 are you familiar with something called a Delaware vs.
22 Franks hearing?

23 A. Yes.

24 Q. And a Delaware vs. Franks hearing is if there is
25 either an omission or a commission error in a search

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 warrant affidavit; correct?

2 A. That is correct.

3 Q. And the process the Court uses, essentially,
4 is to strike the incorrect testimony and then consider
5 that -- excuse me -- the affidavit to see whether a search
6 warrant should have issued; correct?

7 A. That is correct.

8 Q. Did you ever make a Delaware vs. Franks motion,
9 or raise that issue, based upon Mr. Reeves arguably lying
10 to the police twice?

11 A. No.

12 Q. Okay. And could you look through the search
13 warrant to tell me whether or not Corporal McIntosh, in
14 the search warrant, since that's all we have in front --
15 on the face, did Corporal McIntosh advise the issuing
16 judge that Mr. Reeves had lied previously that same night
17 before she applied for the search warrant?

18 A. I did not -- that would have been done in that
19 hearing. I did not have that hearing, so I didn't do it.

20 Q. When you made your direct -- when the evidence
21 of the drugs ultimately came in --

22 A. Uh-huh.

23 Q. -- did you make a contemporaneous objection to
24 their introduction?

25 A. I don't remember. The transcript would speak

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 for itself. I do not remember.

2 Q. If you didn't challenge the search warrant,
3 would you have a reason to later on --

4 A. It wouldn't -- it wouldn't seem that I would.

5 Q. And you would have no reason to renew at
6 directed verdict stage?

7 A. That is correct, yes. That's definitely checked
8 on that box.

9 Q. And you would agree, would you not, that the
10 testimony of Mr. Reeves was very important?

11 A. I believe it was the single most important piece
12 of evidence in the case.

13 Q. And do you -- do you remember the judge
14 remarking, after your directed verdict motion, how
15 important it was?

16 A. I do. I --

17 Q. I can pass you the transcript up. This is --

18 A. I don't --

19 MR. LEE: This is volume 3, Ms. Wilson, page 34.

20 Q. [Mr. Lee] Is that where you made a motion for a
21 directed verdict?

22 A. Yes.

23 It's with the exception of the simple possession
24 of marijuana --

25 Q. Correct. Correct.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Okay. And then how did -- can you read how the
2 judge ruled on your directed verdict motion?

3 A. He says, well, we were in a little trouble until
4 that last witness. And that was Mr. Reeves testified.
5 The last witness, as you in your heart of heart knows, I
6 believe -- if believed by the jury, in the light most
7 favorable which version that they believe, shows not only
8 that he owned the house, had control of the house, was
9 dealing out of the house. I can't grant your DV on those
10 charges, since the drugs were in the house, so forth and
11 so forth.

12 Q. Okay.

13 A. Uh-huh.

14 Q. And that's consistent with your version of it,
15 too, that you were in good shape until Reeves testified;
16 correct?

17 A. We were in very good shape until that witness
18 showed.

19 Q. Have you -- after the trial was over, have you
20 had an opportunity to talk with any witnesses about the
21 trial? I mean, jurors. Sorry.

22 A. I actually did.

23 Q. And did any of that relate to the significance
24 of Reeves' testimony?

25 THE COURT: I can't consider any of the internal

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 deliberations of the jury, because they're secret, and
2 I can't give any weight to it. He can say maybe how
3 it colored his perception of it. But I don't want to
4 mislead you that somehow it affects the Court's
5 decision, because --

6 MR. LEE: Can I just --

7 THE COURT: They can talk about a jury verdict,
8 but the internal deliberations of a jury are private,
9 they're secret, and what one juror perceived may be
10 something totally different than another juror
11 perceived. And I can't give it any weight because I
12 don't know what happened in the jury room. And we're
13 not supposed to know, because they're not supposed to
14 talk about it.

15 MR. LEE: Okay. Would you allow me to just
16 proffer just --

17 THE COURT: You don't have to proffer it. I'm
18 the fact finder. I'm just telling you in advance I
19 can't give it any weight --

20 MR. LEE: Yeah. Disabuse your mind of it.

21 THE COURT: Yeah. No, I'm just telling you --
22 well, I was a fact-finder for six years in the family
23 court.

24 MR. LEE: Right. Okay.

25 THE COURT: I know how to be a fact-finder.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 That's not a problem for me. And I know how to act in
2 a non-jury context. But the rules are very clear in
3 our rules of procedure that you cannot give any weight
4 to the internal deliberations of the jury. They're
5 secret. The Court can't use them for any purpose, for
6 evidence or otherwise.

7 MR. LEE: Okay. I think --

8 THE COURT: But you can ask the question, if you
9 want. I just want you to know in advance I can't give
10 any weight to it.

11 MR. LEE: Just for --

12 THE COURT: Yeah. It's antidotal. It's always
13 interesting --

14 Q. [Mr. Lee] Did one of the jurors tell you what
15 they thought of the importance of Reeves's testimony?

16 A. That -- this juror flat out told me that until
17 that testimony, they would have found him not guilty.

18 MR. LEE: For what it's worth, Your Honor.

19 THE COURT: Well, and that's precisely why you
20 can't consider it, because I don't have the benefit of
21 the collective thought and reasoning of the --

22 MR. LEE: I understand.

23 THE COURT: -- other eleven jurors.

24 That's almost like the lady in the -- what's
25 that -- the George Zimmerman case who said, I really

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 didn't want to say he was not guilty --

2 MR. LEE: Right.

3 THE COURT: -- but they pressured me and I said
4 he was guilty and they didn't --

5 MR. LEE: I understand.

6 THE COURT: -- you don't have the benefit of the
7 other five jurors to know what they said --

8 MR. LEE: I understand.

9 THE COURT: -- or what they thought.

10 So it all becomes anecdotal. Because sometimes
11 -- you don't know what they did in there.

12 MR. LEE: Yeah.

13 THE COURT: That's like somebody saying, I voted
14 for you in that election. You don't know what they
15 did in the polling booth, you know. That's why I
16 never trust polls. People come up and they say, I
17 voted for so and so. You don't know what they did
18 behind closed doors.

19 MR. LEE: I guess the law and politics makes
20 strange bedfellows, as they say.

21 THE COURT: Yeah, they make strange bedfellows.

22 But there's a good public-policy reason for that
23 rule --

24 MR. LEE: I understand. Okay.

25 THE COURT: -- which is, you know, you don't

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 know what they talked about in the jury room.

2 MR. LEE: Sure.

3 THE COURT: Yeah.

4 MR. LEE: If we could figure out what they --
5 what went on back there, we would be a lot better
6 lawyers. But --

7 THE COURT: Well, we would probably make a whole
8 lot more money.

9 MR. LEE: That's right.

10 THE COURT: We could go to Vegas and be
11 clairvoyant.

12 MR. LEE: That's right.

13 THE COURT: But that's why they have that rule,
14 because --

15 MR. LEE: Sure.

16 THE COURT: -- you don't know what the other
17 eleven jurors thought and you don't know what they
18 discussed --

19 MR. LEE: I understand.

20 THE COURT: -- people -- in hindsight, people
21 can always say what they did or didn't do. But we
22 don't know what actually happened.

23 MR. LEE: Okay.

24 Q. [Mr. Lee] So I think we're through with the
25 search warrant issue. It wasn't raised, for whatever

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 reasons, and you gave your reasons.

2 Let me -- and it's safe to say that since it
3 wasn't raised, it wasn't preserved and carried through to
4 the end so it was not available on appeal?

5 A. I can't see how it would be.

6 Q. Let's talk about the next thing, which is,
7 again, Mr. Reeves' testimony. And I had all this stuff in
8 neat order and now it's messed up. But I'm going to refer
9 you back to transcript volume 3, pages 6 and 7. Here it
10 is.

11 MR. LEE: This is volume 3, Ms. Wilson. I'm
12 sorry. Page 6 and 7.

13 Q. [Mr. Lee] Mr. Fleming, was there an issue about
14 trying to suppress some of Reeves's testimony?

15 A. There was.

16 Q. And what was the basis on which you attempted to
17 exclude Reeves's testimony?

18 A. Well --

19 Q. I guess I should back up. What was the
20 testimony you were concerned about?

21 A. I was concerned about the testimony in which he
22 was intentionally going to testify that Turuk wasn't just
23 there, that he was actively participating in drug
24 transactions.

25 Q. Okay. And not at the time but had earlier?

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 A. Earlier.

2 Q. Okay.

3 A. And so -- and that formed the basis of the
4 objection, because all of the charges that Mr. Saunders
5 was on trial for stemmed from the search warrant. He was
6 not charged with directly distributing to any person,
7 including Mr. Reeves. As such, I moved to exclude it as a
8 prior bad act, whereas I specifically referred to a 404(b)
9 objection.

10 Q. So you brought up 404(b) making the argument,
11 saying, Judge, I want to keep it out under 404(b). And
12 then you said a little bit more. What was the solicitor's
13 theory for admissibility?

14 A. She says immediately afterwards, this absolutely
15 goes to identity.

16 Q. Okay. And that's --

17 A. And the judge sort of took over the colloquy at
18 that point, or the argument, if you will, and told us --
19 well, didn't tell us, told -- ask a specific, particular
20 fact and essentially said, if it -- if this transaction
21 that Mr. Reeves is going to testify about occurred the
22 same day, then it's -- he didn't use any particular words.
23 He says, it's in. If it's that day, it can come in; if
24 it's not that day, it can't come in.

25 Q. Well, let's back up for just one second.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 A. Yes.

2 Q. A 404(b), Lyle, is talking about prior bad act,
3 bad character evidence; correct?

4 A. That's correct.

5 Q. And, generally, the rule is character evidence
6 is generally not admissible unless it fits under one of
7 five recognized exceptions; correct?

8 A. That's correct.

9 Q. And when the solicitor is saying identity,
10 that's one of the five recognized exceptions; correct?

11 A. That's correct.

12 Q. Now, that's a part of a -- what's called a Lyle
13 motion, where first they have to establish each one of the
14 exceptions; correct? They --

15 A. That's correct.

16 Q. -- being the State?

17 And then, in addition, doesn't the State also
18 have to prove by clear and convincing evidence that this
19 prior bad act even happened?

20 A. That's correct.

21 Q. Okay. You're familiar with these things.

22 A. Uh-huh.

23 Q. Okay. And then even if they do that, isn't it
24 true that the judge also has to do a 403 balancing test to
25 determine whether or not the probative value outweighs the

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 prejudicial effect?

2 A. That is correct.

3 Q. Now, you start at 404(b). She said identity.
4 He says that it's coming in. Did you ever follow up with
5 an argument saying, Judge, Lyle requires clear and
6 convincing evidence and it requires you to do, arguably,
7 an on-the-record balancing test? Although the law now
8 kind of says if you can glean from the record that they
9 did it.

10 A. Uh-huh.

11 Q. But was that ever -- was that ever argued, first
12 of all --

13 A. No.

14 Q. -- that it wasn't clear and convincing or that
15 it was --

16 A. No.

17 Q. -- 403?

18 A. No.

19 And to be honest with you, I think the way the
20 transaction had occurred, it was not -- nothing was said
21 on the record. It was very clear to me that that's what
22 the judge was basically doing without saying it, for all
23 intents and purposes. He sort of skipped to the end and
24 said, this is going to be my test as to whether or not
25 it's admissible, probative, et cetera. I'm not saying

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 that's appropriate, I'm just saying that's what he did.

2 Q. Okay. And did you, at that point -- I know you
3 argued it. But at that point, did you make any kind of
4 contemporaneous objection to the introduction of the
5 evidence?

6 A. I made an objection at the time. It was right
7 before the witness took the stand.

8 Q. All right. Now, as soon as the witness went up
9 to testify to talk about this alleged transaction with
10 Turuk, did you object at that time in order to preserve
11 the issue?

12 A. I don't know if I did or not.

13 I mean, this was a -- I mean, this was a motion
14 made immediately before the -- I recall it being right
15 before the witness testified. I didn't know that I --
16 if I didn't do it, that's probably because it was done
17 within --

18 Q. Do you recall whether or not you renewed that
19 objection at the directed verdict stage?

20 A. I don't recall. The transcript would speak for
21 itself. I'm sure it's correct.

22 Q. But you will -- I know that sometimes judges can
23 cut to the chase, particular some judges. But you never
24 really completely argued the 404(b)?

25 A. No, I didn't.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 I mean, I essentially referenced the rule of
2 evidence as my basis and he immediately cut to the chase
3 as to what it was was going to be his deciding factor as
4 to whether or not -- and, you know, he clearly put it out
5 there if it's within twelve hours it's coming -- or same
6 day, it's coming in.

7 Q. All right. Let me move to another thing.

8 Did you file a motion in limine to determine the
9 admissibility of prior convictions of Mr. Saunders?

10 A. Did I file?

11 Q. Did you argue one.

12 A. No.

13 I don't think we ended up ever arguing it. I
14 raised it before the judge, in passing, concerning -- you
15 know, when the housekeeping matters, if you will, when you
16 break for the day --

17 Q. Right.

18 A. -- I raised it. I told him that we may be
19 raising that again later but we hadn't made any decisions
20 yet about whether or not my client was going to testify.
21 I think he did ask -- I think he went ahead and did speak
22 to Turuk as to whether or not he understood his rights to
23 testify, et cetera. But we did not actually have that
24 hearing, you know, charge by charge, et cetera.

25 Q. Okay. I'm going to hand you page 35 on volume 3

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 after you made a directed verdict motion. Is that what
2 you're talking about as far as the whether or not he's
3 going to testify?

4 A. Well, there's actually -- we did it earlier, as
5 well. That's when he actually -- that's when he actually
6 made his decision.

7 Somewhere earlier in the record, earlier in the
8 trial proceedings, maybe a day before, we actually had
9 that --

10 MS. WILSON: It's on page 189 of the record, if
11 you want --

12 A. And it was -- again, it was one of those
13 housekeeping moments.

14 But, again, now, what you're talking about about
15 the balancing --

16 Q. Right.

17 A. -- that analysis did not occur. What we did was
18 I simply brought it up to the judge. And I think we were
19 talking about how many witnesses to go, et cetera. And I
20 think it might have even been at the point where the
21 solicitor asked to go ahead and break and it was -- they
22 couldn't find that witness.

23 Q. Okay.

24 A. But I do recall us specifically mentioning it.

25 Q. Okay. I see that. Okay.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 But I guess the better question is did you ever,
2 on the record, say, Judge, he has some prior convictions,
3 they're drug convictions, and we would like a ruling on
4 whether or not if he testifies, you're going to admit
5 those. Was that ever done?

6 A. And I would have done that if he had decided --
7 or he -- and I guess myself, my team, decided that he was
8 going to testify based on all the information. But, you
9 know, it was a little premature at the time we first
10 brought it up. And then I think, for various other
11 reasons, we decided that he wouldn't testify.

12 Q. And you are familiar with the line of cases that
13 talks about under 609(a)(1) that sometimes the 403 is
14 required and sometimes the similarity of the crimes make
15 them so prejudicial that, in fact, they may not come in?
16 You're familiar with all of that?

17 A. Absolutely.

18 And I'm almost certain I specifically told Turuk
19 in this case that they're -- you know, he's got a drug
20 history and that's what his --

21 Q. Right.

22 A. -- the majority of his, if not everything, was.
23 I don't remember it specifically.

24 Q. Okay. It was.

25 A. Yeah.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 And I told him it is very likely that the judge
2 will exclude these. I do not believe that, in the end,
3 that was the reason he didn't testify.

4 Q. But is it safe to say that there was not a
5 definitive ruling saying these are coming in or these are
6 not coming in? You never got that?

7 A. There was no ruling on that.

8 Q. And Turuk ostensibly made his decision about
9 whether or not to testify without knowing, without having
10 a ruling, about whether or not for sure they were coming
11 in or not coming in; is that true?

12 A. That has to be true, yes, because there was no
13 ruling.

14 Q. All right. Let me -- just a couple of -- you've
15 been trying criminal cases, what, nineteen years, twenty
16 years almost?

17 A. Yeah. Yeah.

18 Q. Same as me?

19 A. Same as you.

20 Q. All right. And you've had plenty of criminal
21 trials?

22 A. I have.

23 Q. And would you agree that in the State's case if
24 there is a motion in limine or there's a motion to
25 suppress or exclude or whatever, that procedurally in

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 order to preserve something for the record it has to be
2 renewed at the directed verdict stage?

3 A. That's correct.

4 Q. And then, arguably, if you put up evidence at
5 the end of your case and so on?

6 A. [No response]

7 Q. Okay. Referring you back to the directed
8 verdict motion on page 34, volume 3. Was anything
9 preserved or renewed at the directed verdict stage that
10 you can see?

11 A. I cannot see it.

12 Q. So -- and a lot of times there's not things
13 objected to. But you understand the law as far as not
14 renewing things.

15 A. I do.

16 Q. At that point there really were no appealable
17 issues for Turuk that had been raised, renewed and
18 preserved; right?

19 A. Well, certainly not preserved or renewed.

20 MR. LEE: Okay. Beg the Court's indulgence.

21 THE COURT: Uh-huh.

22 [Whereupon, Mr. Lee and Mr. Saunders confer]

23 Q. [Mr. Lee] Mr. Fleming, you never ended up
24 calling any witnesses in this case; right?

25 A. That's correct.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Q. Were there witnesses available to -- or possible
2 witnesses that you thought about calling?

3 A. Yes, there were.

4 Q. And do you remember who they might have been or
5 where they might have been?

6 A. I don't specifically remember, but I do remember
7 multiple witnesses, potentially, that could testify.

8 Q. And when the judge sequestered the State's
9 witnesses, he also sequestered your potential witnesses;
10 right?

11 A. I'm certain he did, yes.

12 Q. All right. Does the name Tyece Brown ring a
13 bell with you?

14 A. He does, I -- I think, yeah.

15 Q. Because wasn't there an issue about Turuk
16 actually cutting off the electricity at this Bay Pines
17 Road and actually moving to another --

18 A. There was.

19 Q. -- property and having a lease --

20 A. There was.

21 Q. -- in place?

22 A. Uh-huh.

23 Q. Did that lease -- did that lease ever get into
24 evidence?

25 A. No. I didn't introduce anything into evidence.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Q. Okay. Were there witnesses there, who had come
2 to court, who were present the night that Reeves was at
3 the house, Witness Reeves was at the house? Do you
4 remember?

5 A. I just don't remember. I'm sorry. And I've
6 looked in my notes to see and I didn't make those notes at
7 the time.

8 Q. But suffice it to say that the hurdle or the
9 problem it appears you had was Reeves' testimony linking
10 Saunders to the house?

11 A. That is --

12 Q. Is that -- is that fair to say?

13 A. That is correct.

14 Q. And you didn't call any witnesses to challenge
15 the credibility of Reeves; is that right?

16 A. I did not call any witnesses, period.

17 Q. Did you call any -- so you didn't call any
18 witnesses to verify or deny whether Turuk was there when
19 Reeves was at the house, did you, since you didn't call
20 any witnesses?

21 A. You know --

22 Q. Okay. Were there -- the fact that there might
23 have been some witnesses, did you -- do you know why you
24 didn't call any witnesses?

25 A. Well, yes and no. There were several witnesses

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 were codefendants.

2 Q. Right.

3 A. A great majority of the witnesses were
4 codefendants.

5 And there are reasons I didn't call them,
6 including the fact that I was told by either myself or my
7 investigator or my other -- the lawyer working with me
8 were told that they would not -- their testimony would not
9 be helpful or they didn't want to testify or something,
10 you know, depending on who it was.

11 They had all pled guilty or -- within very short
12 order and around that time, principally. And without
13 being able to talk to them, having -- you know, I wasn't
14 going to talk to these people when they're represented by
15 counsel. You know, that's a problem calling people and
16 you don't know what they're going to say, number one.

17 Q. Sure.

18 A. Number two, I thought we did a fairly good job.
19 At least I thought the evidence, we did a fairly good job
20 of showing that they were the ones doing it --

21 Q. Right.

22 A. -- and he wasn't, without them coming in and
23 soiling it.

24 Q. Right.

25 A. And I remember, for instance, Akeem Saunders,

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 who is Turuk's -- I assume it's his brother. That's what
2 he told me -- was flushing -- I think they found him
3 flushing stuff down the toilet, where you've got sort of
4 Turuk found sort of innocently holding a bag of weed like
5 he just bought it --

6 Q. Right..

7 A. -- I think.

8 And then the remaining witnesses, there were
9 some issues -- there were some issues concerning Mr.
10 Reeves' testimony and what may or may not have been done
11 about that. And the credibility of those particular
12 witnesses. And I think we made the decision that at the
13 time the case looked a lot better without potentially
14 throwing a witness up that might mess it up. And it
15 was --

16 Q. Was your last argument a consideration at that
17 point or --

18 A. Absolutely.

19 And that was the last thing I was going to tell
20 you, is that there are a lot of facts that I was hoping to
21 draw together to prove the point. And, you know, a lot of
22 trial practitioners, I think even including yourself,
23 recognize that being able to do that without any rebuttal
24 is a strong arguing factor.

25 I do have another thing, too, though.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Oftentimes when my client doesn't testify, I oftentimes do
2 not like -- I think in many ways it sends a bad signal to
3 the jury that your client is not testifying but you are
4 putting up a case. And it highlights the fact that you're
5 presenting evidence but you're not having the person there
6 who's not. And I -- that always weighs into my decision,
7 and that certainly weighed in my decision this time.

8 Q. And Judge Kinard -- you may know or you may not
9 know. But did Judge Kinard take the pleas like a couple
10 of days before from the codefendants who had previously
11 testified? Is that your recollection?

12 A. I think it was in very -- I think it was the
13 same term of court.

14 Q. Right.

15 A. Or thereabouts.

16 Q. That makes sense if he --

17 A. Yeah. I mean, but he was there a lot. Judge
18 Kinard was there. He was our resident judge at the time.
19 And so it's hard to say. I obviously didn't --

20 Q. Do you feel like it may have been a problem that
21 Judge Kinard may know something about the cases by taking
22 codefendants' pleas and then trying Turuk's case? Did
23 that seem to be an issue that he already had formulated an
24 opinion or knew something about it he shouldn't have
25 known?

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 A. No, not an issue at all.

2 Q. There was some discussion early on about you
3 made a motion for the State not to refer to the defendant
4 as Big T. Do you remember that?

5 A. That's correct.

6 Q. And was the gist of the ruling that Kinard made
7 saying, look, saying, unless you can have somebody come in
8 and say Big T means Turuk Saunders, you're not going to be
9 saying Big T; right?

10 A. That's correct.

11 Q. Did anybody end up ultimately doing that? Any
12 witness? Did Reeves?

13 A. I want to think Reeves did. I don't really
14 remember. But I do -- I can't see how he didn't. My
15 memory says he linked it. I don't -- the transcript would
16 say it.

17 Q. Because I think twenty-three times or so in the
18 closing, the solicitor refers to Big T and Big T's house
19 or whatever and all of that. So she clearly --

20 A. Well, I --

21 Q. -- felt like she had gotten --

22 A. I suspect --

23 Q. -- the okay --

24 A. I suspect -- yes. I'm sorry. I'm interrupting
25 you. I apologize.

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 Q. Did you feel like there was any basis or grounds
2 to object at that point? Did you feel like she was
3 violating any previous order, or somehow prejudiced Turuk,
4 for her to refer to him as Big T?

5 A. If my memory of what happened is correct, in
6 that the Reeves character linked the name Big T to Turuk,
7 then there -- I do not feel like there was a basis because
8 that's, in fact, what the judge's ruling was.

9 [Whereupon, Mr. Lee and Mr. Saunders confer]

10 MR. LEE: I would not have anymore motions. But
11 I would ask that the documents that I supplied to the
12 Court each be introduced, including the cases which
13 stand for the proposition --

14 THE COURT: It's up to you. Cases aren't
15 evidence. I mean, you can cite them if you like.

16 MR. LEE: Right.

17 THE COURT: If you want to have it noted as a
18 memoranda, that's fine. But everything in your packet
19 is a part of the record.

20 MR. LEE: Okay. I just wanted to make sure --

21 THE COURT: It's up to you.

22 MR. LEE: -- that they all came in.

23 THE COURT: However you want it is fine with us.

24 MR. LEE: And I haven't cited the case
25 specifically, but the propositions that I essentially

Cory Fleming
Direct Examination by Mr. Lee
August 27, 2013

1 asked him, you know, are supported by these cases.

2 [Whereupon, Court's Exhibit Number 1 is marked
3 by the court reporter]

4 MR. LEE: I would have no more questions at this
5 time for Mr. Fleming.

6 THE COURT: Any questions for the witness?

7 MS. WILSON: Thank you, Your Honor.

8 THE COURT: You're welcome. You may proceed.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 - - -
24 - - -
25 - - -

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

CROSS-EXAMINATION

BY MS. WILSON:

Q. Mr. Fleming, you testified you've been practicing over twenty years?

A. No, no, no. Not that long. I know I look it.

Q. I would say you were pretty young.

A. Thank you.

Q. About how long have you been practicing law?

A. I think right -- pushing nineteen years.

Q. And about how much of that has been in criminal law?

A. Every single year of it. I do other things, but every single year I've been either a prosecutor or a criminal defense lawyer.

Q. And were you retained to represent --

A. I was.

Q. -- Mr. Saunders?

A. I was retained.

Q. And do you recall approximately when you were retained to represent him?

A. I truly have no -- it was quite some time.

Q. And did you get to meet with him frequently before trial?

A. As much as we needed.

Q. Did you file Brady or Rule 5 motions on his

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 behalf?

2 A. Absolutely.

3 Q. And the documents that you received from the
4 State, did you discuss it with Mr. Saunders?

5 A. I did.

6 Q. Did you also discuss with him the elements of
7 the charges he was facing and what the State had to prove?

8 A. At length.

9 Q. Okay. And did you discuss his version of the
10 facts?

11 A. I did.

12 Q. Did you discuss any possible defenses with him?

13 A. I did.

14 Q. Did he give you any potential witnesses or leads
15 to investigate?

16 A. He did.

17 Q. And did you investigate those?

18 A. I did.

19 Q. And can you talk about what type of
20 investigation you undertook in this case? Did you have an
21 investigator?

22 A. I do have an investigator, although the
23 investigator didn't do that much in this particular case
24 because it's really driven by the -- we -- I spoke to
25 every witness, with the exception of Reeves, that

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 testified in the case.

2 Notwithstanding that fact, I was very
3 disappointed that Mr. Jenkins didn't supply me with the
4 information, despite having met with him before. But
5 nonetheless, the information I'm talking about is the
6 receipts, the receipt book. He had indicated he had just
7 found it, or something of that nature.

8 But I did -- I was given the opportunity to
9 speak with him as long, as I wished, the day that we
10 spoke.

11 Q. Is this Mr. Reeves you're talking about?

12 A. I'm talking about Robert Jenkins.

13 Q. Mr. Jenkins. Okay.

14 A. Uh-huh.

15 But the only person I did not speak with was
16 Mr. Reeves.

17 Q. And did you speak to him prior to trial when he
18 was found by the State?

19 A. I did.

20 He was made available to me in the bowels of the
21 courtroom where we used to be able to go back in the back.

22 I spoke with him before trial. And, you know,
23 to the extent that you, you know, can get what he was
24 going to say. He was reasonably forthcoming about what he
25 was going to testify to.

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 Q. Did you think you had enough time to prepare for
2 trial?

3 A. I did.

4 Q. And were you able to speak with any of the
5 codefendants --

6 A. I was not.

7 Q. -- of Mr. Saunders?

8 Were they all represented by counsel?

9 A. They were.

10 Q. And did you inquire into -- did you inquire, I
11 guess to their attorney, if they were able to testify for
12 Mr. Saunders?

13 A. Each one of them.

14 Q. And what was --

15 A. Let me be clear about this. I only spoke to
16 one, either my investigator, or Kimberly Smith, who was
17 the lawyer -- as an assistant lawyer for me did. But I've
18 confirmed with them that they did.

19 And the reason that I didn't do it myself, quite
20 frankly, is it's very rare that a codefendant will testify
21 in favor of another defendant in a criminal trial. And
22 so -- and, in fact, when we received word that they did
23 not -- and I don't know what they said. I know what their
24 lawyers said, that they didn't wish to testify.

25 Q. Did you subpoena any witnesses at trial?

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 A. I don't know if I subpoenaed witnesses or they
2 came voluntarily. But we did have witnesses present and
3 prepared to testify. So however we got them there, they
4 were there.

5 Q. Okay. And can you testify as to what your trial
6 strategy was in this case?

7 A. Yeah.

8 As I said, the entire trial strategy, in my
9 mind, was based on the fact that they were not going to be
10 able to link Turuk to the drugs themselves. Really, the
11 only link that there would be is -- would be it's equally
12 possible that he was simply buying some marijuana. And
13 that's, in fact, what I argued to the jury, I believe, in
14 my opening statement.

15 We were of the strong opinion that Mr. Reeves
16 was not going to be present to testify. And, as such, we
17 thought that link in the identification would be gone.
18 And that's why we argued it the way we did. And --

19 Q. And --

20 A. Excuse me.

21 Q. Go ahead.

22 A. All of the -- the fact that there was no
23 physical evidence or no other -- no police officers
24 identifying him. Which is unusual. I mean, you know,
25 usually they'll have a, you know, I was able to observe,

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 you know, John Smith doing x, y and z. And there was
2 really no law enforcement corroboration, although they
3 were very stern in their belief that he was the, quote,
4 ringleader. That may very well have just been based on
5 his prior record and not any particular information. But
6 I don't know where they get their secret information from.

7 They didn't testify to anything that would
8 implicate him directly. And I spent the great part of the
9 trial going through that and showing that there was a lack
10 of any direct information and juxtaposing him with other
11 people found at the scene, during the execution of the
12 search warrant, that were not charged and were treated as
13 if they were purchasers, not et cetera. And that's what
14 my attempt was to do.

15 Q. Did you -- wasn't your trial strategy not to
16 challenge the search warrant?

17 A. Well, I must say that it wasn't my trial
18 strategy to begin with but it turned out to be my trial
19 strategy, based on what I testified to earlier about my
20 feelings on what the judge had indicated to me or to us.

21 Q. And did you feel like the officers had probable
22 cause for the search warrant?

23 MR. LEE: I would object to him giving an
24 opinion as to whether or not there was probable cause
25 for the search warrant.

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 THE COURT: He's a lawyer. He makes that
2 analysis all the time. He's qualified to give that
3 opinion, based on his rational perception of the case.

4 MR. LEE: Okay.

5 THE COURT: You may answer the question.

6 A. I may or I have to?

7 THE COURT: You may. I mean, you have to give
8 you -- I mean, I would imagine you made some
9 assessment --

10 THE WITNESS: I did.

11 THE COURT: -- when you read the warrant.

12 A. I had two -- I had two opinions. The opinion
13 was that I thought that it was -- I thought that it was
14 shabby in the sense that the -- all of the things that
15 Mr. Lee pointed out concerning the voracity of the
16 particular witness.

17 I, however, thought that, quote, based on the
18 totality of the circumstances, the way that it was
19 observed, the fact that it was an ongoing investigation
20 and they would pull these people and they said they bought
21 it from there, I thought that there was going to be a
22 ruling that there was probable cause.

23 So, yes, I thought there was officially probable
24 cause. However, my opinion of it would not be the same as
25 the Court's. I believe the Court would have found there

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 was probable cause. But I do not believe that that
2 witness was particularly trustworthy enough to violate
3 a -- or to enter someone's home.

4 Q. [Ms. Wilson] Mr. Lee questioned you about if
5 you know about the receipts that were presented through
6 Bobby Jenkins at trial.

7 A. That's correct.

8 Q. Were you able to cross-examine Mr. Jenkins on
9 those at trial?

10 A. I'm certain I did. I'm certain I did.

11 I remember Mr. Jenkins testifying and I remember
12 him -- quite frankly, thinking that he wasn't a
13 particularly damaging witness to us, but based on other
14 issues, quite frankly.

15 Q. Okay. Specifically, did you elicit testimony
16 about how he took payment and whether or not he wrote
17 certain names on the receipts no matter who presented
18 payment?

19 A. Yes, I think I did.

20 Q. Even if you had standing, you felt like you had
21 a hard, firm argument for standing to challenge the search
22 warrant, would you have still proceeded to trial without
23 suppressing it? If that was inartfully asked, I can ask
24 it again.

25 THE COURT: Yeah. I know you lost me.

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 Q. [Ms. Wilson] Basically, I'm asking --
2 [Off the record momentarily]

3 Q. [Ms. Wilson] I guess my question is even if
4 you felt like you had standing to challenge the search
5 warrant --

6 A. Yes.

7 Q. -- would you have still made the strategic
8 decision at trial not to have challenged it?

9 A. Well, I actually thought that -- I actually
10 thought that I had -- on behalf of Mr. Saunders, I think I
11 had the right to challenge it, based on the argument -- or
12 the statement that I gave to the judge. I think the
13 reason I didn't challenge it was, again -- I don't know if
14 I would call it an advisory opinion. But it was almost an
15 advisory opinion by the judge warning me away from it.
16 And I guess that's the only way. And if it's -- if that
17 was a mistake, it was a mistake and I made it. But,
18 nonetheless, I had to make the decision and that's the
19 decision I made.

20 Q. Thank you.

21 Did you review Mr. Reeves's testimony? Did he
22 give like a written statement --

23 A. Yes.

24 Q. -- to the police?

25 Did you review that with Mr. Saunders before

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 trial?

2 A. I reviewed everything we had.

3 Q. And could you kind of -- maybe you can use the
4 transcript to kind of refresh your recollection. But can
5 you give the Court a description of your cross-examination
6 and what type of things you challenged Mr. Reeves on at
7 trial?

8 A. Yeah.

9 I don't know that I have his testimony. But I'm
10 fairly sure that I basically got him to admit that he was
11 lying and that he had given multiple statements that were
12 inconsistent, that he -- that one time he says he bought
13 marijuana, in a statement, and then under oath in front of
14 a jury he says he didn't do it at all. Then he lied about
15 whose crack it was, and then he didn't, and then he lied
16 about it again.

17 I think it was -- in my mind -- in my mind, and
18 I think most peoples mind, it was very clear to me that
19 everybody thought that he was willing to lie at the drop
20 of a hat, and he almost said as much.

21 And, I mean, I used both of the statements he
22 gave and his inaccurate testimony but -- that he even
23 flipped on cross-examination. I think that we did a very
24 good job of challenging his credibility, that's for sure.
25 I think that -- the fact of the matter was clearly the

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 jury didn't much either care or -- I don't know what they
2 thought, you know.

3 Q. You talked to Mr. Lee about a Delaware v. Frank
4 hearing. Did you -- is there some reason that you chose
5 not to request that hearing or is -- is it in the same
6 vein of why you didn't want --

7 A. It was in the same vein.

8 It would have been done at the very same -- I
9 would have considered it as a package challenge, if you
10 will. That would be sort of the normal course. You first
11 determine what, in fact, the magistrate or issuing judge
12 relied on. That would include any supplementary oral
13 things given, which we never got to. That may have
14 eliminated that issue to begin with.

15 If it got beyond that -- if it got beyond that
16 and it appeared that there was information that was either
17 withheld or misled the issuing judge, then I would have
18 gone to that next step. I think that's how I've always
19 done it.

20 Q. And it's your testimony that you challenged
21 Mr. Reeves' testimony about Mr. Saunders participating in
22 a drug transaction prior to the bust. And is it your
23 testimony that the basis of your objection was 404(b),
24 Rule 404(b)?

25 A. That's correct, yes.

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 Q. And was it also your understanding that the
2 Court had completed I guess an abbreviated Lyle analysis
3 during trial?

4 A. I can't say that. I can say that -- I can say
5 that the particular trial judge does oftentimes skip to
6 the point. And that is just how it is. And I believe
7 that he probably -- no. I can't say what he's done. I
8 felt like he had done a very quick analysis in his mind in
9 the many, many years that he's been on the bench, as to
10 what he felt was the important fact as to whether --

11 Because I've had other cases and he's done this
12 exact same thing. And it's a two-edged sword. It cuts
13 both ways. I've had things excluded based on the very
14 same type of analysis.

15 Unfortunately, I did not demand that he do a
16 full and thorough analysis. That was not done.

17 Q. And your objection to Mr. Reeves's testimony, it
18 took place right before he took the stand; is that
19 correct?

20 A. I seem to think that it did because he -- it
21 was -- what happened was we broke the day before. The
22 prosecutor asked that if they don't get the witness, that
23 they will close their case in the morning. We showed up
24 at 8:30 that morning. And I recall that the investigator
25 for the solicitor's office told me that he was here. We

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 spoke. I obviously had to raise that motion that morning,
2 and then we went straight into testimony. So it's got to
3 have been done as near as possible to the beginning of his
4 testimony. I don't -- I can't -- there was nothing else
5 to do. And I would not have made the motion but for the
6 fact that he had now appeared.

7 Q. And did you speak to Mr. Saunders about
8 testifying at trial?

9 A. I did.

10 Q. And did he ever indicate he wanted to testify?

11 A. I can't say whether during the entire length of
12 time that I represented him he ever didn't say he wanted
13 to testify. I can tell you when the ultimate decision was
14 made, I gave him my opinion with regards to whether or not
15 he should testify and then I told him it was his --
16 obviously, his right and his choice. And I have never
17 made that decision for my client, therefore, I can say
18 that he made the decision himself not to testify but
19 probably based strongly on what my recommendation was. I
20 certainly believe that.

21 Q. And so after Mr. Saunders indicated he didn't
22 want to testify, was a ruling necessary on whether his
23 prior convictions would be used against him as
24 impeachment?

25 A. Well, what I'll say is if the reason that he

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 wasn't testifying was based on his prior record, then I
2 think it would have been necessary. I, however, do not
3 believe that the reason for him not testifying had
4 anything to do with his prior record.

5 I believe, and I have said this before, assuming
6 for argument's sake that none of your prior convictions
7 come in, I still don't -- would not like you to testify,
8 for x, y and z. And I feel like that took place here. My
9 point being it would have been necessary; however, I do
10 not believe that was the reason that I gave him for not
11 testifying. I cannot tell you his decision-making process
12 but for what he explained to me.

13 Q. At the end of trial, do you recall renewing all
14 of your motions at the very end of trial?

15 A. I don't -- the record is what it says. And I
16 truly don't remember doing it in the sort of heat of
17 battle.

18 Q. And did you discuss with Mr. Saunders not
19 calling witnesses at trial?

20 A. I absolutely had to have, yes.

21 Q. And did he agree with your decision?

22 A. Well, yes.

23 I mean, I would not have not called -- I would
24 not have told my client, I'm not calling your witness.
25 Mr. Saunders was a participant in his defense. He's a

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 very smart guy. He understands the court system. He
2 understands the way things work. He participated fully.

3 There were multiple issues that had to be
4 decided during trial, as there always is, including
5 potential plea offers. We went, we had conversations, and
6 every time that -- that's a crucial decision. And every
7 time one of those crucial decisions was made, I gave him
8 my opinion, told him why I felt this was it. He
9 participated in that. And if he insisted me on calling
10 one of those witnesses, I would have called the witness.

11 My point is that we made a strategic decision
12 together and under no circumstances would I have ever not
13 called a witness if he thought it was -- that he
14 absolutely wanted. I would have even maybe jumped up and
15 down and screamed, but I would have done it.

16 Q. Did you think that you were able to adequately
17 challenge the State's testimony without having witnesses?

18 A. I did. I thought we had done that.

19 Q. Did you see any reason to have Judge Kinard
20 recused at trial?

21 A. Recused for what?

22 Q. Well, Mr. Lee questioned you about the fact that
23 Judge Kinard took guilty pleas of Mr. Saunders'
24 codefendants. Did you see any basis to have him recused?

25 A. I can't -- no, I do not see any basis for that.

Cory Fleming
Cross-examination by Ms. Wilson
August 27, 2013

1 Q. And it's also your testimony that the State's
2 witness was able to establish Mr. Saunders as Big T?

3 A. Again, I'm sure it's in the transcript. I just
4 haven't seen it.

5 But I do believe that he said Big T is Turuk.
6 And I think he said something like, I didn't know his last
7 name but that's him. And he identified him as the fellow
8 he references as Big T. Pointed him out. I think he was
9 wearing a black suit, as I recall.

10 Q. And if that was established at trial, it will
11 probably be reflected in the record.

12 You don't think it was problematic that the
13 State referred to him as Big T in her closing argument?

14 A. Well, I think it was problematic. I just don't
15 think it was objectionable. I think it was a fair
16 statement by the prosecutor as to the identity of the
17 person she's trying.

18 Q. Thank you.

19 A. I didn't like it, but I lived with it. Correct.

20 MS. WILSON: Thank you.

21 THE WITNESS: You're welcome.

22 THE COURT: Any redirect?

23 MR. LEE: I would say I have three questions,
24 but I would probably be lying. I'm going to try to
25 break it down to three.

Cory Fleming
Redirect Examination by Mr. Lee
August 27, 2013

REDIRECT EXAMINATION

BY MR. LEE:

Q. Mr. Fleming, page 16 on volume 1 is some witnesses that were read out to the jury venire.

A. Yes.

Q. I've highlighted some.

A. Yes.

Q. Can you read those, please?

A. The highlighted ones?

Q. Yes.

A. Okay. It's Jarrett Jackson, Akeem Saunders, Jonathan Kelly, Tyece Brown, ultimately is the name that comes up.

Q. Were those witnesses names that you had submitted?

A. I feel fairly strongly it is. I have -- well, I know it is. I put them down as out of an abundance of caution for the purposes of if they ultimately did testify, I wanted them presented for voir dire purposes so they wouldn't be excluded.

Q. The assistant attorney general asked you if you had an opinion on whether or not the search warrant was issued with probable cause. Have you ever had a -- thought one thing and had a judge rule the other way?

A. At the risk of being three feet from a judge.

Cory Fleming
Redirect Examination by Mr. Lee
August 27, 2013

1 But, yes, I have.

2 Q. Sometimes --

3 A. That doesn't make me right, now. But --

4 Q. Sometimes you were disappointed, sometimes
5 you've been pleasantly surprised?

6 A. That is correct. That is correct.

7 And that -- just because I think that the judge
8 is going to rule against me doesn't mean they ultimately
9 do.

10 Q. One last thing. Regarding credibility of
11 witnesses, have you, in your experience, had extensive
12 dealings with the Beaufort County Drug Task Force?

13 A. I have. Extensive.

14 Q. Would you agree that at times there have been
15 credibility issues with certain officers with the drug
16 task force?

17 A. Yes.

18 Q. Would you agree that one of those is an officer
19 whose name was Myron Carter?

20 A. Yes.

21 Q. And you are aware that Myron Carter was a part
22 of this investigation?

23 MS. WILSON: Objection, Your Honor. I think
24 this is outside the scope of my cross-examination.

25 MR. LEE: She talked about -- she asked about

Cory Fleming
Redirect Examination by Mr. Lee
August 27, 2013

1 the search warrant and whether or not there's
2 basically probable cause and it's based upon
3 credibility.

4 THE COURT: Yeah. But how does that question
5 relate to that?

6 MR. LEE: Because he was one of the drug task
7 force officers. And we're talking about whether or
8 not the judge --

9 THE COURT: But did he provide one of the
10 affidavits?

11 MR. LEE: No. But he was on the scene.

12 THE COURT: Unless you can prove that he -- it
13 has to be relevant to her cross-examination in order
14 for it to be within the scope of rebuttal, so I'm
15 trying to figure out how it's within the scope of
16 rebuttal.

17 MR. LEE: Okay. Well, for example, the last
18 sentence -- the last sentence that she read earlier
19 said that based upon the investigation of the Beaufort
20 County Drug Task Force --

21 THE COURT: She said based on her involvement in
22 that. She didn't -- that's not for everybody.

23 MR. LEE: I thought it said other officers, as
24 well.

25 THE COURT: But it's within the scope of her

Cory Fleming
Redirect Examination by Mr. Lee
August 27, 2013

1 involvement. I still don't see how it's relevant to
2 cross-examination. You haven't connected the dots for
3 me. I'm trying to figure out --

4 MR. LEE: Can I ask one more question and I'll
5 sit down?

6 Q. [Mr. Lee] Isn't it true Myron Carter was fired
7 between the time he was arrested and when this case went
8 to trial?

9 A. I want to say yeah, because I know that he was
10 fired. But I can't possibly remember when he was. It
11 does seem right. I wouldn't dispute it.

12 Q. From his conduct --

13 A. But I don't know of my own -- I know he was
14 fired for some reason.

15 Q. From his conduct.

16 A. And I --

17 Q. Okay.

18 A. I don't know why, but it does -- I mean, there
19 are lots of rumors. Yeah.

20 MR. LEE: All right. Thank you.

21 THE COURT: Anything further?

22 MS. WILSON: Nothing from the State, Your Honor.

23 THE COURT: You may step down.

24 THE WITNESS: Thank you, Judge. What should I
25 do with these --

Cory Fleming
Redirect Examination by Mr. Lee
August 27, 2013

1 THE COURT: You might want to take your file
2 with you.

3 THE WITNESS: Yes. Thanks.

4 THE COURT: You can leave --

5 THE WITNESS: Leave these things?

6 THE COURT: Yes.

7 THE WITNESS: Okay.

8 [Whereupon, Mr. Fleming is excused and exits the
9 witness stand]

10 THE COURT: You may call your next witness.

11 MR. LEE: I'll call Turuk Saunders -- or can he
12 testify right there, Your Honor?

13 THE COURT: Yes.

14 Sir, raise your right hand to be sworn.

15 [Whereupon, Mr. Saunders is duly sworn by the
16 Court as follows: do you swear or affirm the
17 testimony you give will be the truth]

18 THE WITNESS: Yes, ma'am.

19 THE COURT: You can put your right hand down.

20 [Whereupon, Mr. Saunders complies]

21 THE COURT: State your full name for the record.

22 THE WITNESS: Turuk Saunders.

23 THE COURT: You may proceed.

24 MR. LEE: You may have to speak up just a little
25 bit --

Cory Fleming
Redirect Examination by Mr. Lee
August 27, 2013

1 THE COURT: And please spell your last name for
2 the court reporter.

3 THE WITNESS: Do I need to --

4 MR. LEE: You're all right. You can sit right
5 there.

6 THE WITNESS: S-A-U-N-D-E-R-S.

7 THE COURT: You may proceed.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- - - -
- - - -
- - - -

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1

TURUK SAUNDERS,

2

Having Been First Duly Sworn,

3

was Examined and Testified as Follows:

4

DIRECT EXAMINATION

5

BY MR. LEE:

6

Q. Did you file, yourself, your first -- the first
7 PCR application in this case?

8

A. Yes, sir.

9

Q. So you did that on your own; correct?

10

A. Yes, sir.

11

Q. And after filing that, were you appointed a
12 lawyer to represent you?

13

A. Yes, sir.

14

Q. And do you know who that was?

15

A. It's McNair or -- I'm not too sure about the
16 name, but I'm going to say Ms. McNair or Mc-something.

17

Q. It was somebody from the McNair Law Firm; is
18 that right?

19

A. Yes, sir.

20

Q. And does the name Melissa Zallion [phonetic]
21 ring a bell with you?

22

A. Ms. Zallion. That's it.

23

Q. But she didn't ultimately do any work for you on
24 this case, did she?

25

A. No, she didn't.

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 Q. And are you aware of how I came into this case?

2 A. Yeah.

3 She informed me that she wasn't a criminal
4 lawyer and that Mr. Lee has a good criminal lawyer
5 background and he would be best to represent me in this
6 because she didn't practice in that field.

7 Q. Now, and since I have represented you I have
8 filed what's called an amended PCR application. Are you
9 familiar with that and you've seen that, the amended
10 application?

11 A. Yes, sir.

12 Q. And have you had a chance to review that?

13 A. Yes, I have.

14 Q. And would you agree that that kind of summarizes
15 our discussions about the issues that we intended to bring
16 up today to Judge Jefferson?

17 A. Yes, I do.

18 Q. Now, this is your opportunity, Mr. Saunders. If
19 there's anything that's not in there, or something else
20 that you feel like is a grounds for PCR for ineffective
21 assistance of counsel or otherwise -- is there anything
22 that's not in there, that I did not bring up with
23 Mr. Fleming, that you would like the judge to consider?

24 A. No, sir.

25 I believe those are all the issues, besides the

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 issues raised in this application.

2 Q. Well, what specific -- other than what we've
3 already talked about, what specific other issues, if there
4 are any, are you talking about?

5 A. Well, the application we have, I don't think
6 you've discussed --

7 THE COURT: You're going to have ask him
8 specific questions. I'm not going to have an open
9 sort of running colloquy. You need to ask him
10 specific questions so it can be clear for the record.

11 MR. LEE: All right.

12 Q. [Mr. Lee] Is there -- was there an issue about
13 a juror that you were unhappy about?

14 A. Yes, sir, it is.

15 Q. And that juror indicated during voir dire that
16 he knew Mr. Jenkins, who's one of the witnesses; is that
17 right?

18 A. That's right.

19 Q. Now, do you have any suggestion or evidence that
20 that juror was actually seated on your jury?

21 A. No, I don't have any evidence.

22 But the juror was never identified, so I
23 wouldn't know if she -- he or she was seated on it.

24 Q. And that issue was dealt with at appeal,
25 correct, by Ms. Mace?

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 A. Yes, it was an issue that was addressed. But it
2 wasn't preserved for review.

3 Q. Okay. Now, there was also an issue, was there
4 not, was -- weren't there some drug results that were not
5 actually introduced into evidence?

6 A. Yes, there was.

7 Q. And you brought that up?

8 A. Three drug analyses that were introduced after
9 trial was over. I mean, they were never properly admitted
10 in front of the jury.

11 Q. Okay. And did you tell your appellate lawyer
12 about that?

13 A. Yes, I did.

14 I mentioned it to her. I didn't know anything
15 about the situation but, you know, I mentioned it to her.

16 Q. And just they were discussed during the trial,
17 the reports, but they actually were not moved into
18 evidence by the solicitor. Is that your understanding?

19 A. Well, they wasn't moved during trial.

20 Anything could have been in those notes when,
21 you know, the judge allowed it to go back after trial. I
22 mean, anybody could have slipped something in. I just
23 didn't get a chance to challenge it. I feel like that was
24 wrong.

25 Q. Was that issue briefed and raised on appeal by

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 Ms. Mace; do you know?

2 A. Yes, sir.

3 Q. And do you know what the holding was on that?

4 A. It wasn't preserved for review.

5 I mean, the answer from final brief was that the
6 issue wasn't preserved or wasn't objected to, or anything,
7 and it couldn't be reviewed on direct appeal.

8 Q. And so that's what they're talking about in this
9 unpublished opinion? We're talking -- that's what they're
10 talking about in number 3; is that right? your
11 understanding about admitting certain evidence?

12 A. Yes, sir.

13 Q. That wasn't --

14 A. Yes, sir.

15 Q. And essentially those were the three issues that
16 were brought up on appeal, were they not? The directed
17 verdict motion, the thing about the juror, and then the
18 reports going back in; right?

19 A. Yes, sir.

20 Q. Is there anything else that's on your original
21 petition that you want to address today?

22 A. Yes.

23 I would like to make a motion to address all
24 issues on this original petition. It would -- I read some
25 things on cumulative [phonetic] effect where I believe all

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 the issues can give a conclusion on why I'm filing
2 ineffective assistance of counsel here today.

3 MR. LEE: Okay. Judge, I mean, I discussed --
4 I'll just tell you --

5 THE COURT: Yeah. You're going to have --

6 MR. LEE: -- these things with him.

7 THE COURT: Yeah. You're going to have to ask
8 him questions. There is no hybrid representation and
9 he cannot make any legal arguments in these
10 proceedings. So if you have questions for him, you
11 need to ask it.

12 Q. [Mr. Lee] Mr. Saunders, do you believe that
13 Mr. Fleming, as trial counsel, was ineffective in
14 representing you?

15 A. Yes, I do.

16 Q. And for the reasons we discussed when he was on
17 the stand; is that right?

18 A. Yes, sir.

19 Q. As well as the couple we just talked about.
20 Do you believe that his ineffectiveness
21 prejudiced your case as to cast serious doubt on the
22 outcome of the case?

23 A. Yes, I do.

24 Q. Do you believe the outcome would have been
25 different had he been, quote, effective?

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 A. Yes, I do.

2 Q. Did you provide Mr. Fleming with the names of
3 some potential witnesses who may testify -- who were
4 willing to testify on your behalf?

5 A. Yes, sir, I did.

6 Q. Okay. And who are those?

7 A. Akeem Saunders, Andre Benjamin, Tyece Brown and
8 Elijah Clark.

9 Q. Would their testimony have gone directly to an
10 important issue in the case?

11 A. Yes, it would have.

12 Q. Would that be -- would it go to the -- would any
13 of them go to the credibility of Witness Reeves?

14 A. Yes, it would have.

15 Q. Would any of them have dealt with whether or not
16 you were there that night when they -- Reeves supposedly
17 went to the trailer?

18 A. Yes, it would have.

19 Q. Would any of it have had to do with where you
20 were actually living at the time the search warrant was
21 executed?

22 A. Yes, it would have.

23 Q. Okay. And do you want to clear up a little bit
24 -- your suggestion that -- or your thought that Judge
25 Kindard was not an impartial judge and should have been --

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 Mr. Fleming should have moved to recuse him from the
2 trial?

3 A. Yeah.

4 I would like to mention that, you know, if
5 Mr. Fleming, you know, did a proper investigation and
6 knowing that the coconspirators, or whatever they label
7 them as, you know, the people that were at the scene of
8 the crime, were admitting to, you know, these allegations
9 that they're charging me with, I think there would have
10 been a different outcome, you know. But being that the
11 judge accepted these pleas of these individuals that's
12 telling him that I didn't have anything to do with it, it
13 would lead me to believe that, you know, the outcome would
14 have been different had he asked the judge to recuse
15 himself. I understand that, you know, it may be hard to
16 explain that he may have a personal interest in it, but --

17 Q. That's just how you -- that's just how you felt?

18 A. That's just how I believed, that, you know, it's
19 been -- it was biased for the -- you know, knowing that he
20 know the history and the facts in the case surrounding,
21 you know, what I'm charged with.

22 Q. When you were arrested out at the scene, which
23 officer primarily dealt with you?

24 A. Corporal Carter.

25 Q. Is that Byron Carter?

Turuk Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 A. Myron Carter, yes.

2 Q. And that's who you had most of your dealings
3 with?

4 A. That's who I had most of my dealings with.

5 And then I was asked to stand in front of the
6 trailer until the rest of the search was conducted.

7 MR. LEE: All right. Your Honor, I think that's
8 all the questions I would have for Mr. Saunders.

9 THE COURT: Any questions for the witness?

10 MS. WILSON: Just briefly, Your Honor.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- - -

- - -

- - -

Turuk Saunders
Cross-Examination by Ms. Wilson
August 27, 2013

CROSS-EXAMINATION

BY MS. WILSON:

Q. Mr. Saunders, did you talk to Mr. Fleming about your right to testify?

A. Did I talk to him about my right to testify?

Q. Uh-huh.

A. No.

Q. Did you recall the Court talking to you about your right to testify?

A. Well, I recall him mentioning that I understand what was going on after Mr. Fleming told him that I wouldn't be testifying. And he was like, do you understand. But I haven't actually, you know, talked to him about testifying.

Q. Was it your decision not to testify?

A. No, it wasn't. It was Mr. Fleming's decision.

Q. Do you recall before you -- before Mr. Fleming telling the Court that you didn't want to testify, do you recall the Court advising you and telling you maybe like the day before that you had the right to testify and that it was your decision?

A. Well, the Court informed me that it was my decision but he said I didn't have to make that decision right now, we had time.

MS. WILSON: Thank you.

Turuk Saunders
Cross-Examination by Ms. Wilson
August 27, 2013

1 THE WITNESS: Thank you.

2 THE COURT: Any redirect of the witness?

3 MR. LEE: No. No, Your Honor.

4 THE COURT: Any further witnesses from the
5 applicant?

6 MR. LEE: Yes, ma'am. I would call Tyece Brown,
7 please.

8 THE COURT: Do you want to proffer their
9 testimony? Do they -- is there any contention as to
10 what they're going to testify to?

11 MR. LEE: Well, what they're going to testify to
12 are contained in the affidavits that were submitted
13 with his original PCR application.

14 THE COURT: I assume you want to cross-examine
15 them?

16 MS. WILSON: I do want to cross-examine them.

17 THE COURT: Go ahead and call them.

18 [Whereupon, Ms. Brown comes forward]

19 THE COURT: Ma'am, raise your right hand to be
20 sworn.

21 [Whereupon, Ms. Brown is duly sworn by the Court
22 as follows: do you swear or affirm the testimony you
23 give will be the truth]

24 THE WITNESS: Yes, ma'am.

25 THE COURT: You can have a seat in front of me,

Turuk Saunders
Cross-Examination by Ms. Wilson
August 27, 2013

1 please, and state your full name for the record,
2 spelling your last name for the court reporter. Spell
3 your first name, as well, please.

4 THE WITNESS: My name is Tyece, T-Y-E-C-E. Last
5 name, Brown, B-R-O-W-N.

6 THE COURT: Thank you. You may proceed.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 - - -
24 - - -
25 - - -

Tyece Brown
Direct Examination by Mr. Lee
August 27, 2013

1 TYECE BROWN,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. LEE:

6 Q. Ms. Brown, where do you live?

7 A. I currently now live at 27 Big Road.

8 Q. Okay. Big Road. Is that in Beaufort County?

9 A. Yes, sir.

10 Q. Okay. How do you know Turuk Saunders?

11 A. He's my boyfriend.

12 Q. Was he your boyfriend back in May 24th of 2010
13 when he was on trial?

14 A. He was.

15 Q. And what were your living arrangements at that
16 time?

17 A. Back then we were living at 145 William Campbell
18 Road in Seabrook.

19 Q. When you say we, you and Turuk?

20 A. Yeah.

21 Q. And do you know when you started living on
22 William Campbell Road in Seabrook?

23 A. Oh. Had to have been sometime at the beginning
24 of maybe 2010 or maybe the last part of 2009.

25 Q. All right. Now, do you know where [REDACTED]

Tyece Brown
Direct Examination by Mr. Lee
August 27, 2013

1 [REDACTED] is --

2 A. Yes.

3 Q. -- in Burke?

4 How far away is that from where you were living?

5 A. Maybe about, give or take with traffic, twenty-
6 five -- twenty or twenty-five minutes.

7 Q. Did you have a lease in place for the William
8 Campbell Road residence?

9 A. We did.

10 Q. And whose name was on the lease?

11 A. It was me and his, if I can recall.

12 Q. Did you ever talk to Mr. Fleming about Turuk was
13 living with you?

14 A. He knew because we gave the lease, if I was --
15 if I'm speaking --

16 Q. When the trial came around, were you listed as a
17 witness? Do you know?

18 A. I was.

19 I was sequestered. I was outside through the
20 whole trial.

21 Q. So you couldn't watch the trial?

22 A. I couldn't watch the trial.

23 Q. And were you ever called as a witness?

24 A. Never.

25 Q. Do you know why?

Tyece Brown
Direct Examination by Mr. Lee
August 27, 2013

1 A. No, I don't.

2 Q. And had you been called as a witness, would you
3 have been able to testify the way that you just did that
4 you had a lease with Turuk and you lived somewhere else?

5 A. I would have.

6 MR. LEE: Okay. That's all I have for Ms.
7 Brown.

8 THE COURT: Any questions for the witness?

9 MS. WILSON: Nothing from the State.

10 THE COURT: Ma'am, you may be excused.

11 THE WITNESS: Thank you.

12 THE COURT: You're welcome.

13 [Whereupon, Ms. Brown is excused and exits the
14 witness stand]

15 THE COURT: You may call your next witness.

16 MR. LEE: I call Andre Benjamin.

17 THE COURT: I didn't hear you.

18 MR. LEE: Andre Benjamin.

19 [Off the record momentarily]

20 MR. LEE: Akeem Saunders. I call Akeem
21 Saunders.

22 THE COURT: Sir, if you would come forward to be
23 sworn.

24 [Whereupon, Mr. Akeem Saunders come forward]

25 THE COURT: Raise your right hand.

Tyece Brown
Direct Examination by Mr. Lee
August 27, 2013

1 [Whereupon, Mr. Akeem Saunders is duly sworn by
2 the Court as follows: do you swear or affirm that the
3 testimony you give will be the truth]

4 THE WITNESS: Yes, ma'am.

5 THE COURT: You can put your right hand down.

6 Sir, if you would have a seat and state your
7 full name for the record, spelling your last name for
8 the court reporter.

9 [Whereupon, Mr. Akeem Saunders takes the witness
10 stand]

11 THE WITNESS: Akeem Saunders. S-A-U-N-D-E-R-S.

12 THE COURT: Actually, spell both of your names
13 for me.

14 THE WITNESS: Okay. A-K-E-E-M S-A-U-N-D-E-R-S.

15 THE COURT: Thank you, sir.

16 You may proceed.

17 [Off the record momentarily]

18

19

20

21

22

23

24

25

- - -

- - -

- - -

Akeem Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 AKEEM SAUNDERS,

2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. LEE:

6 Q. Mr. Saunders, how do you know Turuk Saunders?

7 A. That's my brother.

8 Q. That's your brother. Older or younger?

9 A. Huh?

10 Q. Older brother or younger brother?

11 A. I'm the youngest one. I'm the -- in the middle.

12 Q. All right. Now, we've been talking about a case
13 that Turuk went to trial with in 2010. Are you familiar
14 with that case?

15 A. Correct. That's right.

16 Q. Now, you also were charged as part of that case,
17 were you not?

18 A. Yes, sir.

19 Q. And you were actually at [REDACTED] when
20 the police came rolling in; right?

21 A. Yes, sir.

22 Q. And you were charged with certain drug offenses;
23 correct?

24 A. Yes, sir.

25 Q. Okay. And --

Akeem Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 THE COURT: Sir, I need you to speak up for me.

2 THE WITNESS: Okay. Yes, ma'am.

3 Q. [Mr. Lee] And prior to your brother's trial,
4 you actually pled guilty, did you not?

5 A. Yes, sir. I sure did.

6 Q. Now, on the night of February 27th, 2007, the
7 night before the warrant was served on the place, do you
8 remember that?

9 A. Yes, sir.

10 Q. Do you remember a guy named William Reeves
11 coming to the house?

12 A. Yes, sir.

13 Q. When William Reeves came to the house, was your
14 brother there?

15 A. No, sir.

16 Q. And you're aware that that's inconsistent with
17 what Mr. Reeves testified to at trial? He said he was
18 there; correct?

19 A. He said he was there?

20 Q. Right.

21 A. I was locked up. I ain't seen him in the trial,
22 either. I'm not sure. I don't know.

23 Q. You were locked up --

24 A. Yes, sir.

25 Q. -- because you had done your plea?

Akeem Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 A. I went to court first and they sent me on, so I
2 ain't seen none of the court or anything. I don't know.

3 Q. Were you living at 11 Bay Pine Road when all
4 this happened?

5 A. Yes, sir.

6 Q. Was Turuk living there?

7 A. No, sir.

8 Q. How long had it been since he had lived there?

9 A. A couple of months. Maybe three, four, maybe
10 like five.

11 Q. And what -- so he was just visiting at the time
12 that the raid happened; right?

13 A. Uh-huh. Come to see me, his little brother.

14 Q. So that's consistent with what Mr. Fleming said
15 at trial; right?

16 A. Yes, sir.

17 [Off the record momentarily]

18 Q. [Mr. Lee] Why did you not testify at his trial?

19 A. They sent me to court first, then they sent me
20 on. And I don't know why I wasn't testifying.

21 Q. So they sent you up the road, as they --

22 A. Yes, sir.

23 Q. -- as they call it?

24 A. Yes, sir.

25 Q. I guess you weren't actually sitting in court

Akeem Saunders
Direct Examination by Mr. Lee
August 27, 2013

1 when this was happening?

2 A. I was sitting in jail when this was going on,
3 yeah.

4 Q. Beaufort County jail?

5 A. Yes, sir.

6 Q. But you just never were summoned to come over
7 and testify?

8 A. No, sir.

9 MR. LEE: That's all I have for Mr. Saunders,
10 Your Honor.

11 THE COURT: Any questions for the witness?

12 MS. WILSON: Briefly, Your Honor.

13

14

15

16

17

18

19

20

21

22

23

24

25

- - -

- - -

- - -

Akeem Saunders
Cross-examination by Ms. Wilson
August 27, 2013

CROSS-EXAMINATION

BY MS. WILSON:

Q. Mr. Saunders, it's your testimony that you were present when the police did their bust at the trailer?

A. Yes, ma'am.

Q. And, ultimately, you pled guilty to some charges with regard to this incident?

A. Yes, ma'am.

Q. And can you tell the Court what were the nature of the charges you pled guilty to in your sentence?

A. There was a couple of drug charges. Some weed charges, some crack charges, some ecstasy charges.

Q. Do you know what -- can you tell the Court what your sentence was? Because you got some jail time.

A. Yes, ma'am.

It was three years. And then I got like I think it was like, what, like a year and a half.

Q. So you served a year and a half or --

A. Yes, ma'am.

Q. Were you represented by counsel during that guilty plea? Did you --

A. Yes, sir.

Q. -- have an attorney?

A. Yes, ma'am. I'm sorry. Excuse me. Excuse me.

I forgot who my lawyer was. I don't -- I

Akeem Saunders
Cross-examination by Ms. Wilson
August 27, 2013

1 forgot.

2 Q. Did you ever want to testify for your brother at
3 trial?

4 A. Yes, ma'am.

5 Q. Okay. And would you have risked losing a
6 favorable plea offer from the State by testifying on his
7 behalf?

8 A. Yes, ma'am.

9 Q. And it's true today that you have served all
10 your time on that case?

11 A. Yes, ma'am.

12 Q. And Mr. Saunders is your brother; is that
13 correct?

14 A. Yes, ma'am.

15 Q. And you want him to be out of jail like you
16 want -- like you're out of jail; is that correct?

17 A. I would love for everybody to be out of jail.

18 Q. Right.

19 A. That's for anybody.

20 Q. Right. Right.

21 Okay. And you want to help him out; is that
22 correct?

23 A. I'd love to help anybody out, and they can help
24 me out.

25 Q. Thank you.

Akeem Saunders
Cross-examination by Ms. Wilson
August 27, 2013

1 A. That would be nice.

2 MS. WILSON: Thank you.

3 MR. LEE: I call Andre Benjamin.

4 THE COURT: Any redirect? Did you have any
5 redirect of this witness?

6 MR. LEE: No, ma'am.

7 THE COURT: Sir, you may step down.

8 THE WITNESS: Yes, ma'am.

9 [Whereupon, Mr. Akeem Saunders is excused and
10 exits the witness stand]

11 MR. LEE: This should be our last witness. I
12 don't expect it will take very long.

13 THE COURT: Take as long as you need. I asked
14 earlier because the heat was getting to me. You know,
15 I've been in hotter environments. I'll be okay.

16 [Off the record momentarily]

17 [Whereupon, Mr. Benjamin comes forward]

18 THE COURT: Sir, state your full name -- stand
19 up for me and raise your right hand.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Be careful. That's a very slippery
22 step.

23 [Whereupon, Mr. Benjamin is duly sworn by the
24 Court as follows: do you swear or affirm the
25 testimony you give will be the truth]

Akeem Saunders
Cross-examination by Ms. Wilson
August 27, 2013

1 THE WITNESS: Yes, ma'am.

2 THE COURT: You can put your right hand down,
3 sir.

4 Have a seat and state your full name for the
5 record, spelling your last name for the court
6 reporter.

7 [Whereupon, Mr. Benjamin takes the witness
8 stand]

9 THE WITNESS: Andre Benjamin. B-E-N-J-A-M-I-N.

10 THE COURT: Thank you, sir.

11 You may proceed.

12 MR. LEE: All right. Mr. Benjamin, we'll cut
13 right to the chase.

14

15

16

17

18

19

20

21

22

23

- - -

24

- - -

25

- - -

Andre Benjamin
Direct Examination by Mr. Lee
August 27, 2013

1 ANDRE BENJAMIN,

2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. LEE:

6 Q. On the evening of February 22nd, 2007, did you
7 have occasion to go to 11 Bay Pine Road in Beaufort
8 County?

9 A. Yes, sir.

10 Q. And who did you go there with?

11 A. Me, my wife, William Reeves and his girlfriend.

12 Q. When you got there, what did you do?

13 A. When I went there, I went there to see Akeem.

14 Q. Akeem Saunders?

15 A. Yes.

16 Q. Okay.

17 A. And it wasn't on no drugs or nothing when I went
18 there. I went there to see him about these here ladies
19 that we had been seeing and we was supposed to go over
20 later on that night. And William Reeves is my wife's
21 brother, so there is no way he would go in there with me.
22 I know what I was going in there for. So as I was on my
23 way to the house, he called me back to the car and asked
24 me could I purchase him some marijuana.

25 Q. And this is William Reeves?

Andre Benjamin
Direct Examination by Mr. Lee
August 27, 2013

1 A. This is William Reeves.

2 And he bringing me his ten dollars, and he goes
3 back to the car and I goes on in the house.

4 Q. So you went in the house?

5 A. Yes.

6 Q. When you went in the house that night, who was
7 there?

8 A. Akeem, I think. His little brother.

9 Q. His little brother?

10 A. Yeah.

11 Q. Okay. What's his name? Is it Jarred?

12 A. I think it's E. I just know him as E.

13 Q. You know him as what?

14 A. E. His little brother.

15 Q. E. Okay.

16 All right. Was Turuk Saunders there that night?

17 A. No.

18 Q. Do you know what kind of vehicle he drives --
19 was driving at the time?

20 A. No, sir.

21 Q. Was any vehicle there that you identified with
22 him?

23 A. No, sir.

24 Q. Okay. Did you have a chance to walk through the
25 house?

Andre Benjamin
Direct Examination by Mr. Lee
August 27, 2013

1 A. Well, I stepped in and stepped right to the
2 kitchen where Akeem --

3 Q. But Turuk was never in the house when you were
4 there?

5 A. No, sir, not that I recall. No, sir.

6 Q. Not that you recall? Or he wasn't there?

7 A. I didn't see him there.

8 Q. You didn't see him there that night?

9 A. No.

10 Q. And you said that Mr. Reeves never even went in
11 the house?

12 A. No, he never went in the house.

13 Q. All right. Were you prepared to testify at
14 trial, if necessary, for Turuk?

15 A. Well, once I heard about his statement, I came
16 to his trial myself to testify because he never went in
17 the house, I did.

18 Q. When you say he, you're talking about
19 Mr. Reeves?

20 A. Yes.

21 Q. Okay. And Mr. Reeves is your brother-in-law?

22 A. My wife's brother.

23 Q. Okay.

24 A. And I was going to see Akeem about some girls we
25 was going to see, who -- why would he go in there with me

Andre Benjamin
Direct Examination by Mr. Lee
August 27, 2013

1 and I'm married to his sister?

2 Q. Got you. Okay.

3 A. So it was no reason --

4 Q. We won't get into that. Okay.

5 A. -- for him to even come in there.

6 Q. And so you actually went to see if you could
7 testify to clear up some --

8 A. Yes, sir.

9 Q. -- what you thought was false testimony?

10 A. Yes.

11 MR. LEE: No further questions, Your Honor.

12 THE COURT: Any questions for the witness?

13 MS. WILSON: Briefly, Your Honor.

14

15

16

17

18

19

20

21

22

23

24

25

- - -

- - -

- - -

Andre Benjamin
Cross-examination by Ms. Wilson
August 27, 2013

CROSS-EXAMINATION

BY MS. WILSON:

Q. Mr. Benjamin, so it's your testimony today that you didn't go inside the home to purchase drugs; is that correct?

A. Yes, ma'am.

My intention was not to go in the home and purchase drugs.

Q. And it's your testimony today that Mr. Reeves stayed in the car while you went inside the home --

A. Yes.

Q. -- the trailer?

A. As I was headed in the house. He called me back to see if I could get him some marijuana, the same marijuana he got caught with.

Q. And did you sign an affidavit for Mr. Lee, I'm assuming, dated -- I guess it was sworn on October the 26th, 2012? I'm going to bring it to you and you can tell me if you signed this. Okay?

A. Yes.

MS. WILSON: Your Honor, may I approach the witness?

THE COURT: You may.

MS. WILSON: Thank you.

[Whereupon, Ms. Wilson proffers documents to the

Andre Benjamin
Cross-examination by Ms. Wilson
August 27, 2013

1 witness]

2 Q. [Ms. Wilson] All right. Does this look like
3 your affidavit?

4 A. Yes, ma'am.

5 Q. Okay. Say it so she can hear you.

6 A. Yes, ma'am.

7 Q. Okay. Thank you. This is your affidavit.

8 Could you please --

9 MS. WILSON: Mr. Lee, I'm assuming you have a
10 copy of this?

11 MR. LEE: I do.

12 But I didn't prepare this. I think the
13 appellate lawyer did.

14 MS. WILSON: Okay.

15 MR. LEE: But I do have a copy. Thank you.

16 MS. WILSON: That's fine.

17 Q. [Ms. Wilson] And can you read -- I guess this
18 would be -- read paragraph 2? I guess this is -- just
19 line two of this right here. Read it out loud.

20 A. As I walked inside --

21 MS. WILSON: You've got to say it a little
22 louder.

23 THE COURT: Sir, I need you to speak up.

24 A. As I walked inside the trailer with Reeves,
25 there was only two other people in the trailer besides

Andre Benjamin
Cross-examination by Ms. Wilson
August 27, 2013

1 Reeves and I. Akeem and Jarred.

2 Q. [Ms. Wilson] Okay. So in your affidavit, you
3 say that you went in the trailer with Mr. Reeves; is that
4 correct?

5 A. Yes. But Reeves never went into the trailer.

6 Q. Okay. But your affidavit says he went into the
7 trailer?

8 A. Yes, it did. Yes, it did.

9 Q. So what's -- were you telling the truth when you
10 signed this affidavit, or are you telling us the truth
11 today?

12 A. No, I'm telling you the truth today.

13 Q. Today? Okay.

14 A. Yeah.

15 Q. So you were lying when you --

16 A. Actually, I didn't know that said Reeves went in
17 there with me.

18 Q. Can you read and write?

19 A. So-so.

20 Q. So when you signed this, did you know what it
21 said?

22 A. Not really.

23 But I knew what happened, and I come to court to
24 testify.

25 Q. Okay. So but --