

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

D. Garrison Hill, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

MICHAEL HENDERSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001254

APPENDIX

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1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF GREENVILLE) 2010-GS-23-5199

3)
4 State of South Carolina) TRANSCRIPT OF RECORD

5)
6 -vs-)

7 Michael Henderson)

8 Day - 1 December 7, 2011
9 Greenville, South Carolina

10 B E F O R E:

11 THE HONORABLE EDWARD MILLER, Judge.

12 A P P E A R A N C E S

13 KAYCE MCCALL, Esquire
14 RYAN HOLLOWAY, Esquire
15 Attorney for the State

16 CHASE HARBIN, Esquire
17 Attorney for the Defendant

18 CAROLINE HISKELL
19 Thirteenth Circuit Court Reporter
20
21
22
23
24
25

I N D E X

WITNESSES

DR CR RED REC

James Godfrey	118	127		
Matt May	135	145		
Jason Owens	150	174	182	
David McElroy	183	189		

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24

25

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P R O C E E D I N G S

1
2 THE BAILIFF: All rise, the Honorable Edward
3 Miller presiding.

4 THE COURT: Thank you. Please be seated.
5 Anything before we get the jury up here? Y'all got any
6 voir dire?

7 MR. SULLIVAN: Anybody got any problems with
8 drugs or family members. It's a drug case.

9 THE COURT: I got two separate witness lists
10 from each defendant. Is that right?

11 MR. HARBIN: Yes.

12 THE COURT: All right. Call them up.

13 MR. HOLLOWAY: Your Honor, I understand
14 because we have two defendants, there are 10 strikes and
15 the defendants have five strikes a piece, is that right?

16 THE COURT: That's my reading of the statute.
17 It's 10 total, five for each defendant. How do you want
18 to designate?

19 MR. HARBIN: I'll confer with Mr. Sullivan
20 and Mr. Sullivan will answer for us.

21 THE COURT: For all of it?

22 MR. HARBIN: Yes, sir.

23 THE COURT: You know I have each attorney
24 stand and introduce themselves and their clients.

25 MR. SULLIVAN: You have the police officers

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1 to stand and all of that?

2 THE COURT: Do you want me to ask those
3 questions too?

4 MR. SULLIVAN: If you want me to ask them,
5 I'll ask them?

6 THE COURT: No, that's okay.

7 MR. SULLIVAN: Judge, if this isn't finished
8 today, my client is on bond, if it is revoked, he needs to
9 know so she can get some things together.

10 THE COURT: I haven't thought about that yet.

11 MR. SULLIVAN: I told them once they get
12 here, the bond is over.

13 THE COURT: Okay. I hadn't made that
14 decision yet.

15 What kind of motions do y'all have once this
16 jury is picked?

17 MR. SULLIVAN: We have a motion to suppress
18 and if that's grant then we're all out of here. If it's
19 not I have a motion to sever the two cases.

20 THE COURT: Mr. Sullivan, have you filed a
21 written motion to sever?

22 MR. SULLIVAN: I informed the solicitor.

23 THE COURT: We're going to pick a jury and
24 then you're going to move to sever?

25 MR. SULLIVAN: I've never done a motion to

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1 sever before, Judge.

2 THE COURT: You need to make -- I think if
3 you have a motion to sever, you make it before a jury is
4 selected if you have any hope of prevailing.

5 MR. SULLIVAN: It would only take two
6 minutes.

7 THE COURT: I think you ought to do that.

8 Ms. Mozzella, would you close that door. We
9 have one quick matter. Thank you, ma'am.

10 Mr. Sullivan.

11 MR. SULLIVAN: Your Honor, the co-defendants
12 are husband and wife. They are both charged with
13 manufacturing meth. There is evidence that there was meth
14 in the house, and the husband and wife, probably, will be
15 convicted of possession of meth. The alleged lab was in a
16 detached building. There's no evidence of no activity in
17 the house related to the lab or activities in the lab. I
18 don't think that the lab was active.

19 Now, there will be evidence that the husband
20 had access of the lab, and a friend of his, or the
21 building where the lab was. There is no evidence that
22 Ms. Henderson had anything to do with that lab. It was on
23 the property but she didn't have anything to do with it.

24 I'm afraid that we try them together, husband
25 and wife, the jury will say it was her husband and she had

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1 to know about it. If we sever it, I think I would have a
2 much better shot of getting possession only.

3 THE COURT: These persons both lived in the
4 house on the property?

5 MR. SULLIVAN: On the property.

6 THE COURT: And the allegations are that a
7 meth lab was discovered on the property.

8 MR. SULLIVAN: In a separate shed, yes.

9 THE COURT: A child resided in the home as
10 well?

11 MR. SULLIVAN: Yes, sir.

12 THE COURT: What requires me to sever these
13 cases?

14 MR. SULLIVAN: The husband was more involved
15 with the shed. She wasn't involved with the shed at all.

16 THE COURT: That's your position, yeah.

17 MR. SULLIVAN: I'm trying her from getting
18 drug along with him with the manufacturing process where
19 she was probably only guilty of possession.

20 THE COURT: Your arguing that there might be
21 a spill over effect?

22 MR. SULLIVAN: Yes, sir.

23 THE COURT: Is there anything to do with
24 testimony? Is that going to be an issue in relation to
25 this motion to sever?

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1 MR. SULLIVAN: From the son ---

2 THE COURT: I'm talking about between the
3 defendants.

4 MR. SULLIVAN: No, but I needed to make the
5 motion.

6 THE COURT: I'm going to deny it. There's no
7 showing that there would be any spill over effect that
8 would impair her constitutional rights to the point where
9 there is overwhelming prejudice other than normal
10 prejudice would occur, and I don't find there is any issue
11 related to the testimony of the two defendants which
12 hasn't been presented to me.

13 Y'all ready.

14 MR. SULLIVAN: Note my objection.

15 THE COURT: It's on the record.

16 MR. HOLLOWAY: The State does have one motion
17 to suppress regarding third-party guilt evidence.

18 THE COURT: All right. I'm going to go ahead
19 and get this jury and swear them.

20 (Jury pool enters the courtroom.)

21 Alright, ladies and gentlemen, welcome up to
22 Courtroom No. 4. Let me introduce myself, my name is Ned
23 Miller. I'm one of your local Thirteenth Circuit court
24 judges. This week I'm handling a term of general sessions
25 court which would commonly be known as criminal court and

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1 y'all have been qualified on Monday to serve generally.
2 Now we brought you up and we are going to qualify you to
3 serve for this particular case.

4 I'm going to introduce the case to you in
5 just a second and ask you a number of questions related to
6 this case to make sure that y'all are qualified to serve
7 on this case and we can impanel a fair and impartial jury
8 in this matter.

9 I appreciate that this is a big crowd and
10 probably a few more people than we needed, but since we
11 were right close to the right number we thought we would
12 bring everybody up so nobody would feel like they were
13 missing out on anything. I know y'all are happy about
14 that.

15 We are going to begin a trial in this case
16 and there are two defendants in this case. I will
17 introduce them and their indictments to you in just a
18 minute. A couple of things I do want to tell you -- well,
19 let me go ahead with the indictments.

20 First indictment that I've got is the State
21 versus Michael W. Henderson. This is an indictment for
22 manufacturing methamphetamine and possession of a weapon
23 during the commission of a violent crime, indictment
24 2010-5201. It alleges in Count 1 that Michael W.
25 Henderson did in Greenville County on about the 30th day

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1 of March of 2010 knowingly manufacture methamphetamine or
2 did knowingly provide financial assistance or otherwise
3 attempt, aid, abet, or conspire to manufacture
4 methamphetamine or was knowingly in actual or constructive
5 possession of the common ingredients and or supplies used
6 in the manufacturing of methamphetamine in violation of
7 the laws of South Carolina.

8 Count No. 2 alleges that Michael W. Henderson
9 did in Greenville County on or about the 30th day of March
10 2010 possess or visibly display a handgun during the
11 commission or attempted commission of a violent crime,
12 that is manufacturing methamphetamine in violation of the
13 laws of this State.

14 The next indictment is indictment No.
15 2010-5200. This is an indictment for possession of
16 methamphetamine with intent to distribute and it alleges
17 that Michael W. Henderson did in Greenville County on or
18 about the 30th day of March, 2010 possess with intent to
19 distribute or aid, abet, or conspire to possess with
20 intent to distribute a quantity of methamphetamine also
21 known as crank a controlled substance such possession not
22 having been authorized by law in violation of the statutes
23 of the State.

24 The next indictment is Indictment No.
25 2010-5199. It alleges that Michael W. Henderson did in

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1 Greenville County on or about the 30th day of March of
2 2010, (1) either directly or by extraction from natural
3 substances or independently by means of chemical processes
4 or both unlawfully manufacture amphetamine it's salts,
5 isomers, or salts of isomers of methamphetamine it's
6 salts, isomers or salts of it's isomers in the presence of
7 a minor child, and/or (2) knowingly permit a child to be
8 in an environment where a person is selling, offering for
9 sale or having in such person's possession with the intent
10 to sell, deliver, distribute, prescribe, administer,
11 dispense, manufacture or attempt to manufacture
12 amphetamine or methamphetamine and/or (3) knowingly permit
13 a child to be in an environment where drug paraphernalia
14 or volatile toxic or flammable chemicals are stored for
15 the purposes of manufacturing or attempting to manufacture
16 amphetamine or methamphetamine in violation of the
17 statutes of this State.

18 Indictment No. 2010-5202 alleges that Michael
19 W. Henderson did in Greenville County on or about the 30th
20 day of March of 2010 while being the legal custodian,
21 parent or guardian place the child Mino (1) at an
22 unreasonable risk of harm affecting the child's life,
23 physical or mental health or safety or (2) unlawfully or
24 maliciously do or cause to be done any bodily harm to the
25 child so that the life or health of the child is in danger

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1 or likely to be in danger or (3) willfully abandon the
2 child in violation of the laws of this State.

3 Now, the next indictment is indictment No.
4 2010-5205 and it alleges in Count 1 that Tina Henderson
5 did in Greenville County on or about the 30th day of March
6 of 2010 knowingly manufacture methamphetamine or did
7 knowingly provide financial assistance or otherwise
8 attempt, aid, abet, or conspire to manufacture
9 methamphetamine or was knowingly or in actual constructive
10 possession of the common ingredients and/or supplies used
11 in the manufacturing of methamphetamine in violation of
12 the statutes of the State.

13 Count 2 alleges that Tina M. Henderson did in
14 Greenville County on or about the 30th day of March, 2010
15 possess or visible display a handgun during the commission
16 or attempted commission of a violent crime and that is
17 manufacturing methamphetamine in violation of the statutes
18 and laws of this State.

19 Indictment No. 2010-5203 alleges that Tina M.
20 Henderson did in Greenville County on or about the 30th
21 day of March, 2010 possess with intent to distribute or
22 aid, abet, or conspire to possess with the intent to
23 distribute a quantity of methamphetamine also known as
24 crank a controlled substance, such possession not having
25 been authorized by law in violation of the statutes of

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1 this State.

2 Indictment No. 2010-5198 alleges that Tina M.
3 Henderson did in Greenville County on or about the 30th
4 day of March, 2010 (1) either directly or by extraction
5 from natural substances or independently by means of
6 chemical processes or both unlawfully manufacture
7 amphetamine, it's salts, isomers, or salts of isomers or
8 methamphetamine, it's salts, isomers, or salts of its
9 isomers in the presence of a minor child and/or (2)
10 knowingly permit a child to be in an environment where a
11 person is selling, offering for sale, or having in such
12 person's possession with intent to sell, deliver,
13 distribute, prescribe, administer, dispense, manufacture
14 or attempt to manufacture amphetamine or methamphetamine
15 and or (3) knowingly permit a child to be in an
16 environment where drug paraphernalia or volatile, toxic or
17 flammable chemicals are stored for the purpose of
18 manufacturing or attempting to manufacture amphetamine or
19 methamphetamine in violation of the statutes of this
20 State.

21 And, finally, Indictment 2010-5204 alleges
22 that Tina M. Henderson did in Greenville County on or
23 about the 30th day of March, 2010 while being the legal
24 custodian, parent, or guardian place the child, Mino, (1)
25 at unreasonable risk of harm affecting the child's life,

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1 physical or mental health or safety or (2) unlawfully or
2 maliciously do or cause to be done any bodily harm to the
3 child so that the life or health of the child is in danger
4 or likely to be in danger or (3) willfully abandon the
5 child in violation of the statutes and laws of this State.

6 Now, ladies and gentlemen, to these
7 indictments each of these persons Mr. Michael Henderson
8 and Ms. Tina Henderson have pled not guilty. As such that
9 plea places the burden on the State to prove these
10 allegations on each of these individuals separately and
11 each offense separately beyond a reasonable doubt of each
12 and every element of these offenses.

13 Please keep that in mind throughout the
14 course of these proceedings. These are sort of the
15 foundational elements of our free society if you will,
16 part of our justice system. So keep that in mind
17 throughout the course of this trial.

18 I want to tell you that the allegations
19 contained in these indictments are just that. They are
20 allegations. I will tell you that these documents which
21 I've read these allegations are nothing more than what
22 they appear to be, that is a piece of paper. They are not
23 evidence and you should make no inference or presumption
24 from the fact that these documents are issued with respect
25 to the guilt or innocence of any of these individuals.

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1 Guilt or innocence is proved and proved beyond a
2 reasonable doubt by evidence delivered here in this
3 courtroom. So please keep all that in mind as well.

4 Now, before I begin asking you these
5 questions to qualify you to serve in this case, I will ask
6 the parties to stand and introduce themselves and their
7 offices and clients.

8 MS. MCCALL: My name is Kayce McCall and this
9 is Ryan Holloway and we are with the Greenville County
10 Solicitor's Office.

11 THE COURT: Thank you very much.

12 Mr. Harbin.

13 MR. HARBIN: Chase Harbin. I am a defense
14 attorney here in Greenville and this is my client Michael
15 Henderson.

16 THE COURT: Mr. Sullivan.

17 MR. SULLIVAN: Tim Sullivan. I am a defense
18 attorney here in Greenville. This is my client, Tina
19 Henderson.

20 THE COURT: Thank you very much.

21 Ladies and gentlemen, is there any member of
22 the jury panel related by blood or marriage or have a
23 business, personal, or social relationship with any of the
24 attorneys involved in this case or any member of their
25 office? If so, please stand.

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1 (No response.)

2 Is there any member of the jury panel related
3 by blood or marriage or have a business, personal, or
4 social relationship either with Mr. Michael W. Henderson
5 or Ms. Tina M. Henderson? If so, please stand.

6 (No response.)

7 I'm going to read a list of potential
8 witnesses in this case. I don't know if all -- well some
9 of them will be call be called but I don't know which ones
10 are going to be called. I need you to pay attention
11 because I need to know the same thing about these folks:
12 Officer James Godfrey, Greenville County Sheriff's Office,
13 Investigator Matt May, Vice and Narcotics, Greenville
14 County Sheriff's Office, Investigator Jason Owens, Vice
15 and Narcotics, Greenville County Sheriff's Office,
16 Investigator Brandon Brown, Vice and Narcotics, Greenville
17 County Sheriff's Office, Investigator Kurt Jacobson, Vice
18 and Narcotics, Greenville County Sheriff's Office, Officer
19 Pincario, Greenville County Sheriff's Office, Kara
20 Bennick, Department of Public Safety, Property and
21 Evidence Supervisor, Sean Collins, Department of Public
22 Safety, Forensic Chemist, Michael Peterson, Department of
23 Public Safety, Forensic Division, David McElroy, Shannon
24 Marie Johnson, Alvin Mitchell, Sam Croxston, Christy Rose
25 Danchenko, Jake Henderson, Sherri Bishop, James Terry

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1 Mitchell, David Mathis. Is there any member of the jury
2 panel who is related by blood or marriage or has a
3 business, personal or social relationship with any of
4 those potential witnesses whose names I have just read?
5 If so, please stand.

6 (No response.)

7 Is there any member of the jury panel who has
8 any knowledge about the events alleged in these
9 indictments, if so, please stand.

10 (No response.)

11 Is there any member of the jury panel or
12 family member or a close friend who has ever been a victim
13 of or charged with this type of offense? If so, please
14 stand.

15 (No response.)

16 Is there any member of the jury panel who is
17 aware of any bias or prejudice towards either the State or
18 the defendants? If so, please stand.

19 (No response.)

20 Is there any member of the jury panel who is
21 a member of or contributor to a group whose primary
22 concern is the promotion of law enforcement or victim's
23 rights? Examples would be MADD, SADD or CAVE, if so,
24 please stand.

25 (No response.)

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1 Is there any juror who has such a religious
2 or moral opposition to illegal narcotics that they could
3 not serve on this case? That feeling would make you
4 violate your requirement to be fair and impartial to both
5 the State and the defense. Does anyone fit into that
6 category?

7 (No response.)

8 Is there any juror who knows any reason
9 whatsoever why they should not participate in this case
10 with particular emphasis on your ability to listen to the
11 evidence and evaluate the evidence, to follow the law, and
12 to render a fair and impartial verdict as to each of these
13 separate defendants and each separate charge against them?
14 If there is someone who can not do that, please stand.

15 (No response.)

16 Anything else from the State?

17 MR. HOLLOWAY: No, Your Honor.

18 THE COURT: From the defense?

19 MR. SULLIVAN: Related to law enforcement.

20 THE COURT: Is there any member of the jury
21 panel who is related to a member of law enforcement? If
22 so, please stand.

23 Let's start on my right, your left. Ma'am,
24 you name and number, please.

25 JUROR THACKSTON: Anne Thackston, 209.

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1 THE COURT: Who and how are you related?

2 JUROR THACKSTON: My nephew is Greenville
3 County Sheriff, Kurt Baines.

4 THE COURT: Thank you very much. Yes, sir.

5 JUROR BRAY: Glen Bray, Juror No. 28, I've
6 got an uncle that's a deputy sheriff in Cummings, Georgia.

7 THE COURT: Alright. Yes, sir.

8 JUROR SARGENT: Mike Sargent, 184, uncle is a
9 state trooper.

10 THE COURT: Yes, ma'am.

11 JUROR NELSON: Kathleen Nelson, 155, my
12 brother-in-law is in the sheriff's office in Loughton.

13 JUROR HEAD: Tiny Head, 100, I have a
14 daughter that's a police detective.

15 JUROR MILLER: Ashley Miller, 149, brother
16 was a police officer in Greenville County.

17 THE COURT: For the Sheriff's Department?

18 JUROR MILLER: Yes, sir.

19 THE COURT: To each of those individuals who
20 responded would the fact that you have that relative
21 impair your ability to be fair and impartial in this case
22 and to critically and objectively evaluate the evidence
23 presented and render a fair and impartial verdict? If you
24 could not do that, please stand.

25 (No response.)

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1 Okay. Madam Clerk. Ladies and gentlemen,
2 we're going to strike the jury, no physical violence
3 involved I promise you.

4 THE CLERK: When I call your name, please
5 stand up in place.

6 Juror No. 200, Michael Sprague.

7 What says the State?

8 MS. MCCALL: Please present the juror.

9 MR. SULLIVAN: Please swear the jury.

10 THE CLERK: Thank you very much. You may
11 bring your belongings and sit in the jury box, sir.

12 Juror No. 161, Michael Parnell.

13 What says the State?

14 MS. MCCALL: Please excuse the juror.

15 THE CLERK: Thank you. You may be seated.
16 You've been excused from the trial of this case.

17 Juror No. 82, Russell Frazier.

18 What says the State?

19 MS. MCCALL: Please present the juror.

20 MR. SULLIVAN: Swear the juror.

21 THE CLERK: Thank you. You may be seated the
22 in jury box.

23 Juror 158, Anna Onufer.

24 What says the State?

25 MS. MCCALL: Please present the juror.

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1 THE CLERK: What says the defendant?

2 MR. SULLIVAN: Excuse this juror from the
3 trial of this case.

4 THE CLERK: You may be seated. You're
5 excused from the trial of this case.

6 Juror NO. 57, Marcela Cossio.

7 MS. MCCALL: Please present the juror.

8 MR. SULLIVAN: Swear the juror.

9 THE CLERK: Thank you. You may be seated in
10 the jury box.

11 Juror No. 232, Radrecus Young.

12 What says the State?

13 MS. MCCALL: Present the juror.

14 MR. SULLIVAN: Swear the juror.

15 THE CLERK: Thank you. You may be seated in
16 the jury box.

17 Juror No. 64, Stewart Curry.

18 MS. MCCALL: Please present the juror.

19 MR. SULLIVAN: Swear the juror.

20 THE CLERK: Thank you. You may be seated in
21 the jury box.

22 Juror 122, Bill Jordan.

23 What says the State?

24 MS. MCCALL: Please present the juror.

25 MR. SULLIVAN: Swear the juror, please.

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1 THE CLERK: You may be seated in the jury
2 box.

3 Juror No. 80, David Fowler.

4 What says the State?

5 MS. MCCALL: Present the juror.

6 THE CLERK: What says the defendant?

7 MR. SULLIVAN: Please excuse the juror.

8 THE CLERK: Thank you. You may be seated.
9 You're excused from the trial of this case.

10 Juror No. 93, Ava Gottschall.

11 What says the State?

12 MS. MCCALL: Excuse the juror.

13 THE CLERK: Thank you. You may be seated.
14 You're excused from the trial of this case.

15 Juror 212, Kenneth Tillotson.

16 What says the State?

17 MS. MCCALL: Please present this juror.

18 THE CLERK: What says the defendants?

19 MR. SULLIVAN: Please swear the juror.

20 THE CLERK: You may be seated in the jury
21 box.

22 Juror 173, Tracey Rich.

23 What says the State?

24 MS. MCCALL: Present the juror.

25 THE CLERK: What says the defendants?

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1 MR. SULLIVAN: Please excuse this juror.

2 THE CLERK: Thank you. You may be seated.

3 You're excused from the trial of this case.

4 Juror 170, Douglas Renwick.

5 MS. MCCALL: Please present the juror.

6 MR. SULLIVAN: Please excuse the juror.

7 THE CLERK: Thank you. You may be seated.

8 You're excused from the trial of this case.

9 Juror 124, Christopher King.

10 MS. MCCALL: Present the juror.

11 MR. SULLIVAN: Swear the juror.

12 THE CLERK: You may be seated in the jury
13 box.

14 Juror 16, Lynn Bennett.

15 MS. MCCALL: Please present the juror.

16 MR. SULLIVAN: Please excuse the juror.

17 THE CLERK: Thank you. You may be seated.

18 You're excused from the trial of this case.

19 Juror 96, Margaret Hamilton.

20 What says the state?

21 MS. MCCALL: Please present the juror.

22 MR. SULLIVAN: Please excuse the juror.

23 THE CLERK: Thank you. You may be seated.

24 You're excused from the trial of this case.

25 Juror 110, Katherine Huggins.

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1 MS. MCCALL: Please swear the juror.
2 MR. SULLIVAN: Excuse the juror.
3 THE CLERK: Thank you. You may be seated.
4 You have been excused from the trial of this case.
5 Juror No. 44, Robert Cash.
6 What says the State?
7 MS. MCCALL: Please excuse the juror.
8 THE CLERK: Thank you. You may be seated.
9 You have been excused from the trial of this case.
10 Juror No. 65, Thomas Dacus.
11 MS. MCCALL: Please excuse the juror.
12 THE CLERK: Thank you. You may be seated.
13 You have been excused from the trial of this case.
14 Juror No. 132, Carl Lanford.
15 What says the State?
16 MS. MCCALL: Please present the juror.
17 MR. SULLIVAN: Swear the juror.
18 THE CLERK: You may be seated in the jury
19 box.
20 Juror 28, Glen Bray.
21 MS. MCCALL: Present the juror.
22 MR. SULLIVAN: Swear the juror.
23 THE CLERK: Thank you. You may be seated in
24 the jury box.
25 Juror 155, Kathleen Nelson.

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1 MS. MCCALL: Present the juror.
2 MR. SULLIVAN: Excuse the juror.
3 THE CLERK: Thank you. You may be seated.
4 You have been excused from the trial of this case.
5 Juror No. 84, Phyllis Frick.
6 MS. MCCALL: Present the juror.
7 THE CLERK: What says the defendants?
8 MR. SULLIVAN: Excuse this juror.
9 THE CLERK: Thank you. You may be seated.
10 You have been excused from the trial of this case.
11 Juror 69, Todd Denman.
12 MS. MCCALL: Excuse the juror.
13 THE CLERK: Thank you. You may be seated.
14 You have been excused from the trial of this case.
15 Juror 133, Thomas Lanning.
16 MS. MCCALL: Please excuse the juror.
17 THE CLERK: Thank you. YOU may be seated,
18 you have been excused from the trial of this case.
19 Juror 100, Tiny Head.
20 MS. MCCALL: Please present the juror.
21 MR. SULLIVAN: Swear the juror.
22 THE CLERK: Thank you. You may be seated in
23 the jury box.
24 Juror 184, Mike Sargent.
25 What says the State?

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1 MS. MCCALL: Please excuse the juror.

2 THE CLERK: Thank you. You may be seated.

3 You have been excused from the trial of this case.

4 Juror No. 219, Jeffrey Turner.

5 Waht says the State?

6 MS. MCCALL: Please excuse the juror.

7 THE CLERK: Thank you. You may be seated.

8 You have been excused from the trial of this case.

9 Juror 144, Clyde McKinney.

10 MS. MCCALL: Please present the juror.

11 MR. SULLIVAN: Please excuse the juror.

12 THE CLERK: Thank you. You may be seated.

13 You have been excused from the trial of this case.

14 Juror 113, Stephen Ingle.

15 What says the State?

16 MS. MCCALL: Please present the juror.

17 MR. SULLIVAN: Please swear the juror.

18 THE CLERK: Thank you. You may be seated in
19 the jury box.

20 THE COURT: Alternate.

21 THE CLERK: Juror 37, Kenneth Cagle.

22 MS. MCCALL: Please present the juror.

23 MR. SULLIVAN: Please excuse the juror.

24 THE COURT: Thank you. You may be seated.

25 You have been excused from the trial of this case.

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1 Juror 141, Ken McIntyre.

2 MS. MCCALL: Please excuse the juror.

3 THE CLERK: Thank you. You may be seated.

4 You have been excused from the trial of this case.

5 Juror 209, Anne Thackston.

6 What says the State?

7 MS. MCCALL: Please present the juror.

8 THE CLERK: What says the defendants.

9 MS. SULLIVAN: Please excuse the juror.

10 THE CLERK: Thank you. You may be seated.

11 You have been excused from the trial of this case.

12 Juror 10, Tony Babb.

13 What says the State?

14 MS. MCCALL: Please present the juror.

15 MR. SULLIVAN: Please swear the juror.

16 THE CLERK: Thank you. You may be seated in
17 the jury box.

18 THE COURT: Alright, any objection to the
19 jury as a panel pursuant to Batson or Jebb?

20 MR. HOLLOWAY: None, Your Honor.

21 THE COURT: From the defense?

22 MR. HARBIN: No, sir.

23 THE COURT: Ladies and gentlemen, we have two
24 distinct groups and I guess one group thinks they won the
25 lottery and one group thinks they loss the lottery. I

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1 want to tell you personally I believe this group has one
2 the lottery. They have a chance to participate where the
3 rubber meets the road so to speak in our justice system.

4 You all might come up here and oh, I got to
5 go to the court house, I'm on jury duty, well, one thing
6 that I firmly believe and I like to talk about it is that
7 this justice system doesn't belong to the lawyers here, to
8 the members of the court house staff, to the judges, it
9 belongs to each and every one of us and it does not work
10 unless citizens respond to their subpoenas and they come
11 up and their willing to serve and make our system of
12 justice work.

13 So it belongs to all of us and I tell you
14 it's a rare thing when someone who, and we all know we'd
15 rather be somewhere else and they're called to serve, they
16 don't have a satisfaction and reward when they've
17 completed their service.

18 Having said that, I hope you all get an
19 opportunity to serve at some point, if not this week, some
20 time in the future because it is a very gratifying
21 experience.

22 While the other members of the citizenry of
23 the county may not ever know you've done it or express any
24 thanks, they are very very thankful for the work that
25 y'all do and that includes everyone who has come up today.

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1 Having said that, ladies and gentlemen, I'm
2 delighted to tell you all that you're excused at this time
3 and we ask that you call back at the appropriate number
4 after noon, so after 12:00 today.

5 Thank you very much.

6 (Jury pool excused.)

7 Ladies and gentlemen, I am quite sincere when
8 I say that I think you all are the lucky ones and you have
9 an opportunity to serve in our justice system. It's
10 outside your ordinary routine, outside of what you
11 normally do, maybe outside of your comfort zone and I can
12 tell by all your smiling faces that you were told to come
13 up and have a seat that you are delighted to be here. I
14 do want to say that we thank you for your service.

15 I want to tell you that you have been
16 selected because there's been a dispute about the facts in
17 this case and it is a dispute that can not be resolved in
18 any other way other than to ask a jury to come sit in the
19 courtroom and listen to the evidence that's been
20 presented, listen to the law that I will tell you about
21 and for you all to critically evaluate the evidence that
22 is presented, follow the law, and render a decision which
23 will resolve this dispute. So we thank you for that and
24 that is what your purpose is.

25 I remind you again that the evidence --

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1 excuse me, the indictments that I read to you and
2 published in the court here are not evidence and you
3 should not take any inference from them, the fact that
4 they were issued or make any assumption about guilt or
5 innocence. Guilt or innocence is determined from the
6 evidence that is presented in the courtroom based on the
7 law that I will give you. So the indictments are not
8 evidence. They are merely the formal documents that allow
9 these charges to wind their way through the justice system
10 and arrive here in court for a resolution.

11 I would also remind you and emphasize the
12 fact that every person who is charged with a crime in this
13 country is presumed innocent unless and until the State
14 can prove them guilty beyond any reasonable doubt of each
15 and every element of each indictment. And each indictment
16 and each individual is to be judged based on those
17 concepts without any spill over or any impact of any other
18 allegations or indictments that may have issues. You got
19 to separate everything and analyze and resolve each issue
20 independently and on its own.

21 I will tell you that a trial you can divide a
22 trial into as many parts as you like. Not too long ago
23 before we had all this television and little tablets where
24 book come to you out of the air, there were a lot of books
25 that were really popular and I guess they still are, about

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1 trials and there a lot of television shows and they divide
2 and they analyze trials and make them salable so people
3 want to read them and watch them and all of that. I want
4 to emphasize that this is the real thing and what you've
5 seen on television or read in a book put it aside because
6 this is where it happens and you can't judge or base your
7 experience on something you've seen on tv. It's going to
8 happen right here.

9 But I want to tell you that I divide a trial
10 into five parts just so you have a road map about where
11 you are procedurally in a case. The first part we'll get
12 to in just a few minutes and that's going to be the
13 opening statements to you by the attorneys. Those are
14 brief non argumentative statements from the attorneys.

15 The second part of the trial will be the meat
16 and potatoes of this case and in every case and that is
17 the presentation of the evidence and testimony in this
18 case. The third part of the trial will be after all of
19 the evidence has been presented, the attorneys will get up
20 and make their closing arguments to you where they argue
21 their positions, where they advocate for their clients.

22 The fourth part of the trial is where I tell
23 you all what the law is as it applies to this case, and
24 then the fifth part of the trial is where you all retire
25 to your jury room to deliberate.

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1 There are couple of things I want to
2 emphasize in that. You've heard me talk about evidence
3 that's presented here in the courtroom. It will be
4 presented to you in one of three ways and the way we all
5 most commonly think of is by oral testimony with witnesses
6 who sit up in the witness stand after taking an oath and
7 present their testimony with respect to this case.

8 The second type of evidence that might be
9 presented would be tangible documents or items that would
10 be presented in court, and the third way would be perhaps
11 when the attorneys and everyone agrees that some fact is
12 so beyond dispute that you should accept it as being true
13 and that would be a stipulation of the parties.

14 So that's generally the way the evidence is
15 presented and you'll find out -- I don't know it's going
16 to be presented today -- we'll all find out together.

17 I'll ask you to do a number of things
18 throughout the course of the trial. There are three main
19 things I ask you to do. The first is to keep an open
20 mind. We went through all this process on Monday to
21 qualify you and today to qualify you for this case to
22 insure that we have a fair and impartial jury. We don't
23 want a juror is going to have a preconceived idea about
24 how some case that they know nothing about should be
25 resolved. We want you to sit up here with an open mind,

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1 listen to the evidence, view the evidence, and make a
2 decision that is fair and impartial according to the law
3 at the end of the case.

4 The second thing I'll ask you to do and this
5 seems a little simple and that is the pay attention. I
6 don't know how long this case is going to last. I don't
7 know what kind of evidence is going to be presented, but
8 if you allow yourself to daydream and believe me I'm ask
9 guilty as anybody on the planet, but if you let yourself
10 daydream and you're not paying attention, you may miss
11 some critical evidence that's presented or the way a
12 witness presents himself on the witness stand that might
13 turn out to be critical in your deliberations and you
14 would be at a disadvantage with your fellow jurors at that
15 time if you had not paid attention. So as simple as that
16 sounds I ask you to do that.

17 Finally I ask you and I instruct you not to
18 discuss this case with anyone until the end of the case
19 when I tell you to do so in your deliberations. That
20 means we'll break for lunch and I don't know what you all
21 will here before we break. If the case goes into the
22 tomorrow, you're going to be free to go home I will
23 instruct that you can not talk about this case we anyone.
24 That means not with the bailiffs. If we break for lunch
25 and we go to meet a friend or a spouse or someone or see

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1 someone on the street because even an innocent comment
2 from someone on the street might impact your state of mind
3 with respect to the case, and that would not be fair to
4 these parties, it wouldn't be fair to your fellow jurors,
5 and it wouldn't be fair to you to allow someone who is not
6 going to hear and see this constitutional proffered
7 evidence that will be presented here in this courtroom, to
8 have any impact on the outcome of this case. Those people
9 are not making the sacrifices that you all are going to be
10 making and are making and they shouldn't have any impact
11 on the outcome. We don't care what they think. We want
12 what you all think and only what you all think at the
13 close of this case. So I will tell you not to discuss the
14 case until you are free to do so at the close of it.

15 I will also tell you that you all are the
16 sole judges of the facts. A trial judge by law is not
17 allowed to have an opinion about the facts in a case so
18 don't think by anything that I say or do that I have such
19 an opinion. You all are the sole judges of the facts
20 which means you all will determine what is true and what
21 is not true, what to believe and what not to believe, who
22 is credible and who is not credible. So you're the sole
23 judges of the facts.

24 That same law that makes you the sole judges
25 of the facts makes me the sole judge of the law in the

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1 case, so if you have any idea about what you think the law
2 is or what the law should be and it disagrees what I tell
3 you the law should be throughout the course of the trial
4 and at the conclusion of the case, then you will swear an
5 oath in just a second to set aside your own opinion and
6 the apply the law precisely as I state it to you.

7 Now, there will be just a couple of little
8 notes. From time to time throughout the course of the
9 case I may have to ask you all to excuse yourselves to
10 your jury room to discuss some legal matter or some
11 potential evidence that may or may not be admissible or
12 some other items that you all shouldn't hear, so when we
13 excuse you while we are trying to keep something from you,
14 we are not trying to deceive you. I think you can
15 understand that if a piece of evidence is not proper under
16 our constitution, then you all shouldn't know about it.
17 You should make your decision based only on
18 constitutionally proper evidence.

19 So I may from time to time excuse you so that
20 you wouldn't hear that or be exposed to it.

21 We've got a little bit of that to do before
22 we get started in the case and so I'm going to ask you to
23 do one other thing. We're going to swear you and put you
24 under oath in just a second and then I'm going to ask you
25 all to go to your jury room and see if you all can do

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1 this, the first thing for me, sort of a warm up practice.
2 I'm going to ask you to see if you can decide who you
3 would like to be your fore person in this case from the
4 first 12. The alternate, unfortunately, is not allowed to
5 participate as a fore person, and see if you can decide
6 who you would like to be the moderator of your discussions
7 of the close of the case during your deliberations and the
8 jury spokesperson in the courtroom should that become
9 necessary.

10 So having said all that, I'm through. I'm
11 going to ask you to stand and ask our clerk of court to
12 place you under oath.

13 THE CLERK: If you would please raise your
14 right hand. The response to the oath is I will.

15 You shall well and truly try case 2010-GS-
16 23-5199, State versus Michael W. Henderson, indicted for
17 unlawful exposure of a minor to manufacturing
18 methamphetamine; 2010-GS-23-05200 for possession of
19 methamphetamine with intent to distribute; 5201 and 5201a
20 for manufacturing methamphetamine and possession of a
21 weapon during the commission of a violent crime and 5202
22 for unlawful conduct towards a child.

23 Additionally you shall well and truly try
24 cases 2010-GS-23-5198, State versus Tina M. Henderson
25 indicted for unlawful exposure of a minor to manufacturing

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1 of methamphetamine, case 2010-GS-23-5200 for possession of
2 methamphetamine with intent to distribute, 5201 and 5201a
3 for manufacturing methamphetamine and possession of a
4 weapon during the commission of a violent crime, and 5202
5 for unlawful conduct towards a child.

6 Additionally you shall well and truly try
7 cases 2010-GS-23-5198, State versus Tina M. Henderson
8 indicted for unlawful exposure to a minor child to
9 manufacturing of methamphetamine, 5203 for possession
10 methamphetamine with intent to distribute, 5205 and 5205a
11 for manufacturing methamphetamine and possession of a
12 weapon during the commission of a violent crime, and 5205
13 for unlawful conduct towards a child, and a true verdict
14 rendered according to the law and the evidence so help you
15 God.

16 THE JURY (Collectively): I will.

17 THE COURT: See if you all can't elect a
18 fore person. If you can't do it, I'll do it for you.
19 Thank you very much.

20 (Jury exits courtroom.)

21 Y'all got some motions or something?

22 MR. HOLLOWAY: Yes, sir. We do believe the
23 defense is going to attempt to present third-party guilt
24 evidence. Our objection is based on case law. Judge, I
25 can present the case law printed out to you at this time.

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1 THE COURT: Okay.

2 MR. HOLLOWAY: The State is relying on South
3 Carolina versus Bobby Holmes, US Supreme Court, 2006 case;
4 State versus Wafford, State versus Bergis.

5 Essentially, it's the State's position the
6 defense is going to allege that -- we believe the defense
7 is going to allege that a third party, a woman named
8 Freida Lukor is response for the meth lab. The fact is,
9 Judge, there's no evidence that ties Freida Lukor to this
10 property where this meth lab was found. Based on that
11 certainly any allegation that she was involved in the meth
12 lab operation is pure speculation.

13 If the Court were to allow that sort of
14 evidence into the minds of the jury, the would overly
15 prejudice the State. It would violate Rule 403 under the
16 Rules of Evidence.

17 THE COURT: Okay. Tell me what you want to
18 tell me..

19 MR. HARBIN: Well, Holmes is what we're going
20 to rely on to tell that it's entirely admissible. Freida
21 Lukor is actually the former resident, the immediate
22 former resident of the location of the incident. Freida
23 Lukor is also the current resident of the South Carolina
24 Department of Corrections for trafficking methamphetamine.

25 As to their particular arguments as to any

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1 prejudice they might garner from her being mentioned, they
2 can cure, they can call her on the stand if they want to.
3 We've got a rental agreement, which is kind of like a
4 lease agreement from Ms. Lukor to the Hendersons proving
5 she actually was residing there. It's somewhat absurd to
6 suggest that if you have a drug dealer living in a house
7 that you were living in or living in now if that's not
8 relevant to perhaps explain why certain things are there.

9 MR. HOLLOWAY: Your Honor, Holmes relies as
10 the law of South Carolina, and the State versus Gregory
11 case. It is on Page 6 of the copy I gave you.

12 Essentially it says third-party guilt is not admissible if
13 it merely casts a bare suspicion upon another or raises a
14 conjectural inference as to the commission of the crime.

15 The basis for our objection is the fact that
16 Rita Lukor had not lived in this location for about a
17 year. To add to that, she did not own the property at the
18 time of the incident -- she never owned the property.

19 She, herself, in her own had a lease agreement with Alvin
20 Mitchell who is on our witness list.

21 She the executed her own lease to own
22 agreement in 2009 almost a year before this incident with
23 these defendants and I got a copy of that agreement right
24 here, Judge.

25 Furthermore, in October of '05, five months

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1 before this search warrant was obtained, they saw a deed
2 from Alvin Mitchell to give ownership of this property
3 from Alvin Mitchell, so, therefore, there's no temporal
4 proximity of Freida Lukor living at this property that
5 would have tied her to this meth lab reasonably. We're
6 afraid that any allegations, the mere mention of her name
7 would unfairly prejudice the State and would confuse the
8 jury beyond belief on who actually owned the property and
9 who ultimately had possession of this meth lab.

10 MR. HARBIN: Judge, I think he's entirely
11 mischaracterizing Holmes. It stands for the proposition
12 that our clients have the complete right to defend
13 themselves including their third-party as guilty of this.

14 THE COURT: All I've heard so far is this
15 woman was a prior resident or property -- or had a lease
16 agreement. How does that tie her to this alleged meth
17 lab?

18 MR. HARBIN: Judge, we have witnesses that
19 can say that -- and by the way, there is no meth lab
20 there. There are components of a meth lab, and we have
21 witnesses to say that components of a meth lab were
22 present when the Hendersons were moving in. The burn
23 piles that will be mentioned by the officers, no doubt, we
24 have witnesses who say the burn piles predated the
25 Henderson moving in.

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1 Of course it's obvious to us, and may be
2 obvious to the jury I don't know, but she's in jail for
3 the exact crime that the Hendersons are being alleged to
4 have committed only by evidence of things being found on
5 their property.

6 And by the way the temporal aspect of this,
7 there's no evidence of what time the burn piles were
8 created or existed in so it would be absurd to say that
9 because she only lived there in such and such in 2009 that
10 she couldn't have created the burn piles while she was
11 there. In other words, our clients moved into the house
12 in that condition with all this particular evidence that
13 they're going to claim makes them guilty of manufacturing
14 meth.

15 And it just so happens that the lady that
16 lived there is in fact in meth trafficking.

17 MR. HOLLOWAY: He brings me to one more
18 point; the fact is on their witness list they have
19 subpoenaed someone from our office and we've got a copy of
20 the sentencing sheet for Ms. Lukor. The fact is she's not
21 in prison for anything that had to do with Greenville
22 County. She's in prison because of a State grand jury
23 investigation, State grand jury indictment that occurred
24 in Anderson County.

25 These officers will testify that they've

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1 never had any allegation of a meth lab at this particular
2 location, [REDACTED], until this incident. So to
3 impeach a witness who is not here and they could have
4 subpoenaed her as well and had her here but chose not to,
5 just like we have, but they're attempting to bring in her
6 sentencing sheet through an employee from our Clerk's
7 Office, an employee who can not bridge the gap between the
8 date of conviction and nature of the charge with this
9 particular case.

10 Even that evidence, the evidence of her
11 sentencing sheet coming through an employee of our Clerk's
12 Office, is again prejudicial. It's not really relevant at
13 all under 403. If the Court rules it relevant, it still
14 is overly prejudicial and confuses the jury as to the
15 facts of this particular case.

16 It distracts them and they are attempting to
17 draw this jury down this rabbit hole to no where. The
18 fact is Ms. Lukor didn't own this property and it had been
19 multiple months since she even owned the property, and the
20 defense, I believe, just mentioned that she hadn't even
21 been at the property since they moved in.

22 MR. HARBIN: Judge, we actually have
23 witnesses that say Ms. Lukor was on the property
24 retrieving items from the property, from the shed, that
25 these components were found and the Hendersons were

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1 already there.

2 If I could kind of go back to a very basic
3 point, the Hendersons at this point are presumed to be
4 innocent and if they are presumed to be innocent, then it
5 is entirely possible that these burn piles and all these
6 other things pre-existed their going in. They have a
7 right to tell the jury that they were already there and
8 they also have a right to give the jury a reason to
9 believe that. And, of course, the reason to believe that
10 is Ms. Lukor was coming to remove those things. Those
11 things were pre-existing to them and the only person that
12 lived there was Ms. Lukor.

13 The fact that Mr. Mitchell actually deeded
14 them the property is actually a tax matter. Ms. Lukor
15 never had paper title to this and she represented herself
16 to the owner. It was found out later she was not the
17 owner so they didn't continue paying her rent.

18 But the very bottom basic point we're trying
19 to make is their defense is this stuff was already here
20 and so I believe to be allowed to present a complete
21 defense is exactly what Holmes said. You are allowed to
22 present a complete defense. They should be able to tell
23 the jury why that stuff would have been there. If they
24 can't tell the jury why the stuff was there before, the
25 jury is just going to say, of course, they're going to say

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1 it was there before but give me a good reason to believe
2 that and Ms. Lukor is that reason.

3 And, again, I would re-assert whatever
4 prejudice the State claims whatever prejudice they're
5 going to garner from this, they can cure that if they so
6 choose. We told them ahead of trial that was our theory
7 of the case that Ms. Lukor was, in fact, the perpetrator
8 of these crimes. Of course, Ms. Lukor is not going to
9 come forward and say of course it was me and be indicted
10 for another crime.

11 THE COURT: What she in prison for?

12 MR. HOLLOWAY: She's in prison for
13 trafficking methamphetamine. It was a separate
14 prosecution with the State grand jury. The incident
15 occurred in Anderson County back in 2007. She ultimately
16 went to prison in June of 2010 three months after this
17 incident.

18 Judge, Mr. Harbin mentioned that the
19 possibility that the jury could believe and the
20 possibility that the witnesses are telling the truth and
21 the jury will believe that deflect guilt from innocence,
22 well, Holmes that case is about not having the jury rely
23 on evidence or hear evidence of mere possibilities. The
24 fact is she hadn't been to this property for many many
25 months.

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1 THE COURT: Well, how long is the suppression
2 motion going to last? Is there a proffer on this third-
3 party things? They don't have to put anything up. What
4 is you want me to limit them?

5 MR. HOLLOWAY: Well, certainly any discussion
6 of Freida Lukor. If that is in deed their fall guy in
7 this case, they're laying the responsibility on her, then
8 any discussion of Freida Lukor would be out under the
9 theory proposed by Bobby Holmes. Even on cross-
10 examination and opening statement, they wouldn't be able
11 to mention this girl and lay any blame at her feet.

12 THE COURT: I'm listening to what you all are
13 telling me this evidence is going to show. It's pretty
14 clear and I think you would agree, Mr. Holloway, that they
15 are permitted to put in evidence of third-party guilt if
16 it's not speculative or remote, so I don't know what it is
17 and I can not at this point limit without some knowledge
18 of what it is other than what you all tell me.

19 I'm not going to tell you how to do it but at
20 this point I don't know who Freida Lukor is. She's not
21 mentioned in here and opening statements are brief,
22 non argumentative, sort of introductions to the jury. I'm
23 not going to let you go in and argue your case in the
24 opening statements. So it is necessary at this time to
25 make that ruling having said that.

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1 MR. HOLLOWAY: The State would prefer the
2 defense proffer this testimony before ---

3 THE COURT: I can't make them proffer
4 anything. Can I? The burden is on the State. I can't
5 make them show me what they're going to say. I can't do
6 that because they may not show anything.

7 MR. HARBIN: Judge, I don't plan on
8 mentioning anything about Freida Lukor in my opening
9 statement.

10 THE COURT: I'm not going to allow any sort
11 of argumentative comments in your opening statements
12 either way and then we will have deal with what it is we
13 have to deal with as we go.

14 MR. HOLLOWAY: Yes, sir, thank you.

15 MR. SULLIVAN: I want to note that any
16 objections that we make applies to both defendants.

17 THE COURT: For the record absent a separate
18 discussion by the other defendant's attorney then we will
19 accept that any objection made applies to both defendants.
20 Is that agreeable with the State?

21 MR. HOLLOWAY: Yes, sir.

22 THE COURT: How long do you think the
23 suppression hearing will that?

24 MR. SULLIVAN: About 30 minutes.

25 THE COURT: You think its going to take 30

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1 minutes?

2 MR. SULLIVAN: Yes, sir.

3 THE COURT: I'm just concern about the jury.
4 I don't want them sitting back their too long. Let's get
5 that done and do opening statements and then we'll break
6 for lunch.

7 MR. HOLLOWAY: Yes, sir.

8 THE COURT: It's your motion, Mr. Sullivan.
9 A warrantless search?

10 MR. SULLIVAN: Yes, sir.

11 THE COURT: He's objecting to a warrantless
12 search. That shifts the burden.

13 MR. HOLLOWAY: Just to clarify, Deputy
14 Godfrey entered the property without a warrant and based
15 what he say he then called the vice unit and then obtained
16 a search warrant which transferred into a warrant search.

17 THE COURT: What evidence was seized as a
18 result of Deputy Godfrey's search?

19 MR. SULLIVAN: A bunch of stuff out of the
20 shed and some stuff in the house.

21 THE COURT: This is from Officer Godfrey who
22 did it?

23 MR. SULLIVAN: No, they called out Officer
24 May and the other guys.

25 THE COURT: Did they arrive with a warrant?

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1 MR. SULLIVAN: They called the warrant in and
2 said we got a warrant for meth and then they started the
3 search ---

4 THE COURT: Are you saying it's an unlawful
5 entry by Officer Godfrey as a result?

6 MR. SULLIVAN: Officer Godfrey was sitting on
7 the property.

8 THE COURT: I'll make y'all go first,
9 Mr. Holloway.

10 MR. HOLLOWAY: Okay.

11 The State calls Deputy Travis Godfrey.

12 THE CLERK: Deputy, would you come forward to
13 be sworn in, please.

14 Place your left hand on the Bible and raise
15 your right.

16 TRAVIS GODFREY, having been sworn, testified
17 as follow:

18 Thank you. You may be seated. Please state
19 your name for the record.

20 THE WITNESS: Travis Godfrey.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION (Suppression Hearing)

23 BY MR. HOLLOWAY:

24 Q. Deputy, tell us where you work?

25 A. Greenville County Sheriff's Office.

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1 Q. And how long have you worked at the Sheriff's
2 Office?

3 A. Since 2002.

4 Q. What are your current duties? What sorts of
5 cases do you work on?

6 A. Currently I work in community control division.
7 I work in certain areas for drugs or any kind of criminal
8 activities.

9 Q. What location of the county have you been working
10 for several years?

11 A. Since 2002 I worked the south end, more
12 specifically the Piedmont, Pelzer area.

13 Q. Would that include the place where this incident
14 occurred in this trial?

15 A. Yes, sir.

16 Q. And what division were you working in, in the
17 Sheriff's Office in 2010?

18 A. I was with community patrol at that time as well.

19 Q. Take us back to March 25th of 2010. What
20 happened on that day related to this case?

21 A. On March 25, 2010, I was on West Georgia Road
22 that runs between Old Pelzer and Augusta Road. I
23 conducted a traffic stop on a vehicle. The tag on that
24 vehicle was stolen which was the reason I pulled that
25 vehicle over. I ended up arresting the driver of the

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1 vehicle and the driver of the vehicle proceeded to tell me
2 there was drug activity occurring at [REDACTED] [REDACTED] where
3 the defendant lives.

4 Q. Did he tell you the basis of his knowledge?

5 A. Yes. He stated they were cooking meth there at
6 that house and that he was the drug dealer as well, the
7 person that I arrested.

8 Q. What happened to him, this driver?

9 A. He was arrested that day.

10 Q. What, if any, promises or threats did you make to
11 this Mr. Sellers to get this information?

12 A. I didn't make any promises to him.

13 Q. What did you do with that information?

14 A. Generally any time we make arrest or if we know
15 they are a drug user or anything like that we ask them for
16 information and one thing will lead to another. People
17 give us tips and we always follow up with these tips.
18 Sometimes they're founded and sometimes they're not.

19 Q. What did you do to follow up with this tip?

20 A. He actually gave me the tip and it was five days
21 later on the 30th that we actually went over there to
22 follow up on the tip. Before we went over there, I talked
23 to a neighbor in the area that stated -- gave me the name
24 of the person that lived in the trailer which was Michael
25 Henderson?

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1 Q. And who was that neighbor you spoke to, do you
2 know?

3 A. I can't recall.

4 Q. That was March 30th, correct?

5 A. I'm not sure when I talked to the neighbor, the
6 actual day that I went over there to follow up was the
7 30th.

8 Q. What did you do to confirm who, if in deed,
9 Michael Henderson lived on that property?

10 A. When I was told the name of the person that lived
11 there, I always checked to see if they have any priors or
12 anything or showing an active warrant with a similar name.
13 I believe we were told the approximate age of this person
14 and the date of birth and everything kind of matched.

15 Q. What was the warrant for?

16 A. I can't recall.

17 Q. Did you attempt to serve the warrant?

18 A. We went to that trailer on [REDACTED] where we
19 got the tip to attempt to not only follow up on the drug
20 tip but also to serve that warrant.

21 Q. What would you say was your priority at that
22 point, serving the warrant or investigating the drug tip?

23 A. We were there for both.

24 Q. Can you describe the property a little bit for
25 us?

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1 A. Yes, when you turn off of [REDACTED] there's a long
2 dirt road and when you get on the dirt road, there is a
3 house on the road and a trailer behind it and I believe
4 his trailer was the last one on that dirt road. There is
5 either one or two of them above it. There was clearly one
6 above it.

7 Q. Describe the driveway to the Judge. What did it
8 look like and what did you see on the driveway?

9 A. Like I said it was a long dirt drive way and we
10 pulled into the dirt driveway into the residence.

11 Q. What did you see in the driveway at the
12 residence?

13 A. When we arrived -- I went there with two other
14 residence, Roselli and Blaylock and on the property as
15 soon as we pulled up there's burn piles right in front of
16 the front door which is indicative of people that cook
17 meth.

18 Q. At that point, what did you see in the burn piles
19 when you first pulled up?

20 A. I saw that one and I believe there was another
21 one over to the left at the residence. There was a couple
22 that you could see as soon you pulled up. Initially when
23 we got there, I just went and made contact at the
24 residence.

25 Q. What other structures were on that property, [REDACTED]

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1 [REDACTED] [REDACTED]?

2 A. There was also an outbuilding like a storage
3 shed. If you're looking at that trailer, it would be over
4 to your left and side. I believe there was some other
5 kind of camper or something and some other building in the
6 back. There's a storage shed right to the left of the
7 property that was on the property.

8 Q. At that point you didn't go beyond the trailer or
9 the main house? You didn't go out searching in that shed
10 at that point, did you?

11 A. No, sir, we did not.

12 Q. You made contact with the residence and then what
13 happened?

14 A. We made contact with residence. I explained to
15 them why we were there to investigate a drug tip and asked
16 them if we could step in and they said yes. We went
17 inside the residence. Mr. Henderson was there along with
18 his wife.

19 Q. Her name is what?

20 A. Tina. Her two kids were there and there was
21 another adult individual. We didn't know who he was. We
22 didn't know who the wife was. As we always do we always
23 check the identification and make sure there wasn't
24 warrant or anything like that. Another individual was
25 there I think had a child support warrant. He had some

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1 kind of warrant. He was placed under arrest after the
2 warrant was located on that subject.

3 Q. While you were in the house, what did you ask of
4 them?

5 A. When we initially went inside, we ask and told
6 them about the tip, we told them why we were there and
7 asked them if they had any illegal in the residence and,
8 of course, they said no. We asked them if we could look
9 around and initially they said yes. We went to the living
10 room and that's where the other subject, I believe, was
11 that was subject to the warrant. We asked if we could
12 walk to the bedroom and he said yes. They followed us
13 into the bedroom.

14 I asked if I could look through any of the
15 drawers or anything and that's when he said no. And he
16 said if y'all want to search my house, ask for a search
17 warrant and we need a search warrant for any kind of
18 searches.

19 I also asked him if we could look in the
20 outbuilding of the house and the buildings out back. He
21 was adamant about us not searching those buildings unless
22 we had some kind of search warrant.

23 Q. At that point did he or Tina Henderson ever tell
24 you to leave the property entirely?

25 A. No, sir.

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1 Q. Okay. Did they tell you where to go on the
2 property?

3 A. Well, at that time we were still waiting. We had
4 the one subject under arrest and we were still trying to
5 verify the warrant from Simpsonville City. So we had one
6 person under arrest and Mr. Henderson could possibly still
7 be under arrest for that warrant so we were still waiting
8 to hear back from Simpsonville. Especially when you're
9 dealing with other agencies it takes longer to verify than
10 dealing with your own agency to make sure if it is who it
11 is and locate.

12 Q. Where did you wait while you verified it?

13 A. We were waiting in the front yard.

14 Q. Did the property have any no trespassing signs
15 posted?

16 A. No that I remember.

17 Q. How long was it before -- when you walked
18 outside, what, if anything, did you see?

19 A. Like I said there was that burn pile right in
20 front yard. So while we were waiting and like I said we
21 had that one person under arrest. I believe we secured
22 him in someone's car. We did call another unit to the
23 scene because we didn't know what was going to happen
24 there. While we had the one guy secured, the burn pile
25 was right there in front of us. I could see many

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1 indicators inside that burn pile consistent with making
2 meth, blister packs, cut batteries and things of that
3 nature.

4 Q. From where you were standing, how far away was
5 this burn pile?

6 A. From the front door or?

7 Q. From where you were standing?

8 A. We walked outside. I mean the burn pile was
9 right there at the residence.

10 Q. It wasn't off way out in the property and you go
11 out walking there?

12 A. It wasn't nothing you had to go looking for, it
13 was right there.

14 Q. What indicators did you see in that burn pile?

15 A. I remember seeing some old blister packs from
16 like Sudafed, cut batteries. Typically those lithium
17 strips, they'll cut the batteries open and take lithium
18 strips to use in the meth making process. I know those
19 two for sure that I saw. I believe I saw an old glass
20 pipe that appeared to be used to smoke meth.

21 Once we saw these, we were still waiting on
22 the warrant confirmation from Simpsonville, but I saw
23 these items and went on and contacted vice to like them
24 know what I had.

25 Q. By the time you called vice, how long had you

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1 been on the property?

2 A. I would say maybe 20 minutes, 30 minutes.

3 Q. While you were calling vice, did the defendant
4 every come out and say get off our property, leave, you
5 don't have a right to be here or anything like that?

6 A. Not that I recall.

7 Q. How far away are the vice officers from this
8 location?

9 A. It just depends on if they're working. I don't
10 believe when I called them -- I don't remember which say
11 on the week it was, they don't work Monday. I don't
12 remember what day it was but I don't believe they were
13 working that day so once I call them, they have to call
14 their other people and come from where they're coming
15 from. So it generally takes a while for them all to get
16 there.

17 Q. Which vice officer or officers did you speak to
18 on the phone?

19 A. I believe I usually talked to -- I know I called
20 Jason and I'm not sure who else I talked to on the phone.
21 But I remember multiple vice officers coming to the scene.

22 Q. And over the phone you informed them of what you
23 saw, correct?

24 A. Correct.

25 Q. How long was it before they arrived?

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1 A. I would say it was probably, I guess, it was
2 probably about an hour. That's typical.

3 Q. What were you doing during that one hour period?

4 A. Well, once they stated all we got was enough
5 there for a lab and we had the one person arrested, we had
6 the other people just step outside to make sure they
7 wasn't inside destroying any kind of evidence. They
8 wasn't detained or anything but we had them step outside
9 so we could watch them.

10 Q. The two children how old were they, did you
11 remember?

12 A. I would think 10, 12 or something like that.

13 Q. Who were the children?

14 A. One was the child of Michael and Tina and I think
15 they other child was a friend. They were letting a friend
16 come over and stay with them.

17 Q. Thank you very much for answering my questions.
18 Please answer any questions opposing attorneys may have
19 for you.

20 THE COURT: Cross.

21 CROSS-EXAMINATION

22 BY MR. SULLIVAN:

23 Q. Officer Godfrey, in your report you said on 3/25
24 you made an arrest on Georgia Road?

25 A. Yes, sir, that's correct.

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1 Q. You referenced Case No. 1047784?

2 A. Right.

3 Q. And your description of this was, "Upon further
4 investigation the suspect in the case informed me that
5 possible drug activity occurring at [REDACTED] [REDACTED] [REDACTED]."

6 A. That's correct.

7 Q. And that's all he told you, correct?

8 A. He told me there was drug activity, yes.

9 Q. Do you remember who the guy was that you
10 arrested?

11 A. On 3/25?

12 Q. Yes.

13 A. I don't remember his name off the top of my head.

14 Q. Based on the information he gave you -- you don't
15 know who he was and he never worked for you, had he?

16 A. As a CI?

17 Q. Yeah.

18 A. Not that I recall.

19 Q. Your case refers to Case No. 1047784, is that
20 your report of the arrest on 3/25?

21 A. Yes, sir, it looks like my report.

22 Q. And the guy was named Kenneth Ray Seller, you had
23 no prior contact with him?

24 A. I've arrested hundreds of people. I don't know
25 if I arrest him before or not.

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1 Q. One of the charges you made on him was false
2 information to police?

3 A. That's correct.

4 Q. So his liability is right away in question and he
5 just said there may be some drug activity at [REDACTED]
6 [REDACTED] and you charged him with false information. You
7 could not get a warrant based on this arrest, could you?

8 A. Get a warrant to?

9 Q. To go out and look at the property.

10 A. [REDACTED]

11 Q. Based on what he said.

12 A. That's only identifiable ---

13 Q. You said you went out to [REDACTED] [REDACTED] and spoke
14 with somebody about who lived at [REDACTED].

15 A. I inquired about who was living there, correct.

16 Q. Do you remember who you talked to?

17 A. No, sir, I don't.

18 Q. You don't remember the names. Now, is it a fact
19 that a couple of months before this you had gone to [REDACTED]
20 [REDACTED] to serve a warrant in the City of
21 Simpsonville on Michael Henderson?

22 A. No, sir. I went to that address and made contact
23 with him and attempted to locate the warrant.

24 Q. Please read that.

25 A. The whole thing?

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1 Q. That is a fax from Ryan Holloway in continued to
2 discovery to us.

3 A. I wanted to relay some information that we
4 learned from Deputy Godfrey and he said that several
5 months prior to this incident he had gone to [REDACTED]
6 Lane and tried to serve the same Simpsonville arrest
7 warrant on Michael Henderson but Simpsonville had never
8 located the warrant at that time.

9 Q. So you had gone to [REDACTED] [REDACTED] to serve this
10 Simpsonville warrant before this incident?

11 A. I had been to that address before and made
12 contact with him and tried to serve that warrant, yes,
13 sir.

14 Q. So you didn't have to ask any neighbors who lived
15 there. You had been there before?

16 A. I can't remember, people move all the time.

17 Q. This is told Mr. Holloway that you had been to
18 this residence?

19 A. Yes, I had been there.

20 Q. And this is what you went there to trigger to get
21 a warrant?

22 A. Sir?

23 Q. At that time there was nothing to trigger you
24 getting a warrant. You didn't see anything that -- you
25 couldn't find anything from this Simpsonville warrant so

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1 you left.

2 A. Are you talking about the first time?

3 Q. Yeah.

4 A. They couldn't verify it or something.

5 Q. Now, after you went there the first time and
6 couldn't verify the warrant, did you ask them anything
7 else -- you've never seen that warrant, have you?

8 A. Have I ever seen it?

9 Q. Yeah.

10 A. In person.

11 Q. Have you ever had that warrant in your hand?

12 A. No, sir.

13 Q. Do you know ---

14 A. Are you talking about that warrant from
15 Simpsonville?

16 Q. Yes.

17 A. No, sir.

18 Q. Now why did you go out sometime prior to 3/30 to
19 serve this warrant? This is from the City of Simpsonville
20 and you are a county deputy.

21 A. While I was at that resident in a prior at that
22 time, I don't know why I was out there, I just remember
23 the name rang a bell when the resident told me that name
24 and I remembered there was some kind of issue with Michael
25 Henderson. We didn't go initially at the time before to

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1 serve a warrant. When I was out there with him, I checked
2 his name and it come back that he possibly had a warrant
3 with Simpsonville.

4 Q. Why did you go there to start with before 3/30?
5 Why did you go there?

6 A. I do not recall.

7 Q. And you knew then they could not find a warrant
8 for him.

9 A. At that time they did not.

10 Q. Did you ever follow-up with Simpsonville after
11 this initial contact prior to 3/30 and then again between
12 3/25 and 3/30, did you go back to Simpsonville and say
13 what about that warrant?

14 A. Did I go to Simpsonville between 3/25 and 3/30?

15 Q. Did you ask them about the warrant and if it was
16 still active?

17 A. We checked with them again on 3/30 about it.

18 Q. And they still couldn't find this warrant?

19 A. On 3/30, no, they could not. Either they
20 couldn't find it or they couldn't verify it.

21 Q. This is from Simpsonville. All you had to do was
22 make a phone call. This is from the Simpsonville
23 Municipal Court. What does that say?

24 A. It says, "Mr. Sullivan, the bench warrant issued
25 in 2003 for the above-referenced subject became inactive

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1 in 2004. Please contact me for further information and
2 inquiry."

3 Q. So this warrant was not even active after 2004.
4 If you would have contacted Simpsonville, you would have
5 found that this warrant was not even active.

6 A. It was showing active in our computer.

7 Q. You went out there sometime prior to 3/30.

8 A. Correct.

9 Q. For some reason you don't remember and they
10 couldn't find the warrant.

11 A. Couldn't find it or couldn't verify that it was
12 him.

13 Q. And then on 3/30 based on this tip from a guy who
14 had even false information, you boot strapped this warrant
15 with that to go back to the house?

16 A. We didn't need any kind of warrant, we were able
17 to do a knock and talk tip.

18 Q. You say here that, "I spoke to resident on
19 [REDACTED] sometime between the 25th and the 30th. He
20 informed me the person is Michael Henderson." That's the
21 same person you had gone to see prior to this?

22 A. Correct.

23 Q. And knew they had trouble with this warrant. You
24 went on to say there was an active warrant for Michael
25 Henderson when you knew there was a problem with that

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1 warrant from your prior visit back two months or so before
2 March, correct?

3 A. I'm not sure how many months before.

4 Q. On the discovery and it's in quote from Officer
5 Godfrey and he said, "several months prior to this
6 incident," he had gone to [REDACTED] [REDACTED] [REDACTED] to try and serve
7 the same arrest warrant on Michael Henderson and the
8 Simpsonville PD was unable to locate the warrant at that
9 time." So you knew several months before 3/30 that this
10 warrant was questionable. You got a tip on 3/25 from this
11 Sellers guy who you charged with false information, and in
12 your report you said, "With that information and based on
13 an active warrant," which you knew was not verifiable.
14 You've never seen it and you didn't know what it was for
15 and it's been inactive since 2004. If you been to that
16 place, you did not do enough follow-up ---

17 MR. HOLLOWAY: I'm going to object. Is there
18 a question somewhere?

19 MR. SULLIVAN: I have some other stuff.

20 THE COURT: Well, was that a question?

21 BY MR. SULLIVAN:

22 Q. You didn't get a warrant when you went out
23 several months before when you had the Simpsonville
24 warrant that you couldn't find. You didn't see anything
25 when you went to the house before?

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1 A. Are you asking me something?

2 Q. Yes. You didn't get a warrant at that time when
3 you went there on 3/30?

4 A. I didn't get a warrant for what?

5 Q. Burn piles.

6 THE COURT: What he asked you, officer, was
7 there anything when you went to the earlier visit that
8 aroused your suspicions in order for you to get a search
9 warrant to search the property for drugs?

10 Is that accurate?

11 MR. SULLIVAN: That's accurate, Your Honor.

12 THE WITNESS: At that time, we did not.

13 BY MR. SULLIVAN:

14 Q. On the second trip it's the same place, the same
15 people living there. You say you did not detain them. In
16 your report of 3/30 you said, "To prevent destruction of
17 evidence, subjects were moved outside and detained until
18 the search warrant was obtained." So they were under
19 detention?

20 A. Yes, they were under detention but they weren't
21 placed under handcuffs or anything like that.

22 Q. You said they were detained.

23 A. We kept them from leaving. We kept them from
24 going back inside the residence.

25 Q. They couldn't leave. They were detained until

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1 you found this warrant. Based on ---

2 A. You're talking about the warrant from
3 Simpsonville?

4 Q. The new warrant.

5 A. Once vice was notified and they said we needed a
6 search warrant, they were detained from destruction of any
7 evidence.

8 Q. This was based on your new observations when you
9 went that you saw burn piles and you walked around and
10 looked in them at that time; is that right?

11 A. The burn piles were right by the front door.

12 Q. But they hadn't been there before.

13 A. I can't recall if they were there before.

14 Q. And you don't recall why you went there initially
15 to see Michael Henderson, [REDACTED], with this
16 warrant that you knew was defective or couldn't be found?

17 A. No, sir, I don't.

18 Q. So you went there but you don't know why. You
19 had this Simpsonville warrant and you road out there for
20 no reason that you can think of.

21 A. I work in Piedmont and I go to several places
22 often times. I don't know why I was out there.

23 MR. SULLIVAN: That's all I have. I have
24 some arguments.

25 THE COURT: Well, let's give Mr. Harbin a

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1 chance.

2 MR. HARBIN: I just have a few questions in
3 follow-up.

4 BY MR. HARBIN:

5 Q. What's the procedure that you use when you want
6 to serve a warrant? What do you go about doing when you
7 want to serve a warrant?

8 A. Typical arrest warrant, if we know we have
9 somebody with a warrant, we'll go out there with a couple
10 of officers to try to make contact and try to locate the
11 subject.

12 Q. But in fact you either have to have the warrant
13 in hand or one of your fellow officers have to have it in
14 hand; is that correct?

15 A. We have to have it in hand before we arrest them.

16 Q. So what's the difference between going out to get
17 them and arresting them?

18 A. A lot of times we'll look and see if there's
19 warrants in the system for whoever, if they show they have
20 active warrants, we'll go out to the scene and if we
21 locate them we'll call the warrants office and say hey,
22 we've located the subject, can you locate the warrant and
23 make sure we still have it.

24 Q. So you'll detain them and then you will see
25 whether or not the warrant is legit.

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1 A. Once we get to the scene, there's a warrant
2 showing active for that subject and we locate that
3 subject, we'll call and make sure they do have the warrant
4 in hand and we'll arrest them and take it from there.

5 Q. The problem I have with that, officer, is that
6 you said you went out there to serve the warrant. You
7 didn't happen upon these folks. You volunteered to
8 Mr. Holloway that you had already been out there to
9 specifically serve this warrant, then get there, and find
10 out there isn't a warrant and now we know there hadn't
11 been a warrant for seven years. So you've never had the
12 warrant in your hand and no fellow officers ever had it in
13 your hand so how did you go out to this address to serve
14 this warrant when the warrant never existed. I'm looking
15 for an explanation.

16 A. On 3/30?

17 Q. No. The email that was referenced prior, you
18 told Mr. Holloway so Mr. Holloway could tell us you had
19 visited that property two or three months prior to
20 specifically serve the exact same warrant that doesn't
21 exist. So if you were going to the location to serve TE
22 warrant, right, don't you have to have knowledge of the
23 warrant? You can't just go knock on doors and start
24 interrupting folks lives. So my question is, where is the
25 warrant?

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1 A. It was showing in Simpsonville. I don't know
2 where the warrant is.

3 Q. Officer Godfrey, I think my problem is that you
4 went out to the Henderson House two to three months prior
5 to all this happening.

6 A. I'm not sure exactly when that was.

7 Q. That's immaterial to me as well whether it's four
8 weeks, two months or whatever. You went out to serve
9 Simpsonville City warrant, and you're a Greenville County
10 deputy, with no warrant so was there some other reason to
11 be out there?

12 A. I'm not sure, though, when I made contact with
13 him several months before it was not an attempt to serve a
14 warrant.

15 Q. It was not.

16 A. I went there for some other reason. I made
17 contact with Mr. Henderson. I ran his name like I do with
18 any other call. I saw that there was a possible warrant
19 showing active for Mr. Henderson with a similar date of
20 birth. So I didn't go out there specifically to serve a
21 warrant. I came upon his name like I typically came
22 across people all the time. I read his name showing up as
23 possible warrant.

24 Q. So you had no information to give the Court why
25 you were at Mr. Henderson's house and just happened to run

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1 his name, just happened to find a warrant that didn't
2 exist two or three months before?

3 A. Like I said I don't remember why I went out
4 there.

5 Q. It's kind of crucial. You want a couple of
6 minutes to think about why you were there. You told
7 Mr. Holloway you were there to serve a warrant now your
8 story is different.

9 A. I said I made contact with him a few months
10 before showing that he had a warrant out of Simpsonville
11 City.

12 Q. I can re-read Mr. Holloway's email to you if you
13 want but it said you were there to serve a warrant.

14 A. Okay.

15 Q. So your story is different now.

16 A. I was there ---

17 Q. So your story ---

18 THE COURT: Wait a minute, let him answer.

19 THE WITNESS: I don't recall why I was there.

20 BY MR. HARBIN:

21 Q. You did when you told Mr. Holloway and now you
22 don't.

23 A. I told him he had a warrant that was showing some
24 kind of warrant at that time.

25 Q. Okay. The other very fascinating thing I find

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1 about this is how in the world did you get this
2 information from this driver that had nothing but a
3 trouble of traffic tickets, Mr. Sellers, that you stopped
4 on 3/25 and he randomly gives you information about a
5 house that you had just been too, sir, with no warrant
6 served. How did you elicit that information from
7 Mr. Sellers?

8 A. Any time we got people we know to use drugs or
9 anything like that, we will always as if you would like to
10 help us out with some information.

11 Q. You said you didn't know Mr. Sellers? You said
12 you didn't think you ever arrested him and if you did, you
13 didn't remember.

14 A. I don't remember if I've arrested him.

15 Q. So how are you randomly asking somebody about an
16 address you just happened to be at?

17 A. I didn't ask him about the address. He gave me
18 the address.

19 Q. Then tell me how it happened. I've got pulled
20 over for a speeding ticket before and nobody starts asking
21 me about drug activity anywhere so how did you happened
22 upon this information from Sellers?

23 A. We checked like we do with anybody, we check
24 their priors, and he was arrested for whatever charged I
25 arrested him on. He was obviously, you know, used drugs

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1 before, a drug user, and you ask if they can tell us where
2 they got their drugs or anybody that's using drugs or
3 mixing drugs?

4 Q. So you checked his priors and he had drug priors?

5 A. I believe he did.

6 Q. This is the actually trial here. The not
7 remembering and not believing is not helping you much.
8 Did he or did he not have drug priors?

9 A. I can't remember.

10 Q. Because I've run his record in Greenville County
11 and he doesn't have any drug priors.

12 A. Okay.

13 Q. So how did you start just randomly asking him
14 questions about this random address that you just randomly
15 went to for a warrant from Simpsonville that didn't exist?

16 A. I didn't ask him about that address. He told me.

17 Q. So out of the blue he told you that [REDACTED]
18 [REDACTED] has drug activity. And then you had two or three
19 months before and you didn't ask a follow up like whose
20 there, who did you get it from, black guy, white guy, male
21 female, tall, short, fat, skinny, anything?

22 A. He told me there was some drug activity going on
23 at that address and we did a follow up on it.

24 Q. And you were curious enough to ask him if there
25 was drug activity but you weren't curious enough to ask

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1 him anything else?

2 A. I can't remember every single question I asked
3 him.

4 Q. Well, this is what this case is about. You don't
5 remember anything at all other than there's drug activity.

6 A. I can't remember what all he told me and what all
7 I asked him.

8 Q. So you acknowledge that based on that you don't
9 have any probable cause to go any where. You basically go
10 and do a knock and talk, right? The follow up is
11 essentially a knock and talk; is that correct?

12 A. If anybody gives us any kind of information on
13 any drug activity, we do knock and talks to follow up on
14 that information. Sometimes it's false and sometimes it's
15 not.

16 Q. So the answer to my question is, yes. You have
17 every right to do a knock and talk, but you didn't have
18 any other -- that's essentially what you were doing. You
19 didn't have any particular reason other than to just
20 follow up a tip you got, correct?

21 A. We were following up on that tip.

22 Q. I can't get you to tell me yes or no. You were
23 doing a knock and talk, yes?

24 A. Yes, we were doing a knock and talk.

25 Q. So a knock and talk is as I understand it allows

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1 you to go -- it's exactly what it sounds like. You go and
2 knock on the front door but not snoop around; is that
3 correct?

4 A. We were knocking on the door and following up on
5 the information that was given to us.

6 Q. Is it correct that a knock and talk as you
7 understand it is it allows you to make contact by going up
8 to the door and knocking on it but not snoop around, is
9 that your understanding of a knock and talk?

10 A. That's correct and make contact with people.

11 Q. Okay. And what you told Mr. Sullivan prior is
12 you see this big old burn pile which, if I'm not putting
13 words in your mouth, had some kind of evidence of illegal
14 drug activity right there in the front there?

15 A. That's correct.

16 Q. So you can identify that particular burn pile as
17 the one that has some kind of paraphernalia of some sort?

18 A. That burn pile in front of the house had
19 paraphernalia and other things.

20 MR. HARBIN: I don't have anything further,
21 Judge.

22 REDIRECT EXAMINATION

23 BY MR. HOLLOWAY:

24 Q. First of all, how many burn piles did you see as
25 you were walking up to the front door?

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1 A. I would say two or three maybe.

2 Q. In your earlier testimony you testified there was
3 a burn pile near where you had parked, correct?

4 A. Correct.

5 Q. And there was a burn pile also near the front
6 door, correct?

7 A. That's close to where we parked, correct.

8 Q. And those subjects were not detained until after
9 they told you to get a search warrant, you left the house,
10 stood outside and then you saw the precursors -- possible
11 precursors that they're making meth; is that correct?

12 A. Correct.

13 Q. And it was your testimony earlier that both times
14 you went to that house several times before this incident
15 and the day of the incident, the computer that you had in
16 your car confirmed that he had an active warrant, correct?

17 A. That's confirmed, whenever somebody with that
18 name and that date of birth showing, that's correct.

19 Q. You testified earlier there were two reasons why
20 you went to the residence, knock and talk about the drug
21 tip and the possible active warrant, correct?

22 A. That's correct. Often times we got people within
23 our own agency when they can't locate the warrant, they go
24 back out and then they can find the warrant.

25 Q. And the procedure that Mr. Harbin was talking

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1 about, when you get a hit of an active warrant, what do
2 you do? Do you let the person go until you can get a
3 physical warrant and then go back and arrest them or do
4 you hold him there until you can confirm?

5 A. We'll hold them until we can confirm. We'll just
6 call back on the radio or call on the phone.

7 MR. HOLLOWAY: No further questions.

8 RECROSS-EXAMINATION

9 BY MR. SULLIVAN:

10 Q. On your incident of report when you went out
11 there on 3/25 you said, "while waiting to hear back from
12 Simpsonville, I looked into the burn pile." So you were
13 waiting but then you started looking around with a
14 warrant, correct?

15 A. I saw a burn pile.

16 Q. Based on looking at that, then you detained them
17 and called in the other officers, Jacobson, to get you a
18 warrant?

19 A. After seeing what was in plain view in that burn
20 pile in front of the residence, I contacted vice.

21 Q. But you were waiting to hear from Simpsonville,
22 but you already contacted Simpsonville a couple months
23 prior and knew there was not a warrant?

24 A. No. They didn't say it was not a warrant. They
25 couldn't confirm it was him or not.

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1 Q. Simpsonville unable to locate warrant, this is on
2 the email from Mr. Holloway -- "To serve the same warrant
3 on Michael Henderson but Simpsonville warrant was unable
4 to locate warrant at that time." This is on your prior
5 visit. You go back and looking for the same warrant and
6 you're holding it in the yard while they confirm it,
7 again, you know they're problems and then you start
8 looking around. "While waiting to hear back from
9 Simpsonville" ---

10 MR. HOLLOWAY: Your Honor, I'm going to
11 object. Is there a question.

12 BY MR. SULLIVAN:

13 Q. You were holding him while waiting for
14 verification of the warrant then you started looking
15 around; is that correct?

16 A. While we were waiting to verify the warrant, we
17 stood outside and he was inside.

18 Q. And you were looking around?

19 A. It was in plain view. It was in the front yard
20 in front of the house.

21 Q. And you had been there before to the same place
22 with the same warrant and did not see this plain view
23 stuff?

24 A. I would say not.

25 MR. SULLIVAN: Nothing further, sir. I have

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1 a witness.

2 THE COURT: Anything else, Mr. Harbin?

3 MR. HARBIN: Nothing, sir.

4 THE COURT: Officer, you said that the
5 drivers that the lawyers have identified as being Sellers
6 was a prior user and was a current user. Can you tell me
7 what led you to that conclusion?

8 THE WITNESS: Just his mannerisms, he was
9 acting jittery, I believe he had told me he had used some
10 in the past, and I believe he was telling the lawyers that
11 anybody who admits to or we can tell that's been using
12 drugs or narcotics, we just ask if they have any kind or
13 type of information that could lead to somewhere else like
14 cooking meth or crack or selling marijuana or anything of
15 that nature.

16 THE COURT: Well, what did he tell you? You
17 said that he said there was drug activity at [REDACTED]
18 Road. What activity did he describe?

19 THE WITNESS: He described the drug activity
20 as meth as far as cooking or selling meth.

21 THE COURT: And what did he tell you to lead
22 you to believe there was any validity to that?

23 THE WITNESS: We didn't know if it was any
24 validity to it or not but we followed up on it like we
25 always follow up. Often times people give us tips that

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1 are totally unfounded but this one was not. I feel like
2 it's my job to check on all tips.

3 THE COURT: You just told Mr. Sullivan on
4 recross while you stood out by the burn pile, you kept you
5 Mr. Henderson in the house. Is that correct? I don't
6 want to put words in your mouth but you had previously
7 said you had out front so you could watch.

8 THE WITNESS: While we were waiting on the
9 warrant to come back, we were outside. Once we saw the
10 items outside the burn pile, we contacted vice and
11 officers, they said that based on what I was telling them,
12 there was enough to get a search warrant.

13 Once he told me that, that's when I had the
14 residents step outside until they could get there with a
15 search warrant to prevent any kind of destruction of
16 evidence that may be inside or whatever they had inside.

17 THE COURT: Y'all got anything else?

18 MR. HOLLOWAY: That's all from the State on
19 this issue.

20 THE COURT: Thank you, sir. You can step
21 down.

22 MR. SULLIVAN: I'd like to call Michael
23 Henderson.

24 THE CLERK: Mr. Henderson, if you'd come
25 forward to be sworn, please.

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1 Place your left hand on the Bible and raise
2 your right.

3 THE COURT: I'll tell you what. Before we
4 start this, I'm going to excuse this jury. This is taking
5 a lot longer than 30 minutes and I don't want to bring
6 them back in here because we're in the middle of this
7 hearing.

8 MR. SULLIVAN: This will be brief.

9 THE COURT: If you would just retake your
10 seat. Ms. Mozzella, would you bring the jury back in
11 here. I'm going to dismiss them for lunch.

12 (Jury re-enters the courtroom.)

13 Mr. Frasier, I want to thank you for agreeing
14 to serve as the jury's fore person.

15 I wish I had a crystal ball. I'd be better
16 at being able to determine how long the issue is going to
17 last. I don't have that crystal ball and I misjudged how
18 long it's going to take us to resolve this legal issue and
19 I don't want to make y'all sit back there and wait. So
20 I'm going to excuse you all to lunch now.

21 I'd ask you to be back in your jury room at a
22 quarter of two and would instruct you all not to talk
23 about the case. Of course, you don't know anything about
24 it but just don't talk about it because, like I said, an
25 innocent comment from somebody you like and trust or don't

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1 like might impact your frame of mind and we just can't let
2 that happen.

3 So we'll see y'all back at quarter until two.
4 Thank you very much.

5 (Jury dismissed for lunch.)

6 We're going to make this a court's exhibit,
7 Russell Fraiser, Juror No. 82 is the fore person.

8 (Note from jury marked as Court's Exhibit No.
9 2 for identification.)

10 All right, Mr. Henderson, you can come on
11 back around and get sworn.

12 THE CLERK: Please your left hand on the
13 Bible and raise your right.

14 MICHAEL WAYNE HENDERSON, having been duly
15 sworn, testified as follows:

16 Thank you. Please state your name for the
17 record.

18 THE WITNESS: Michael Wayne Henderson.

19 THE CLERK: Thank you.

20 DIRECT EXAMINATION

21 BY MR. SULLIVAN:

22 Q. You are the co-defendant in this case of Tina
23 Henderson?

24 A. Yes, I am.

25 Q. And you been in the courtroom and you've heard

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1 the motion so far and the testimony?

2 A. Yes, I have.

3 Q. We've referred to a warrant from Simpsonville.

4 Can you tell us what your knowledge is of that?

5 A. Evidently, it was somebody that had my close name
6 and everything like that. It was almost the same and it
7 was one number different in my social security number.

8 Q. Were you ever taken by Simpsonville police to the
9 police department?

10 A. I was taken by Greenville County to Simpsonville
11 to the police department.

12 Q. What happened?

13 A. Simpsonville brought me back home.

14 Q. Why did they bring you back home?

15 A. Because it wasn't me.

16 Q. So how long ago did this happen?

17 A. It's been probably 2003 or 02 maybe.

18 Q. So at some time you were picked up by a
19 Greenville County deputy, taken to Simpsonville and they
20 said they made a mistake and then they took you home?

21 A. Yeah, Simpsonville Police Department.

22 Q. Now, since that time have you been stopped by
23 other departments?

24 A. Yes, I have.

25 Q. Have they brought this warrant up?

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1 A. Yes, they have.

2 Q. What did they do?

3 A. The call Simpsonville and they let me go.

4 Q. You were never arrested again for this?

5 A. No.

6 Q. When was the latest this incident happened?

7 A. Two or three months ago.

8 Q. Describe to the Court what happened?

9 A. We were going to work, actually, and they ---

10 Q. Who is we?

11 A. Two guys that work with me and my wife was
12 actually with me.

13 Q. So what happened?

14 A. We were going down the road and we were pulled
15 over and they asked me ---

16 Q. Who is they?

17 A. Maybe Winston. And they pulled -- I was charged
18 with not wearing a seat belt.

19 Q. Did they bring this warrant up?

20 A. They brought this warrant up and they checked it
21 and it wasn't.

22 MR. SULLIVAN: I have nothing further for
23 this witness, Your Honor.

24 THE COURT: Cross.

25 CROSS-EXAMINATION

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1 BY MR. HOLLOWAY:

2 Q. Deputy Godfrey, he told you about the tip when he
3 came to your house and knocked on your door, he told you
4 about the tip, didn't he?

5 A. Yes.

6 Q. He told you that someone had alleged that there
7 was drug activity going on at your property, [REDACTED]
8 [REDACTED] correct?

9 A. Yes.

10 Q. So he didn't hide the ball from you, he told you
11 why he was there?

12 A. Yeah.

13 Q. And he also told you that there may or may not be
14 an active warrant for your arrest, correct?

15 A. Yeah.

16 Q. He wasn't hiding the ball on that either, was he?

17 A. Yeah.

18 Q. And when he mentioned this information to you and
19 an active warrant, did you tell him to leave?

20 A. No, I didn't.

21 Q. Did you tell him to get off my property?

22 A. No.

23 Q. That warrant is bad, go, you didn't do that did
24 you?

25 A. No.

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1 Q. You testified on direct that this is not the
2 first time that you been stopped because of this phantom
3 warrant out there, correct?

4 A. Correct.

5 Q. Have you ever sought to have this expunged from
6 your record?

7 A. Yes, I thought about it and I felt like it wasn't
8 me, it wasn't my thing, and they should get rid of it
9 because it wasn't me.

10 Q. But every time it happens you are stopped, aren't
11 you?

12 A. Yeah.

13 Q. These are well-meaning officers potentially that
14 may arrest you, correct?

15 A. The thing about it is I never had any dealings in
16 Simpsonville other than going through there. It wasn't
17 me.

18 Q. My point is Deputy Travis Godfrey doesn't know
19 that. The officers ---

20 A. Yes, sir. He knew that before.

21 Q. Again, you don't know what's in his head, do you?

22 A. Kind of -- no, I don't.

23 Q. Your clairvoyant.

24 A. No, I wouldn't know.

25 Q. The fact is there are well meaning officers like

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1 the ones who stopped you a couple of months ago because
2 you were wanted on this warrant, correct?

3 A. Yes.

4 Q. So the one who is being bothered and detained is
5 you, correct?

6 A. How do you get something like that done?

7 Q. I ask the questions, you answer them. The fact
8 is it takes time for these well meaning officers to take
9 time out their schedules too to confirm these warrants and
10 you've left it on your record, correct?

11 A. I've called in and tried to get it done but I
12 don't know how to go about getting something like that
13 taken off.

14 Q. After this trial, do you intend to get the
15 warrant expunged from your record?

16 MR. HARBIN: Objection.

17 THE COURT: That's no relevant.

18 MR. HOLLOWAY: I have nothing further.

19 MR. SULLIVAN: I have one question.

20 THE COURT: Wait a minute. Mr. Harbin, do
21 you have anything you want to ask him.

22 MR. HARBIN: I'll concede to Mr. Sullivan.

23 REDIRECT EXAMINATION

24 BY MR. SULLIVAN:

25 Q. On these other stops accept for the time you were

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1 taken to Simpsonville, you weren't stopped for this
2 warrant, you were stopped for another reason, correct?

3 A. Yes.

4 Q. And the warrant would show up when you gave them
5 your ID.

6 A. Yeah.

7 Q. They would check it and they said sorry about
8 that and then you get your seat belt ticket and no
9 Simpsonville.

10 A. Right.

11 MR. HARBIN: I do have one follow-up.

12 THE COURT: All right.

13 BY MR. HARBIN:

14 Q. Mr. Henderson, Mr. Holloway asked you how you
15 thought you knew what Mr. Godfrey knew and how you get in
16 his head. Can you tell the Court why you think you knew
17 Officer Godfrey knew your warrant wasn't any good?

18 A. Because he had been there prior to that about the
19 same thing.

20 MR. HARBIN: Nothing further.

21 THE COURT: Mr. Holloway, anything else?

22 MR. HOLLOWAY: Nothing from the State, Judge.

23 THE COURT: Mr. Henderson, tell me about the
24 prior contact you had with Officer Godfrey.

25 THE WITNESS: He came to the house -- I don't

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1 know why he was there. The warrant definitely came up.

2 THE COURT: Tell me what you remember. I'd
3 like to know more about that prior meeting.

4 THE WITNESS: Judge, I'm sorry. I don't
5 remember a whole lot about it.

6 THE COURT: What do you remember?

7 THE WITNESS: I remember him coming to my
8 house and I stood out there and waited with him until he
9 run the name down there to Simpsonville and come back
10 there and it was an inactive warrant and he left.

11 THE COURT: Do you remember what he told you
12 about when he arrived?

13 THE WITNESS: No, sir, I don't.

14 THE COURT: Anything else?

15 MR. HOLLOWAY: That's all from the State,
16 Judge.

17 THE COURT: Any other questions of this
18 witness?

19 MR. HARBIN: No, Judge.

20 MR. SULLIVAN: No, Your Honor.

21 THE COURT: You can step down.
22 Anything else?

23 MR. SULLIVAN: Just argument.

24 THE COURT: Do you have anything you want to
25 put up in reply, Mr. Holloway?

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1 MR. HOLLOWAY: No, Your Honor.

2 THE COURT: All right, what do you want to
3 tell me.

4 MR. SULLIVAN: Judge, on the stop on 3/25,
5 there is no indication of any drugs, this is on Sellers,
6 there's driving under suspension, possession of stolen
7 goods, and false information. In his report on 3/30 --
8 3/25 he says that guy, and he didn't mention his name,
9 informed him there was possible drug activity at [REDACTED]
10 [REDACTED]. It says nothing about what kind or how long
11 it had been, was it recent, a year ago, two years ago. He
12 had no idea what he was referring to.

13 We also know that as to this warrant that
14 Officer Godfrey had been out there several months before
15 this occurred on [REDACTED] Road and found out then that
16 he couldn't arrest him for that warrant. He goes back on
17 this tip, a tipster case I guess, but there was very
18 little information to show any kind of personal knowledge
19 of the guy giving him information and at this time Officer
20 Godfrey has no independent knowledge about any drug
21 activity.

22 As a matter of fact he had gone out there
23 several months before, had gone to the same house, on the
24 same defendant, checked the Simpsonville warrant and left.
25 We don't know why he went there. There is nothing to

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1 alert him to this but now he goes back and tries to boot
2 strap a statement from some fellow that something might be
3 going on at some time over there and then in his statement
4 says, "While waiting for the warrant to be verified," the
5 warrant he already knew he couldn't served, he starts
6 looking around.

7 Without that warrant there was no enough in
8 here on the original stop to alert him to any type of drug
9 activity. It doesn't say when, where, what time. And
10 then to try and boot strap a warrant willful ignorance of
11 a material fact is not justifiable. He knew this warrant
12 was no good from his prior visit but yet he tried to hold
13 him and say I held him until we could verify the warrant
14 and then I looked around.

15 There was no probable cause for him to go
16 there. The tip is not enough and he knows there's no
17 valid warrant. And then he said he had been to this house
18 but said he went to neighbors to see who lived there. He
19 knew who lived there. This whole thing is kind of
20 reaching.

21 And we know from Ms. Marie Feld, sent to me
22 this my by my request, I talked to her, and she informed
23 me that this arrest became inactive in 2004. This is from
24 the City of Simpsonville.

25 THE COURT: Wait a minute. This whole thing

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1 -- that's not in evidence. You asked him some questions
2 about it. There's nothing to say that it's authentic. I
3 got nothing to base that on and he said he didn't know
4 anything about that. The evidence comes from up here on
5 the witness stand or something that's admitted into
6 evidence. So why you have asserted that in your
7 questioning, I don't know if that's true, accurate, or
8 not. Your client has said it was inactive, so that's the
9 only evidence that the thing is inactive.

10 MR. SULLIVAN: And we have the prior visit of
11 Officer Godfrey who did not arrest him at that time
12 because the warrant was not valid.

13 THE COURT: He has already said -- here's the
14 problem. He said that he stopped this guy Sellers and I
15 don't think the officer ever said what his name was. That
16 came up in the questions of the attorneys, Mr. Holloway
17 and you who mentioned this guy's name, the office didn't
18 remember what his name was. The officer did not remember
19 what his name was and he said that this guy gave him
20 information about drug activity.

21 Nobody explored what information he was
22 given, why he thought this guy was a drug user, until he
23 did finally testify that he was fidgety that appeared to
24 be a drug user. That's the evidence that was given to me.
25 I can't base any decision I make on questions. It's the

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1 answer that is evidence.

2 So what law is there that what he did with
3 the knocked and question or whatever he calls it, what's
4 unlawful about that?

5 MR. SULLIVAN: Then he says he retained them
6 for this warrant that he already tried to serve and he
7 couldn't do it.

8 THE COURT: No, sir. He said he detained him
9 because he looked in the burn pile and saw paraphernalia.

10 MR. SULLIVAN: He said while waiting for
11 confirmation from Simpsonville.

12 THE COURT: And how is Officer Godfrey --
13 you're drawing inferences so here's a reasonable
14 inference. How does Officer Godfrey knew if there is any
15 subsequent warrant issued by Simpsonville if on his
16 computer he gets a hit that there's an active warrant?
17 The validity of that, I don't know, accept that Officer
18 Godfrey said that he saw an active warrant.

19 MR. SULLIVAN: He could have called and
20 verified it like the other officers did.

21 THE COURT: What's unlawful about the way it
22 was handled?

23 MR. SULLIVAN: I don't think it was
24 reasonable. I think he's boot strapping the entire thing.

25 THE COURT: It's pretty clear that this is

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1 not ---

2 MR. SULLIVAN: They have cases ---

3 THE COURT: Well, give me some case law. The
4 thing smells, there's no question about it, but where's
5 the law that tells me what they did was improper.

6 MR. SULLIVAN: Here's the Green case out of
7 Alabama. This is a South Carolina case.

8 THE COURT: What does it say?

9 MR. SULLIVAN: A fella was sitting at an
10 intersection and he gets a call from a dispatcher. The
11 tipster has called the dispatcher and said a guy named
12 Green, a black male, was leaving the area of Baseside
13 Manor with large some of money and narcotics.

14 While he was on the telephone, the officer
15 saw Green driving by in a truck, who he knew about
16 slightly, away from Baseside Manor. When they stopped
17 him, they found drugs and guns and money. They said it
18 was not a lawful stop. There was not enough information
19 for him to observe on his own.

20 THE COURT: This is distinguishable. That's
21 a moving vehicle and there are all kind of moving vehicle
22 exceptions under the Fourth Amendment. This is not a
23 moving vehicle. I agree with you that this tipster
24 information is very nebulous, but show me the case law
25 that what he did with his knock and question -- I forget

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1 what the little catch phrase it was -- what was it?

2 MR. HARBIN: Talk, Judge.

3 THE COURT: Knock and talk is illegal.

4 MR. SULLIVAN: He said after he knocked and
5 talked he said he detained them to verify the Simpsonville
6 warrant and then he looked in the burn pile while he was
7 waiting to hear from Simpsonville.

8 THE COURT: He said he walked up to the
9 house, he knocked, they let him in. They said, yeah, you
10 can look around and then they said stop, I don't want you
11 searching my place. He stopped, he went outside. He said
12 he's waiting for the verification on the warrant and while
13 he's out there in plain view, he sees cut batteries and
14 blister packs of Sudafed.

15 I think he said later that he saw a glass
16 pipe typically used in smoking methamphetamine.

17 MR. SULLIVAN: He wouldn't have been there
18 that long if he had not been waiting for the Simpsonville
19 warrant.

20 THE COURT: I don't have any evidence -- he
21 testified there was an active Simpsonville warrant and
22 yeah, he testified that he had been out there several
23 months before for this same warrant, and yes, he
24 determined that it was not accurate. What tells me that
25 he didn't think there was another warrant issued? There's

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1 no evidence to tell me that he knew or didn't know that
2 the same warrant he was out there to pursue was not a
3 different warrant.

4 Mr. Sullivan, what are you going to tell me?

5 MR. SULLIVAN: This is continuing discovery
6 from Mr. Holloway that said the same warrant, not a
7 separate warrant.

8 THE COURT: That's true. How does he know
9 the fact that he checked it before and found it was
10 inactive, how does he know that it had not subsequently
11 been reactivated?

12 MR. SULLIVAN: He could have called and found
13 out. Willful ignorance of a material fact is not an
14 excuse. He could have called and said is this the same
15 warrant or is this a new warrant and that would have
16 cleared it up right quick.

17 THE COURT: Didn't he say that he was waiting
18 for confirmation from Simpsonville? Isn't that exactly
19 what he was doing? He's outside of the house and parked
20 right next to the burn pile which he saw in plain view
21 these alleged paraphernalia.

22 Mr. Harbin.

23 MR. HARBIN: I think one of the points we're
24 trying to highlight and I brought this out on cross with
25 Officer Godfrey there is a procedure on how to serve

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1 warrants. You do not go and detain people based on just a
2 computer check. If your intention is to go serve a
3 warrant, then one of your fellow officers, if not
4 yourself, needs to have a piece of paper in hand. And I
5 apologize that do not have a case that says that but I
6 believe it is a procedural matter that you must have a
7 service process to detain someone, and if he's already
8 gone out to this address on this same warrant, I believe
9 you can't operate in good faith with absolutely no piece
10 of paper again in hand if the Court follows.

11 So it's a little disingenuous for him to say
12 I don't remember this and I don't remember that. We need
13 additional information. And Mr. Sullivan's boot strapping
14 argument is kind of the co-lesson of all of this.

15 THE COURT: I'm well aware of that. What
16 does the State has to say?

17 MR. HOLLOWAY: About the boot strapping or
18 the whole thing?

19 THE COURT: The whole thing, Mr. Holloway.

20 MR. HOLLOWAY: The whole thing is this is a
21 knock and talk investigative tool that he was using. All
22 of the allegations of no probable cause, it's all fishy,
23 he had the right to do a knock and talk. Like any other
24 person or any other invitee, you could enter the property
25 and not go off the beaten path like searching the shed and

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1 looking around the property, but he stayed where the
2 invitees are invited on the driveway, on the front porch
3 and they invited him inside the house.

4 In the meantime, he was attempting to verify
5 if this warrant was active or not. This is a knock and
6 talk investigation.

7 THE COURT: Well, I'll tell you what this is
8 -- I'm going to think about it over lunch, but this is a
9 -- for a knock and talk to be based on -- the whole thing
10 is he doesn't remember why he went out there the first
11 time. He says he doesn't know what reason he went out
12 there. He doesn't remember anything about it. There's
13 apparently some written report about it. Then this stop
14 leads to the coincidence that he stopped this person and
15 this person talks about the location, again, is a real
16 stretch. And then he can't remember the name of the
17 driver that he stopped. He didn't get any identifying
18 information about the type of activity. All he could tell
19 me that the type of activity involved methamphetamine.

20 If this was a vehicle stop based on the
21 information that was provided, it would be a bad vehicle
22 stop. And the question here is not whether or not what
23 the result is, but it's very concerning that citizens are
24 disturbed, as he testified that a lot of this stuff he
25 goes out and it proves to be no good, why are citizens

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1 disturbed. If it's the same type of information that
2 those stops or those knock and talks are based on, I think
3 there has to be an examination of the Sheriff's
4 Department's procedures because in that event, there are
5 innocent citizens that are being disturbed based on
6 nothing.

7 There is no continuing relationship that the
8 officer had with the tipster. The information provided is
9 so marginal or minimal that it would not allow a vehicle
10 stop to stand. We're going to look into this to see if
11 there is anything else with respect to this knock and
12 talk.

13 Anything else before we go?

14 MR. HOLLOWAY: All from the State, Judge.

15 MR. HARBIN: Nothing Judge.

16 THE COURT: If y'all find something over
17 lunch, I'd like to see it.

18 (Whereupon, court was dismissed for lunch.)

19 THE CLERK: All rise, Court is now in
20 session, the Honorable Edward Miller presiding.

21 THE COURT: Thank you. Please be seated.

22 MR. HARBIN: Do you want to do them one at a
23 time or together?

24 THE COURT: However you want to do it.

25 THE CLERK: Your Honor, this is Case No.

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1 2010-GS-23-5201, Michael W. Henderson, indictment for
2 manufacturing of methamphetamine and possession of a
3 weapon during the commission of a violent crime, and he is
4 pleading to manufacture of methamphetamine first offense.
5 It is a True Bill. Indictment 2010-GS-23-5202 indictment
6 for unlawful conduct towards a child, pleading to unlawful
7 neglect of a child. It is also a True Bill.

8 Indictment 2010-GS-23-5204, Tina M.
9 Henderson, indictment for unlawful conflict towards a
10 child, pleading to unlawful conduct towards a child. It
11 is a True Bill. 2010-GS-23-5203, indictment for
12 possession of methamphetamine with intent to distribute,
13 pleading to possession of methamphetamine first offense.
14 It is also a True Bill.

15 Would you raise your right hands, please
16 TINA HENDERSON, having been duly sworn,
17 testified as follows:

18 MICHAEL HENDERSON, having been duly sworn,
19 testified as follows:

20 Thank you.

21 THE COURT: In the last 24 hours have you had
22 any drugs, alcohol or medication? Michael Henderson.

23 DEFENDANT M. HENDERSON: No. I was at the
24 emergency room. I was just trying to think of what I did.

25 THE COURT: What did you say?

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1 DEFENDANT M. HENDERSON: I was at the
2 emergency room and I had to think back to what they gave
3 me. They gave me some antibiotics.

4 THE COURT: Ms. Henderson, in the last 24
5 hours have you had any drugs, alcohol or medication?

6 DEFENDANT T. HENDERSON: No, sir.

7 THE COURT: Have you ever been treated for
8 the abuse of alcohol or drugs or for mental illness or
9 emotional problems? Mr. Henderson.

10 DEFENDANT M. HENDERSON: No, I haven't.

11 THE COURT: Ms. Henderson.

12 DEFENDANT M. HENDERSON: Just through DSS I
13 did the parenting awareness class and the Phoenix Center
14 drug class.

15 THE COURT: When was that?

16 DEFENDANT T. HENDERSON: This year.

17 MR. SULLIVAN: There is a certificate of
18 completion, successfully completed, recommend positive
19 steps. And the parenting I have that, too, if you need
20 it.

21 THE COURT: Are you sober today?

22 DEFENDANT T. HENDERSON: Yes, sir.

23 THE COURT: Mr. Henderson, you're up here
24 today on Indictment 2010-5201 Count 1 alleges you did in
25 Greenville on March 20, 2010 knowingly manufacture meth,

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1 provide other assistance to do any of that, or you were in
2 actual constructive possession of common ingredients used
3 in the manufacturing of meth under circumstances in an
4 attempt to so use them. It carries up to 15 years and
5 \$25,000 fine. Do you understand that?

6 DEFENDANT M. HENDERSON: Yes, sir.

7 THE COURT: You're also up here on 2010-5202.
8 It alleges you did in Greenville County, March 30, 2010
9 being the parent, custodian, or guardian of the child Mino
10 place the child in unreasonable risk of harm. Ten years
11 for child neglect, do you understand that?

12 DEFENDANT M. HENDERSON: Yes, sir.

13 THE COURT: Ms. Henderson, you're up here on
14 2010-5203. It alleges you did in Greenville County, March
15 30, 2010 possess with intent to distribute a quantity of
16 meth tendering a plea to possession of meth. It carries
17 up to three years, \$5000. Do you understand that?

18 DEFENDANT T. HENDERSON: Yes, sir.

19 THE COURT: You're also here on 2010-5204, it
20 alleges you did in Greenville County, March 3, 2010 being
21 the legal, custodial, parent or guardian of Mino, you
22 placed the child at unreasonable risk of harm. And that
23 carries 10 years, do you understand that?

24 DEFENDANT T. HENDERSON: Yes, sir.

25 THE COURT: To each of you understanding the

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1 nature of the charges against you and the maximum possible
2 punishment how do you want to plead, Mr. Henderson?

3 DEFENDANT M. HENDERSON: Guilty, Your Honor.

4 THE COURT: Ms. Henderson.

5 DEFENDANT T. HENDERSON: Guilty, Your Honor.

6 THE COURT: Anybody force you in any way or
7 coerced you, threatened you, or promised you anything to
8 get you to enter that plea, Mr. Henderson?

9 DEFENDANT M. HENDERSON: No, sir, I just want
10 to be with my family.

11 THE COURT: Right now I'm trying to determine
12 whether or not I'm going to accept the plea and whether
13 it's freely and voluntarily and intelligently made. So
14 what I need to know is if you are making this -- you have
15 indicated you want to plead guilty to these two charges,
16 are you doing this freely and voluntarily.

17 DEFENDANT M. HENDERSON: Yes, I am.

18 THE COURT: Okay. How about you,
19 Ms. Henderson?

20 DEFENDANT T. HENDERSON: Yes, sir.

21 THE COURT: Do you each understand you have
22 an absolute right to a trial by jury where you would be
23 presumed innocent unless and until the State could prove
24 you guilty beyond any reasonable doubt of each and every
25 element of each offense that you are charged with? You

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1 would have a right to confront and cross-examine the
2 witnesses and the evidence put up against you by the
3 State. You would have the right to compel in court all
4 relevant and competent evidence in your own defense or you
5 can remain silent and your silence can not be held against
6 you and you can never been compelled to incriminate
7 yourself. Do you understand all those right,
8 Mr. Henderson?

9 DEFENDANT M. HENDERSON: Yes, I do.

10 THE COURT: Ms. Henderson?

11 DEFENDANT T. HENDERSON: Yes, sir.

12 THE COURT: Do you want to give all those
13 rights up to enter this plea, Mr. Henderson?

14 DEFENDANT M. HENDERSON: Yes, sir.

15 THE COURT: Ms. Henderson?

16 DEFENDANT T. HENDERSON: Yes, sir.

17 THE COURT: Are you guilty, Mr. Henderson?

18 DEFENDANT M. HENDERSON: No ---

19 THE COURT: Well, before you answer that, we
20 have conducted a suppression hearing. I have not issued a
21 ruling. Do you understand that if you enter this plea and
22 I accept it, you give up your right to challenge the
23 constitutional propriety of any search or arrest in this
24 case, Mr. Henderson?

25 DEFENDANT M. HENDERSON: Yes.

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1 THE COURT: Ms. Henderson?

2 DEFENDANT T. HENDERSON: Yes, Your Honor.

3 THE COURT: Are you guilty, Mr. Henderson?

4 DEFENDANT M. HENDERSON: No, I'm not.

5 THE COURT: We got a jury picked.

6 MR. HARBIN: He wants to plead guilty.

7 THE COURT: If he's not guilty, I'm not
8 taking a plea of someone who is not guilty.

9 DEFENDANT M. HENDERSON: Not guilty.

10 THE COURT: He's not guilty.

11 MR. HARBIN: Judge, he'd like to plead under
12 Alford if the Court will let him.

13 THE COURT: I got a jury sitting back there
14 and they've been sitting back there for an hour. If he's
15 not guilty, I'm going to bring him out there and we're
16 going to try the case. I'm not taking that plea.

17 Are we going forward with Ms. Henderson?

18 DEFENDANT T. HENDERSON: I'm guilty of the
19 meth that was in my house and my son tested positive
20 because I didn't know that the residue clung to everything
21 when I smoked it. I am guilty for that, yes, sir.

22 THE COURT: Are you totally and completely
23 satisfied with your attorney?

24 DEFENDANT T. HENDERSON: Yes, sir.

25 THE COURT: Have you had enough time to

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1 review the evidence the State has against you?

2 DEFENDANT T. HENDERSON: Yes, I have, Your
3 Honor.

4 THE COURT: Tell me the facts. I don't know
5 anything other than what I heard at the suppression
6 hearing.

7 MS. MCCALL: On March 30, 2010, Greenville
8 County Sheriff's officers went [REDACTED] located in
9 Greenville County to investigate a tip about drug
10 activity.

11 When the officers arrived, they observed the
12 backyard consistent with a meth lab including burn piles
13 that contained blister packs, burnt batteries, aerosol
14 cans and drug paraphernalia.

15 A search warrant was obtained and officers
16 located a meth lab that was in a shed on the property.
17 Officers located in the master bedroom digital scales and
18 two bags of white powder which lab tested as .76 grams of
19 meth and coffee filters containing residue.

20 The officers located in the kitchen a bag
21 contained 95 pills of pseudoephedrine, a shotgun. A .30
22 caliber riffle were located in the bed in the master
23 bedroom and a .22 caliber riffle was located under the
24 sofa in the living room.

25 The defendant and the co-defendant were

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1 present in the house along with their eleven-year-old son.
2 The defendant exposed her son to methamphetamine. Her son
3 tested positive for methamphetamine.

4 THE COURT: Is all that true?

5 DEFENDANT T. HENDERSON: Yes, sir.

6 THE COURT: I'll accept the plea. These are
7 unusual circumstances because they are dismissing a couple
8 of cases.

9 MR. HOLLOWAY: I want to ask the defendant to
10 confirm under oath if she's taking responsibility for the
11 meth lab or just the quantity of methamphetamine found
12 inside the house?

13 THE COURT: What she said to me under oath
14 was that she took responsibility for the meth in the
15 house. She was guilty of possessing that.

16 MR. HOLLOWAY: I think the problem that we
17 have is all the facts were read into the record in this
18 case.

19 THE COURT: What are you guilty of?

20 DEFENDANT T. HENDERSON: I am guilty of the
21 possession of methamphetamine. I had got it from a lady
22 that lived up back and forth between Florida and in
23 Piedmont staying at several areas. Unfortunately she
24 can't testify on my behalf because I think she overdosed.
25 She passed away. Her name was Twilla. That's where I

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1 obtained the meth. That's who give it to me. I would
2 sometimes take her and drop her off at different locations
3 in Piedmont.

4 A few hours later she had called me to come
5 pick her up and I had come pick her up and she would give
6 to me. She did have it in a coffee filter and did give it
7 to me for picking her up. I'm guilty of that. I know
8 nothing of no meth labs, how to make it. The burn piles
9 were pre-existing on the property.

10 MR. SULLIVAN: She knows nothing about the
11 meth lab. They don't want her coming back and saying, oh,
12 that was my meth lab ---

13 THE COURT: All right.

14 MR. HOLLOWAY: Thank you.

15 THE COURT: I'm going to accept the plea.
16 I'm going to defer sentence until the conclusion of the
17 co-defendant's trial. Ma'am, I have been informed that
18 you contacted jurors during the lunch break.

19 DEFENDANT T. HENDERSON: When we went into
20 the area and sat down, they were over there and they were
21 talking about truck driving and all I stated was you're a
22 truck driver and he said, yeah, from all over the United
23 States. That's the only thing that was mentioned. There
24 was nothing of the case or anything.

25 THE COURT: At this time I'm going to take

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1 her into custody and that it is totally improper. So I'm
2 taking you into custody. I'm not sure how I'm going to
3 handle that.

4 MR. SULLIVAN: Do you want me to be back in
5 the morning or?

6 THE COURT: I'm deferring sentencing until
7 the end of the case.

8 DEFENDANT T. HENDERSON: So I'm going to the
9 Detention Center?

10 MR. SULLIVAN: You're going to spend the
11 night and be brought back in the morning.

12 DEFENDANT T. HENDERSON: May I give my stuff
13 to ---

14 THE COURT: You can tell Mr. Sullivan what to
15 do with it.

16 Anything else before I make my ruling?

17 MR. HOLLOWAY: Do you want us to put on the
18 record the case law?

19 THE COURT: Anything y'all want to tell me
20 before I issue my ruling.

21 MR. HOLLOWAY: I'll start first. Your Honor,
22 the State would argue that the real issue of knock and
23 talk and those kind of investigative tools and using is a
24 matter of consent. What level of consent does a property
25 owner say stay off my property and go away and that sort

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1 of thing? In this case, the defendants didn't have a no
2 trespassing sign posted. The never said during this whole
3 process get off my property.

4 The case law that I have found goes
5 nationwide from Wyoming to Kentucky to Florida and South
6 Carolina, the burden of the property owner to establish
7 what level of consent can any invitee come on your
8 property and an officer who uses -- the officer in this
9 particular case -- the officer who uses this knock and
10 talk tool, this is equated in this case law to like any
11 other invitee, girl scouts, Jehova's Witnesses, whoever
12 decides to come on the property. So long as the officer
13 stays on the beaten path, stays within the bounds of where
14 an invitee normally would go to -- I can actually produce
15 to the Court several cases and citations that I have here,
16 Judge.

17 One of the most interesting cases that I
18 found was out of Wyoming. The Supreme County in Wyoming
19 in 2005 discusses the knock and talk and even discusses
20 the origins of this tool and it says -- the phrase knock
21 and talk was apparently first used by an Oregon Appellant
22 Court, State versus Lans, in 1991. "Since then the use of
23 this shorthand description for this long established
24 police technique has become common place across the
25 country."

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1 The Court goes on and says that, "The
2 prevailing rule is that absent a clear expression by the
3 owners to the contrary, police officers are permitted to
4 approach a dwelling and seek permission to question an
5 occupant in the course of their official business." And
6 they go on and cite cases from Arkansas, the Seventh
7 Circuit Federal Court, the Fifth Circuit Federal Court,
8 the Fourth Circuit.

9 THE COURT: What's your Fourth Circuit case?

10 MR. HOLLOWAY: The Fourth Circuit is Rogers
11 v. Pendleton. The cite is 249 Federal 3rd 279, 2001.

12 The Court in Wyoming after citing this litany
13 of cases says, "There's no requirement that law
14 enforcement had probable cause or reasonable suspicion
15 before they may approach a home and ask for permission to
16 enter. When police use a knock and talk procedure whether
17 at the spur of the moment or in response to a tipster
18 anonymous or a final culmination of (inaudible) successful
19 efforts to develop probable cause for a search warrant,
20 they are merely asking for permission to search a person's
21 home." It does risk that the homeowner will say get out
22 and go, get off my property.

23 The Court does cite to Shinklot versus Vista
24 Monte. It's a US Supreme Court case 1973. It says, "Part
25 of the knock and talk procedures lies consent which has

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1 long been one of the many exceptions in the search and
2 warrant rule."

3 THE COURT: That was '73 Supreme Court case?

4 MR. HOLLOWAY: Yes, sir.

5 THE COURT: I thought you said the term knock
6 and talk was the advent of that was in Oregon in '91.

7 MR. HOLLOWAY: I'm pulling from Wyoming
8 Supreme Court. If they're wrong about this ---

9 THE COURT: All right, I'm giving you a hard
10 time.

11 MR. HOLLOWAY: I've case law, Judge, I can
12 hand up to the Court. These cases are not directly on
13 point but they are of varying -- they're about cases where
14 officers have gone off the beaten path, anonymous tips, CI
15 information but again the crux of the issue of knock and
16 talk is not of the quality of the information the officer
17 had upon approaching the property, it is about the level
18 of consent that the homeowner presents to the public.

19 THE COURT: Okay. Mr. Harbin, anything you
20 want to tell me?

21 MR. HARBIN: Yes, sir. I think the solicitor
22 is missing the point and that being, especially all the
23 cases he has cited, let's assume they're all in good
24 faith, every one of them. In this case, we have no good
25 faith and based on the testimony we heard today, I don't

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1 know if a reasonable fact finder could say that there's a
2 good faith mistake about this warrant, good faith believe
3 in the roadside informant.

4 The Rogers and Pendleton case that he cited I
5 actually ran across it because it's actually a civil
6 rights case not a criminal case but I quote, "The
7 deference given to law enforcement officers acting in good
8 faith," and then it goes on to say the support in serious
9 criminal cases, but it applies to deference given to
10 officer acting in good faith.

11 I think we've established here that there's
12 something that hasn't been done in good faith. What
13 exactly it is, Judge, I can't possibly tell you but I will
14 say that the notion that anybody can come up to your house
15 or my house or the solicitor's house and not to conduct an
16 investigation perhaps is important in some investigations,
17 but the notion that an officer can come up to my house
18 everyday or once a month or stop my wife and me and just
19 ask questions and say, hey, what do you know, that's
20 objectionable. I don't think that's what our constitution
21 intended.

22 And the basis for our objection, Judge, is
23 while not in case law because most of those cases that are
24 found in bad faith, they don't go to trial so there's not
25 going to be case law, but in this case I believe that

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1 there's been enough testimony to establish there's not a
2 good faith investigation going on. This is something
3 that's targeted that very simply would have been clarified
4 or avoided by just doing an additional day or two
5 investigation. Sit a car down to the street to see if
6 there is drug activity, anything. There is any number of
7 things. That's my argument, Judge.

8 THE COURT: Well, your point is well taken,
9 however, I'm going to deny your motion to suppress and
10 allow the case to go forward. Something here does not
11 seem entirely pristine and certainly not the best
12 practice, but I don't find that it's been shown at this
13 point that conduct rises to the level of bad faith and
14 abuse of the system so I'm going to deny the motion.

15 Anything else before we go?

16 MR. HOLLOWAY: All from the State, Judge.

17 MR. HARBIN: Nothing from the defense, Judge.

18 THE COURT: All right. Let's bring the jury.

19 (Jury re-enters the courtroom.)

20 Mr. Foreman, ladies and gentlemen of the
21 jury, first let me apologize to you for making you wait
22 back there. As I said I didn't do a good job of
23 estimating times and all that. I apologize to you. The
24 issues were a little bit more complex than I had
25 originally thought. I will tell you that this delay is a

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1 result of the resolution of one of the cases and we are
2 ready to proceed on the State versus Michael Wayne
3 Henderson.

4 MS. MCCALL: May it please the Court,
5 Mr. Harbin, ladies and gentlemen of the jury, as the Judge
6 mentioned earlier my name is Kayce McCall and this is Ryan
7 Holloway and we are prosecutors for the Thirteenth Circuit
8 Solicitor's Office and it is our job prosecute cases in
9 Greenville County.

10 This afternoon I'm going to tell you three
11 things. First is what this case is all about and secondly
12 what the State's duty and burden to prove and finally,
13 I'll intend to tell you how the State intends to prove its
14 case.

15 First, this case is about making
16 methamphetamine and exposing children to the dangers of
17 making those drugs, second, what the State has the duty
18 and the burden to prove. As prosecutors in this case, we
19 have the entire burden of proof during this trial. The
20 State must prove to you beyond a reasonable doubt that on
21 March 30, 2010, this defendant did engage to manufacture
22 or attempt to manufacture methamphetamine; that he did
23 possess methamphetamine; that he did possess a weapon
24 during the commission of a violent crime, violent crime
25 being that of manufacturing methamphetamine; that he did

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1 expose a minor child to manufacturing methamphetamine, and
2 finally that he did place his own child in unreasonable
3 risk of harm affecting that child's life, safety, or
4 health.

5 Finally, how the State is going to prove its
6 case. First, you'll hear from Deputy Godfrey of the
7 Greenville County Sheriff's Office. He's going to tell
8 you about why he went to this defendant's residence
9 located at [REDACTED] in Piedmont, South Carolina on
10 March 30, 2010. He's going to tell you about what he saw
11 on the defendant's property and how he found items that
12 are commonly used in making methamphetamine.

13 Then you're going to hear from several vice
14 and narcotics officers. They are going to testify about
15 what methamphetamine labs are and extreme danger that
16 these labs pose. They are going to go into detail about
17 exactly what they found in the defendant's home and on
18 defendant's property and then they're going to tell you
19 how the items that were found in the defendant's home and
20 on the property was used in the process of manufacturing
21 methamphetamine.

22 Then the vice and narcotics officers will
23 testify about how children were found in the residence and
24 they were exposed to dangers of making methamphetamine and
25 then how there were guns found in the defendant's

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1 residence that were easily acceptable to the minor child.

2 Next you'll hear from Kara Bennick who is a
3 property evidence supervisor. She's going to testify
4 about what property and evidence is and what safety guards
5 are in place to make sure evidence is not tampered with.
6 You'll also hear from Sean Collins who is a forensics
7 person and he's going to testify about the analysis he did
8 on the controlled substances found in the defendant's home
9 and what he determined them to be.

10 Now, after you have heard all of the
11 testimony and heard the evidence, we are going to ask you
12 to find the defendant, Michael Henderson, guilty. Thank
13 you for your time and patience.

14 THE COURT: Mr. Harbin.

15 MR. HARBIN: May it please the Court. I
16 wrote down things I was going to say to you guys and I
17 ended up throwing it all out the window.

18 The solicitor kind of gave you an overview of
19 what's going to happen in this trial, but what I want to
20 do is ask you a couple of things. Throughout this trial
21 I'm going to ask you to pay attention not only to what the
22 officers said, but think about what the officers are not
23 telling you or what they are not able to tell you.

24 Our system of justice as the Judge told you
25 at the beginning it depends on you guys. We decided not

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1 going to take anybody's freedom unless we are convinced
2 beyond all reasonable doubt. No educated guesses. They
3 have a heavy burden to bare and I tell you now I don't
4 think they can meet it.

5 I can't stress enough that just because
6 there's some evidence a, b, and c, that it means they are
7 guilty and there could be possible explanations for it. I
8 want you, throughout the trial, to ask yourself is there
9 an explanation for this or if there is an explanation for
10 that. I'm not looking to make excuses for my client in
11 any way, but I'm here because he pled not guilty. He said
12 he didn't do this and the police are wrong. You know
13 what? They're human and they're wrong some time.

14 He's depending on you guys to give him a fair
15 shake and that's all I'm asking. Pay attention. It's not
16 only important what you hear but what you don't hear is
17 just as important.

18 Thank you.

19 THE COURT: Call your first witness.

20 MR. HOLLOWAY: The State calls Travis Godfrey
21 to the stand.

22 THE CLERK: Sir, would you please come
23 forward to be sworn in. Place your left hand on the Bible
24 and raise your right.

25 TRAVIS GODFREY, having been duly sworn,

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1 testified as follows:

2 Thank you. State your full name for the
3 record.

4 THE WITNESS: Travis Godfrey.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MR. HOLLOWAY:

8 Q. Deputy, please tell the jury where you work for
9 the record?

10 A. Greenville County Sheriff's Office.

11 Q. And how long have you worked there for the
12 Sheriff's Office?

13 A. Since 2002.

14 Q. And describe your normal duties as deputy?

15 A. I worked for community patrol division. I'm
16 given an area to police based on the complaints of the
17 citizens of that area whether it be break-ins, drug
18 activities or speeding. Any kind of complaints, we try to
19 address it as best as we can.

20 Q. Tell the jury how you became involved in this
21 case, this investigation. Take us to the beginning.

22 A. Five days prior to going to the defendant's
23 house, I stopped a vehicle on West Georgia Road. The tag
24 on that vehicle come back stolen which is the initial
25 reason I pulled this guy over. After talking to this

Travis Godfrey - Direct Examination

1 fellow, I ended up arresting the driver of that vehicle
2 with the stolen tag. He proceeded to tell me that he had
3 used drugs in the past and told me that there was drug
4 activity at [REDACTED] [REDACTED] [REDACTED] where the defendant lives.

5 Q. Based on what you learned from that -- first of
6 all, who was that individual?

7 A. Mr. Sellers.

8 Q. His first name?

9 A. Kenneth.

10 Q. Based on what you learned from him, what did you
11 do then?

12 A. Typically anytime we receive any kind of
13 complaints, drug complaints or anything like that we
14 always follow up on it. So after he gave me this tip, I
15 followed up on it.

16 Q. Okay. Can you describe how you followed up with
17 that tip?

18 A. Yes, sir, we talked to a neighbor -- somebody in
19 the neighborhood of [REDACTED]. He told me one of the
20 persons who lived there, he told his name was Michael
21 Anderson and then I went there with two other officers and
22 followed up on the drug complaint.

23 Q. Do you know who accompanied you?

24 A. Deputy Roselli and Deputy Blaylock.

25 Q. You said you went out there five days after

Travis Godfrey - Direct Examination

1 speaking to this neighbor.

2 A. Typically when I get tips from anybody I try to
3 follow up as soon as I can.

4 Q. Do you recall who this person was you spoke to?
5 Who this neighbor was or where they lived?

6 A. The name?

7 Q. Yes.

8 A. No, sir.

9 Q. Describe how you did follow up going to [REDACTED]
10 [REDACTED] [REDACTED]?

11 A. Like I went there with two other deputies to
12 follow up on a tip about drug activity. I arrived there
13 on the scene and arrived with two other deputies. I went
14 to the door and when I approached the house -- when I was
15 approaching the house, the first thing I observed was some
16 burn piles. The first one was close proximity of the
17 front door. I noticed maybe two others, I think, in the
18 front door. Typically with people involved with
19 methamphetamine, they have burn piles. They burn the
20 remnants of stuff they use to make it so that was kind of
21 a red flag right there.

22 After I noticed the burn piles, I went to the
23 front door to make contact to follow up. I knocked on the
24 door and Mr. Henderson came to the door and I informed him
25 the reason we were there is we received information that

Travis Godfrey - Direct Examination

1 there was some type of drug activity going on at this
2 residence.

3 I asked if we could step in and he said yes,
4 we could. I went inside the residence. We made contact
5 with I believe his wife, their two children and another
6 adult individual, I believe in the living room area.
7 Another individual we ended up arresting on a warrant.

8 We asked if we could look around and asked if
9 there was anybody else in the house and he said no. I
10 asked if he could look around his residence.

11 Q. Let me stop you just for a second, you spoke to
12 the residents. Who were the residents you spoke to?

13 A. Once I entered the house, initially I believe it
14 was Mr. Henderson who answered the door. We asked if we
15 could step in. We asked for him. I spoke to his wife
16 Tina Henderson. There was two juveniles there and there
17 was another subject there and I can't remember exactly who
18 was now?

19 Q. Now, the residence, just for the purposes of
20 establishing jurisdiction, what county is that located?

21 A. It's in Greenville County.

22 Q. Who were the two kids there and how old were
23 they?

24 A. One of them was the child of Michael or Tina or
25 both of them, I'm not sure which one but one was one of

Travis Godfrey - Direct Examination

1 their children and the other was a friend of their child
2 probably 10, 12 years of age.

3 Q. Do you recall the name of the child of Michael or
4 Tina Henderson?

5 A. No, sir, I don't.

6 Q. But based on what you saw, you then went outside
7 to your car, correct?

8 A. Once we got inside we asked him if we could look
9 around.

10 Q. And from there you actually went outside to your
11 vehicle, correct?

12 A. Yes, eventually we went back outside.

13 Q. And when you got to your vehicle, what did you
14 see?

15 A. Like I said from the burn piles in a close
16 proximity to the door. I believe I walked passed it from
17 the vehicle to the trailer. In plain view without even
18 digging through it, I could see there were some blister
19 packs like Sudafed and like a broken pipe that's used to
20 smoke meth and some cut up batteries, lithium batteries,
21 that are often used. They'll cut the batteries and open
22 them up and take the lithium strip out of them and that's
23 one of the ingredients used to make the meth.

24 Q. Are you certified in the area of being an expert
25 in clandestine meth labs?

Travis Godfrey - Direct Examination

1 A. I'm certified now. At the time I was not but I
2 been to enough meth labs to where I know a lot of the
3 ingredients that are used in meth labs so I knew when I
4 saw these things, these items were used to manufacture
5 meth.

6 Q. Do you know what time you arrived at this
7 location originally?

8 A. The time of day I guess was around lunch time. I
9 can remember off the top of my head.

10 Q. By the time you got out to your vehicle and saw
11 these items in the burn piles, how much time had elapsed
12 by that point?

13 A. Between the time that I left the trailer and saw
14 the items in the ---

15 Q. From the time you arrived at the location and the
16 time that you saw these items in the burn pile, how much
17 time had gone by.

18 A. I would say I'm just guessing 20 to 30 minutes.
19 We talked for a little bit and, of course, we arrested
20 another subject and that took a little bit of time.

21 Q. Now, based on what you saw, did you call anybody,
22 and if so, who did you call?

23 A. Yes. Typically what we do if we see things that
24 are used in the meth lab or a meth lab might be present,
25 we call Vice. We call Vice investigators.

Travis Godfrey - Direct Examination

1 Q. Now, who did you speak to with the Vice and
2 Narcotics unit?

3 A. I called Jason Owens by telephone, a vice
4 investigator. I'm not sure all else who I talked to by
5 telephone, but I talked to Kirk Jacobson also. I let them
6 know what I observed in the burn piled and they advised me
7 based on what I was telling there was enough there to get
8 a search warrant for the residence.

9 Q. At that point, had you cuffed the defendants?
10 Were they under arrest?

11 A. Before that point?

12 Q. Yes.

13 A. No, sir.

14 Q. When you arrived at the house, describe the
15 property to the jury, sort of what it looks like?

16 A. On [REDACTED] it's a long dirt road. I believe
17 there's one trailer that sits in front of it. I believe
18 18 is the last trailer on that road. It's a dirt road.
19 When you get down it's a dirt driveway area. It's a
20 trailer. To the left of the trailer it's like a storage
21 type building maybe 25 years maybe from the trailer. In
22 the front yard, if you're looking at the trailer, it would
23 be to the left.

24 When I arrived, like I said, I noticed two or
25 three burn piles in the front. There's also a live-in

Travis Godfrey - Cross-Examination

1 camper or something on the property as well.

2 Q. What, if any, items did you see on the property
3 that would indicate a child lived there?

4 A. I observed the residence who stated the child who
5 lived there was their child.

6 Q. In the yard, what if anything did you see out in
7 the yard that belonged to a child?

8 A. Like toys?

9 Q. Toys, dirt bike, bicycle.

10 A. I can't recall.

11 Q. How long was it before the vice officers arrived.

12 A. I would -- like I said it's been almost like two
13 years. I'm guess but I know it was a while. I know it
14 was at least about an hour because typically they're not
15 working and they come from all parts of the county.

16 Q. Now, how long were you actually out there once
17 you arrived? How much longer did you stay?

18 A. I would say it was several hours. It just takes
19 a while. Once the process gets started with their truck
20 they bring down there and the process is several hours.

21 Q. That's all I have for you right now. Please
22 answer any questions opposing counsel may have for you.

23 CROSS-EXAMINATION

24 BY MR. HARBIN:

25 Q. Good afternoon, Deputy. I'm going to back you up

Travis Godfrey - Cross-Examination

1 a little bit further than what the solicitor did. You
2 left out a couple of things since last time we talked.
3 This was not your first visit to [REDACTED]; is that
4 correct?

5 A. Correct.

6 Q. Can you tell the jury what your first visit to
7 [REDACTED] entailed?

8 MR. HOLLOWAY: Objection, Your Honor, it's
9 irrelevant.

10 MS. HARBIN: Judge, this is going to go to
11 credibility.

12 THE COURT: I'm going to allow it. Go ahead.

13 THE WITNESS: I made contact with the
14 defendant probably several months, six months before this
15 time.

16 BY MR. HARBIN:

17 Q. What kind of contact was that?

18 A. I'm not sure what capacity I was there but I made
19 contact with him at his residence.

20 Q. And what happened when you made contact with him
21 at his residence?

22 A. After I made contact with him I know there was an
23 issue with a warrant that he had that was showing active,
24 possible him, from Jacksonville City.

25 Q. What turned out to be the case with that warrant?

Travis Godfrey - Cross-Examination

1 A. At that time, I believe, they couldn't find it or
2 couldn't confirm that it was him.

3 Q. So you don't remember exactly why you were there
4 but you ended up finding out there's a warrant that wasn't
5 there but you don't remember why you were there?

6 A. The warrant they could not find it or could not
7 confirm it was him.

8 Q. Alright, so fast forward a couple of months later
9 or give or take. I'm not holding you to that exactly but
10 sometime later you stopped a fella named Kenneth Sellers.
11 Have you always remembered this fella's name or did you
12 recently remember this guy's name?

13 A. Mr. Sellers?

14 Q. Yes, sir.

15 A. I recently remember him.

16 Q. So you were able to check some documentation to
17 recall. You don't know off the top of your head
18 beforehand.

19 A. Yes.

20 Q. Forgive me but you originally stopped him for an
21 invalid plate; is that correct?

22 A. I believe it came back stolen.

23 Q. So he had a stolen plate. I believe you
24 testified that you gave him a couple of tickets. Is it
25 true in fact that this fella that you pulled over actually

Travis Godfrey - Cross-Examination

1 got cited for false information to police?

2 A. Yes.

3 Q. And you asked him in the course of casual
4 conversation, I'm imagining, if he knew of any drugs in
5 the area? How does that happen because this starts off as
6 a traffic stop, right? Can you tell the jury exactly how
7 you elicit information from Mr. Sellers?

8 A. I don't remember exactly my conversation with
9 Mr. Sellers but he admitted to me to using drugs and I
10 don't remember how the conversation went but he gave me a
11 tip that there was drug activity occurring at [REDACTED]

12 Q. I think what I'm driving at is if it starts as a
13 bad license tag or belongs to another car, this fella
14 blurts out, hey, I know of some drug activity on [REDACTED]
15 [REDACTED]?

16 A. No. I ended up arresting him for the tag and
17 false information and there some other charges as well and
18 he admitted he used drugs and some drug activity at the
19 defendant's residence.

20 Q. Okay. Just so happened to be the same address
21 that you had gone to for a couple of months for a warrant
22 that wasn't there. Strike that.

23 When he told you there was this drug activity
24 at the house, what did you do with that information when
25 you were talking to him? Did he tell you that on the

Travis Godfrey - Cross-Examination

1 roadside or was he in your patrol car or did he tell you
2 that down at the jail or when did that conversation
3 actually occur.

4 A. It was on the road. I know it was before I
5 actually took him to jail.

6 Q. Okay. And so he was free to tell you whatever
7 and then you said, thank you for that information. What
8 was your follow up questions to him at the time?

9 A. Like I said I don't recall our exact
10 conversation.

11 Q. But it's important enough to get the tip. Surely
12 you asked him what do you know about it? What kind of
13 drug activity? How long has it been going on? Who were
14 the people? Do you know them? Did you ask him those
15 kinds of questions?

16 A. I asked him what type of drug activity and he
17 said it was meth related.

18 Q. Meth related.

19 A. They were cooking meth there.

20 Q. Did you ask him anything else? Whose doing it?
21 How do you know? When is the last time you been there,
22 that kind of stuff?

23 A. Like I said I can't remember our exact
24 conversation. I don't remember all I asked.

25 Q. Officer, you realize this is his trial here. I

Travis Godfrey - Cross-Examination

1 can't remember is -- are you absolutely sure -- you can't
2 remember doing the job that you're doing diligently asking
3 for information and trying to seek out wrongdoers, and
4 dealers, and makers and this kind of thing, but you can't
5 remember if you asked simple follow up questions to this
6 fellow as to a location that you had just recently
7 visited? No follow up questions?

8 A. I'd say it was about four to six months that I
9 had been out there before.

10 Q. You testified earlier that it was two to three
11 months and now it was double. Is it four to six or two to
12 three?

13 A. That's just my best guess.

14 Q. Which one is the best guess, officer?

15 A. Three to six.

16 Q. Three to six now. Okay.

17 Now, I believe we went over this earlier.
18 The first time you visited [REDACTED], is it true
19 that you didn't notice any burn piles or any suspicious
20 activity at the time?

21 A. You talking about the first time?

22 Q. That's correct.

23 A. Not that I remember.

24 Q. And, of course, if you did, you would have done
25 something about it.

Travis Godfrey - Cross-Examination

1 A. Yes, sir, of course.

2 Q. Okay. Now, when you came back to the house --
3 you visited with this Sellers fella or you arrested him,
4 he gives you information about [REDACTED] [REDACTED] and I believe
5 it was your testimony earlier that you remembered that
6 this guy had a warrant, this guy being my client
7 Mr. Henderson; is that correct?

8 A. That's correct.

9 Q. This is the same warrant that you had already
10 called about and couldn't find any warrant?

11 A. I believe it was the same one.

12 Q. So you go and you knock on the door and who comes
13 to the door?

14 A. I believe it was Mr. Henderson.

15 Q. He let you in alright, everything okay?

16 A. Yes, sir.

17 Q. You just kind of look around. Did you ask him if
18 you could look around or you just started looking around?

19 A. Yes, I asked.

20 Q. And he said, no, problem?

21 A. Correct, to a certain point.

22 Q. At what point was that?

23 A. We looked around. We went to his bedroom and we
24 asked if we could look around in his bedroom and he said
25 not without a search warrant.

Travis Godfrey - Cross-Examination

1 Q. When you got a little more into his business, I
2 suppose, he asked for you to limit it?

3 A. Correct.

4 Q. That's when you went outside?

5 A. Yes.

6 Q. You said there was another individual was in the
7 house and actually got arrested for a warrant. What kind
8 of warrant was that?

9 A. I believe it was child support.

10 Q. So it was entirely unrelated to any illegal drug
11 activity in the house?

12 A. Correct.

13 Q. So you're not saying that that has anything to do
14 with it, it just happened to be?

15 A. Yes, sir.

16 Q. Let me ask you this, when you're investigating a
17 drug tip like this what are you looking for?

18 A. Well, the tip method is one type of drug meth, it
19 doesn't mean they're making it but there could be some
20 type of burn piles and kind of (inaudible).

21 Q. And in your -- did you do part of the search of
22 this house? You actually physically walked around and
23 looked and did part of the searches or was that somebody
24 else's job?

25 A. Once the search warrant was obtained?

Travis Godfrey - Cross-Examination

1 Q. Before and after?

2 A. I didn't conduct any kind of search.

3 Q. But you looked around the yard; is that right.

4 A. After we left it was a burn pile right between my
5 car and the front door.

6 Q. Did Mr. Henderson or Mrs. Henderson or his
7 children or his visitor do or say anything that led you to
8 believe immediately that they were under the influence of
9 drugs at the time?

10 A. No.

11 Q. Did you find any money, proceeds of drugs, log
12 books, client books, anything to indicate that they were
13 running any kind of distribution or business related
14 enterprise?

15 A. I didn't do a search of the residence.

16 Q. But my question is to you, you didn't see
17 anything like that?

18 A. No, I didn't.

19 MR. HARBIN: Judge, that's all I have.

20 THE COURT: Any redirect?

21 MR. HOLLOWAY: None, Your Honor. I ask that
22 he be excused.

23 THE COURT: Thank you, sir, you can step
24 down.

25 (Witness leaves the witness stand.)

Matthew May - Direct Examination

1 MS. MCCALL: Your Honor, the State calls Matt
2 May to the stand.

3 THE CLERK: Deputy May, would you come around
4 to be sworn. Place your left hand on the Bible and raise
5 your right.

6 MATTHEW MAY, having been duly sworn,
7 testified as follows:

8 Thank you. You may be seated. State your
9 name for the record.

10 THE WITNESS: Matthew T. May.

11 THE CLERK: Thank you.

12 DIRECT EXAMINATION

13 BY MS. MCCALL:

14 Q. Deputy May, can you please tell us where you
15 work?

16 A. Greenville County Sheriff's Office.

17 Q. And how long have you worked for the Greenville
18 County Sheriff's Office?

19 A. Six years.

20 Q. Have you been employed with any other law
21 enforcement agencies?

22 A. Yes, ma'am, Greenville City Police Department for
23 six years.

24 Q. Can you describe your duties with this job?

25 A. At the Greenville City Police I was a uniformed

Matthew May - Direct Examination

1 patrol and answer call for service. At the Sheriff's
2 Office, again, uniformed patrol, answer calls for service.
3 And then in January of 2009, I transferred to vice
4 narcotics and I recently transferred back to the road
5 about a month ago.

6 Q. So were you doing at the time of the incident?

7 A. I was vice and narcotics investigator.

8 Q. How long did you say you worked vice and
9 narcotics?

10 A. Roughly three years.

11 Q. And did you receive any special training for the
12 drug and narcotics unit?

13 A. Yes, ma'am. The main certification is through
14 Regional and County Drug Training Academy. It's in
15 Meridian, Mississippi. It's two different class. You go
16 for one week and come back, you go for another 52 hours
17 and that certifies you to process and dismantle meth labs
18 and wear white suits and all that stuff.

19 Q. Can you describe what was your duty as
20 investigator?

21 A. It just actually depends on what day it was.
22 Predominantly Investigator Owens and I at the time handled
23 the meth lab investigations, tips, processing, making
24 cases. We also made also narcotic type cases involving
25 anything from heroine and cocaine, marijuana?

Matthew May - Direct Examination

1 Q. And have you been to any our course involving
2 methamphetamine?

3 A. The regional counter drug training classes.

4 Q. You were certified in those classes?

5 A. Yes, ma'am.

6 Q. They involved safety procedures?

7 A. Yes, ma'am.

8 Q. As an investigator of vice and narcotics, did you
9 have the opportunity to arrest individuals who
10 (inaudible)?

11 A. Yes, ma'am.

12 Q. Do you know about how many?

13 A. I'd say probably over 100.

14 Q. Did you have an opportunity to conduct search
15 warrants dealing with methamphetamine labs?

16 A. Yes, ma'am.

17 Q. On March 30, 2010, did you respond to [REDACTED]
18 [REDACTED]

19 A. Yes, ma'am.

20 Q. Is that in Greenville County?

21 A. Yes, ma'am.

22 Q. And could you tell the jury why you responded to
23 that location?

24 A. I was in the northern end of the county and the
25 location is on the southern end. Investigator Owens

Matthew May - Direct Examination

1 called me stating that he got a phone call from Deputy
2 Godfrey about a possible meth lab at [REDACTED]. He
3 asked me, it's our common practice depending on where
4 we're at in the county that we'll send investigators to
5 the scene, and then another one of us will go to our
6 office and stand by and wait for them to get on scene to
7 tell us what's going on if we need to obtain a search
8 warrant, so Investigator Owens asked me if I would go to
9 our office around the Donaldson Center and standby and
10 wait for a phone call so they can go down and cooperate
11 the information that Deputy Godfrey was telling them about
12 what was in the burn pile.

13 Q. Who went to the scene, you said?

14 A. Investigator Owens, Investigator Brown, and
15 Investigator Jacobson.

16 Q. And what happened then? You went to the office
17 and they went to the scene and what happened next? What
18 did you do next?

19 A. Jason told me on the phone that they were about
20 10 minutes out so Investigator Owens called back telling
21 me there were cut lithium batteries, blister packs and
22 some other items that are indicative of manufacturing
23 methamphetamine. In the burn pile, in plain view, where
24 Deputy Godfrey explained was it wasn't hidden. I mean, it
25 would be like having a burn pile in your driveway for all

Matthew May - Direct Examination

1 of your neighbors to see.

2 The cut lithium battery, there is no legal
3 explanation as to why you would cut a lithium battery.
4 Based on the information that Investigator Owens advised
5 me, I obtained a search warrant for the premise, the
6 actual residence and the shed or outbuilding.

7 Q. After obtaining a search warrant, what did you
8 do?

9 A. After obtaining a search warrant, I typed it up
10 office and I took it to Judge Taylor's office and Judge
11 Taylor read it and signed it and then I called
12 Investigator Owens and let him know that the search
13 warrant had been signed by the judge and then I proceeded
14 down to [REDACTED].

15 Q. When you got to [REDACTED], what did you
16 observe?

17 A. When I got to [REDACTED] since Investigators
18 Jacob and Brown were already on the scene, they met the
19 requirements of OSHEA to have three qualified guys, they
20 were already in the stages of setting up to wear the
21 proper protective equipment to go inside the shed of the
22 house. I believe Investigator Brown came out of the house
23 and told me the house was safe that there was no a meth
24 lab in there and they thought it was in the shed. They
25 were putting on all of their protective equipment that's

Matthew May - Direct Examination

1 self-contained breathing apparatus. If anybody is SCUBA
2 certified, it's the same equipment, just on land, to do
3 the shedding.

4 While they were taking care of the shed,
5 Investigator McElroy and I went inside the house and
6 searched the house.

7 Q. Did you call anyone else, once you got there, to
8 come out?

9 A. Once I realized the 11 year old son was there and
10 based on some of things that had been observed up until
11 that time, I was concerned that he may have been exposed
12 to methamphetamine. If you actually smoke meth, the meth
13 smoke will last in the ambient air long after cigarette
14 smoke. So I called Investigator Pincario with the
15 juvenile division in reference to the children and I
16 believe his son's friend was there. I don't remember his
17 name.

18 Q. In searching for this meth, is that dangerous and
19 that's why they're wearing protective gear? Is that
20 dangerous?

21 A. Yes, ma'am. A lot of that stuff contains strong
22 acids and if it gets on your skin, it can eat right
23 through it. There's definitely inhalation hazards and
24 gases that the process puts off and that's why you have to
25 wear a breathing pack.

Matthew May - Direct Examination

1 Q. You mentioned that the part that you searched was
2 the defendant's residence; is that correct?

3 A. That's correct.

4 Q. I'm going to show you State's Exhibit 49, could
5 you please take a look at that and the corresponding
6 evidence and property sheet. Could you please describe to
7 the jury what a property and evidence sheet is?

8 A. In this case I believe Investigator McElroy was
9 the scribe. This is the documentation of chain of
10 evidence, where items was located, what deputy took it
11 from that location and what deputy put it in property and
12 evidence and then what evidence clerk signed it in.

13 Q. Is that Exhibit 49 correspond with that evidence
14 sheet?

15 A. Yes, ma'am.

16 Q. Without telling me what it is, do you recognize
17 Exhibit 49?

18 A. This is methamphetamine.

19 Q. When you took it, what did you do? Did you find
20 this in the house?

21 A. If memory serves me, it was sitting on the coffee
22 table in the living room and being Investigator McElroy
23 was the scribe what I did is when I locate the item, I
24 will then bring Investigator McElroy over and take
25 pictures of the item in place and then he takes pictures

Matthew May - Direct Examination

1 of the item.

2 Q. And he takes it and then ---

3 A. He collects all of it and places it into P&E.

4 Q. Okay. And can you please describe what property
5 and evidence is for the jury.

6 A. Property and evidence is where we store anything
7 that's of evidentiary value if it's something where we
8 need to store it in our crime lab to sample it for
9 positive results of whatever we think it might be. That's
10 where all that comes out of?

11 Q. Would you say Exhibit 49 is the same or
12 substantially in the same condition as when you found it
13 on March 30, 2010?

14 A. It is other than this outer container. This is
15 what the crime lab would put back on it to reseal it to
16 maintain chain of custody.

17 Q. Tell me again where you located it?

18 A. The living room coffee table.

19 Q. I'm going to show you Exhibits 10, 11 and 12 and
20 the corresponding evidence sheet. I want to make sure
21 that it corresponds.

22 A. Yes, ma'am.

23 Q. What is this? Do you know what's in this bag?

24 A. The way the scribe does the evidence, it will be
25 the case agent's initials and the number and the number

Matthew May - Direct Examination

1 relates to and we mainly just try to go in order. MM28 is
2 a .30 caliber, MM29 is a 410 Rosberg Shotgun and MM30 is a
3 .22 caliber long riffle model 16.

4 Q. You also found this?

5 A. Yes.

6 Q. Where did you find this?

7 A. All three of them were in the house, two of them
8 were in the bedroom and one of them was underneath the
9 couch in the living room.

10 Q. When you found it and seized it, what did you do
11 with them then?

12 A. Took them out and took pictures and then took a
13 group picture of them together and then turned them over
14 the Investigator McElroy.

15 Q. From what you can see is it in essentially the
16 same condition?

17 A. Yes, ma'am, the initials are on it and I can tell
18 that it's Investigator McElroy's handwriting.

19 Q. I'm going to show you what's been previously
20 marked as State's Exhibit 13. Could you take a look at
21 that photo. Do you recognize that photo?

22 A. Yes, ma'am. That's the master bedroom.

23 Q. How do you recognize it?

24 A. When you walk in the house it's on the far right.

25 Q. Is that an accurate representation of the

Matthew May - Cross-Examination

1 defendant's bedroom as it appeared on March 30, 2010?

2 A. Yes, ma'am.

3 Q. Does that photo appear to be altered in any way?

4 A. No, ma'am.

5 MS. MCCALL: Your Honor, I move that this
6 photo be admitted into evidence.

7 MR. HARBIN: Just as to the picture of the
8 bedroom?

9 MS. MCCALL: Yes.

10 MR. HARBIN: No objection.

11 (Photograph previously marked as State's
12 Exhibit No. 13 for identification was admitted into
13 evidence.)

14 BY MS. MCCALL:

15 Q. Could you step down just for a second. Could you
16 tell the jury what this photo depicts?

17 A. That's the Rosberg Shotgun and if I could see it
18 correctly it's got a bolt action on it so I would say it's
19 a Marlon .22.

20 Q. When you entered the residence, this is how you
21 found it?

22 A. This is how I found it in this room.

23 Q. Can you can turn the light on.

24 How long were you searching this property?

25 A. A long time anywhere, I would guess, between

Matthew May - Cross-Examination

1 three and six hours.

2 Q. And what did you do after the search of the
3 residence?

4 A. I took Mr. Henderson to -- actually I believe
5 Deputy Godfrey, the uniformed patrol unit transferred
6 Mr. Henderson down at Detention where I met him and signed
7 the appropriate arrest warrants.

8 Q. You see the defendant in the courtroom?

9 A. Yes, ma'am.

10 Q. Thank you. That's all the questions I have.
11 Please answer any questions that Mr. Harbin may have.

12 CROSS-EXAMINATION

13 BY MR. HARBIN:

14 Q. So these two items here were found on a coffee
15 table; is that right?

16 A. Yes.

17 Q. What did you tell the solicitor was in those
18 baggies or what you believed to be at the time?

19 A. Methamphetamine.

20 Q. Did you field test them at the time?

21 A. No.

22 Q. It's based on your knowledge and experience?

23 A. No, sir, we just kind of got out of the habit of
24 field testing any meth we pull from the lab just for some
25 crazy reason it's not meth because we've seen field test

Matthew May - Cross-Examination

1 kits blow up. So we just put it in and wait for the crime
2 lab analysis to come out.

3 Q. Okay. You said you found these two items on the
4 coffee table?

5 A. Yes, sir.

6 Q. In the living room?

7 A. I believe so, yes, sir.

8 Q. Tell me if you recognize this piece of paper
9 here?

10 A. It's my supplement.

11 Q. Do you see what I underlined there on that
12 report?

13 A. Two corner baggies containing white powder
14 substance.

15 Q. What preceded that underlining?

16 A. Field tested positive for methamphetamine.

17 Q. I don't mean the draw this out but start with
18 that word there, "inside."

19 A. "Inside the master bedroom I located two corner
20 baggies containing a white powder substance that field
21 tested positive for methamphetamine?

22 Q. Now, is that right or is your recollection right
23 before you wrote this report?

24 A. It could be when it's just two people searching a
25 house, myself and Investigator McElroy, we find things and

Matthew May - Cross-Examination

1 we bring it to a central location in the house, the
2 collection of evidence. When there's a lot of evidence,
3 it goes to one central where the scribe is sitting, so if
4 I misquoting myself by saying it was in the living room,
5 at one point in time we may have brought it from the
6 bedroom to the living room and that's the last place I
7 remember seeing it.

8 Q. But you would agree where you find things is
9 important especially in a trial situation like this.

10 A. Yes, sir.

11 Q. Do you know or do you remember now that you think
12 about it that it was there or did somebody here know that
13 we kind of make sure? It's going to kind of become
14 important, I believe.

15 A. That report occurred the day after this so I
16 would say it was in the master bedroom.

17 Q. So you would favor this recollection versus
18 today's?

19 A. Yes.

20 Q. Now, you say that everybody claim to, and it's a
21 generic term, clean you -- to collect evidence and clean
22 up, the folks that are doing it are wearing protective
23 gear?

24 A. Correct.

25 Q. And I believe if I understood you correctly that

Matthew May - Cross-Examination

1 there are potentially toxins in the air that if touched or
2 breathed in could harm you; is that correct?

3 A. Yes.

4 Q. Was there any testing done to see whether or not
5 there were, in fact, any toxins in the air at the time?

6 A. I don't believe we had that equipment available
7 to us at the time.

8 Q. No equipment available. Okay. Did you notice
9 anything about my client or anybody else there,
10 Ms. Henderson or Jake or anybody, any markings or stains
11 or something, hand, arms, or face that would indicate to
12 you that they just finished up cooking meth or they been
13 involved in smoking meth or distributing or dealing or
14 anything?

15 A. Other than the transport or our conversation at
16 the Detention, at the scene I didn't talk to Mr. Henderson
17 that much.

18 Q. Okay. So you did not observe anything that could
19 further help us distinguish Mr. Henderson as somebody who
20 was cooking meth other than the physical items described
21 previously?

22 A. Physically on him you're asking me to
23 characterize him?

24 Q. I'm asking you to tell me whether or not there is
25 any markings on Mr. Henderson that would indicate that he

Jason Owens - Direct Examination

1 just got through cooking meth.

2 A. I wouldn't know because there is no specific
3 markings that one would have when cooking meth unless they
4 burn themselves.

5 Q. Did you ask the folks in the house, anybody, who
6 owned the guns?

7 A. No.

8 Q. So just specific and I apologize you did not ask
9 Mr. Henderson?

10 A. I don't believe I did.

11 Q. And you did not ask Mrs. Henderson and you did
12 not ask Jake. Jake Henderson being the son?

13 A. I remember talking to the son but it was
14 definitely not anything specific about what was going on
15 out there.

16 MR. HARBIN: I don't have any further
17 questions.

18 THE COURT: Anything else?

19 MS. MCCALL: Nothing from the State.

20 THE COURT: Thank you. You can step down.

21 MS. MCCALL: The State calls Deputy Owens.

22 THE CLERK: Deputy Owens, would you come
23 forward to be sworn in. Please place your left hand on
24 the Bible and raise your right.

25 JASON OWENS, having been duly sworn,

Jason Owens - Direct Examination

1 testified as follows:

2 Thank you. Please state your name for the
3 record.

4 THE WITNESS: Jason Owens.

5 DIRECT EXAMINATION

6 BY MS. MCCALL:

7 Q. Deputy, would you please tell the jury where you
8 work?

9 A. Greenville County Sheriff's Office.

10 Q. How long have you worked there?

11 A. Since 2004.

12 Q. Have you worked with any other law enforcement
13 agencies?

14 A. No.

15 Q. Would you describe your duties with the
16 Greenville County Sheriff's Office?

17 A. I started my career in uniformed patrol answering
18 calls for service. August of 2008 I transferred to vice
19 and narcotics where I conducted drug and vice
20 investigation.

21 Q. What type of training and education have you had?

22 A. I've been through basic narcotics investigators
23 courses. As far as meth labs go, I was certified as meth
24 lab investigator and I went to the Clandestine(ph)
25 laboratory hazmat technician course in Meridian,

Jason Owens - Direct Examination

1 Mississippi. I've also been certified as in confined
2 space entry which is another facet of the clean up
3 process.

4 Q. Would you describe what your duties are as an
5 investigator in vice and narcotics?

6 A. My primary duties are meth lab investigation.

7 Q. Have you been certified in meth lab
8 identification?

9 A. Yes, ma'am.

10 Q. Which agency?

11 A. RCTA Regional Counter Drug Training Academy in
12 Meridian, Mississippi.

13 Q. Did your course involve safety procedures?

14 A. Yes, ma'am.

15 Q. And do you instruct and or supervise other
16 officers in meth lab identification?

17 A. Yes, ma'am, I have roll call training for our
18 deputies at the Sheriff's Office as well as I put on
19 training for local fire departments for meth lab
20 recognition.

21 Q. Do you instruct them also in safety procedures as
22 far as like (inaudible)?

23 A. For the most part I go more over recognition.
24 Our unit handles most of the handling and dismantling of
25 he labs.

Jason Owens - Direct Examination

1 Q. Have you had an opportunity to arrest individuals
2 who possess and or sell methamphetamine?

3 A. Yes, ma'am.

4 Q. About how many?

5 A. It's safe to say over 100.

6 Q. How about individuals who manufacture
7 methamphetamine?

8 A. Over 50.

9 Q. Have you had the opportunity to serve search
10 warrants?

11 A. Yes.

12 Q. And you have identified meth labs?

13 A. Yes.

14 Q. How many have you identified?

15 A. Over 100.

16 Q. How many have you dismantled?

17 A. It's safe to say over 50.

18 Q. Have you had the opportunity to question
19 individuals who manufacture methamphetamine?

20 A. Yes, ma'am.

21 Q. Would you please describe to the jury in general
22 terms how do you cook methamphetamine?

23 A. We could be here awhile, but there's several
24 different techniques we use. Primarily here in South
25 Carolina we see what's called birch production or

Jason Owens - Direct Examination

1 nicknamed as the Nazi method which uses ammonia. The
2 precursors for manufacturing meth the one thing you have
3 to have is Sudafed which is found in everyday cold pills
4 which you find in CVS or Walgreens. Any pharmacy in the
5 county you can find these things, different solvents
6 during the manufacturing process. Ammonia can be made or
7 it can be stolen. Ammonia is used in fertilizer. Ammonia
8 can be made at the house just by using cold packs and lye.

9 There's a million different ways you can make
10 it. It depends on individual preference, but essentially
11 the pseudoephedrine extracted from the cold medication --
12 I assume that's what you want me to get into. The
13 pseudoephedrine extracted from the cold medication. It's
14 added with other ingredients including ammonia, lithium
15 battery strips are added to the solution. Coleman fuel is
16 another common ingredient we're seeing. It's used as a
17 solvent, ether is used as a solvent.

18 All these things put together a reaction
19 occurs. During that reaction an oxygen molecule is taking
20 off of that pseudoephedrine molecule and it creates
21 methamphetamine. Methamphetamine is actually drawn into
22 that solvent during that process and the last process is
23 to draw it out of that solvent and create a solid and
24 that's where you get your final product, in a nutshell.

25 MS. MCCALL: Your Honor, the State would move

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1 to qualify Investigator Owens as an expert in dealing with
2 the manufacturing of methamphetamine and identification of
3 methamphetamine.

4 THE COURT: Voir dire.

5 MR. HARBIN: Well, Judge, I think that -- I
6 don't know whether or not this would suffice or not -- but
7 I think he can certainly identify them from his experience
8 and his training. I'm not sure I'm comfortable with him
9 being a chemist in telling us how meth is made.

10 THE COURT: What do you want him certified
11 as?

12 MS. MCCALL: Manufacturing and identifying
13 them.

14 MR. HARBIN: As a general thing, I don't
15 think I have any problem.

16 THE COURT: Without objection.

17 BY MS. MCCALL:

18 Q. On March 30, did you respond to the incident
19 location?

20 A. Yes, ma'am.

21 Q. Could you please tell the jury why you responded
22 to that location?

23 A. I was called by Deputy Godfrey who stated he was
24 investigating a drug tip that he had received and while on
25 that residence he had observed a burn pile outside of that

Jason Owens - Direct Examination

1 residence.

2 In that burn pile, he located some cut
3 lithium batteries which anyone who works meth labs knows
4 lithium batteries are cut for one reason and one reason
5 only and that's to manufacture meth. Anytime we see a
6 lithium battery that's been cut open and lithium strips
7 removed, that is a very strong indicator that a meth lab
8 is either on the property or was on the property that was
9 nearby.

10 He also told me that there was some blister
11 packs. Cold medication comes now in blister packs where
12 each individual pill has to be popped out. There were
13 several of those located. He explained these. I advised
14 him to hold what he had and just keep everyone where they
15 were until I could respond and verify this information
16 because due to what he was saying I had a reason to
17 believe there was a possible meth lab on the scene.

18 Q. When you responded and you arrived there, did you
19 observe anything?

20 A. I observed exactly what he had described to me.
21 There was a burn pile in the driveway right in front of
22 the house. You have to walk by this burn pile to get to
23 the house and I observed all items he had described.

24 Q. I want to also show you some pictures. I just
25 want to show you what's been pre-marked as State's Exhibit

Jason Owens - Direct Examination

1 1 through 9. Do you recognize these?

2 A. Yes, ma'am.

3 Q. How are you able to recognize them?

4 A. I was on the scene and I recognize them.

5 Q. Is that a fair and accurate representation of how
6 it appeared back on March 30, 2010?

7 A. Yes, ma'am.

8 Q. Do they appeared to be altered in any way?

9 A. No, ma'am.

10 MS. MCCALL: Your Honor, I move Exhibits 1
11 through 9 be admitted into evidence.

12 MR. HARBIN: No objection.

13 THE COURT: Without objection.

14 (Photographs previously marked as State's
15 Exhibit Nos. 1 through 9 for identification were admitted
16 into evidence.)

17 BY MS. MCCALL:

18 Q. Could you briefly describe what you see in these
19 pictures?

20 A. This is the residence that we responded to and
21 here is the burn pile that I'm describing.

22 Q. Can you point again what is this.

23 A. Yes, ma'am. This is the residence with the front
24 door right here and the burn pile right here.

25 Q. State's Exhibit No. 2.

Jason Owens - Direct Examination

1 A. Yes, ma'am. That's the same burn pile. I would
2 have to look at it closer because I can't see any
3 individual items in there?

4 Q. State's Exhibit No. 3.

5 A. That's a separate burn pile that was located
6 behind the residence.

7 Q. State's Exhibit 4.

8 A. That is the blister pack I was talking about on
9 the back. It says Sudafed and Sudafed does contain
10 pseudoephedrine.

11 Q. State's Exhibit No. 5.

12 A. That's another blister pack.

13 Q. Six is the same?

14 A. Yes. I'd like to look at that again just so I
15 can clarify.

16 Q. Five and six are pictures of the blister packs?

17 A. Yes.

18 Q. No. 7.

19 A. It looks like another blister pack from here.

20 Q. State's No. 8. Do you know what that?

21 THE COURT: Sir, if you need to stand down,
22 please do.

23 THE WITNESS: Thank you. It appears to be
24 more blister packs from that angle.

25 BY MS. MCCALL:

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1 Q. No. 9, what is this?

2 A. That appears to be the cut lithium batteries that
3 I was talking about when they were cutting them and
4 removing the lithium.

5 Q. Where did you say the two burn piles were located
6 on the property?

7 A. The one burn pile that we were just looking at
8 was located in the front of the house and the other one
9 was kind on the left side at the rear of the residence.

10 Q. The list of items that you saw and the one
11 located in the burn piles, what are they used for?

12 A. To me they appear to be used for manufacturing
13 methamphetamine.

14 Q. After observing the burn piles and what you saw
15 in those pictures, what did you do.

16 A. I contacted Investigator May who was standing by
17 the do a search warrant and advised him that I had
18 confirmed everything Deputy Godfrey had told me. Once I
19 gave him all the information, I provided him with a
20 description of the residence, the address and everything
21 that had been observed while I was on seen.

22 Investigator May took that information and
23 advised he was going to be obtaining a search warrant from
24 Magistrate Taylor, south end of the county. I stood by
25 while he obtained the search warrant. And I apologize, I

Jason Owens - Direct Examination

1 don't remember how long it was, but after some time he
2 called back and stated that Magistrate Taylor had signed
3 the search warrant which gave us the right to go in the
4 house and search.

5 Q. At that time once you got the search warrant in
6 hand, what did you do then?

7 A. Our meth lab response truck which contains all of
8 our equipment that we use to break down these meth labs
9 responded. We suited up in what we refer to as level b,
10 personal protective gear, which level b is full hazmat
11 suit, the white suits you see on tv, the tank and the
12 mask, self-contained breathing apparatus where we're not
13 breathing the air from outside, just in the event that
14 there are harmful vapors in the air.

15 We suited up. We set up an evidence location
16 area, which is standard for us. Myself and Investigator
17 Brown then began a search of an out building on the
18 property.

19 Q. I have a couple of pictures of that. I'd like to
20 show you what's been marked as Exhibits 14 through 20. Do
21 you recognize these pictures?

22 A. Yes, ma'am.

23 Q. Are they a fair and accurate representation of
24 the incident location as it appeared?

25 A. Yes, ma'am.

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1 MS. MCCALL: Your Honor, I'd move to admit
2 Exhibits 14 through 20 into evidence.

3 MR. HARBIN: No objections.

4 (Photographs previously marked as State's
5 Exhibit No. 14 through 20 were admitted into evidence.)

6 BY MS. MCCALL:

7 Q. I want to discuss what these are pictures of.

8 A. This is a photo of a residence as seen from the
9 storage building that was on the property.

10 Q. This is Exhibit 15.

11 A. This is the storage building on the property to
12 the immediate right of the photo taker is the residence.
13 If I said right, I meant left.

14 Q. Exhibit 16.

15 A. That's the storage building.

16 Q. Exhibit 17.

17 A. This is inside the storage building from the only
18 door.

19 Q. Can you tell us what condition of the shed was
20 that you observed?

21 A. Being a storage shed it was fairly clean, not a
22 lot of clutter. You could tell here it'd looked like
23 items had been placed in there fairly recently.

24 Q. Exhibit 18.

25 A. This is a propane tank, 20 pound cylinder with

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1 the valve missing. That's usually an indicator to us that
2 ammonia maybe manufactured. A lot of people who make
3 their own meth make their own ammonia. Like I said it
4 used to be sold but now that the farmers are locking it up
5 a little bit more, they're making their own fertilizer and
6 their using these tanks to make it and store it. They
7 remove these valves and they'll make their own valves just
8 to hold it in because these things can't contain the
9 pressure that the ammonia creates so their take the valves
10 off and they'll make their own valves and plug them.
11 Modified valves are usually an indicator to us.

12 Q. Exhibit 19.

13 A. Right here is a bag of fertilizer 10-10-10
14 fertilizer which contains ammonia nitrate. Ammonia
15 nitrate mixed with the right ingredients creates ammonia?

16 Q. Exhibit 20.

17 A. This is in the shed on the tables I believe on
18 the right side of the shed. This, what we're looking at,
19 is a hand held coffee bean grinder where you take the
20 clear top off of the coffee bean are in, close it up, and
21 press the button to grind up your coffee. However, this
22 one contains white residue. Very common for people to
23 take their Sudafed pills and place them in these style
24 coffee grinders and grind them up. What this does it
25 speeds up the extraction process.

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1 Once they grind this up into a powder, they
2 add the powder to a solvent. Typically Coleman fuel is
3 the most common. They add it to the solvent and the
4 solvent draws the pseudoephedrine away from this powder
5 and then all you have left is the extra ingredients in the
6 pills.

7 Once they discard all the junk, they keep the
8 solvent and let it dry off and you have 100%
9 pseudoephedrine which is used in the making of
10 methamphetamine.

11 Q. I've got a couple of questions. Based on those
12 pictures and what you remember, what would be your
13 estimated distance between the defendant's residence and
14 the?

15 A. Twenty to thirty yards.

16 Q. And do you remember how you got into the shed.

17 A. I believe it was unlocked if I recall correctly.

18 Q. Can you describe a little bit of the condition of
19 the shed based on the pictures and what you remember?

20 A. It was a fairly clean shed. It looked like it
21 was used, not a lot of dust. It appeared that people were
22 in and out of that shed fairly frequently.

23 Q. You already touched on this, but can you tell the
24 jury what special precautions you took in searching this
25 shed before you went in. You talked about a suit that you

Jason Owens - Direct Examination

1 put on. This is Exhibit 21, do you recognize that
2 picture?

3 A. Yes.

4 Q. Is this a fair and accurate representation of how
5 it was on March 30?

6 A. Yes.

7 MS. MCCALL: Your Honor, I move Exhibit 21
8 into evidence.

9 MR. HARBIN: No objection.

10 THE COURT: Without objection.

11 (Photograph previously marked as Exhibit 21
12 for identification was admitted into evidence.)

13 BY MS. MCCALL:

14 Q. You kind of briefly touched on it. Is that the
15 suit you talked about y'all dressed in?

16 A. Yes, ma'am, it is.

17 Q. You dressed in it you said because of the
18 dangers?

19 A. Yes, ma'am. We deal with several hazards during
20 these meth labs not only the vapors in the air but we also
21 deal with chemicals, liquid chemicals, that there's a
22 spill hazard. Some of these chemicals if they get on the
23 skin can cause a lot of damage not to mention the vapors
24 in there and if they are breathed in can cause lung damage
25 especially ammonia. If you breath in ammonia in a large

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1 quantity, it could cause death so we take every
2 precaution.

3 Q. Once you went in the shed -- we went over some of
4 it but I've got pictures that depict that. First, let me
5 let opposing counsel see them.

6 These are Exhibits 22 through 44. Do you
7 recognize these pictures?

8 A. Yes, ma'am.

9 Q. And are they an accurate representation of what
10 they appeared to be the date of the incident?

11 A. Yes, ma'am.

12 MS. MCCALL: Your Honor, I would move to
13 admit Exhibits 22 through 44.

14 MR. HARBIN: No objection.

15 THE COURT: Without objection?

16 (Photographs previously marked as State's
17 Exhibit No. 22 through 44 was admitted into evidence.)

18 BY MS. MCCALL:

19 Q. I'd ask you to step down. I think we've already
20 talked about this.

21 A. Yes. That's the tank with the valve removed.

22 Q. Besides the valve, what condition do you perceive
23 this tank to be in? I mean, is it corrosive or ---

24 A. On this particular tank, yes, there was
25 corrosion. There were some heat signatures on the bottom.

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1 I think there's a picture of it.

2 That's another propane tank that we found
3 with the valving in tact and it appeared in good
4 condition.

5 Q. Did you find anything that would give rise to
6 legitimate reason or use for these propane tanks with the
7 valve off as you described?

8 A. This one contained propane. We found a heater
9 and it's in one of these pictures. My belief is that this
10 propane was actually used to fuel the heating.

11 Q. This is the one you're talking about.

12 A. That's the bottom of the other propane tank. The
13 heater -- this other tank with the valve taken off and
14 placed on the heater, that's where the ammonia
15 manufacturing takes place. There is some corrosion but
16 this is accelerated by the heat that's applied to the
17 bottom of it.

18 Q. You're referring to Exhibit 26?

19 A. Yes, ma'am, that's the heater there.

20 Q. Tell us what that is? Is this a close up
21 picture?

22 A. This is some of that modified valving that I was
23 talking about. The interesting thing with this and this
24 is a big clue for me that this right in here, the blue,
25 very very bright blue. These brass fittings, they are not

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1 meant to contain ammonia. That's not their intention.
2 Their intention is to contain propane. Ammonia reacts
3 with the brass and once it reacts with the brass it causes
4 this really bright blue. It almost glows. It's really
5 noticeable. It's a big clues for us that's it's been in
6 contact with ammonia.

7 Q. And this is?

8 A. Acetone. It's currently used a a solvent. I'll
9 bet there's going to several, of these. It's used during
10 multiple phases of the manufacturing process?

11 Q. And what condition was that can that you see
12 there?

13 A. This can as well as all the other solvent cans
14 were in very good condition, no corrosion.

15 Q. What is that?

16 A. Acetone. I don't know if that's the same bottle
17 or a picture of a different can. It's just another can of
18 solvent. Camp fuels, it's a solvent. We'll see a lot of
19 those in meth lab.

20 Q. What condition is that in?

21 A. It appears brand new.

22 Q. And this one?

23 A. Trilene, it's another solvent that's used. Also
24 we have -- I believe that's Picoline Salt. In this green
25 box here is the very last process that I touched on

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1 earlier where you have your methamphetamine suspended in
2 this solvent. The way to get it out of that solvent is to
3 apply hydrogen chloride gas. When it applies it will form
4 solvent. The way to get hydrogen chloride gas is by
5 mixing salt in sulfuric acid. It immediately creates
6 hydrogen chloride gas when it's applied. It's as simple
7 at that.

8 Q. This one.

9 A. The sodium hydroxide, this is used during the
10 ammonia production. You've also got other drain cleaners
11 that are used during the gassing out phase or the
12 hydrochloride gassing out phase.

13 This is another container of salt that was
14 located in the shed.

15 Q. Is there anything that would let you know how
16 long it's been there?

17 A. What I typically do with these salt containers
18 is, as with most of these things, we try to judge as best
19 we can and sometimes we're a little bit limited in how
20 much we can handle some of these things so it's hard for
21 us to tell how much is in a particular can or bottle.
22 With salt, it's a little bit easier and I can pretty much
23 tell how much is in it by shaking it. You can tell by
24 that weight distribution you can tell how much is left in
25 the container.

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1 This one in particular there was salt that
2 was still in there. It appeared to be based on shaking it
3 that it was still in loose form. Down here in the south
4 we all know it's real humid during the summer time and all
5 year around and that humidity, if something is outside, it
6 will get to the salt and it will clump up. That's very
7 noticeable. After a couple of weeks of being in that shed
8 if you were to shake it, you wouldn't hear anything. It
9 would be just a solid rock in there and it was not.

10 This is a bag of fertilizer which contained
11 ammonium nitrate which is used for the ammonia
12 manufacturing.

13 This is just -- we're going into the shed now
14 and this is some of the things you've already seen just in
15 their original location, but this tool box here contains
16 this bottle of Coleman fuel and then the green box of
17 picoline salt just above it. And I'm apologize. I'm not
18 100 percent of what's in that drawer there.

19 Q. But it contains certain types of supplies?

20 A. Yes, ma'am.

21 Q. Exhibit 36.

22 There are a few things in this picture, a lot
23 of tubing and pipes and PVC piping here that goes into the
24 ammonia manufacturing and the reason they use so many
25 tubes and pipes is once this reaction occurs and the

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1 ammonia manufactures, the gas is produced. In order to
2 get the liquid form, you got to cool it back down. So
3 they're run the gas back up through the tubes or the
4 pipes. They're run it up through dry ice typically or any
5 other ice or any other forms of liquid and they'll collect
6 that liquid to be used for the meth manufacturing.

7 This is the other stuff that's in there.
8 This is some coffee filters. Coffee filters are used in a
9 meth lab. They filter out everything. If you're trying
10 to separate a solid from a liquid, coffee filter.

11 The finished product once you gas off the
12 methamphetamine, it's a solid form, but it's still at the
13 bottom of a jar full of solvent, so to separate it, they
14 pour it through a coffee filter.

15 Q. As far as the condition of those, can you
16 describe the condition of those coffee filters?

17 A. They appear fairly new. This one here may have
18 been used based on the way it's positioned. They appeared
19 new. If there had been used, there would be some
20 discoloration.

21 This is a pesticide sprayer, garden pesticide
22 sprayer. Going back to the hydrochloride gas generator,
23 sulfuric acid and salt are mixed together and a gas is
24 produced. However, once that gas is produced, they're not
25 ready to used, so a lot of manufacturers try to find a way

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1 to contain it. Some will use a tube and they'll tie a
2 knot in the tube. It's just personal preference. A lot
3 of these gas generators are in pesticide sprayers, easy to
4 control. Just press the button and you've got your gas?

5 Q. Do you know if anything was found in that pump
6 sprayer?

7 A. I believe there was a slug down at the bottom.

8 Q. What's the significant of the slug?

9 A. It's definitely not used for any gardening
10 purposes. That would be your salt in the bottom of it and
11 I can't remember if this one was actually active, but I
12 believe it was salt down at the bottom.

13 Q. And this?

14 A. I believe it was more tubing we found throughout
15 the shed and some PVC pipes we found that had been
16 modified.

17 This is just some classic two liter drink
18 containers or gallon drink containers. A lot of chemicals
19 are stored in this during the process, a lot of reactions
20 take place in these. I can't say 100 percent what was
21 going on with these, but it was in close proximity when we
22 pulled them out.

23 That's just another view of all of the
24 evidence we took out of the shed. That's our evidence
25 collection where we place everything.

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1 Q. And once you find these things in the shed, what
2 did you do with them?

3 A. We bring it out here on this tarp. I'm not sure
4 if we did it or we had someone else do it or if it was
5 even done, we'll conduct sampling of liquids that we find.
6 We'll take samples off of this tarp. Any other
7 investigative evidence testing, we'll do it out here
8 instead of inside the lab itself.

9 Q. Is there anything extra on that picture?

10 A. The only thing extra would be the funnels here
11 which is commonly used during the manufacturing process.
12 These were out in the shed also, these plastic cooking
13 spoons. Especially with the pseudoephedrine extraction,
14 once you pour your solvent into a container and you let it
15 evaporate, you're left with pseudoephedrine. You got to
16 get it out. A lot of times it's stuck to the bottom. I
17 see these used all the time to scrape the pseudoephedrine
18 off of Pyrex dishes or whatever they're using.

19 Q. (Inaudible).

20 A. I don't believe so. We have a contracted hazmat
21 clean up crew that collects all of this because of the
22 nature of the items and where they are located and
23 contamination. We don't place those particular items in
24 our property and evidence for the risk of contaminating
25 other thing?

Jason Owens - Direct Examination

1 Q. That's a standard procedure that you call in
2 hazmat?

3 A. Yes, ma'am.

4 Q. After you searched the shed, did you go in and
5 proceed to search the residence?

6 A. Yes, ma'am, I assisted in searching part of the
7 residence.

8 Q. Do you remember what type ---

9 A. I was in the kitchen area.

10 Q. Do you remember what you located in the kitchen?

11 A. Yes, ma'am. I do remember located a large
12 quantity of red pills which appeared to be cold medication
13 or pseudoephedrine.

14 Q. I'm show you what's marked State's 45 and the
15 corresponding property and evidence sheet. Does the
16 exhibit correspond with that property and evidence sheet?

17 A. Yes, ma'am.

18 Q. Do you recognize Exhibit 45?

19 A. Yes, ma'am.

20 Q. And is it in essentially the same condition as
21 when you found it?

22 A. Yes, ma'am.

23 Q. Can you just go over the significance of these
24 pills and how they are normally packages?

25 A. The pseudoephedrine pills cold medication you can

Jason Owens - Direct Examination

1 buy them at any pharmacy, they are used to treat colds but
2 that is the primary ingredient. It is a precursor which
3 means it has to be present to manufacture meth. If you
4 don't have pseudoephedrine, there's no way you could
5 possible produce methamphetamine. The pseudoephedrine is
6 typically packaged by the box in blister packs meaning
7 each individual pill has to be punched out.

8 Normally these pills pop out as needed for
9 personal use to treat a cold. These pills however were
10 found, every one of them popped out of the blister pack
11 and found in a separate bag and found in bulk form.

12 Q. What, if any, limits on the purchase of this kind
13 of pill, do you know?

14 A. Federal government restricted it and the state
15 law is now adopted to coincide with federal law 3.6 grams
16 of pseudoephedrine can be purchased per day or 9 grams per
17 month in the State of South Carolina.

18 Q. Do you know why there is a restriction on the
19 purchase of these types of pills?

20 A. Because of the meth lab problem that we have.
21 It's the primary ingredient and it's the main ingredient
22 and a majority of pseudoephedrine sales are going towards
23 manufacturing meth.

24 Q. How long did it take you to search the shed and
25 the house?

Jake Owens - Redirect Examination

1 A. I don't know; several hours.

2 Q. To your knowledge how many times has vice and
3 narcotics been called out to this location for meth lab
4 and manufacturing?

5 A. None to my knowledge.

6 Q. Do you have any opinion as to what all these
7 items you found were for?

8 A. Meth lab.

9 Q. Based on your training and experience, how long
10 do you feel the defendants were in the shed making meth?

11 A. I would say do to the nature of some of the
12 items, they are almost new condition, I would say less
13 than a month or within a months time.

14 Q. Is there any indication that this lab has been
15 around for more than six months?

16 A. No.

17 MS. MCCALL: That's all the questions I have
18 at this time.

19 CROSS-EXAMINATION

20 BY MR. HARBIN:

21 Q. I'm not used to machines so some of this I'm
22 going to have to do from memory but almost everything I
23 saw in those pictures were rusted or corroded, is that a
24 fair assessment of what the metal items in that?

25 A. Some of them had some corrosion.

Jake Owens - Redirect Examination

1 Q. So rust of corrosion occurs in your opinion
2 apparently in a matter of a month in an indoor storage
3 shed, is that what you're telling the jury here today?

4 A. I'm estimating that.

5 Q. You're estimating that amount of corrosion occurs
6 in a month.

7 A. I'm not saying that amount of corrosion -- I'd
8 have to look at them again.

9 Q. Let me just go one by one then. This is a
10 picture of the propane tank. That's rust, so that's a
11 months worth of rust to you?

12 A. I can't say whether or not.

13 Q. You just testified that you thought this lab was
14 operational a month ago or a month prior to arrest so I
15 need you to tell me based on this picture does this tell
16 you that it was a month prior to you seeing this canister
17 that this was operational?

18 A. Based on that picture, I couldn't say.

19 Q. Based on that picture, you don't think it was or
20 you couldn't say?

21 A. I can't say.

22 Q. Based on what picture can you say it was
23 operational within a month?

24 A. If you'll allow me look at those.

25 Q. Take your time.

Jake Owens - Redirect Examination

1 A. A few of these ---

2 THE COURT: Can you identify them by exhibit
3 number, please.

4 THE WITNESS: Sure. Exhibit No. 31, the
5 Picoline Salt, I'm not going off of necessarily corrosion,
6 but just dust every day, dust that collects on items, I
7 observed the dust on this. The Coleman fuel can looks
8 practically brand new. That's Exhibit 30.

9 Exhibit 28, these cans are here fairly new.
10 Exhibit 27, if I recall, there was very little dust
11 collection on this item.

12 BY MR. HARBIN:

13 Q. Most of these items have metal shiny flat
14 surfaces. Whose fingerprints matched up with these items
15 when you touched them?

16 A. I wasn't in charge of submitting anything for
17 fingerprints?

18 Q. Who was?

19 A. Whoever placed them in property and evidence. I
20 don't know if the case agent requested them, I'm not sure.

21 Q. So to your knowledge they weren't actually tested
22 for fingerprints.

23 A. I can't say one way or the other I don't know.

24 Q. To your knowledge they weren't because you don't
25 know.

Jake Owens - Redirect Examination

1 A. All I can say is I don't know.

2 Q. Now, we went through the ones that looked brand
3 new. The other one has got some dirt and some random
4 stuff that collects on the garage floor a bit, right?

5 A. I testified it is also an indication of heat.

6 Q. And how long would it take to expose heat and
7 moisture to get that amount of rust?

8 A. Again, the heat breaks down the metal. I'm not a
9 chemist but I can say that the heat breaks down the metal
10 and causes corrosion.

11 Q. Officer, without belaboring the point, I think my
12 point that I'm trying to make in asking you these
13 questions is you seem to not have a whole lot of expertise
14 in how things age, but yet you're willing to state as a
15 matter of fact ---

16 MR. HOLLOWAY: Objection. Is there a
17 question in there somewhere?

18 THE COURT: Yeah, you need to ask a question.

19 MR. HARBIN: I'm asking if he wants to stand
20 by that.

21 THE COURT: Well, ask him the question.
22 You're testifying right now.

23 BY MR. HARBIN:

24 Q. Are you still standing by your statement that you
25 know as an expert, as some kind of an expert in this

Jake Owens - Redirect Examination

1 field, because of these pictures you feel certain that
2 these events were within a month of you finding all this
3 stuff?

4 A. I believe that the items that I showed you as
5 well as their close proximity to other items located in
6 that lab, yes, I believe that is a recent laboratory.

7 Q. Now, just to be clear what you call a meth lab
8 you're actually talking about the components of a meth
9 lab; is that right?

10 A. In this case, yes.

11 Q. So there was no operational meth lab on this
12 property.

13 A. There was a lab on the property. There was no
14 active reaction taking place.

15 Q. You had to put the pieces together to make it
16 work if you wanted to cook meth; is that correct?

17 A. Well, the pieces were there.

18 Q. Pieces have to be put together to form this
19 machine that makes meth; is that correct?

20 A. Absolutely.

21 Q. So the tubing was there and the gas was there and
22 the coffee filters were there but nothing was set up as an
23 actual lab; is that correct?

24 A. No reaction was taking place at the time.

25 Q. So they weren't actively cooking meth at the

Jake Owens - Redirect Examination

1 time?

2 A. Correct.

3 Q. Now, to your knowledge is it illegal to own a
4 propane tank, salt, ammonia, fertilizer, tubing, any
5 number of other things or things in the picture? Is it
6 illegal to own those things?

7 A. In the manner in which we located them, yes, it
8 is.

9 Q. So if you moved into a house with a garage full
10 of junk and it had eight of the ten things you said you
11 saw in there, are you in violation of the law? You need
12 to call the officers out and say this isn't mind and you
13 need to come get it.

14 A. I would have to come look at it and make a
15 determination based on my experience.

16 Q. Based on your experience as an expert?

17 A. Absolutely.

18 Q. What color are lithium batteries?

19 A. It depends on the brand.

20 Q. What color is lithium?

21 A. White.

22 Q. When you're wearing a hazmat suit, you're
23 obviously trying to avoid any exposure. Obviously you
24 don't want to burn yourself or other officers while you're
25 trying to clean up somebody's mess, but what are some of

Jake Owens - Redirect Examination

1 things -- you were describing this briefly earlier but I
2 want to touch on this again -- what are some of the things
3 that you would notice if you weren't wearing that suit and
4 you got exposed to some of these dangerous chemicals and
5 airborne toxins or whatever they might be, what are some
6 of the things that might actually cause to happen to you?
7 How would you recognize ---

8 A. You mean physical effects on the body?

9 Q. Exactly, yes, sir.

10 A. You have particular odors. It depends on how
11 much, if there is an inhalation, you inhale. The
12 reactions are coughing, watery eyes. There are a number
13 of items that could take place. It depends on the
14 individual and how much they were exposed.

15 Q. There can and would be if it was in the air
16 enough to cause physical detriment to a human being by
17 being exposed to this kind of stuff?

18 A. Potentially, yes.

19 Q. Did you have an opportunity to witness anywhere
20 in the house or in the shed or outside or anywhere any
21 receipts or any kind of anything that indicated that these
22 items were purchased by Mr. Henderson or his wife or
23 anybody in that house at all?

24 A. Not to my knowledge. I don't believe so.

25 Q. And you indicated that the federal government in

Jake Owens - Redirect Examination

1 South Carolina has not adopted particular standards about
2 how much pseudoephedrine you could purchase in a time
3 period, you didn't charge him at that crime. Is that
4 because he didn't have in access of that amount allowed by
5 law?

6 A. I'm not sure the particular amount that he did
7 have due to the fact that many of the brands have
8 different -- they have different medications with
9 different quantities of pseudoephedrine and due to the
10 packaging the way we found them we were able to at the
11 time to determine how much was in each pill.

12 Q. You found the pills inside, is that right?

13 A. Yes, sir.

14 Q. In a drawer?

15 A. Yes, sir.

16 Q. Everything else found in the shed, is that right,
17 from the pictures ---

18 A. Yes.

19 Q. You talked a lot about the burn piles. Who
20 burned the stuff in the piles?

21 A. I couldn't tell you. I wasn't there.

22 MR. HARBIN: No further questions.

23 THE COURT: Any follow-up?

24 MS. MCCALL: One question.

25 REDIRECT EXAMINATION

David McElroy - Direct Examination

1 BY MS. MCCALL:

2 Q. How common is it between meth that is cook for
3 someone to separate those components? Are they left
4 together or are they separated between cooks? How common
5 is that?

6 A. It depends. It's not heard of for people to keep
7 it together, however, a lot of times once people are
8 through with their cook they will place things where they
9 belong in the house because they know that individual
10 items you can legal buy this stuff, and their thinking is
11 I can legally own this as an individual so they separate
12 the items from each other.

13 But it's not uncommon for them to keep it the
14 same room just where they belong in that room. It all
15 depends on the person.

16 Q. When I talk about separate, I'm talking about
17 taking the tube off the pump and -- what I'm saying is, is
18 it safer for them to separate the things versus keeping
19 them together? Do you understand what I'm saying?

20 A. For storage purposes, I think it would be common
21 for them to have it where it was. I don't know. I can't
22 tell you that.

23 MR. MCCALL: That's all.

24 MR. HARBIN: Nothing further.

25 THE COURT: Thank you, sir. You can step

David McElroy - Direct Examination

1 down.

2 Let me talk to the lawyers up here for a
3 second.

4 (Whereupon, there was a bench conference.)

5 Yes, ma'am.

6 MS. MCCALL: We call David McElroy to the
7 stand.

8 THE CLERK: Mr. McElroy, if you would come up
9 to the Bible, place your left hand on the Bible and raise
10 your right hand to be sworn in.

11 DAVID MCELROY, having been duly sworn,
12 testified as follows:

13 Thank you. You may be seated. Please state
14 your name for the record.

15 THE WITNESS: David McElroy.

16 DIRECT EXAMINATION

17 BY MS. MCCALL:

18 Q. Could you tell the jury where you work?

19 A. Sponghill(ph) Investigator.

20 Q. Did you used to work for Greenville County
21 Sheriff's Office?

22 A. Yes, I did.

23 Q. How long did you work there?

24 A. Four years.

25 Q. Did you work with any other law enforcement

David McElroy - Direct Examination

1 agencies before that?

2 A. United States Capital Police, Washington, DC.

3 Q. Can you describe the duties of those jobs?

4 A. In DC I worked four years patrol division
5 answering calls for service. When I came down to
6 Greenville County, I worked two years on the job answering
7 calls for service and then two years in narcotics.

8 Q. What type of training and education did you
9 receive?

10 A. I went through the Clandestine Laboratory
11 training, basic investigations, conspiracy, undercover,
12 numerous.

13 Q. What was your duty at the Greenville County
14 Sheriff's Office at the time of this incident on March 30,
15 2010?

16 A. I was assigned to the vice and narcotics unit.

17 Q. And how long did you work in vice and narcotics?

18 A. A little over two years.

19 Q. Did you receive any special training related to
20 the narcotics unit?

21 A. Yeah, which I just mentioned before Clandestine
22 lab, lab investigation.

23 Q. On March 30, did you respond to [REDACTED]?

24 A. Yes, I did.

25 Q. And why did you describe to that location?

David McElroy - Direct Examination

1 A. I received a call from Investigator May to
2 respond to that location for potential meth lab.

3 Q. What was your roll when you responded to the meth
4 lab?

5 A. When I got there I was assigned to be the scribe
6 for the execution on the search warrant.

7 Q. Can you explain what a scribe does?

8 A. Yeah, you basically read the warrant to the
9 defendants or the homeowners and then you set up your
10 position, as Investigator May said earlier, where they
11 collect and find evidence. They'll take a picture of it
12 right here, note its location, who found it. They'll
13 bring it to me as a scribe and I log all that in and keep
14 custody of the evidence.

15 Q. So in this particular case, how did you begin to
16 perform as the scribe?

17 A. I remember when I got there Investigator May had
18 the warrant in hand. The defendant was there with his
19 wife where I read the warrant to them. Investigator May
20 was searching the inside and that's where I set up a
21 little area, I believe it was in the kitchen area, where
22 people could bring the product to me so I can log it in.

23 I also, as a scribe, I had to when they
24 dismantled the lab from the outbuilding, I had to document
25 all that and take pictures and such.

David McElroy - Direct Examination

1 Q. So these pictures that we saw, were you the one
2 who took those pictures?

3 A. Most of them, yes.

4 Q. You heard Investigator Owen's testimony. Was
5 there anything additional that you took as far as
6 inventory and scribed that he didn't mention?

7 A. Not really. Most everything was handed to me and
8 documented.

9 Q. After you took the inventory of all the collected
10 evidence, what did you do?

11 A. Most of it the lab itself is taken away by a
12 clean up crew so we try to photograph the best we can.
13 Because of its hazardous nature, we don't bring it back to
14 property and evidence. So it's taken away. The few
15 things that we did take to P&E we bag them up and put them
16 in brown bags and initial them. I believe it's MM and
17 whatever the number may be.

18 I keep custody of those. I would take it
19 back to our property and evidence. At the time of the lab
20 I wasn't certified so Investigator Brown accompanied me
21 because he was certified and by policy for property and
22 evidence you had to have a certified lab person place it
23 in P&E. So he and I actually placed it in P&E together
24 but I kept the physical custody of everything prior to.

25 Q. I'm going to show you Exhibit 49 and the

David McElroy - Direct Examination

1 corresponding P&E sheet. Would you take a look at it and
2 not saying what it is, do you recognize it?

3 A. Yes.

4 Q. The property and evidence sheet corresponds with
5 Exhibit 49?

6 A. Yes.

7 Q. How are you able to recognize this?

8 A. You can see the markings on the outside MM26 and
9 on the inside before I heat sealed it and placed it in
10 P&E, you'll see the case number, the date, and my
11 initials.

12 Q. Does this exhibit appear as it did back on March
13 30, 2010?

14 A. Yes.

15 Q. While you had the substance in your possession
16 taking it from the residence to property and evidence, did
17 you alter them in any way?

18 A. No.

19 Q. What did you do with the substance once
20 Investigator May turned it over to you?

21 A. Like I said I would generally use little brown
22 bags, put it in there and make sure it's secure and label
23 it. So everything is secure, placed in a box, and I
24 transfer it over.

25 Q. When you went to property and evidence on March

David McElroy - Direct Examination

1 30th were any clerks working at the time?

2 A. Yes.

3 Q. Was Brandon Brown the only one with you when you
4 went to property and evidence?

5 A. To my recollection I believe it was just
6 Investigator Brown and myself because there weren't that
7 many items.

8 Q. Back to that property and evidence sheet, do you
9 recognize that?

10 A. Yes, I do.

11 Q. And how do you recognize it?

12 A. I can recognize the handwriting.

13 Q. Did you put the date on top of the property and
14 evidence sheet?

15 A. This is Brandon's handwriting, Investigator
16 Brown.

17 Q. What about the top of the sheet?

18 A. Most of this handwriting is Investigator Brown's?

19 Q. Y'all went together but he actually filled out
20 the sheet?

21 A. We work together.

22 Q. He is certified in meth lab?

23 A. Yes, because he was certified at that time.

24 Q. After securing the evidence, did that conclude
25 your investigator?

State versus Michael Henderson

1 A. Yes.

2 MS. MCCALL: That's all the questions I have
3 at this point.

4 THE COURT: Mr. Harbin.

5 CROSS-EXAMINATION

6 BY MR. HARBIN:

7 Q. Did you have any fingerprints taken or items
8 fingerprinted or responsible for any documentation of
9 fingerprints taken at the scene?

10 A. The actual items from the lab they get disposed
11 of by separate company because of their nature. We're not
12 going to fingerprint them. Most of the drugs, without
13 referring to my report normally we request fingerprints.

14 Q. Lacking your report, do you remember there being
15 any fingerprint evidence relevant in this case?

16 A. Not to my recollection.

17 Q. Do you remember specifically ordering or getting
18 back fingerprints in this case?

19 A. No, sir.

20 MR. HARBIN: That's all the questions I have.
21 Thank you.

22 THE COURT: Anything else?

23 MS. MCCALL: That's it from the State.

24 THE COURT: You can step down.

25 Ladies and gentlemen, 5:00, we could keep

State versus Michael Henderson

1 going but I understand somebody has a previous commitment
2 at 5:30 and we don't want that person to miss it. So
3 we're going to break for the day and I ask y'all to back
4 in your jury room at 9:30 in the morning.

5 I would like to remind you that you are
6 instructed and have sworn an oath not to discuss this case
7 and we'd all be kind of silly if we didn't know everybody
8 wants to talk about it. And we'd be silly if we didn't
9 know that whoever you're going to see tonight is going to
10 want to know about it.

11 They may want to talk and it maybe somebody
12 that you genuinely want to have their input. They're not
13 seeing what's going on the courtroom, they're not hearing
14 the testimony. They do not know what you know and for
15 them to have any input into this would be unfair, violate
16 your oath and violate the constitution. So protect our
17 justice system and have a good night and we'll see you at
18 9:30 in the morning. Thank you.

19 (Jury exits the courtroom.)

20 Anything before we break?

21 MR. HARBIN: Nothing from the defense.

22 THE COURT: We're going to take him into
23 custody.

24 MR. HARBIN: There's is one thing. Because
25 Ms. Henderson just pled and she's in custody, I didn't

State versus Michael Henderson

1 anticipate having to do any kind of transport order for
2 her, I planned calling her as a witness. Can she be
3 transported back to the courthouse tomorrow.

4 THE COURT: We can do it without a transport
5 order.

6 MR. HARBIN: Thank you.

7 ---END OF TRANSCRIPT RECORD FOR DAY 1 OF TRIAL---

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State versus Michael Henderson

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Court of General Sessions, Greenville, South Carolina
8 on the 7th day of December.

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

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12
13 

14 Caroline Hiskell
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State versus Michael Henderson

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF GREENVILLE) 2010-GS-23-5199
3)
4 State of South Carolina) TRANSCRIPT OF RECORD
5)
6 -vs-)
7 Michael Henderson)
8 -----

8 Day 2 - December 8, 2012
9 Greenville, South Carolina

10 B E F O R E:

11 THE HONORABLE EDWARD W. MILLER, Judge.

12 A P P E A R A N C E S

13 Ryan Holloway, Solicitor
14 Kayce McCall, Solicitor
15 Attorney for the State

16 Chase Harbin, Esquire
17 Attorney for the Defendant

18 CAROLINE HISKELL
19 Thirteenth Circuit Court Reporter
20
21
22
23
24
25

State versus Michael Henderson

I N D E X

WITNESSES

DR

CR

RED

RECR

Brandon Brown

195

214

Officer Pincario

217

Michael Peterson

222

229

Kara Bennick

232

Alvin Mitchell

237

239

243

Sean Collins

244

252

(Proffered Testimony)

263 - 311

Michael Henderson

312

329

339

Tina Henderson

340

352

359

Paulette Croxston

361

367

371

David Mathis

371

376

Samuel Croxston

378

383

Jake Henderson

384

391

Freea Luker

395

413

414

(Name spelled Freida Lukor throughout transcript.)

Paul Silvaggio

416

417

Brandon Brown - Direct Examination

P R O C E E D I N G S

THE COURT: Are y'all ready to go?

MR. HOLLOWAY: Yes, sir.

MR. HARBIN: Yes, sir.

THE COURT: Bring them in.

(Jury enters the courtroom.)

Ladies and gentlemen, welcome back.

MS. MCCALL: The State would call Brandon Brown.

THE CLERK: Come around to be sworn. Place your left hand on the Bible and raise your right.

BRANDON BROWN, having been duly sworn, testified as follows:

Thank you. You may be seated. State your name for the record.

THE WITNESS: Brandon Brown.

THE CLERK: Thank you.

D I R E C T E X A M I N A T I O N

BY MS. MCCALL:

Q. Investigator Brown, could you tell the jury where you work?

A. I work for the Greenville County Sheriff's Office.

Q. And how long have you worked there?

A. Since 2002.

Brandon Brown - Direct Examination

1 Q. Have you ever been employed with any other law
2 enforcement agency?

3 A. No, ma'am, I have not.

4 Q. Could you describe your duties and the other jobs
5 you've had with the Greenville County Sheriff's Office?

6 A. From October 2002 when I was employed, I attended
7 the South Carolina Criminal Justice Academy where I
8 graduated at the beginning of January of 2003. In 2005,
9 December of 2005, I began working gangs for the county.
10 In October of 2006, the sheriff decided to put the gang
11 unit inside narcotics so since 2006, I was assigned to
12 narcotics working gangs specifically. My duties would
13 entail any kind of narcotic related incidents in the
14 county to include meth labs.

15 Q. Have you been to any courses involving
16 methamphetamine?

17 A. Yes, ma'am, I have. I've been identification
18 courses for pretty much every narcotic that is in the
19 United States today as well as investigation regarding any
20 kind of narcotics in the United States today. I've also
21 attended the two-week course at Regional Training Academy
22 and Arson TA, which allows not only identification, but
23 handling and dismantling any kind of clandestine lab to
24 include methamphetamine, marijuana, PCP.

25 Q. Being in vice and narcotics, have you had the

Brandon Brown - Direct Examination

1 opportunity to investigate individuals involved in
2 methamphetamine labs?

3 A. Yes, ma'am, I have.

4 Q. Have you had the opportunity to obtain search
5 warrants dealing with methamphetamine labs?

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

7 Q. And have you identified methamphetamine labs in
8 the past?

9 A. Yes, ma'am, I have.

10 Q. On March 30, 2010, did you respond to [REDACTED]
11 Lane.

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

13 Q. Could you tell the jury why you responded to that
14 location?

15 A. At that time in our unit in narcotics in
16 Greenville County we only had a few individuals that were
17 meth lab certified. That is a very expensive class to
18 send deputies to and myself, Investigator Owens,
19 Investigator May, and Investigator Jacobson were four
20 primary techs that handle all meth labs throughout the
21 county.

22 I believe I was in the office that day with
23 Investigator Owens when he received a phone call from
24 Deputy Godfrey asking me to come assist him with observing
25 to see if we had enough probable cause for a search

Brandon Brown - Direct Examination

1 warrant for one and the possibility of a meth lab at [REDACTED]
2 [REDACTED].

3 Q. Can you tell the jury what you observed when you
4 arrived at [REDACTED] [REDACTED]?

5 A. When we arrived at [REDACTED] [REDACTED] Lane, Deputy
6 Godfrey was already on the scene and we had walked passed
7 the burn pile which is the primary location where he
8 observed what he believed to be remnants of a meth lab.
9 You could see cut lithium batteries and Sudafed blister
10 packs inside the burn pile. Even though the burn pile was
11 burnt fairly, some of those items for whatever reason the
12 blister packs don't burn well and batteries don't burn at
13 all so they were very visible.

14 We were able to see that evidence without
15 manipulating the pile at all. When I say manipulating, we
16 didn't move anything to try to observe those items.

17 Q. Based on your training and experience, what did
18 those items appear to be used for?

19 A. Of course Sudafed blister packs themselves could
20 be used in cold medication as normal people do, however,
21 the amount of blister packs that are typically seen in
22 burn piles suggest meth lab. A cut lithium battery in a
23 burn pile, a cut lithium battery in your house has no
24 logical explanation for it other than the use of
25 methamphetamine for pulling those strips out of the

Brandon Brown - Direct Examination

1 lithium battery.

2 Q. After you observed these items, what did you do
3 and the other officers do?

4 A. We stood by until Investigator Owens could get in
5 touch with Investigator May and him describe the search
6 warrant and get an affidavit for a search warrant and take
7 it to Judge Taylor. We basically just stood on the scene
8 until that search warrant was in hand at least as we were
9 advised.

10 Q. After Investigator May was able to get a search
11 warrant, what did you do then?

12 A. Upon receipt of the search warrant, myself and
13 Investigator Owens began to just look around the property
14 briefly to see what possible hazards we had. One of my
15 responsibilities, I am one of two people in our unit that
16 is what is considered site safety supervisor, which is an
17 additional certification with meth labs. So my
18 responsibility is not only to break it down but I had to
19 make sure the scene was safe for one for us to go in and
20 operate on the lab, and two, to make sure all our guys get
21 out safely without any of our guys getting harm.

22 So that was the initial assessment that we
23 did on the property.

24 Q. In the shed what items did you saw?

25 A. Before we went in the shed Investigator Owens we

Brandon Brown - Direct Examination

1 both put on protective -- hazmat protective equipment had
2 arrived at that time and that protective equipment is a
3 full white -- the white suits like you would see on the
4 news. We had to have our ankles taped. There can't be
5 any seams, any chance of any kind of water leaking out
6 from sweat because we are obviously very hot in those
7 suits. All of that was done before we went into the shed.

8 Once we went into the shed, Investigator
9 Owens and I both immediately saw multiple items that were
10 used in the manufacturing of methamphetamine.

11 Q. Once you collected the items inside the shed,
12 what did you do then?

13 A. As began collecting items in the shed, we had a
14 central location where we would take the items from their
15 original resting place where pictures could be taken as
16 best as they can. And as you saw in the pictures, some of
17 them are kind of sideways because we're in all this heavy
18 bulky gear so we can't hold the cameras very straight.
19 But we took them to a central location on the property
20 where they could then be scribed from Investigator
21 McElroy.

22 At that time once that location was broken
23 down, I assisted with searching the residence inside.

24 Q. And once these items went to the central
25 location, what happened to these items at that point?

Brandon Brown - Direct Examination

1 A. The items at that point, once they redismantled,
2 rendered safe and documented, we call a clean up crew that
3 comes from a central location at the time was contracted
4 through DEA. DEA calls them to come to us and what they
5 do is they have the rights and privileges the transport
6 this hazardous material. Everything was located inside
7 what we deem to be a meth lab whether it's operational or
8 non operational has to be transported as hazardous waste
9 because that's exactly what it is.

10 Q. And do you know if you or any other officers
11 requested fingerprints from any of these items?

12 A. No, ma'am, I took these items to property and
13 evidence and I did not request prints on the items we
14 took. The items you typically can obtain prints from such
15 as the solvents and some of the propane tanks, all that
16 stuff is taken by the hazardous material crew that comes
17 and cleans it up.

18 None of us are forensically certified and
19 even if a forensic certified individual were to come out,
20 we couldn't allow them close enough access to the scene to
21 be able to get prints off those items because it would be
22 that hazardous to their health especially when you start
23 mixing other chemicals that could possibly react.

24 Q. After you search the shed, did you assist in
25 searching the residence?

Brandon Brown - Direct Examination

1 A. Yes, ma'am, you did.

2 Q. Do you remember what part of the residence did
3 you locate any items?

4 A. I remember specifically the bedroom.

5 Q. What did you locate in the bedroom?

6 A. In the bedroom I found two primary items that I
7 personally located and that was a pack of coffee filters
8 that I located, I believe, in the dresser area and I
9 believe a digital scale. While I was there, there was
10 also other items found such as punch Sudafed pills which I
11 believe Investigator Owens went over yesterday.

12 (Coffee filters marked as Exhibit 46 for
13 identification.)

14 BY MS. MCCALL

15 Q. Can you take a look at what's been marked as
16 Exhibit 46 and the accompanying property and evidence
17 sheet.

18 A. Yes, ma'am, these are the items that were
19 packages as coffee filters and my initials are signed
20 before they are heat sealed on the inside.

21 Q. So how were you able to recognize your initials?

22 A. I sign any evidence very clearly with my last
23 name, first initial.

24 Q. And based on your training and experience, what
25 do these coffee filters used for?

Brandon Brown - Direct Examination

1 A. Of course, they can be used for making coffee,
2 however, when they are found in specific locations -- none
3 of us keep our coffee filters in our dresser drawer in our
4 bedroom. With the totality of the circumstances of the
5 items we found throughout the house finding these coffee
6 filters in that specific location along with finding the
7 pills Investigator Owens mentioned, has no other purpose
8 other than the extraction of the pseudoephedrine out of
9 the Sudafed pills.

10 Q. Does that appear to be the same as it was March
11 30, 2010?

12 A. Excuse me?

13 Q. Does that appear to be the same as it was March
14 30, 2010?

15 A. Yes, ma'am.

16 Q. And while you had the coffee filters in your
17 possession, did you alter them in any way?

18 A. No, ma'am.

19 Q. What did you do with the coffee filters once you
20 retrieved them from the defendant's bedroom?

21 A. Once I retrieved them, I took them over to where
22 Investigator McElroy was set up to collect the evidence
23 that was of a safe nature. At this time, the lab, which is
24 the hazardous material, has already been set aside. The
25 evidence that has been collected at this time is

Brandon Brown - Direct Examination

1 considered basically safe since it's inside the residence
2 and had been deemed safe.

3 I took the evidence from its proper resting
4 location which was in the master bedroom over to
5 Investigator McElroy so he could then document the
6 package.

7 Q. And are these coffee filters in essentially the
8 sam condition as they were when you took them into
9 property and evidence?

10 A. Yes, ma'am.

11 Q. Can to the jury what property and evidence is?

12 A. Property and evidence is a secure location within
13 the walls of the Law Enforcement Center where only a very
14 few select people have keys too and that is only property
15 and evidence personnel. Basically we can put it in but we
16 can't get it out without assistance. It's a way of
17 absolutely 100 percent securing our evidence for any case
18 that has any evidentiary value from as far back as cases
19 that haven't been done yet to cases are possibly up for
20 appeal.

21 Q. That property and evidence sheet that I gave to
22 you, do you recognize that?

23 A. Yes, I do.

24 Q. How do you recognize that?

25 A. My signature is listed as the impounded officer

Brandon Brown - Direct Examination

1 as well as my imprinted name as well as at the bottom it's
2 signed where I took possession of the property and
3 evidence to bring it to court.

4 Q. What does this property evidence sheet indicate
5 what date did you place this evidence in there?

6 A. March 30, 2010 at 15:30 hours, 3:30.

7 Q. You said that you brought that exhibit with you
8 to court yesterday?

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

10 Q. Investigator Brown, Investigator Owens testified
11 yesterday that he found a bag of pills, as you mentioned
12 earlier, from the defendant's residence. Is that correct?

13 A. Yes.

14 Q. Based on your training and experience, what did
15 those bag of pills appear to be used for?

16 A. Any time we're on location specifically looking
17 for a meth lab, it's a key component for us to find, one,
18 the precursors. The main precursor in methamphetamine is
19 pseudoephedrine which has to be pulled out of Sudafed or
20 other type allergy pills. The average household
21 individual when they get a cold will go buy a pack of
22 Sudafed or whatever kind of ephedrine based product they
23 need. They will take that product as needed for that
24 cold. Most people don't like the side effects of it.

25 So whenever when we run across on a meth lab

Brandon Brown - Direct Examination

1 tons of it punched out, 5, 10, 15, any given point, that
2 is more than an individual would take at any one time or
3 even throughout the day. So that is a key factor for us
4 in the investigation of methamphetamine.

5 The have to use multiple amounts depending on
6 the amount that they're making at the time of that
7 ephedrine to break down. They're not going to break down
8 one pill at a time. They need to break down 15 or 20, 50
9 pills at a time. That's why the Sudafed laws have gone in
10 effect where now they are behind the counters. You have
11 to see a pharmacy to be able to get it and you can only
12 purchase so much a day and so much a day because of the
13 sheer hazards of it in manufacturing methamphetamine
14 aspects of it.

15 Q. What did you do with the bag of pills?

16 A. They were also taken to evidence collection.

17 Q. I'm going to show you Exhibit 45 and the property
18 and evidence sheet. Do you recognize that?

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

20 Q. And how were you able to recognize that?

21 A. I believe the package was signed by Investigator
22 McElroy. It has his initials inside of the package,
23 however, the property and evidence sheet which I placed in
24 property and evidence has the description of the pills as
25 well as printed name and signature taking possession of

Brandon Brown - Direct Examination

1 it.

2 Q. And does it appear to be as it was back on March
3 30, 2010?

4 A. Yes, ma'am.

5 Q. Does it appear to be altered in any way?

6 A. No, ma'am.

7 Q. What did you do with the pills once Investigator
8 Owens turned them over as far as the bag goes?

9 A. McElroy was the one taking possession of all of
10 the evidence in a central location where we would take the
11 evidence located inside the house. It's just easier for
12 us to take it to one location instead of having it spread
13 all over the house. So what he does is he sets up a
14 location like he explained yesterday, a centralized
15 location and everything goes to him even packages and
16 documents. So anything that's found in the house we take
17 to him. Because it was a meth lab scene, I had to escort
18 him to property and evidence and my name had to be on all
19 the P&E sheets because I was certified at the time.

20 By policy, he didn't have the right to put
21 anything into property and evidence, however, he can
22 initial and sign for property and evidence on the
23 packages?

24 Q. The property and evidence sheet, it's your
25 signature on that?

Brandon Brown - Direct Examination

1 A. Yes, ma'am, it is.

2 Q. And does it indicate what date it was turned in
3 to property and evidence on the sheet?

4 A. March 30, 2010 also at 15:30 hours, 3:30 in the
5 afternoon.

6 Q. And did you bring that Exhibit 45 with you to
7 court yesterday?

8 A. Yes, ma'am, I did. I also signed the bottom that
9 said I took possession of it yesterday at 08:23 hours.

10 Q. You said that you searched the bedroom and found
11 -- what else did you find? You said you found scales?

12 A. Yes.

13 Q. I want to show you Exhibit 47, the corresponding
14 property and evidence sheet. Do you recognize that?

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

16 Q. And what is it?

17 A. It's a black digital scale, three glass smoking
18 pipes commonly used for smoking methamphetamine and a
19 plastic straw commonly used in the snorting of
20 methamphetamine or cocaine?

21 Q. And based on your training and experience, what
22 do these scales appear to be used for?

23 A. Typically digital scales if found inside of a
24 house is someone that bakes and uses it in the proper
25 manner is probably going to be a larger digital scale and

Brandon Brown - Direct Examination

1 probably going to be found in the kitchen because that's
2 where you're cooking and operating at.

3 Anytime digital scales are found inside of
4 another area of the house, especially with the other items
5 that are located such as the coffee filters, the pills,
6 smoke pipes so on and so forth, it's very common
7 observation to be believe that that's used in the weighing
8 of a finished product of illegal narcotics?

9 Q. Once you found the scales, what did you do with
10 those on March 30, 2010?

11 A. Same as the other items. It was taking from its
12 original resting place to a centralized location
13 collecting evidence.

14 Q. And was it taken to property and evidence after
15 that?

16 A. Yes, it was.

17 Q. And where were the scales being kept?

18 A. At property and evidence.

19 Q. And does it appear to be in the same condition it
20 was when it was put in property and evidence on March
21 30th?

22 A. Yes, ma'am.

23 Q. And did you bring it with you yesterday to the
24 court?

25 A. Yes, ma'am. It's also got my signature at 08:25

Brandon Brown - Direct Examination

1 hours on December 7th.

2 MS. MCCALL: The State requests that we move
3 in Exhibit 47 into evidence.

4 MR. HARBIN: May I see it?

5 THE COURT: Yeah, sure.

6 MR. HARBIN: No objection.

7 THE COURT: Without objection.

8 (Scales, pipes, straw marked as State's
9 Exhibit No. 47 for identification was admitted into
10 evidence.)

11 BY MS. MCCALL:

12 Q. I'd like to show you what's been marked as
13 State's Exhibit 48. Do you recognize this picture?

14 A. Yes, ma'am, I do. This is on a coffee table in
15 the living room.

16 Q. Is this an accurate representation of how it
17 appeared back on March 30, 2010?

18 A. To the best of my recollection.

19 Q. Does this appear to be altered in any way?

20 A. No, ma'am.

21 MS. MCCALL: Your Honor, I'd move that
22 State's Exhibit 48 be admitted into evidence.

23 THE COURT: Without objection.

24 (Photograph marked as State's Exhibit No. 48
25 for identification was admitted into evidence.)

Brandon Brown - Direct Examination

1 BY MS. MCCALL:

2 Q. Could you describe, again, to the jury what
3 State's Exhibit 48 is?

4 A. What it appears to be is sitting on the coffee
5 table an orange pill bottle with multiple different white
6 unknown pills, a green zip up case, and I'm speculating,
7 that is commonly used in the storing of different
8 paraphernalia of narcotics. The black digital scale that
9 is listed here, two of the three glass pipes that are in
10 here are sitting beside the scale and several different
11 plastic bags that I can't really tell what's inside of
12 them from the picture.

13 Q. I'm going to show you Exhibit 49 and the
14 corresponding property and evidence sheet. Do you
15 recognize it?

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

17 Q. How are you able to recognize it?

18 A. The P&E sheet that I signed and wrote out. It is
19 to clear plastic bags containing white residue.

20 Q. And does it appear to be altered in any way?

21 A. No, ma'am.

22 Q. And does it appear as it did back in March of
23 2010?

24 A. Yes, ma'am.

25 Q. The property and evidence sheet, is that your

Brandon Brown - Direct Examination

1 signature on there?

2 A. Yes, ma'am, it is.

3 Q. What is the date on the P&E sheet that these
4 items were turned in?

5 A. March 30, 2010 at 15:30 hours, 3:30 in the
6 afternoon.

7 Q. And did you bring that item with you to court
8 yesterday?

9 A. Yes, ma'am, I signed it out at 08:23 hours
10 yesterday.

11 Q. Deputy May yesterday testified that he retrieved
12 three guns from the residence, is that correct?

13 A. Yes, ma'am.

14 Q. Were the guns then turned over to you and
15 McElroy, is that correct?

16 A. Yes.

17 Q. What did y'all do with those guns?

18 A. Those firearms were also taken to property and
19 evidence where they were properly packaged, documented,
20 and placed in property and evidence.

21 Q. I'm going to show you these guns. Do you
22 recognize these numbers.

23 A. No. 28 is M1 A1 .30 Carving caliber riffle. MM29
24 is Holsberg 410 shot gun. MM30 is a Marlon .22 long
25 riffle.

Brandon Brown - Direct Examination

1 Q. How do you know that these guns were the same
2 guns seized back on March 30, 2010?

3 A. Upon taking possession of them yesterday morning
4 from property and evidence at 08:23 hours, I had to
5 personally inspect and verify that they were unloaded
6 firearms. Every single weapon is checked, cut out of its
7 package, zip tied, and placed back in its package for
8 court.

9 Q. What does the property and evidence sheet
10 indicate the date that you turned these items in to
11 property and evidence?

12 A. March 30, 2010, 15:30 hours, 3:30 in the
13 afternoon.

14 Q. And had the guns been kept in property and
15 evidence until yesterday?

16 A. Yes, ma'am, they have.

17 MS. MCCALL: Your Honor, I move that State's
18 Exhibits 10, 11 and 12 be admitted into evidence.

19 THE COURT: Any objection?

20 MR. HARBIN: Judge, the only objection is
21 that he hasn't actually looked in the bag to see what they
22 are.

23 MS. MCCALL: We can pull them out.

24 THE COURT: Without removing them from the
25 bags, officer, I would ask you to look in there and see if

Brandon Brown - Direct Examination

1 you can identify what it is you described. Don't display
2 them to the jury unless and until they've been admitted
3 into evidence.

4 THE WITNESS: Yes, Your Honor, they
5 correspond with the property and evidence sheet.

6 MR. HARBIN: No objection.

7 THE COURT: Alright, admitted without
8 objection.

9 (Gun marked as State's Exhibit No. 10 for
10 identification was admitted into evidence.)

11 (Gun marked as State's Exhibit No. 11 for
12 identification was admitted into evidence.)

13 (Gun marked as State's Exhibit No. 12 for
14 identification was admitted into evidence.)

15 BY MS. MCCALL:

16 Q. Investigator Brown, after securing all of this
17 evidence that you just testified about in property and
18 evidence, did that include your investigation in this
19 case?

20 A. Yes, ma'am, until a few months ago when I was
21 contacted about putting the coffee filters in for further
22 testing.

23 Q. That's all that I have for you. Please answer
24 any questions Mr. Harbin may have.

25 THE COURT: Cross-examination.

Brandon Brown - Cross-Examination

1 CROSS-EXAMINATION

2 BY MR. HARBIN:

3 Q. Investigator Brown, when you are called to the
4 scene or after, before, or at any time, did you conduct
5 any collateral investigation by way of interviews asking
6 neighbors, asking witnesses, going back to the tipster to
7 confirm identify, anything at all?

8 A. No, sir, I did not.

9 Q. The evidence that you had mentioned that was
10 taken away by a clean up crew for lack of a better term,
11 that evidence was not fingerprinted, correct?

12 A. No, sir, it was too much of a hazard to
13 fingerprint those items.

14 Q. And your experience as a law enforcement officer,
15 fingerprint evidence can be valuable?

16 A. Yes, sir.

17 Q. And that evidence whether purposefully or
18 unavoidably was destroyed?

19 A. Yes, sir.

20 Q. As a matter of a strict legal question as you
21 understand it as a law enforcement officer, it is not
22 illegal to have loose pills in a bag?

23 A. No, sir, it's not illegal.

24 Q. And in your experience, is it true that drug
25 users will sometimes pay with money or trade out for drugs

Drew Pincaro - Direct Examination

1 if they do not have money with other items?

2 A. Yes, sir.

3 Q. And, in fact, in the meth trade so to speak,
4 there will be people who actually trade Sudafed for
5 finished meth product; is that correct?

6 A. They will trade packaged Sudafed. Typically
7 cooks will not accept punched out Sudafed for the fear of
8 it being fake.

9 Q. So no chance in the world will dealers take
10 Sudafed that's already been punched out?

11 A. There's always a chance, yes, sir.

12 Q. Now, in your experience and your vast experience
13 with this particular area especially, do you find drug
14 dealers to be particularly honest?

15 A. No, sir.

16 Q. And, in fact, when they are selling drugs, they
17 will do things to increase profits and essentially cheat
18 the buyer like cutting product, making it seem like
19 there's actually more drug than there is?

20 A. Absolutely.

21 Q. And when you find a scale, especially a smaller
22 scale like that, in close proximity to items that a user
23 would use such as the little one hitters or whatever you
24 have there, that can be indicative, in fact, of what a
25 user would use to kind of check to make sure the dealer is

Drew Pincaro - Direct Examination

1 being honest and make sure he's buying a certain weight of
2 a drug? A user can use that, in fact, to make sure a
3 dealer is not trying to cheat him; is that correct?

4 A. Yes, sir.

5 Q. That is all I have. Thank you, sir.

6 THE COURT: Any redirect?

7 MS. MCCALL: No, sir.

8 THE COURT: Thank you, Investigator Brown.

9 THE WITNESS: Thank you, sir.

10 THE COURT: Alright.

11 MR. HOLLOWAY: The State calls Drew Pincario
12 to the stand.

13 THE CLERK: Sir, please come around to be
14 sworn, please. If you would place your left hand on the
15 Bible and raise your right.

16 DREW PINCARO, having been duly sworn,
17 testified as follows:

18 Thank you. You may be seated. Would you
19 please state your name for the record.

20 THE WITNESS: Drew Pincaro.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. HOLLOWAY:

24 Q. Deputy, please tell us where you work?

25 A. Greenville County Sheriff's Office.

Drew Pincaro - Direct Examination

1 Q. And how long have you worked there?

2 A. Since 2006.

3 Q. And what sort of cases do you work on at this
4 time?

5 A. At the time of the incident I was assigned to the
6 juvenile division, child abuse, child neglect, juvenile
7 suspect.

8 Q. Can you describe to the jury how you became
9 involved in this case?

10 A. On the incident date I was contacted by
11 Investigator May. Typically, any time vice and narcotics
12 call us when they have a meth lab or anything, when the
13 call us out in reference to a juvenile involved, we would
14 typically respond out and handle the juvenile end of it.
15 The defendant and his wife had a, I believe, an eleven-
16 year-son that was on scene the day of the incident. I
17 responded out there in reference to handling their son.

18 Q. Coming from the angle as a juvenile investigator,
19 can you describe the things that you saw out there that
20 looked like a risk to the children involved in this case?

21 A. Obviously I witnessed the burn pile that was
22 there in front of the house. The meth lab was found in
23 the shed that was 20 yards from the house. Obviously if
24 it exploded or anything like that the child could have
25 been killed or severely injured.

Drew Pincaro - Direct Examination

1 Q. When you arrived describe the residence including
2 the child?

3 A. The outside of the residence was basically just a
4 dirt front yard. I never went inside the residence. The
5 child appeared to be in decent health, but other than that
6 that's about the extent of what I witnessed.

7 Q. What I'm saying is can you describe how the
8 people out there looked, their outside condition. What
9 did you see as an investigator?

10 A. The defendants, what did they look like?

11 Q. Right.

12 A. Just I guess ragged kind of, not really well
13 maintained.

14 Q. Okay. What, if any, outside injuries did you see
15 on the child Mino

16 A. I don't recall seeing any injuries on the outside
17 of his body.

18 Q. What is the level of experience that you have
19 with regard to meth labs and children who have been
20 exposed to meth labs?

21 A. I've dealt with several cases where kids were
22 exposed to meth and obviously, you know, dealing with DSS
23 they send us a lot of drug referrals, but I've been out
24 with vice and narcotics a couple times on incidents like
25 this where they have a meth lab and a child involved.

Drew Pincaro - Direct Examination

1 Q. Based on your experience what risks do meth labs
2 pose to children?

3 MR. HARBIN: Judge, I'm going to object. I'm
4 sure that he's laid a foundation to allow this kind of
5 opinion testimony for what is essentially a medical
6 question.

7 THE COURT: Let's just stick to what happened
8 in this case. We don't want to go too far here.

9 BY MR. SOLICITOR:

10 Q. Based on what you saw and the risks involved with
11 meth labs, what did you do with this child?

12 A. Typically, you basically have two options we can
13 either take the child into emergency protective custody or
14 we try to find a family member, an alternative placement,
15 to put the child in which sometimes we'd rather prefer
16 that just so it's not so shocking for the kid to have to
17 go to a foster home. In this case, we were able to find a
18 family member to place him with.

19 Q. And that's what happened in this case?

20 A. Yes.

21 Q. Who was the person who took Jake in?

22 A. I believe it was an aunt. I believe her name was
23 Faye Henderson.

24 Q. And what did you do to make sure that Jake would
25 have a safe place to live at the residence?

Drew Pincaro - Direct Examination

1 A. I contacted DSS, they met me out there at [REDACTED]
2 [REDACTED] after I had spoke with Jake and everything.
3 We obtained family information. Ms. Henderson responded
4 out to the scene. I spoke with her briefly, checked her
5 for any prior warrants or any criminal history.

6 We then responded, myself and DSS responded
7 to her house, do a welfare check to her house to make sure
8 there was ample food and water to make sure it was clean.
9 We did a check on her and her husband.

10 Q. It's a fair thing to say that for the time being
11 is not to live at [REDACTED] [REDACTED]?

12 A. No.

13 Q. That was because of why?

14 A. Do to the drugs that were found in the meth lab,
15 it was definitely not suitable residence for a child to be
16 living there especially not around that shed.

17 Q. Thank's very much. Please answer any questions
18 counsel has for you.

19 MR. HARBIN: No questions for this witness.

20 THE COURT: Thank you. Step down, please
21 sir.

22 MR. HOLLOWAY: The State calls Investigator
23 Michael Peterson to the witness stand.

24 THE CLERK: Come around to be sworn. Place
25 your left hand on the Bible and raise your right.

Michael Peterson - Direct Examination

1 MICHAEL PETERSON, having been duly sworn,
2 testified as follows:

3 Thank you. You may be seated. Please state
4 your name for the record.

5 THE WITNESS: Michael Peterson.

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MR. HOLLOWAY:

9 Q. Good morning. Tell us for the record where you
10 work?

11 A. I work for Greenville Department of Public
12 Safety, the forensic division.

13 Q. What is your specialty?

14 A. I actually manage the crime scene unit for
15 Greenville County. We provide forensic services to the
16 Greenville County Sheriff's Office, Greenville City
17 Police, all the municipal police departments and all the
18 other law enforcement agencies with jurisdiction in
19 Greenville County.

20 Q. At this time what sort -- describe your duties to
21 the jury?

22 A. Our duty -- my duty is to supervise the unit.
23 The unit as a whole our responsibility is to identify,
24 document, collect, protect, items of evidence until it can
25 be thoroughly processed for prints or any other type of

Michael Peterson - Direct Examination

1 evidence and then put into P&E for storage.

2 Q. What experience, what training, what education do
3 you have in the area of fingerprints and comparing
4 fingerprints?

5 A. I do not compare fingerprints. Because of the
6 vast size of Greenville County, the amount of cases that
7 we work, the forensic division is divided up into separate
8 components. We have the crime scene unit and our job is
9 to go out and to identify evidence and process that
10 evidence and if we develop fingerprints, then we send it
11 to our latent division. The latent division will actually
12 do the fingerprint comparisons.

13 Q. What experience and what education and training
14 have you undergone, personally, to get to what you do
15 today?

16 A. I have a multitude of on the job training
17 classes. I have went to training class through the
18 criminal justice academy in Columbia as well as classes
19 throughout the southeast that deal in crime scene
20 processing, latent fingerprint processing, blood pattern
21 analysis, just a variety of different forensic related
22 classes.

23 Q. What, if any, experience do you have in actually
24 comparing fingerprints, in the past?

25 A. As far as comparing fingerprints, because of the

Michael Peterson - Direct Examination

1 way we are structured, we do not compare fingerprints. We
2 are simply sending those to another section for analysis.

3 Q. But as part of your job, you do handle that
4 division as well, the division that does fingerprint
5 comparison?

6 A. No, I do not. That's actually managed by another
7 individual. Of course, we work all under the same
8 umbrella. What will do as a crime scene unit, we will
9 actually process items for latent fingerprints meaning
10 we're trying to find identifiable ridge detail on the
11 surfaces and once we find that, then we send that ridge
12 detail, that latent print that we've developed to the
13 latent division. The latent division will have access to
14 the AFIS system, as well as all of the identification
15 packs that are on file in Greenville County. They will
16 actually make the comparisons.

17 Q. So it's a fair statement to say that just like on
18 CSI, those tv shows, it's your job, your specialty, to
19 figure out can the item that's collected have prints
20 lifted?

21 A. Yes.

22 MR. HOLLOWAY: Your Honor, I would offer
23 this witness as an expert in latent fingerprints.

24 THE COURT: Any voir dire, objections?

25 MR. HARBIN: I'm satisfied job, no objection.

Michael Peterson - Direct Examination

1 THE COURT: Go ahead.

2 MR. HOLLOWAY: I'm going to have you step
3 down. Judge, if you don't mind.

4 THE COURT: That's fine.

5 BY MR. HOLLOWAY:

6 Q. I'm going to hand you Exhibits 10, 11 and 12.
7 Could you take these items from the bag very carefully and
8 just tell us what your impression was when you analyzed
9 them for latent prints?

10 A. Do you want me to lay them out?

11 MR. HOLLOWAY: What's better, Judge?

12 THE COURT: You can lay them out on the
13 table. That's fine.

14 Officer, let me ask you, is that gun
15 unloaded?

16 MR. HOLLOWAY: It's been confirmed and deemed
17 safe by the deputies. Is that correct?

18 THE COURT: I just want the jury to feel
19 secure.

20 BY MR. HOLLOWAY:

21 Q. This is State's Exhibit 10. Can you identify
22 this for the record?

23 A. Yes, that is a weapon that we had processed.

24 Q. What analysis did you take this firearm through
25 to confirm the latent prints to be lifted?

Michael Peterson - Direct Examination

1 A. The very first thing we do upon receipt of a
2 clean item of evidence to process for latent prints the
3 first thing they do is they do a visual inspection. So
4 we're going to look at whatever the item of evidence is.
5 We're going to look at that very closely to see if we can
6 see any print that's already visible to the naked eye.

7 When that is not -- we're not getting
8 anything with the patent prints, what we'll then do is
9 decide what type of process do we need to use to try to
10 develop the latent print, the hidden print. Depending on
11 what the item is, we'll make a determination as to what
12 process we will use.

13 Q. And with this particular exhibit, State's Exhibit
14 10, what did you conclude about this firearm?

15 A. This firearm the most effective means we can use
16 is simply super glue. What we do is we take the item and
17 we place it in a chamber with super glue which we heat.
18 Once that super glue begins the vaporize, any type of
19 residual print or ridges from a print, it actually attacks
20 that vaporized super glue. At that time we call it a
21 fixed-a-print. What that means is it keeps it from being
22 obliterated and then we use powders or different chemicals
23 to try to eventuate that.

24 Q. With State's Exhibit 10, did you find any latent
25 prints?

Michael Peterson - Direct Examination

1 A. No, we did not.

2 Q. In your expert opinion why you would no be latent
3 prints on this gun?

4 A. Well, I can tell you some of the contributing
5 factors. I can't tell you exactly why there's no prints
6 on it, but contributing factors may be textured surface.
7 Any textured surface is much more difficult to retrieve a
8 print off than a smooth surface. In this there are some
9 textured surfaces in here. The second contributing factor
10 is going to be the condition of that surface meaning is it
11 dirty, is it greasy, is it dusty, is it grimy, is it
12 oxidized?

13 On this weapon we found that to be the case.
14 It was dirty, dusty. In that case we weren't developing
15 anything. And the third reason we have to look at where
16 the item would particularly be handled, and in this
17 analogy would be you take a door knob and a door knob
18 where somebody touches the door knob. The likelihood of
19 leaving a print is pretty good, but when you get the twist
20 and manipulate that door knob, it will slid and twist over
21 that print that has been deposited. It doesn't mean that
22 it hasn't been touched, it just we haven't been able to
23 identify any ridge detail to attach to any particular
24 person.

25 Q. And opening a door knob would be a smooth

Michael Peterson - Cross-Examination

1 surface, correct?

2 A. Yes.

3 Q. And even that on a smooth metal surface, at times
4 latent prints aren't left?

5 A. That's right. And with the variety of subjects
6 we process and unlike tv, when we process we're typically
7 getting positive results. Results that can actually be
8 analyzed 65 percent of the time. That's our department
9 average.

10 Q. I'd like to hand you up State's Exhibit 11 and
11 again could you describe for the jury what process you
12 went through to confirm any latent prints?

13 A. Again, we did a visual analysis of the weapon to
14 see if we could see anything on it. And from that point
15 we actually determined that there was nothing visual on
16 it. We ran it through the veery same process. In both
17 cases here what we used was a super glue process and then
18 we used a magnetic black powder. And what that powder
19 does it's very fine particles of iron as well as carbon
20 and we actually use a magnetic wand.

21 We use the wand to place the powder along the
22 surfaces and if there is any ridge detail, it will adhere
23 to it. It would also adhere to smudges because we're just
24 looking at what are the components that have been
25 deposited on the surface. So even though there may be

Michael Peterson - Cross-Examination

1 smudges on there, they're not verifiable for fingerprints.

2 Q. And in this case, was that what you found?

3 A. Yes, no found no verifiable fingerprints.

4 Q. Finally, State's Exhibit 12. Please carefully
5 take this out. Tell the jury the steps you went through
6 to confirm the latent fingerprints that you found?

7 A. The same process was used on this particular
8 weapon, visual inspection. We also processed it with the
9 super glue and the magnetic black powder. Because this
10 also had duct tape wrapped around it, we did to see if we
11 could find anything, we took a clip on the end of it.
12 That was processed with a different procedure taking a
13 liquid and applying it to the sticky side of the tape.
14 The tape on this weapon is extremely degraded and we
15 retrieved no fingerprints off it as well.

16 Q. Thank you very much. Please answer any questions
17 opposing counsel has for you.

18 CROSS-EXAMINATION

19 BY MR. HARBIN:

20 Q. Could you briefly describe for the jury -- you
21 said you have a 65 percent success rate most of the time
22 trying to pull prints. Do you consider prints valuable in
23 the course of an investigation?

24 A. Absolutely.

25 Q. And 65 percent success rate, you target

Michael Peterson - Cross-Examination

1 particular types of surfaces. Obviously some are better
2 as you described than others?

3 A. Yes.

4 Q. What types of surface do you kind of go to like
5 glass, metal that kind of stuff?

6 A. It would be great if everything was like a car
7 surface and we had smooth metal and we had glass, that
8 would be great. Unfortunately that's not ideal.

9 Q. Could you give us a few examples? I think you
10 did earlier but if you could give us a few samples of the
11 types of surfaces that you would expect the best possible
12 chance of getting a print from?

13 A. The best possible surfaces are going to be your
14 smooth clean surfaces, but rarely are things clean and
15 smooth. There is going to be contaminants on items. So
16 we look not only at the item itself but we also look at
17 the person. Not everybody secretes, not everybody is
18 going to leave fingerprints. You have workers. One of
19 the things in the beginning that I was learning if you had
20 brick masons and teachers those were the two worse
21 professions to have for not leaving fingerprints just
22 because of the teachers would use to obliterate
23 fingerprints as well as a brick mason who essentially
24 wears the fingerprints down.

25 Q. The long and short of the testimony about the

Kara Bennick - Direct Examination

1 guns is you weren't able to lift any prints off the guns,
2 is that right?

3 A. There were not comparable prints, no.

4 Q. No further questions, thank you.

5 THE COURT: Any redirect?

6 MR. HOLLOWAY: No redirect.

7 THE COURT: Okay. You can step down.

8 MR. HOLLOWAY: We ask that this witness be
9 excused.

10 THE COURT: Any objection?

11 MR. HARBIN: No objection.

12 THE COURT: Ladies and gentlemen of the jury,
13 let's take a short morning break. Remember not to discuss
14 the case, we'll get back with you in about 10 or 15
15 minutes. Everyone else, please remain seated until the
16 jury has exited the courtroom. Thank you.

17 (Jury exits the courtroom.)

18 (Whereupon, there was a brief break.)

19 THE BAILIFF: Please remain seated, court is
20 in session.

21 THE COURT: Thank you. Are you ready?

22 MR. HOLLOWAY: Yes, sir.

23 (Jury re-enters the courtroom.)

24 MS. MCCALL: The State calls Kara Bennick.

25 THE CLERK: Ms. Bennick, would you come up to

Kara Bennick - Direct Examination

1 be sworn. Place your left hand on the Bible and raise
2 your right hand.

3 KARA BENNICK, having been sworn, testified as
4 follows:

5 Thank you. You may be seated. State your
6 name for the record.

7 THE WITNESS: Kara Bennick.

8 DIRECT EXAMINATION

9 BY MS. MCCALL:

10 Q. Ms. Bennick, would you tell the jury where you
11 work.

12 A. Greenville County Department of Public Safety,
13 property and evidence room.

14 Q. How long have you been employed there.

15 A. Fourteen years.

16 Q. What is your current position?

17 A. I'm the supervisor of the evidence room.

18 Q. How long have you been in that capacity?

19 A. Seven years.

20 Q. What training have you had that assists you in
21 performing your duties in the property and evidence
22 capacity?

23 A. Most of it has been on-the-job training. We are
24 all required to go to training through the International
25 Association of Property and Evidence.

Kara Bennick - Direct Examination

1 Q. And can you tell the jury what your duties are as
2 the property and evidence supervisor?

3 A. In addition to the administrative duties, I have
4 the same as the technicians which would be the signing of
5 evidence, accepting it into custody and storing it.

6 Q. What does the property and evidence do?

7 A. The property and evidence room is where all the
8 duties and officers bring evidence or property that needs
9 to be stored in a secure area.

10 Q. Where is property and evidence?

11 A. We're located in the Law Enforcement Center in
12 the basement and everything is secured.

13 Q. Can you explain a little bit about the security
14 features that are in place?

15 A. There's four full time employees that have
16 access. We are the only four that have access.
17 Everything is under lock, key, swipe card and camera
18 systems.

19 Q. Can you explain why these security features are
20 in place?

21 A. So nobody can access the evidence but us and then
22 they can come and sign it out from us in a controlled
23 environment.

24 Q. How does evidence come into you or a member of
25 your staff's possession?

Kara Bennick - Direct Examination

1 A. There's two ways, we either take it over the
2 counter during business hours and we'll take it from the
3 deputy or officer at that time or it will come in through
4 an after hours process through secured lockers and drop
5 boxes.

6 Q. And do you know how the evidence was received in
7 this case?

8 A. Not without a copy of the report.

9 Q. I'm going to show you Exhibit 46, 45 and 49 and
10 the corresponding property and evidence sheet. Looking at
11 the property and evidence sheet, can you tell us how the
12 evidence was received?

13 A. Yes, this evidence was received directly from the
14 investigator to one of our property and evidence
15 technicians.

16 Q. What do you do with the evidence once it is
17 received?

18 A. It depends on how it comes in. Some things come
19 in with a request on them. If it comes in with a request
20 on it, it would have been staged in a secure area and then
21 gone into the lab.

22 Q. Let's talk about the evidence that was collected
23 in this case. Exhibits 49 and 45 and 46, can you explain
24 what the purpose of property and evidence sheet is?

25 A. Everything that comes into the property and

Kara Bennick - Direct Examination

1 evidence room comes in accompanied by a property and
2 evidence report. It is an inventory of what is being
3 received and it is the chain of custody showing where this
4 stuff travels.

5 Q. And are these sheets always with items received?

6 A. Yes, ma'am. Everything travels with it.

7 Q. I'd like to draw your attention to the property
8 and evidence sheet that corresponds with Exhibit 49. Do
9 you recognize this property sheet?

10 A. Yes.

11 Q. Who received it?

12 A. Tavis Fritz(ph) is the one who received it from
13 the investigator. It was then signed out again by Sean
14 Collins in the lab. And it was then signed back in by
15 Israel Flounders and then signed out by the investigator
16 to come into court today. That would be the first one.
17 And then the second one was received by Tavis Fritz(Ph) at
18 the counter by the investigator, signed out by again, Sean
19 Collins, received back by myself and then signed out again
20 by the Investigator.

21 Q. Are you familiar with all these signatures?

22 A. Yes, ma'am.

23 Q. And how is that?

24 A. We deal with them daily.

25 Q. When were the substance taken out to be analyzed?

Kara Bennick - Direct Examination

1 A. The first items were taken out on May 10th, 2010
2 and the second set of items were taken out on November 4,
3 2011.

4 Q. And where were these items kept prior to testing?

5 A. Everything is kept in secure locations.

6 Q. Does the property and evidence sheet indicate who
7 originally checked these items into property and evidence?

8 A. Yes, it does.

9 Q. That's all that I have for you. Please answer
10 any questions opposing counsel may have.

11 MR. HARBIN: No questions for this witness.

12 THE COURT: Thank you, ma'am. You may step
13 down.

14 MR. HOLLOWAY: Your Honor, the State would
15 call Alvin Mitchell.

16 THE CLERK: Place your left hand on the Bible
17 and raise your right hand.

18 ALVIN MITCHELL, having been duly sworn,
19 testified as follows:

20 Thank you. You may be seated. Please state
21 your name for the record.

22 THE WITNESS: Alvin Mill Mitchell.

23 DIRECT EXAMINATION

24 BY MR. HOLLOWAY:

25 Q. Mr. Mitchell, would you tell us where live?

Alvin Mitchell - Direct Examination

1 A. 285 Roosevelt Drive in Piedmont.

2 Q. How far is that from [REDACTED]?

3 A. Less than a quarter mile.

4 Q. Tell us where you work?

5 A. Carpenter, different places in different jobs.

6 Q. Do you know the defendant, Michael Henderson?

7 A. Barely.

8 Q. Can you tell us how you know him?

9 A. Well, the first time I met him he was trying to
10 get the deeds right to the house I used to own.

11 Q. And which house was that?

12 A. [REDACTED].

13 Q. Why would he come to you about [REDACTED] [REDACTED]?

14 A. Well, I sold it one person and that person sold
15 it to another and there was a big miss us with the deeds.
16 He's trying to get it right and he had the papers for me
17 to sign and I signed it so he could get the deed right.

18 MR. HOLLOWAY: Your Honor, I'm going to show
19 this to the defense. I'd like this marked as State's
20 Exhibit No. 50.

21 (Deed marked as State's Exhibit No. 50 for
22 identification.)

23 BY MR. HOLLOWAY:

24 Q. Mr. Mitchell, would you identify State's Exhibit
25 No. 50 for the jury?

Alvin Mitchell - Direct Examination

1 A. It's the claims deed.

2 Q. Whose name appear on that quick claim deed? You
3 see your name.

4 A. Yes.

5 Q. Do you see the name of the defendant on that
6 deed? Check the second page for me.

7 A. Michael Henderson.

8 Q. When was document signed?

9 A. October 2nd.

10 Q. Of what year?

11 A. 2009.

12 Q. Do you recall that day?

13 A. Yes.

14 Q. Do you recall how this all transpired? Did he
15 come to you or did he invite you over?

16 A. He come to my house. I was out in the yard and
17 he just stopped by.

18 Q. In State's Exhibit No. 50, this is the document
19 he asked you to sign, correct?

20 A. Yes.

21 Q. And what did that document do?

22 A. Put the deed in his name supposedly.

23 Q. Supposedly or did it do that?

24 A. As far as I know it did. I never heard any more
25 about it.

Alvin Mitchell - Cross-Examination

1 Q. Can you tell the jury how you became the owner of

2 [REDACTED]?

3 A. It was left to me by my mother.

4 Q. Is it fair to say that that property is no longer
5 in your name?

6 A. Yes.

7 MR. HOLLOWAY: Your Honor, I would ask to
8 move State's Exhibit No. 50 into evidence.

9 MR. HARBIN: No objection.

10 THE COURT: Without objection.

11 MR. HOLLOWAY: That's all I have for
12 Mr. Mitchell. Please answer any questions opposing
13 counsel may have for you.

14 (Deed marked as State's Exhibit No. 50 for
15 identification was admitted into evidence.)

16 CROSS-EXAMINATION

17 BY MR. HARBIN:

18 Q. Mr. Mitchell, you mentioned that you had sold to
19 somebody else and then somewhere else along the line
20 Mr. Henderson got involved and the proper paperwork wasn't
21 done, I guess, and you were trying to clear all that up.
22 Is that your recollection?

23 A. Yes, sir.

24 Q. Who did you sell it to?

25 A. In the beginning I sold it to Duwayne Russell

Alvin Mitchell - Cross-Examination

1 Mann.

2 Q. M-A-N-N?

3 A. Uh-hum.

4 Q. Did you ever have any dealings with anybody else
5 or Mr. Mann?

6 MR. HOLLOWAY: Your Honor, I'm going to
7 object at this time. May we have a sidebar?

8 THE COURT: All right.

9 (Whereupon, there was a bench conference.)

10 BY MR. HARBIN:

11 Q. Mr. Mitchell, I apologize. Was there anybody
12 else -- I'm not sure exactly what your -- Mr. Mann, did
13 y'all ever complete any sort of deeds or anything like
14 that or was it just a handshake agreement or how did that
15 transaction transpire?

16 A. That was a handshake thing. He was paying me by
17 the month.

18 Q. So it's kind of a lease to own thing where he's
19 paying on it?

20 A. Yes.

21 Q. Now, was this property free and clear when you
22 inherited it?

23 A. Yes.

24 Q. So you didn't owe anything on it so whatever he
25 was paying on whatever it was worth?

Alvin Mitchell - Cross-Examination

1 A. Yes.

2 Q. Did he continue to pay you up until when? How
3 long did he pay you?

4 A. Up until about half way, I'd say about a year and
5 a half he paid me, and then he sells it to somebody that
6 comes up with the rest of my money and his month.

7 Q. And who was that?

8 A. He name was Naomi Davis.

9 Q. Was Naomi Davis related to Mr. Mann at all?

10 A. No.

11 Q. So how did she come into the picture to your
12 knowledge? I don't know if that was arranged by Mr. Mann
13 or not.

14 A. It was.

15 Q. So Mr. Mann found, to your knowledge, somebody to
16 take over his payments essentially?

17 A. Yes.

18 Q. Did y'all have a settled amount that he was
19 suppose to pay you that the property was worth?

20 A. Yes.

21 Q. Do you recall what that was?

22 A. It was \$10,000 and he pay me \$200 a month.

23 Q. So he did that for a year and a half and then
24 Ms. Davis comes in the picture?

25 A. Yes.

Alvin Mitchell - Cross-Examination

1 Q. How long did Ms. Davis pay you?

2 A. He didn't pay me.

3 Q. She didn't pay you?

4 A. No.

5 Q. How did that transaction take place?

6 A. She paid him and he paid me everything that he
7 owed me.

8 Q. So she gave the money to him and he gave the
9 money to you?

10 A. Right.

11 Q. From that forward did you ever have any dealings
12 with anybody else other than having to deal with
13 Mr. Henderson there, but did you have to go to the
14 property or handle any business with anybody else?

15 A. No.

16 Q. So you washed your hands of the property after
17 you got paid?

18 A. Yes.

19 Q. And the only other thing you did was just talk to
20 Mr. Henderson?

21 A. Yeah.

22 Q. Did you ever go by the property to see if anybody
23 was living there? You said you lived about a quarter mile
24 away.

25 A. I ain't been over there.

Alvin Mitchell - Cross-Examination

1 Q. So you don't know if anybody was there, what was
2 going on, if the house was even there or not?

3 A. No.

4 Q. Burned down or ---

5 A. No.

6 Q. Mr. Mitchell, I don't have any further questions.
7 Thank you.

REDIRECT EXAMINATION

8
9 BY MR. HOLLOWAY:

10 Q. As of October 2009 Michael Henderson owned the
11 property at [REDACTED]; is that correct?

12 A. Yeah.

13 MR. HOLLOWAY: That's all I have.

14 THE COURT: Thank you. You can step down.

15 MS. MCCALL: The State calls Sean Collins to
16 the stand.

17 THE CLERK: Would you please raise your right
18 hand to be sworn in. Thank you.

19 SEAN COLLINS, having been duly sworn,
20 testified as follows:

21 You may be seated. State your name for the
22 record.

23 THE WITNESS: Sean Collins.

DIRECT EXAMINATION

24
25 BY MS. MCCALL:

Sean Collins - Direct Examination

1 Q. Would you please tell the jury where you are
2 employed?

3 A. I'm employed by the Department of Public Safety
4 in the crime laboratory.

5 Q. And how long have you worked for Department of
6 Public Safety?

7 A. A little over 20 years.

8 Q. What position do you currently hold?

9 A. I'm the manager and I also do drug analysis.

10 Q. And how long have you held that position?

11 A. Drug analysis the entire time, manager for seven
12 years.

13 Q. What training and education did you receive?

14 A. I have a bachelor's of science degree in
15 chemistry from Clemson University. I attended the Drug
16 Enforcement Administration forensic seminars and several
17 course for equipment and analysis and I received 700 hours
18 of specialized training.

19 Q. And do you still receive training?

20 A. Yes, ma'am.

21 Q. What task do you perform as a chemist for
22 Greenville County?

23 A. Analysis suspected controlled substances.

24 Q. How many cases have you been asked to analyze
25 suspected controlled substances?

Sean Collins - Direct Examination

1 A. Over 10,000.

2 Q. How many of those substances turned out to be
3 methamphetamine?

4 A. Several thousand.

5 Q. How many times have you testified in court about
6 the chemical analysis you performed?

7 A. I testified 158 time as an expert witness.

8 MS. MCCALL: At this time, Your Honor, I
9 would move to have Mr. Collins qualified as an expert.

10 MR. HARBIN: No objection.

11 THE COURT: Without objection.

12 BY MR. MCCALL:

13 Q. Mr. Collins were you asked to analyze the
14 substances in this case?

15 A. Yes, I was.

16 Q. What were you asked to analyze?

17 A. At first I was asked to analyze three different
18 items. They were labeled MM26, MM27 and MM23.

19 Q. And how did you obtain those substances?

20 A. I retrieved them from the property and evidence
21 room in the basement of the Law Enforcement Center.

22 Q. How did you check these items out of property and
23 evidence?

24 A. They have a counter at the property and evidence
25 room, I go down there and request a case that's been

Sean Collins - Direct Examination

1 requested for analysis. They're retrieve it from the
2 secured area, bring it to us and we'll sign for custody.

3 Q. I'm showing you Exhibit 49 and the corresponding
4 property and evidence sheet. Without telling me what it
5 is, do you recognize the exhibit?

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

7 Q. When did you check that out of property and
8 evidence to perform your analysis?

9 A. I received this May 10th of 2010.

10 Q. How do you know that?

11 A. My signature and the date is on the sheet.

12 Q. When you picked up the substance, was the
13 substances sealed?

14 A. Yes, ma'am, it was.

15 Q. How do you know the bag was sealed?

16 A. We don't receive evidence unless it is sealed.

17 Q. Now, turning to the testing of the substance,
18 what did you do with Exhibit 49 after you picked it up
19 from property and evidence?

20 A. I returned to the laboratory. We generally sign
21 out multiple cases at a time. This one was worked later
22 after signing it out. The first thing we do is we weigh a
23 substance to determine how much of it is there. The next
24 part is the actual testing to determine what the identity
25 is.

Sean Collins - Direct Examination

1 Q. How did you determine what the substance was?

2 A. Chemical instrumental analysis.

3 Q. How many total tests would you say you performed
4 on these substances?

5 A. Three.

6 Q. Did you form an expert opinion as to what these
7 substances were?

8 A. Yes.

9 Q. Please state your opinion?

10 A. It's two bags in this lab package. I found them
11 both to contain methamphetamine with a combined weight of
12 0.76 grams.

13 Q. After you analyzed the substance, what did you do
14 with it?

15 A. I resealed it and returned it to property and
16 evidence for storage.

17 Q. Looking at State's 49, is that the same evidence
18 that you returned to property and evidence?

19 A. Yes, ma'am.

20 Q. And how do you know that?

21 A. My initials and the date are on the outer sealed
22 bag.

23 Q. When did you return to substance back to property
24 and evidence?

25 A. It was returned on May 20, 2010.

Sean Collins - Direct Examination

1 Q. Is that the corresponding property and evidence
2 sheet?

3 A. Yes.

4 Q. Is it in essentially the same condition as it was
5 when it was returned to property and evidence?

6 A. Yes, ma'am.

7 MS. MCCALL: Your Honor, I'd move State's
8 Exhibit 49 into evidence.

9 MR. HARBIN: No objection.

10 THE COURT: Without objection.

11 (Substance marked as State's Exhibit No. 49
12 for identification was admitted into evidence.)

13 BY MS. MCCALL:

14 Q. Did you have to analyze pills in this case?

15 A. Yes, I did.

16 Q. How did you obtain the pills?

17 A. Same way by retrieving them from property and
18 evidence room.

19 Q. Is that the corresponding property and evidence
20 sheet?

21 A. Yes, ma'am.

22 Q. And is that the same date?

23 A. Yes.

24 Q. How do you know that Exhibit 45 was taken out of
25 property and evidence?

Sean Collins - Direct Examination

1 A. It's marked with the case number as identified on
2 the property and evidence sheet and it's one of the items
3 that I singed for.

4 Q. And was that package heat sealed?

5 A. Yes, ma'am.

6 Q. As far as the testing of these pills, what did
7 you do you picked them up from property and evidence?

8 A. These tablets were identified by their markings.
9 There was no chemical analysis done.

10 Q. From the analysis that you did, did you form an
11 expert opinion as to what this exhibit is?

12 A. Yes, ma'am.

13 Q. State your opinion.

14 A. This bag was 95 red tablets was indicated to be
15 pseudoephedrine?

16 Q. What kind of substance is pseudoephedrine?

17 A. It's a decongestant.

18 Q. Is it controlled?

19 A. It's not a controlled substance but there is a
20 limit to how many you can buy at one time from the
21 pharmacy.

22 Q. After you analyzed those pills, what did you do
23 with those pills?

24 A. I returned them to the property and evidence
25 room.

Sean Collins - Direct Examination

1 Q. And is that the same evidence you returned to the
2 property and evidence room?

3 A. Yes.

4 Q. How can you be certain of that?

5 A. It's sealed with my markings.

6 Q. What's the date that you returned them to
7 property and evidence?

8 A. May 20, 2010.

9 Q. Is it essentially in the same condition as it
10 was?

11 A. Yes, ma'am.

12 MS. MCCALL: Your Honor, I move that State's
13 Exhibit 45 be moved into evidence.

14 MR. HARBIN: No objection

15 THE COURT: Without objection.

16 (Pills marked as State's Exhibit No. 45 for
17 identification was admitted into evidence.)

18 BY MS. MCCALL:

19 Q. You were asked to analyze coffee filters in this
20 case?

21 A. Yes, ma'am.

22 Q. I'm handing you what's marked as Exhibit 46 and
23 the corresponding property and evidence sheet. Do you
24 recognize this exhibit?

25 A. Yes, ma'am, I did?

Sean Collins - Direct Examination

1 Q. Did you check this out from property and evidence
2 to perform you analysis?

3 A. Yes, ma'am.

4 Q. How do you know that you checked those out?

5 A. My name is on this property and evidence sheet
6 and the date that I received it.

7 Q. As far as the testing, what did you do with the
8 items Exhibit 46 after you checked them out of property
9 and evidence?

10 A. I did a chemical and instrumental analysis.

11 Q. And did you form an expert opinion as to what
12 these substances are?

13 A. Yes, ma'am.

14 Q. State your opinion?

15 A. The substance on the paper contained
16 methamphetamine.

17 Q. After you analyzed the substance what did you do?

18 A. Returned them to the property and evidence room.

19 Q. Is that the same evidence marked as Exhibit 45
20 the same as you returned it?

21 A. Yes, ma'am.

22 Q. How can you be certain of that?

23 A. It's sealed with my initials and date.

24 Q. Did you reseal the bag containing the coffee
25 filters?

Sean Collins - Cross-Examination

1 A. Yes, ma'am.

2 Q. What date did you return it to property and
3 evidence?

4 A. November 7, 2011.

5 Q. And is it essentially in the same condition as it
6 was when you returned it to property and evidence?

7 A. Yes, ma'am.

8 MS. MCCALL: Your Honor, I ask that State's
9 Exhibit 46 be moved into evidence.

10 MR. HARBIN: No objection.

11 THE COURT: Without objection.

12 MS. MCCALL: That's all the questions I have.

13 CROSS-EXAMINATION

14 BY MR. HARBIN:

15 Q. Mr. Collins, can you tell the jury how many times
16 have you had to test items like this, things for residue
17 and actually pieces what is alleged to be drugs? Is it in
18 the thousands you've done?

19 A. Yes, over the years.

20 Q. And how many years have you done this?

21 A. Twenty years.

22 Q. In those 20 years, have you found that all the
23 meth is the exact same?

24 A. No, sir.

25 Q. What are the differences you can notice as an

State versus Michael Henderson

1 analysis?

2 A. It can appear difference. Occasionally it
3 appears as a crystal substance, a powder of varying
4 shades, white, off white, brown. Depending on how it is
5 made, it may have different purities in it.

6 Q. To your expert ability, do you understand or can
7 you look at something and tell how it was made or what
8 makes that difference? In other words, if you're looking
9 at three distinct looking piles of meth or whatever you
10 want to call it, can you say that one is darker or harder
11 or less crystalline or something and I know that because
12 in my experience that's the way they didn't do this or
13 they did this or it's been cut? What kind of opinions can
14 you form, if any, by looking at them?

15 A. It would just be a guess.

16 Q. So although you know there are differences, it's
17 really guess work as to what actually caused the
18 differences?

19 A. Yes.

20 MR. HARBIN: That's all I have.

21 MS. MCCALL: Nothing further from the State.

22 THE COURT: You can step down.

23 Call your next witness.

24 MS. MCCALL: Your Honor, the State rests.

25 THE COURT: All right, ladies and gentlemen

State versus Michael Henderson

1 of the jury, if you remember I told you I'd have to
2 discuss the legal issues with the attorneys from time to
3 time. This is one of those times so I ask you to step out
4 to the jury room and I'll get with you in just a minute.

5 (Jury exits the courtroom.)

6 Any motions?

7 MR. HARBIN: Judge, I'd like to reiterate the
8 motions that Mr. Sullivan and I put forth initially in the
9 suppression motion. Other than that I don't have any
10 motions that we would like to take up prior to the
11 defenses case.

12 THE COURT: Same rulings on all my motions.

13 Mr. Henderson, raise your right hand for me.

14 MICHAEL HENDERSON, having been duly sworn,
15 testified as follows:

16 You can put your hand down. Do you
17 understand you have an absolute constitutional right to
18 testify in your own defense. You also have equal absolute
19 constitutional right not to testify and that silence can
20 not be held against you and I will give a strong
21 instruction to a jury to that effect.

22 Whether you not you testify there are lot of
23 factors that go into that. You need to think about it,
24 weigh it, and talk to your attorney about it and make a
25 decision because the time is now coming where you're going

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1 to have to make that choice. Do you understand what I'm
2 saying to you?

3 DEFENDANT HENDERSON: Yes.

4 THE COURT: Is there any questions you need
5 to ask me about your right to testify?

6 DEFENDANT HENDERSON: No, sir.

7 THE COURT: Have you had enough time to
8 discuss this with your attorney?

9 DEFENDANT HENDERSON: No, I'd like to discuss
10 it.

11 MR. HARBIN: Prior to doing that, I would
12 like to ask the Court to rule on what priors, if any,
13 would be admissible for impeachment purposes.

14 THE COURT: What do you have?

15 MS. MCCALL: 1993 distribution of marijuana,
16 1996 possession of cocaine, 2005 possession of
17 methamphetamine, possession of cocaine.

18 THE COURT: What would you impeach him with?

19 MS. MCCALL: 2005 possession of
20 methamphetamine, possession of cocaine.

21 MR. HARBIN: Judge, I don't have a problem
22 with those two charges, however, I do believe that the
23 prejudicial value of stating what the offense was for far
24 outweighs to probative value as it relates to
25 truthfulness.

State versus Michael Henderson

1 THE COURT: What are you suggesting?

2 MR. HARBIN: I would suggest that the
3 Solicitor's Office be allowed to tell the jury that, in
4 fact, he has been convicted of a crime that carries more
5 than one year in jail, but unless he opens the door, they
6 not be allowed tell the jury that it was specifically
7 about methamphetamine or drugs for that matter.

8 THE COURT: Anything you want to tell me?

9 MS. MCCALL: Cocaine that's a different drug
10 and we would ---

11 THE COURT: Let me tell you what, I'll allow
12 them to examine him on prior convictions for possession of
13 controlled substances without naming the actual drug. I
14 think that would outweigh any prejudice.

15 That is if you testify, Mr. Henderson, then
16 they would be allowed to impeach your credibility with
17 respect to those prior convictions for those offense, do
18 you understand that?

19 DEFENDANT HENDERSON: Yes, sir.

20 THE COURT: Anything else?

21 MR. HARBIN: Yes, sir. What I believe the
22 State is going to mention and we touched on this pretrial
23 any third party guilt. Essentially what we have ready is
24 a list of witnesses that will testify generally to the
25 State of the property including burn piles pre-existing.

State versus Michael Henderson

1 Some can actually say what was in the shed prior to the
2 moving in. One particular witness can actually say that
3 Freida Lukor can say is the proper owner of items from the
4 shed.

5 We've also gotten Freida Lukor transported
6 from here and I quite frankly not sure if I'm going to put
7 her on the stand or not. But my understanding is what
8 drew the Hendersons to this house is random chance meeting
9 with Ms. Lukor who said I'm selling the house and
10 essentially shortly thereafter she wind up going to
11 prison. That I feel would be probative and would come out
12 in testimony.

13 I understand that the Court has to make a
14 ruling that third party guilt is essentially more
15 probative than prejudicial so I don't know whether or not
16 the summation of the ---

17 THE COURT: I think the law is it just can't
18 be speculative.

19 MR. HARBIN: Judge, I believe in this case
20 this is an extremely close causal connection that you have
21 what is literally a convicted meth dealer and a meth
22 trafficker living in that place in that exact house within
23 months of this bust. You have no evidence of a working
24 meth lab, you only have evidence that there was a meth lab
25 and the only evidence that we have that we can rebut

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1 through testimony about pre-existing conditions is that
2 one officer says that he says the meth lab worked within a
3 month. And I don't think that testimony was particularly
4 credible.

5 Certainly the first officer that came by and
6 said I don't see any burn piles are going to be
7 contradicted by five people who said there are plenty of
8 burn piles there, plenty of junk and cans and cannisters
9 and things, and if those things were there immediately
10 prior to the Hendersons moving in, that is a direct
11 connection with whomever had custody and control of that
12 property prior. And it couldn't be any further away from
13 speculative.

14 THE COURT: When did he buy this property?

15 MR. HARBIN: In May 2009 and she got
16 convicted in June of 2009.

17 THE COURT: And then in October he goes out
18 and gets a quick claim deed. That's in evidence.

19 MR. HARBIN: He finds out apparently that
20 Ms. Lukor didn't actually own the property and the back
21 taxes were about to be foreclosed upon so he goes out and
22 pays the taxes and gets a quick claim deed and owns the
23 property now.

24 THE COURT: Is it financed or paid for? Is
25 the bank involved?

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1 MR. HARBIN: No, sir. I would also make the
2 point that the State has an opportunity to rebut this,
3 number one, and also this goes all the way back to the
4 very first problem that we had, Officer Godfrey didn't
5 both to ask a single question. He got a generalized core
6 tip that there was drug activity at [REDACTED].

7 Now, if he had just gone one step and said
8 when did you buy drugs at [REDACTED], one step and that
9 was it. But he didn't ask a single question. He could
10 have said, yeah, I got it from Freida Lukor, we would have
11 been done and the we wouldn't have even prosecuted this
12 case and they would have gone after Freida Lukor or gone
13 to the grand jury. If you don't allow us to bring us
14 Freida Lukor, you're rewarding the officer for being lazy
15 because his first tip just says drug activity on this
16 property. And if we presume him to be innocent which I
17 believe we do, and allow him to put a defense up saying
18 this stuff was here before and now we have an ability to
19 explain why it was there before.

20 In fact, this criminal lived in my house in
21 the house that I now own and it seems like the opposite of
22 boot strapping. The officer did a bad job and now he gets
23 awarded for it by disallowing any particular --
24 essentially this is our investigation.

25 THE COURT: What surprises me is that nobody

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1 asked Officer Godfrey if on his first visit to the
2 property he saw a burn pile? I can't believe nobody asked
3 that.

4 MR. HARBIN: We did ask that.

5 THE COURT: And there wasn't a burn pile. So
6 you're going to pit your witnesses against his
7 credibility.

8 MR. HARBIN: I got a half a dozen of them to
9 say there were not only burn piles, there was trash in the
10 house and everywhere.

11 THE COURT: Alright, what do y'all want to
12 tell me?

13 MR. HOLLOWAY: Judge, this whole issue is who
14 is boot strapping. It is Freida Lukor was never convicted
15 of criminal behavior at [REDACTED] and because she's
16 been convicted of trafficking meth in a different county,
17 they're trying to boot strap her lack of credibility into
18 their case.

19 His witnesses can not tie Freida Lukor to
20 these ingredients for a meth lab at the property. Maybe
21 one witness versus everybody else who confirms or at least
22 indicates that this defendant had constructive possession
23 over this meth lab. It's drawing the duty into ---

24 THE COURT: Wait a minute. He owned the
25 property.

State versus Michael Henderson

1 MR. HOLLOWAY: He owned the property.

2 THE COURT: It's more than constructive
3 possession.

4 MR. HOLLOWAY: He lived on the property for
5 10 months.

6 MR. HARBIN: Just to make sure I said this
7 correctly, the solicitor is wrong. We have a direct
8 relationship between everything that they claim to be a
9 meth lab in Freida Lukor, everything. She comes up with a
10 trailer and a truck to get stuff out of the shed, pulls
11 half of it out and then says -- we got somebody to tell
12 you ---

13 THE COURT: Freida Lukor is here?

14 MR. HARBIN: She's here.

15 THE COURT: Have y'all talked to her?

16 MR. HOLLOWAY: We have, Judge. And that
17 brings me to another argument the fact is like any other
18 witness she's protected by the rules of evidence on her
19 own (inaudible). To probe into her own conviction as to
20 the nature of the conviction is against Rule 609 and even
21 608. How can he ask her, isn't it true you've been
22 convicted of trafficking meth in a different county by the
23 State grant jury when these rules protect her like any
24 other witness on her own credibility

25 She's wearing an SCDC jump suit. Isn't that

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1 prejudicial to her own credibility?

2 THE COURT: I don't care what she's in prison
3 for. The only thing that matter is if you're going to
4 call her as a witness, she's going to get up here and say
5 it's my meth lab.

6 MR. HARBIN: Of course, she's not going to do
7 that.

8 THE COURT: I don't know if she is or not. I
9 don't know if they're going to call her as a witness in
10 reply.

11 MR. HOLLOWAY: I can almost guarantee she's
12 going to deny this was her meth lab. She said to us ---

13 THE COURT: Why wouldn't you call her?

14 MR. HOLLOWAY: We could proffer her.

15 THE COURT: I think a proffer of testimony in
16 this regard would be a good thing.

17 MR. HARBIN: Proffer all of my witnesses as
18 well?

19 THE COURT: Proffer whatever you're going to
20 show that makes it nonspeculative.

21 MR. HARBIN: That's going to end up being all
22 of them, Judge.

23 THE COURT: Let's get it done. Let's go.

24 MR. HARBIN: The defense is ready to proceed
25 and call its first witness. Judge, we call Samuel

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1 Croxston to the stand.

2 THE CLERK: Please come forward to be sworn
3 in. Please place your left hand on the Bible and raise
4 your right.

5 SAMUEL CROXSTON, having been duly sworn,
6 testified as follows:

7 Thank you. You may be seated. State your
8 name for the record.

9 THE WITNESS: Samuel Croxston.

10 DIRECT EXAMINATION (Proffered)

11 BY MR. HARBIN:

12 Q. Mr. Croxston, could you tell the Court what your
13 relationship with Mr. Henderson is?

14 A. I am his wife's father.

15 Q. His father-in-law. Can you tell us what you know
16 about the property in question at the time they moved in
17 or essentially what it looked like before they moved in?

18 A. The place was just a mess. I mean it was trash
19 everywhere, several vials, trash, a little bit of
20 everything that had been attempted to be burned. I know
21 on numerous occasions they'd be steady working on the
22 piles trying to get them burned out. The place was
23 generally trashed.

24 Q. Specifically addressing and I believe you been in
25 court to see some of this, what did you see, if anything,

State versus Michael Henderson

1 inside the shed?

2 A. Just the usual clutter in an outside building.

3 Q. Did you recognize any of the items in the picture
4 shown here?

5 A. For sure because they did have a heater that they
6 used on the inside. I didn't see the damaged one, but, of
7 course, I didn't pay much attention. The only reason I
8 went in there was I helped my youngest daughter move some
9 stuff in there. She lived there for a while with them.

10 Q. Was the shed itself essentially in the same
11 condition as you've seen in the pictures shown during the
12 trial?

13 A. Basically just a little more cluttered.

14 Q. With respect to the burn piles, did you, in fact
15 -- you've mentioned them but how many burn piles did you
16 see around the property?

17 A. There were at least three. There was the one
18 directly in front of the house. There was one a little
19 closer to the shed mainly in the driveway and there was a
20 much larger one in the backyard.

21 Q. Can you be any more specifically about what
22 things you remember were contained in the burn piles as it
23 relates to this case?

24 A. I saw propane cylinders, soda cans, vegetable
25 containers, steel can, just a little bit of everything,

State versus Michael Henderson

1 bottles.

2 MR. HARBIN: That's all for this witness,
3 Judge.

4 THE COURT: Any cross.

5 MR. HOLLOWAY: Yes, sir, Judge.

6 CROSS-EXAMINATION

7 BY MR. HOLLOWAY:

8 Q. I'm showing you, Mr. Croxston, State's Exhibits
9 42, 43 and 44. Can you identify these items?

10 A. The only item I really recognize is the propane
11 cylinder because they did have one of the heaters and one
12 on it with the double burner. That's the only thing I
13 recognize.

14 Q. So all the items that the officers collected as
15 part of this meth lab, you don't know where those items
16 came from?

17 A. Like I said when I first looked in the building
18 there was a lot of clutter and everything, but I never
19 really paid it any attention.

20 Q. Any indication that those items belonged to
21 Freida Lukor or anybody else and it's pure speculation on
22 your part, correct?

23 A. As far as I know, yes.

24 MR. HOLLOWAY: That's all I have.

25 REDIRECT EXAMINATION

State versus Michael Henderson

1 BY MR. HARBIN:

2 Q. Mr. Croxston, you're not speculation that the
3 shed was full of all kinds of stuff prior to them moving
4 in, correct?

5 A. Correct.

6 Q. That's not speculating, you actually saw the
7 stuff?

8 A. Yes.

9 Q. You're not speculating that the burn piles were
10 there and had cannisters like the officers were describing
11 before, you saw those, correct?

12 A. Those burn piles were there.

13 MR. HARBIN: Thank you. That's all, Judge.

14 THE COURT: Mr. Croxston, you said whenever
15 you went over there they were busy burning down the piles,
16 who is the?

17 THE WITNESS: Most of the time it was my
18 daughter. She was just trying to clean the yard up. I
19 mean the yard was overgrown. Like I said it was just
20 trash in general.

21 THE COURT: Do you remember the first time
22 you went over there, the date?

23 THE WITNESS: I can't remember exactly when
24 they moved in.

25 THE COURT: When did you first go over there?

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1 THE WITNESS: It was within a week or two
2 after they had moved in. I try and spend time with my
3 grandson and take him to the lake and the motorcycle.

4 THE COURT: Did you help them in their clean
5 up or did you just come over and get your grandson and
6 take him to the lake?

7 THE WITNESS: Usually it was just visitation.
8 It was on my way home from work.

9 THE COURT: And you tell me that the -- there
10 was a bunch of junk in the shed but you can't tell me what
11 it was, correct?

12 THE WITNESS: It was just cluttered, no.

13 THE COURT: When would you say there was
14 clutter in there?

15 THE WITNESS: Right after they moved in. My
16 youngest daughter lived with them for a while.

17 THE COURT: What's her name?

18 THE WITNESS: Paulette.

19 THE COURT: Okay.

20 THE WITNESS: And I hauled some belongings of
21 hers over. She was staying with them. She stored them in
22 the shed.

23 THE COURT: She put stuff in the shed?

24 THE WITNESS: Yes, sir.

25 THE COURT: Yes, sir.

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1 THE WITNESS: She kept them stored for a
2 while.

3 THE COURT: Anything else y'all want to ask?

4 MR. HOLLOWAY: That's all from the State,
5 Judge.

6 MR. HARBIN: We call Paulette Croxston.

7 MR. HOLLOWAY: If I may interject here, these
8 people are not on the list.

9 THE COURT: Same Croxston is on Tim's list.
10 I don't see Paulette.

11 MR. HARBIN: Paulette is essentially going to
12 be a rebuttal witness.

13 MR. HOLLOWAY: Freida Lukor is not on the
14 list either. She's been under subpoena.

15 THE COURT: Okay. Go ahead.

16 THE CLERK: Please place your left hand on
17 the Bible and raise your right hand.

18 PAULETTE CROXSTON, having been duly sworn,
19 testified as follows:

20 Thank you. Please be seated. State your
21 name for the record.

22 THE WITNESS: Paulette Croxston.

23 DIRECT EXAMINATION (Proffered)

24 BY MR. HARBIN:

25 Q. Ms. Croxston, you understand what we're doing

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1 here? The Judge is trying to figure out whether or not
2 there is any testimony that would be valuable from y'all
3 as to whether or not there had been any pre-existing meth
4 labs or burn piles.

5 A. Yes, sir.

6 Q. And did you see the property before they moved
7 in?

8 A. Yes, sir.

9 Q. And describe the property before they moved in?

10 A. The home interior actually had holes in the
11 walls, paint was peeling off the walls. There was no
12 carpet or linoleum on the floor. The floors were bare.
13 The yard was extremely overgrown and there was
14 pre-existing burn piles with metal cans, various trash in
15 it, lots of debris throughout the yard.

16 Q. And did you see anything that looked like this
17 and this would be Exhibit 4, the burn piles?

18 A. Without the lettering, yes.

19 MR. HARBIN: For the record, Judge, Exhibit 4
20 is the picture of the blister packs that says Sudafed on
21 it.

22 BY MR. HARBIN:

23 Q. As it relates to the shed, you said you stored
24 some things in the shed yourself; is that correct?

25 A. Yes, sir.

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1 Q. When you placed those things in the shed, did you
2 have an opportunity to look around in the shed?

3 A. Yes, I did.

4 Q. Did you have an opportunity to see the pictures
5 that were proffered by the State and this would be Exhibit
6 17? Is this what the shed looked like?

7 A. Yes.

8 Q. Do you recognize any of those items from when you
9 first saw the shed?

10 A. Yes, sir, a lot of those things.

11 Q. Can you point out specifically what you saw as
12 many as you were able to do?

13 A. I know the wood furniture was already
14 pre-existing. There was a rusted -- propane tank on this
15 metal stand was pre-existing and there was a lot of extra
16 clutter on top. There was, I believe, a tarp or carpet of
17 some sort that I could see through.

18 Q. Anything else?

19 A. Specifically, no. There was a lot of clutter.

20 Q. In these pictures here anything that you
21 recollect from these two pictures which would be 20 and
22 19?

23 A. I believe the fertilizer and the rusted tank was
24 pre-existing. The wooden table was already there. As far
25 as the clutter that was underneath the table, I'm not

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1 sure.

2 Q. Is this the rusted out tank that you're
3 referring?

4 A. I don't know if the valve was off but it was
5 rusted.

6 Q. So essentially what you remember is the tank was
7 rusted. You don't remember if this is the tank or not?

8 A. Right. I don't know if the one I saw have a
9 valve on it or not.

10 Q. Did you have a chance to see anyone come by the
11 property and retrieve anything out of the shed?

12 A. I did not see the person specifically but I did
13 see a pickup truck and a trailer. When I asked my sister
14 who was there, she said it was Freida getting some things.

15 Q. When was that?

16 A. It was in June.

17 Q. Were you aware of Freida was at the time?

18 A. As far as ever meeting her, no, I had never met
19 her. I was informed by my sister that Freida was the one
20 that sold her the property.

21 Q. You were aware that she was the previous resident
22 or owner?

23 A. Yes, sir.

24 Q. Can you describe what was inside the house as it
25 pertains to the relevance of this case?

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1 A. In June?

2 Q. Before they moved in what types of items that you
3 cleaned out that would be ---

4 A. It was all kinds of various trash.

5 Q. Specifically would there be any cannisters, any
6 cans, any propane tanks inside the house?

7 A. Not that I saw inside the house. There were
8 metal cans but it was more like vegetable cans without the
9 labels on them.

10 MR. HARBIN: Thank you. No further
11 questions.

12 THE COURT: Cross.

13 CROSS-EXAMINATION

14 BY MR. HOLLOWAY:

15 Q. Mr. Harbin referred you to several of the State's
16 exhibits on these photographs. I'm going to refer you to
17 State's Exhibit 19, okay. Can you see the bag of
18 fertilizer in this photograph?

19 A. Yes, sir.

20 Q. How do you know that that bag of fertilizer
21 belonged to Freida Lukor?

22 A. I don't know that it belonged to Freida Lukor. I
23 know it was pre-existing in the shed when we moved in.

24 Q. So you don't know for sure it belonged to Freida
25 Lukor?

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1 A. No, I don't. I never said I did.

2 Q. The propane tank, what about this propane tank
3 makes you believe this belonged to Freida Lukor?

4 A. I never said it did. I said it was pre-existing.

5 Q. You were in the courtroom during this trial,
6 correct?

7 A. Yes.

8 Q. And you heard the testimony of Mr. Alvin
9 Mitchell; is that right?

10 A. Yes.

11 Q. You heard him testify that this property went
12 through multiple owners, right?

13 A. Yes.

14 Q. So you don't know who other than its previous
15 occupants or owners who this stuff belonged to?

16 A. Correct.

17 Q. Thank you very much.

18 MR. HARBIN: Nothing further.

19 THE COURT: How long did you live there?

20 THE WITNESS: I lived there from June of 2009
21 until October of 2009.

22 THE COURT: What did you store in the shed?

23 THE WITNESS: Various furniture,
24 entertainment stand, a cabinet, dressers. It was bunch of
25 my personal furniture that would not fit in the home.

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1 THE COURT: Okay. So when you left is all
2 the clutter still there?

3 THE WITNESS: In the back, yes.

4 THE COURT: Was it more clutter than what's
5 shown in the photographs?

6 THE WITNESS: I don't believe so, sir.

7 THE COURT: You had a bunch of stuff crammed
8 in there and you couldn't get to the back of the shed, is
9 that right?

10 THE WITNESS: I didn't go to the back of the
11 shed. It's separated. You can see through. There is a
12 window that separates the front of the shed from the back
13 of the shed. There's a front door and it's the main area
14 and that's where I had my things stored. There was
15 actually like a metal partition that went to the back, a
16 separate room, and there was a space where you could see
17 through.

18 THE COURT: Okay. Anything else?

19 MR. HOLLOWAY: Okay. You can step down.

20 MR. HARBIN: We call David Mathis.

21 THE CLERK: Mr. Mathis, come around to be
22 sworn in. Place your left hand on the Bible and raise
23 your right.

24 DAVID MATHIS, having been duly sworn,
25 testified as follows:

State versus Michael Henderson

1 Thank you. You may be seated. State your
2 name for the record.

DIRECT EXAMINATION

4 BY MR. HARBIN:

5 Q. Mr. Mathis, could you tell the Court your
6 relationship with Mr. Henderson?

7 A. Friend.

8 Q. And when did you first arrive over to [REDACTED]
9 Lane?

10 A. They was moving in and I went over to talk to
11 Mike and his friend about going deer hunting later on that
12 year and when I pulled up I noticed a couple of burn
13 piles.

14 Q. So you were there before they actually finished
15 moving in?

16 A. Yeah.

17 Q. Describe the burn piles that you saw?

18 A. It looked like a bunch of household trash, you
19 know, cans.

20 Q. See any fuel cannister?

21 A. I wasn't really paying that much attention to it.

22 Q. How often did you go over to the house?

23 A. I went over there about three times.

24 Q. And what was the time period of those visits?

25 A. About a month a part.

State versus Michael Henderson

1 Q. When you went over there, did you have a chance
2 to see inside the home?

3 A. Yeah, I've seen inside the home. First their
4 stuff was still in boxes, you know, and there was still
5 stuff left in the house and later on when they started
6 getting settled in and I went back.

7 Q. Did you have a chance to look inside the shed?

8 A. No, sir, I didn't.

9 Q. On one particular visit, did you have an
10 opportunity to see someone not related to the Henderson
11 come remove items from the shed?

12 A. When I was there and I was talking to Mike to go
13 deer hunting and when I was leaving, there was a truck
14 pulling up out from the shed and the lady said, Mike, I'm
15 going to come back and get the rest of my stuff later.
16 And I was like, who was that, and he said that was Freida.

17 Q. So although you saw her you didn't know who she
18 was until Mike told her who she was?

19 A. Exactly.

20 Q. Take a look at this, is this the woman that you
21 saw?

22 A. Yes, sir.

23 MR. HARBIN: For the record, Judge, this is a
24 print out from SCDC for Ms. Lukor.

25 BY MR. HARBIN:

State versus Michael Henderson

1 Q. So to be clear you saw Ms. Lukor in a truck that
2 had previously been backed up from the shed loading items
3 from the shed to the truck?

4 A. Yes, sir.

5 Q. Did you happen to notice what types of items,
6 generally described, I'm sure you didn't take inventory of
7 it, but what kind of items was she pulling out?

8 A. Just boxes and bags, trash bags.

9 Q. Did you witness the Hendersons actually put
10 anything into the shed?

11 A. I never witnessed that, no.

12 Q. Okay.

13 MR. HARBIN: That's all I have.

14 DIRECT EXAMINATION

15 BY MR. HOLLOWAY:

16 Q. Have you ever met Ms. Lukor?

17 A. No, sir.

18 Q. So before you saw that photograph you wouldn't be
19 able to tell who she is if she walked in the door?

20 A. Except for when she come by in the truck.

21 Q. Just that one time. Could you say 100 percent if
22 she came in this courtroom who Freida Lukor is? Do you
23 know if she's in this courtroom right now?

24 A. No, sir.

25 Q. Now, you've heard me ask questions of previous

State versus Michael Henderson

1 witnesses. Those items you seen in that shed, were those
2 similar items that Ms. Lukor was hauling away that day?

3 A. Well, I didn't see inside the shed. I was
4 standing at the door and the shed was over here to the
5 side.

6 Q. Did you see her taking things out of the house
7 and loading them up in a truck?

8 A. No, when I seen her she was (inaudible).

9 Q. When she said she was coming back for her
10 belongings, you didn't know what belongings she was
11 talking about.

12 A. Right.

13 Q. It could be anything?

14 A. It be anything.

15 MR. HOLLOWAY: Thank you, very much.

16 THE COURT: Mr. Mathis, you said when you
17 went over the first time it was right after they moved in,
18 right?

19 THE WITNESS: They still had boxes in their
20 house.

21 THE COURT: And that's when you went over to
22 talk about going deer hunting, right?

23 THE WITNESS: Yes, sir.

24 THE COURT: Did you ever go deer hunting with
25 them?

State versus Michael Henderson

1 THE WITNESS: No, sir. I crushed my hand and
2 I had surgery.

3 THE COURT: Why were you talking to them
4 about going deer hunting?

5 THE WITNESS: This is before I crushed my
6 hand.

7 THE COURT: When did you crush your hand?

8 THE WITNESS: September, October.

9 THE COURT: And had you ever been deer
10 hunting with Mr. Henderson before?

11 THE WITNESS: No, sir.

12 THE COURT: Why would you talk to him about
13 deer hunting?

14 THE WITNESS: Because I know that he had Minor
15 and this is where I take my kids at.

16 THE COURT: You were talking about trying to
17 set up a time to go?

18 THE WITNESS: Yes, sir.

19 THE COURT: Did you set some time up?

20 THE WITNESS: We was going to go in October,
21 November, but when I hurt my hand I couldn't go.

22 THE COURT: Why would you go over there in
23 May to talk about going hunting in October?

24 THE WITNESS: To go ahead and get it set up
25 because a friend of mine own some land off of Saulda Dam

State versus Michael Henderson

1 Road and I was trying to get everything set up so that way
2 when it come deer season --

3 THE COURT: Okay. You saw the pictures of
4 the burn piles, right?

5 THE WITNESS: No, sir.

6 THE COURT: Let's see if we can find them for
7 you. They're in that big stack.

8 MR. HOLLOWAY: They are State's Exhibit 1, 2,
9 3 and 9.

10 THE COURT: Take a look at those, Mr. Mathis.
11 Were the burn piles they looked like that
12 when you were there?

13 THE WITNESS: Yes, sir.

14 THE COURT: I thought you said they were full
15 of vegetable cans and stuff like that.

16 THE WITNESS: No, sir. I said it looked like
17 household trash.

18 THE COURT: So in May of '09 these burn piles
19 looked like that, is that right?

20 THE WITNESS: Similar to that, yes, sir.

21 THE COURT: Exhibit 1 and then ten months
22 later it hadn't changed. Do you have anything else of
23 this witness?

24 MR. HARBIN: No, sir.

25 MR. HOLLOWAY: No, sir.

MR. HARBIN: I call Minor .

THE CLERK: Please come forward to be sworn in. Place your left hand on the Bible and raise your right.

JAKE HENDERSON, having been duly sworn, testified as follows:

Thank you. You may be seated.

DIRECT EXAMINATION

BY MR. HARBIN:

Q. Minor , could you tell the Court how old you are?

A. Thirteen.

Q. How old were you when your dad got arrested?

A. Eleven.

Q. Do you remember moving into that property?

A. Yes, sir.

Q. And you've heard me ask questions of other witnesses. Do you remember seeing the burn piles that we're referring to?

A. Yes, sir.

Q. Can you describe what you remember the burn piles looking like?

A. I remember them having a bunch of cans, debris, household stuff, papers and stuff.

Q. How many burn piles do you remember seeing?

A. Three

State versus Michael Henderson

1 Q. And do you remember seeing the shed when you
2 first moved in before y'all started using it for your own?

3 A. Yes, sir.

4 Q. Let me show you a couple of pictures. Did you
5 see anything like that in the shed?

6 A. Yes, sir.

7 Q. This is Exhibit 23. Did you see anything like
8 that in the shed?

9 A. Yes, sir.

10 Q. Exhibit 18?

11 A. Yes, sir.

12 Q. Can you explain to the Judge the different parts
13 of the shed? Just to clarify for the Court, there's this
14 two part and then there's another part. Can you tell us
15 which one was which and which one held which things?

16 A. This one over here held all my aunt's stuff like
17 she was explaining. She put all her stuff over here and
18 there's a window right here. You can look into it and see
19 other things on this side. Even though this right here
20 had a lock on it, you could still see.

21 Q. You see anything in the burn piles that looked
22 like that?

23 A. Yes, sir.

24 Q. This would be Exhibit 8. Exhibit 7, anything
25 like that?

State versus Michael Henderson

1 A. Yes, sir.

2 Q. This is all of the items that the officer
3 determined were meth lab components, did you see any of
4 these types of items inside the shed?

5 A. I seen tubing.

6 Q. Tubing specifically?

7 A. Yeah, tubing. I seen the Coleman cans.

8 Q. Now were those things that your dad had moved
9 into the shed or were they already there?

10 A. They were already there.

11 Q. Did you ever see your dad do anything with
12 propane tanks or tubing?

13 A. The only thing I seen him do with the propane
14 tanks was use them for the heater.

15 Q. A heater that he used outside?

16 A. Inside.

17 Q. Jake, did you ever see your dad go into the shed
18 and kind of smoke or smoke smells or things like that?

19 A. No.

20 Q. Did you ever see Ms. Lukor come by the house?

21 A. Yes, sir.

22 Q. What did she do when she came by the house?

23 A. She had a truck and a trailer and she was going
24 there and loading some stuff.

25 Q. From the house or the shed?

State versus Michael Henderson

1 A. From the shed.

2 Q. And when did she do that?

3 A. It looked like when we first moved in and she was
4 coming down every now and then picking up some stuff.

5 Q. Out of the shed?

6 A. Yes.

7 Q. Tell the Court how you know Ms. Lukor?

8 A. I know how because when my mom went to pay for
9 the house paying for it to get the house and we went by
10 and I had a guitar and everything and she said she's
11 string it for me so that's how I know her. I went to her
12 house a couple of times.

13 Q. You know her specifically as Ms. Lukor?

14 A. Yes.

15 Q. Thank you.

16 MR. HARBIN: Nothing further, Judge.

17 THE COURT: Cross.

18 CROSS-EXAMINATION

19 BY MR. HOLLOWAY:

20 Q. When this case first happened and the police
21 first came out to your house, they made you live with your
22 aunt; is that correct?

23 A. Yes.

24 Q. How long did you live with your aunt?

25 A. I'd say about two weeks.

State versus Michael Henderson

1 Q. That's been since April of 2010?

2 A. Yes.

3 Q. So it's fair to say since April 2010 you've been
4 living back with your parents?

5 A. Yes.

6 Q. And you've discussed this case with your parents,
7 isn't that true?

8 A. Yes, sir.

9 Q. And you talked about this case with your parents?

10 A. Yes.

11 Q. How many times?

12 A. I don't know.

13 Q. Many time, is that a fair statement?

14 A. Yes.

15 Q. Do you recall speaking to Investigator Drew
16 Pincario one of the officers at the time of this incident?

17 A. I don't know the officers.

18 Q. But you spoke to some officers when they
19 responded. Do you recall telling the officers about an
20 Uncle Sterling or a step Uncle Sterling?

21 A. Yes.

22 Q. What did you tell the officers about your Uncle
23 Sterling?

24 A. That he was out there but I found out later it
25 was paint that you could use on motorcycles.

State versus Michael Henderson

1 Q. Had you told the officer at the time it was drugs
2 you thought?

3 A. That's what I thought.

4 Q. And you told the officer you saw your father go
5 in and out of the shed with your step uncle, isn't that
6 true?

7 A. Yes, sir.

8 Q. When you figured out it was paint, when was that?

9 A. I figured out it was paint when I found out that
10 that's what powdered paint is used for and you could use
11 powdered paint for motorcycles.

12 Q. Do you know if that was back when you were living
13 with your parents?

14 A. Yes, sir.

15 Q. You figured that out after you had been living
16 with your parents?

17 A. Yes, sir.

18 Q. After they had been charged with these crimes?

19 A. No. I figured it out when someone told me about
20 the paint.

21 Q. But as far as the timing is concerned, when you
22 learned what you believe was drugs is now paint, that was
23 after you were living with your parents, wasn't it?

24 A. Yes, sir.

25 Q. And these items that you saw in these

State versus Michael Henderson

1 photographs, all of these exhibits that Mr. Harbin showed
2 you, you can't tell this Court truthfully that these items
3 belonged to Freida Lukor, can you?

4 A. No, sir.

5 Q. Thank you.

6 MR. HOLLOWAY: That's all I have.

7 REDIRECT EXAMINATION

8 BY MR. HARBIN:

9 Q. Officer Pincario didn't really ask you a lot
10 about going in and out of that shed, did he?

11 A. No, sir.

12 Q. In fact if he would have asked you what was going
13 on in the shed, what would you have told him?

14 A. I would have told him I really don't know. I
15 would say they was working on my motorcycle, which they
16 were because I figured it out when I was going into the
17 shed one day and because I was going to go fishing and I
18 went in there to get my tackle box and I hopped over and I
19 seen the motorcycle and that's how I figured it out.

20 Q. What color was your motorcycle painted in?

21 A. Yellow, white, a bunch of different colors,
22 black.

23 Q. Officer Pincario didn't ask you what you thought
24 specifically what your dad and your uncle were doing going
25 in and out of the shed, did he?

State versus Michael Henderson

1 A. No, sir.

2 Q. Did Officer Pincario ask you if there was any
3 kind of commotion, any kind of smells, any kind of strange
4 goings on going into the shed?

5 A. No, sir.

6 Q. He didn't ask anything specific, did he?

7 A. No, sir.

8 MR. HARBIN: No further questions.

9 THE COURT: Okay. You can step down.

10 MR. HARBIN: I call Mike Henderson.

11 THE CLERK: Place your left hand on the Bible
12 and raise your right.

13 MICHAEL HENDERSON, having been duly sworn,
14 testified as follows:

15 Thank you. You may be seated.

16 DIRECT EXAMINATION

17 BY MR. HARBIN:

18 Q. Mike, you've heard what the other folks have
19 testified to here. Can you start off by telling us when
20 you moved into [REDACTED]?

21 A. The date, I'm not good on dates.

22 Q. Give us an approximate guess?

23 A. 2009.

24 Q. Is May of 2009 about right?

25 A. Yes.

State versus Michael Henderson

1 Q. Who did you rent the place from?

2 A. Freida Lukor.

3 Q. How did that transaction come about?

4 A. We was at a friend's house and she happened to be
5 there that day and she had a house for sale.

6 Q. Why was she selling the house?

7 A. She didn't say.

8 Q. Shortly after you moved in, did you have occasion
9 to see Ms. Lukor on your property?

10 A. She came by to pick some stuff up.

11 Q. Did you speak with her then?

12 A. (Inaudible).

13 Q. Where was she getting stuff from.

14 A. The building?

15 Q. The shed that we've been talking about, right?

16 A. Yes.

17 Q. What kind of things was she removing from the
18 shed?

19 A. Dresser, boxes, stuff. She had a lot of it.

20 Q. When was that in relation when you moved into her
21 house?

22 A. That was after we had moved in she still had
23 stuff stored inside for a couple of months and she had
24 come and got that out.

25 Q. So when you moved in, she still had things stored

State versus Michael Henderson

1 in the shed that she came back and got, is that right?

2 A. Yes, she did.

3 Q. When she left, there was testimony that she said
4 she would come back and get the rest. Is that what you
5 remember?

6 A. Yes, she said that she had a few things to get.

7 Q. What, by your recollection, was in the shed?

8 A. It looked like junk to me. It was a boxes that
9 looked like anything suspicious to me.

10 Q. The things that you saw that looked like junk to
11 you, do you recognize any of those things in the pictures
12 that we've been able to see throughout the presentation of
13 the State's case and if so, could you point it out to the
14 Court, please?

15 A. She was just putting stuff in boxes. It wasn't
16 standing out like this. It was packed in boxes.

17 Q. Let me ask you a specific question about a
18 specific picture. Did you see anything like that in the
19 shed?

20 A. Yes.

21 Q. Did you see anything like that in the shed or
22 that?

23 A. Yes.

24 Q. How about this bucket, tubing, fertilizer, spray?

25 A. All the stuff was in boxes, boxed up.

State versus Michael Henderson

1 Q. What, if anything, could you see?

2 A. Right here.

3 Q. The tubing?

4 A. Tubing and it had come out the top and stuff
5 around it.

6 Q. You heard the solicitor reference a statement
7 that Minor made to Officer Pincario about you and Sterling
8 going in and out of the storage shed.

9 A. That was around Christmas. We had bought a used
10 motor bike for him and we were getting it ready for
11 Christmas.

12 Q. And what were you doing to the bike to get it
13 ready for Christmas?

14 A. A lot of painting to it. We take all the paint
15 off of it and paint it.

16 Q. What kind of paint did you use?

17 A. Different kinds, powdered paint, airbrushing.

18 Q. What form did the powder paint come to y'all in?

19 A. It's in a little bag.

20 Q. How big is the bag?

21 A. It's like a baggie.

22 Q. Like a sandwich baggie?

23 A. Yeah, about that size.

24 Q. Tell us about the burn piles -- tell me if you
25 saw any burn piles out there?

State versus Michael Henderson

1 A. There were definitely burn piles out there when
2 we got there and we were trying to clean up. The reason
3 the outside didn't get done is because there was so much
4 on the inside.

5 Q. What kind of things were on the inside?

6 A. Holes in the wall, doors broken, no carpet, no
7 tile.

8 Q. What kind of items were in the house?

9 A. There were all kind of cans, jars, peanut butter
10 jars, all kinds of cans, a lot of camping stuff that's --
11 Coleman cans.

12 Q. They were inside the house?

13 A. Yes, sir.

14 Q. What did you do with those?

15 A. Gave them to a neighbor.

16 Q. Take you back real quick, did you see anything
17 like this in the burn piles?

18 A. Honestly, I saw trash.

19 MR. HARBIN: Nothing further, Judge.

20 THE COURT: Cross.

21 CROSS-EXAMINATION

22 BY MR. HOLLOWAY:

23 Q. You said these items that Freida left in your
24 shed were suspicious?

25 A. I said they wasn't suspicious.

State versus Michael Henderson

1 Q. When the police arrive and accuse you of these
2 items, did they suddenly become suspicious to me?

3 A. They never had been suspicious. Even right now
4 they don't look like nothing I would consider bad.

5 Q. That's not my question. Did you tell the police
6 anything? That's Freida Lukor's stuff?

7 A. No, I didn't -- the only thing I said they didn't
8 belong to me. They was there when I moved in.

9 Q. After you're preparing for trial suddenly they
10 belong to Freida Lukor, is that right?

11 A. Freida Lukor was there at the house, I don't know
12 if they belong to her or not.

13 Q. Okay. Now, the items you said were in the shed
14 they were in boxes, is that what you said?

15 A. There was some boxed up stuff.

16 Q. I show you a photo State's Exhibit 35, these
17 items aren't boxed up, are they, the salts, the fuel cans?

18 A. A bunch of boxes.

19 Q. We heard testimony that this place was cluttered
20 up. Does that look cluttered up to you?

21 A. The other side where we put the stuff was
22 cluttered up. This side was pretty much cleaned out. She
23 almost got most of the stuff out of there.

24 Q. Why didn't you call her back and say come get
25 your stuff, I'm tired of your stuff in my shed, it's my

State versus Michael Henderson

1 property now? Why?

2 A. I don't know.

3 Q. Thank you.

4 REDIRECT EXAMINATION

5 BY MR. HARBIN:

6 Q. Mr. Henderson, did Freida Lukor indicate to you
7 that the items in the shed when you moved in were hers and
8 she intended to come back and get what she hadn't already
9 gotten?

10 A. Yeah. But the stuff that we had -- I didn't have
11 no need for this part of the things because everything we
12 had was on the other side because this was full when we
13 moved in and we couldn't put our stuff in. So all the
14 stuff we needed to store was on the other side. We had
15 nothing to go in this side.

16 MR. HARBIN: That's all I have, Judge.

17 THE COURT: Which side are you talking about?
18 Are you saying that Freida Lukor's stuff was in the lean-
19 to side or in the other side?

20 THE WITNESS: The other side. The lean-to
21 side -- it was already there. When she came and got her
22 stuff out, I didn't have anything to go in that side.

23 THE COURT: And Paulette, all her stuff was
24 on the other side.

25 THE WITNESS: It was too because we couldn't

State versus Michael Henderson

1 get it in this die because it was full.

2 THE COURT: Okay. Thank you. You can step
3 down.

4 Anything else?

5 MR. HARBIN: Judge, I can and proffer this
6 and if the Court decides you want to hear it I can call
7 Paul Silvaggio who has interviewed Freida Lukor.

8 THE COURT: Well, she's here. Why would we
9 put him up? It's hearsay testimony.

10 MR. HARBIN: I'd like to call Tina Henderson.

11 THE COURT: Before we go any farther, I'll
12 let the jury go to lunch.

13 Would you bring them in, please.

14 (Jury re-enters the courtroom.)

15 Ladies and gentlemen, yet again I've proven
16 my total lack of ability to judge time. I'm sorry to have
17 made you wait back there. We're working and we're still
18 working and it's going to take a little bit longer so I'm
19 going to ask y'all to go ahead and go to lunch. I'm sorry
20 to have not done it sooner. I'll ask you to be back at
21 2:15 and while that may seem a bit long but of course all
22 the court personnel has to have an opportunity to eat as
23 well. We're going to keep working after you leave. Y'all
24 have a good lunch, don't talk about the case and we'll see
25 you at 2:15. Thank you.

State versus Michael Henderson

1 (Jury dismissed for lunch.)

2 Go ahead.

3 MR. HARBIN: I call Tina Henderson.

4 THE CLERK: Place your left hand on the Bible
5 and raise your right hand.

6 TINA HENDERSON, having been duly sworn,
7 testified as follows:

8 You may be seated.

9 DIRECT EXAMINATION

10 BY MR. HARBIN:

11 Q. Ms. Henderson, could you tell the Court when you
12 moved into [REDACTED]?

13 A. Yes, sir. It was like June of '09.

14 Q. Would May of '09 be wrong?

15 A. I know we had to wait until we got power turned
16 on and I had to put it in my sister's name.

17 Q. Did you have to do anything before the property
18 before you moved in?

19 A. Oh, yeah.

20 Q. Please tell me what.

21 A. Inside, outside, the whole place was completely
22 trashed.

23 Q. Who did you rent the house from?

24 A. Freida Lukor.

25 Q. How did you come to know Ms. Lukor?

State versus Michael Henderson

1 A. Through -- somehow my husband met her through a
2 mutual friend or something and that's how he find out the
3 property was available.

4 Q. The Court, of course, realizes that you've
5 already pled guilty to possession of meth. Did you ever
6 know Freida Lukor through meth?

7 A. I knew that she did it.

8 Q. Did y'all do it together?

9 A. Me and Freida, no.

10 Q. How did you know she did it?

11 A. Just from people talking and seeing some of the
12 same ---

13 Q. Were you aware of Freida Lukor's criminal
14 history?

15 A. Yes, because she was on house arrest and that's
16 the reason why I had to ride over her house to make the
17 payments.

18 THE COURT: Just a minute. Ms. Henderson,
19 you have an attorney, would you like us to get your
20 attorney up here or are you comfortable going forward with
21 your testimony without him being here?

22 THE WITNESS: I'm comfortable.

23 THE COURT: Go ahead.

24 BY MR. HARBIN:

25 Q. Ms. Henderson, what particularly do you remember

State versus Michael Henderson

1 that you can tell the Court about the existence, if any,
2 of burn piles at the house before you moved in?

3 A. There was like 7 or 8 of them that deep. There's
4 one in the back of the property that's extremely deep. I
5 would say probably that high and there was two half that
6 height. My husband can't do yard work.

7 Q. Why not?

8 A. Allergies and asthma and stuff like that, only I
9 can, and we didn't have a truck at the time. My dad had
10 just got a brand new truck and refused to let me use it to
11 haul off garbage and stuff in because he didn't want it
12 scratched up and one person can only do so much. My
13 sister helped me as far as get like beer cans, coke cans,
14 propane tanks, paint thinner cans, peanut butter jars, I
15 mean they were inside and outside of the house. It was
16 like unreal. I probably had eight or nine lawn leaf bags
17 full of them which I gave those to my neighbor in front of
18 me to take to the scrap yard to crush.

19 Q. The items that you just described, where were
20 they located?

21 A. All over the property, all over inside and
22 outside of the house, the yard.

23 Q. Could you describe what you remember seeing
24 inside the shed prior to y'all moving?

25 A. It was completely packed full of Freida's stuff n

State versus Michael Henderson

1 both sides.

2 Q. How do you know it's Freida's stuff?

3 A. Because Freida made an agreement with me and Mike
4 that she could store it there until she had a place to put
5 it.

6 Q. When did she actually come and get the stuff to
7 move it from your storage?

8 A. She come and got some stuff from the front side
9 which is the side that me and my sister stored stuff on I
10 think in June.

11 Q. Would this be the lean-to side that you're
12 talking about?

13 A. This is the side that opens up.

14 Q. Is this the side you're talking about here?

15 A. No, that's the side that was still locked up.
16 This is the side.

17 Q. That's what we would call the lean-to side. Tell
18 me about this side, what do you remember about this side.

19 A. She had stuff stored in there was locked up a
20 long time. These dressers and stuff like that all had
21 been left there. She got most of her stuff out.

22 Q. You're referring to Exhibit 17.

23 A. This, this and this, none of that was ours. I
24 never had a dresser like that. That was all left behind.

25 Q. What, if anything in this picture was yours?

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1 A. The radio. I think my husband took it out there
2 when he was working on a motorcycle or something.

3 Q. You're referring to something in this picture
4 that looks like a tool cart?

5 A. That was never ours.

6 Q. That was left here.

7 A. Yes, sir, the dressers

8 Q. How about this cannister, is it yours?

9 A. I don't even know what this is.

10 Q. Is it yours?

11 A. No.

12 Q. It was there?

13 A. It is not mine. All I can say is it was not
14 mine.

15 Q. This stuff here you said you saw there, too, or
16 no?

17 A. All the stuff that was in boxes and containers, I
18 don't know what was in them. I know there was some dishes
19 and stuff like that that was left behind in there because
20 I remember my husband asked if I wanted any of it and I
21 said, no.

22 Q. It is your understanding explicitly that the
23 things that were in the shed before you moved in were
24 whose?

25 A. To the best of my knowledge the things were left

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1 behind by Freida Lukor.

2 Q. And where does the best of your knowledge come
3 from? Did she tell you or did somebody else tell you?

4 A. Just from her living there and having all of her
5 stuff stored on both sides of the building and then they
6 did come to go throughout a six month period getting stuff
7 in and out of the building and then finally what was left
8 behind was in a small side of the building.

9 Q. Who is they, Freida and who?

10 A. I'm assuming it was her and her boyfriend's
11 stuff. I know it was Freida's stuff for sure but I'm
12 assuming that her boyfriend both lived in the property.

13 Q. Tell me about the agreement that you had to allow
14 Freida to keep her stuff in the shed?

15 A. It was just a verbal agreement. When she was
16 giving us the property, we gave her so much money down and
17 agreed to pay \$200 per month for so many months until we
18 paid \$8000. Once we paid \$8000 then the property would be
19 ours. Where the agreement got breach was she had written
20 on there there was no taxes owed accept for that years.
21 We got a foreclosure notice put on our door where we had
22 to be out. That there was three years taxes owed, and
23 when we went to talk to her about it she told my husband
24 it wasn't any of his business, she'd take care of it. We
25 continued to pay rent until the property went up for sale

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1 and we went and paid the back taxes and purchased it.

2 Q. Did you see your husband ever put any of the
3 pictured items in here, did you see him put them in the
4 shed?

5 A. No, sir. To be honest with you I worked really
6 hard that first year in that house just to get the inside
7 of the house done. I didn't really concentrate on the
8 yard for the first year.

9 Q. You were around your husband day to day.

10 A. Yes, sir, other than for five years work on and
11 off.

12 Q. Did you ever see your husband do anything related
13 to the cooking of methamphetamine?

14 A. No, sir, I did.

15 Q. Did you ever see him messing with any of these
16 supplies that the officers have indicated are tools of the
17 methamphetamine trade?

18 A. No, sir, I haven't.

19 Q. These pictures depict what you recollect to have
20 been in the shed prior to you moving in?

21 A. This is what was left behind.

22 Q. What is the word this mean, these pictures?

23 A. Right here, this stuff in the pictures had been
24 left behind. I didn't go through every detail in the
25 boxes which was left behind because like I said I was

State versus Michael Henderson

1 concentrating inside this house. This house was
2 absolutely a mess.

3 Q. Thank you. No further questions.

4 CROSS-EXAMINATION

5 BY MR. HOLLOWAY:

6 Q. You testified on direct examination that the burn
7 piles were very high, is that right?

8 A. Yes.

9 Q. When you moved in they were really high full of
10 trash, full of cans?

11 A. Everything.

12 Q. You testified in response to Mr. Harbin's
13 question all you can tell is it wasn't mine. The items
14 found in the shed, that's what you testified to?

15 A. That we never owned it. In other words when we
16 moved from Emily Lane to Olstein Road and from Olstein
17 Road on to this property I have never owned any item that
18 looked like that.

19 Q. And all you know is that stuff wasn't yours?

20 A. Correct.

21 Q. Any attempt to place the blame or responsibility
22 or possession with those items in that shed to anybody
23 else would be speculation on your part?

24 A. No, sir, because those items were left behind so
25 whether or not Freida allowed somebody to store it in the

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1 shed with her items which is why she didn't take them,
2 that could be a possibility but they are not ours.

3 Q. Yesterday when you pled guilty to possession of
4 meth you said on the record that you knew nothing about a
5 meth lab?

6 A. Correct.

7 Q. You nothing about the items?

8 A. I do know it takes like batteries and toluene and
9 something and that's all I know.

10 Q. Who did you learn that from?

11 A. Actually watching COPS on tv when they had one of
12 those specials.

13 Q. You didn't learn it from your husband who was
14 actually cooking meth 20 yards away?

15 A. My husband does not cook meth.

16 Q. Thank you.

17 MR. HOLLOWAY: That's all I have.

18 MR. HARBIN: Just to clarify.

REDIRECT EXAMINATION

20 BY MR. HARBIN:

21 Q. The statement that the solicitor was asking you
22 about all you know is you don't own it. You also do know
23 that Ms. Lukor was storing her items in that shed,
24 correct?

25 A. Correct.

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1 Q. Did she ever disclaim any of the items in that
2 shed? Did she ever say all of that stuff is not mine but
3 don't move it?

4 A. No, she just had everything stored in the shed.
5 She got the one shed emptied first which is how me and my
6 sister was able to store her furniture after she was
7 living with us and my Christmas stuff. That's all I've
8 ever had to store was some Christmas stuff. The other
9 side of the shed she still had completely stored for a
10 while. Finally I think it was around in October is when
11 she got her stuff out and left several items and things
12 behind. I couldn't tell you each and every item that was
13 left behind but it still had a bunch of junk in there.

14 MR. HARBIN: No further questions.

15 THE COURT: When did you say they last time
16 she came and got her stuff?

17 THE WITNESS: It was right before the
18 property went up for auction.

19 THE COURT: Which was when?

20 THE WITNESS: In October.

21 THE COURT: Okay. You can step down. Thank
22 you.

23 Got anything else? You going to put Freida
24 Lukor up?

25 MR. HARBIN: No, sir.

State versus Michael Henderson

1 THE COURT: You got anything you're going to
2 proffer in this regard?

3 MR. HOLLOWAY: No, sir.

4 MR. HARBIN: It seems inherently unfair to
5 allow the State to present evidence of ownership by way of
6 you own the house and it's on your premises and therefore
7 you're responsible for the meth lab and not allow us to
8 present evidence that the person that was there
9 immediately before didn't have the same custody and
10 control of those exact same items. Because the continuous
11 nature of whatever speculation that the State wants to
12 assign to our argument is the exact same continuous nature
13 they have to this case.

14 It is simply a matter for the jury to decide
15 if they believe the witnesses that the defense presents or
16 any evidence that the State presents. They are fully
17 capable of calling Ms. Lukor, she's here. They are fully
18 capable of recalling officers or whatever they want to do
19 but the fact is we have evidence to present that another
20 individual was in custody of control of exactly what my
21 client was in custody and control of or allegedly in
22 control of and they are just as responsible as
23 Mr. Henderson is.

24 We are creating reasonable doubt here, Judge,
25 and that's exactly what this goes to. There is no way to

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1 be exactly sure if you can say that those exact same items
2 was there when somebody else was there. That leads back
3 to should have asked some questions to your tipster and
4 should have done some investigation, ask a neighbor, ask
5 anybody.

6 THE COURT: What y'all want to tell me.

7 MR. HOLLOWAY: Your Honor, the argument is
8 the same, none of these witnesses could definitely say
9 these items belonged to Freida Lukor.

10 THE COURT: The stuff's there, what is wrong
11 with the testimony that's been presented other than the
12 hearsay testimony about Freida Lukor doing
13 methamphetamine. That's totally objectionable from
14 Ms. Henderson. But for them to say they got the property
15 -- is the quick claim deed in evidence?

16 MR. HOLLOWAY: Yes, sir.

17 THE COURT: Is that the only written document
18 with respect to the sale of the property?

19 MR. HOLLOWAY: Yes.

20 THE COURT: Who signed that?

21 MR. HOLLOWAY: Alvin Mitchell and the
22 defendant signed that agreement. Even Ms. Henderson
23 testified that the last time Freida Lukor came to get the
24 rest of her stuff was October 2009, five months before
25 this incident. It's mere speculation that she would have

State versus Michael Henderson

1 control of these substances.

2 THE COURT: There's nothing wrong with them
3 testifying that they got the house from this woman, Freida
4 Lukor. She left stuff stored there, she came and got it,
5 but I'm not going to let them say it was her meth lab.
6 They don't know who the stuff belonged to, nobody
7 testified to that. It's a series of events that occurred
8 but you can't got Freida Lukor it was her meth lab. You
9 can say these burn piles -- I hear three from one, seven
10 or eight from somebody else, they were this high, they're
11 that big, and then almost a year later the burn piles are
12 in the same -- there's a lot of credibility issues going
13 on here but he's got a right to put this up.

14 You can't get up and say -- you can say it
15 wasn't our stuff but you can't say it was Freida Lukor's.
16 You don't have anybody to say that.

17 MR. HARBIN: Judge, just so I'm clear, the
18 only way for the jury to hear how the stuff got there,
19 because it didn't magically appear, it belongs to someone,
20 is to say the last person who told me they were under
21 custody and control of it is Freida Lukor. Now,
22 everything that was put on the stand said they don't know
23 if Freida Lukor was cooking meth. They don't know if that
24 was a meth lab.

25 THE COURT: That's exactly right.

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1 MR. HARBIN: Absent them saying Freida Lukor
2 had a meth lab, there should be nothing objectionable to
3 them saying or at least to the folks that actually knew,
4 Freida Lukor claimed ownership to the things in the shed
5 that were left.

6 THE COURT: That's hearsay. That is an out
7 of court statement offered for the proof of what it says.
8 You can't do that. You can say we got the house from
9 Freida Lukor. We had an agreement with her that she could
10 leave the stuff in the shed, she came back a couple of
11 times and picked it up and took it. That's all you can
12 say. You can't get into I knew she was a meth head and
13 you can't get into she's in prison for meth. That's not
14 there. You don't have that, but I don't object to you
15 coming in here and saying she stored her stuff there, it's
16 not our stuff. The credibility is for the jury to
17 determine but you can't come up here and say it was this
18 big convicted meth dealer who was running a lab. If you
19 put her up and she admits to it, that's one thing.

20 Anything else?

21 MR. HOLLOWAY: Nothing from the State, Judge.

22 THE COURT: Mr. Henderson, have you made a
23 decision -- just let me know when you get back from lunch
24 if you're going to testify. 2:15.

25 (Whereupon, court was recessed for lunch.)

State versus Michael Henderson

1 THE BAILIFF: Court is now in session, the
2 Honorable Judge Edward Miller presiding.

3 THE COURT: Thanks. Please be seated.

4 Mr. Henderson, have you decided what you're
5 going to do?

6 DEFENDANT HENDERSON: I'm going to testify.

7 THE COURT: Okay. You got any questions you
8 want to ask?

9 DEFENDANT HENDERSON: No.

10 THE COURT: Y'all ready.

11 MR. HOLLOWAY: I'm just putting the exhibits
12 back in order.

13 THE COURT: Go get the jury.

14 Before they come in, is there any objection
15 to Ms. Paulette Croxston testifying?

16 MR. HOLLOWAY: Judge, she's not on their list
17 originally.

18 MR. HARBIN: I would say at this point she's
19 already proffered her testimony and there wouldn't be any
20 unfair surprise ---

21 THE COURT: I'm not worried about that. What
22 if somebody on the jury knows her.

23 MR. HARBIN: I called her as a rebuttal
24 witness. She's here to day all those burn piles were
25 there. Officer Godfrey said there was no burn piles there

State versus Michael Henderson

1 when he first visited.

2 THE COURT: That's what she can testify to, I
3 guess, and no other testimony than that.

4 MR. HOLLOWAY: Thank you, Your Honor.

5 THE COURT: Before we actually do -- she can
6 testify fully. I don't want to limit your defense. I'm
7 going to inquire if anybody knows her.

8 MR. HARBIN: Yes, sir.

9 THE COURT: Bring them in.

10 (Jury re-enters the courtroom.)

11 Ladies and gentlemen, I hope y'all had a
12 pleasant lunch. There was a witnesses name I need to
13 inquire to make sure if there is anyone on the jury who is
14 related by blood or marriage or has a business, social or
15 personal relationship with Paulette Croxston?

16 No positive answer.

17 Mr. Harbin.

18 MR. HARBIN: I call my client Mr. Henderson
19 to the stand.

20 THE CLERK: Mr. Henderson, if you would come
21 around to the stand to be sworn in. Place your left hand
22 on the Bible and raise your right.

23 MICHAEL T. HENDERSON, having been duly sworn,
24 testified as follows:

25 Thank you. You may be seated.

Michael Henderson - Direct Examination

1 DIRECT EXAMINATION

2 BY MR. HARBIN:

3 Q. Mr. Henderson, could you tell the jury how old
4 you are?

5 A. I'm 60 years old.

6 Q. How long have you lived in the Upstate?

7 A. All my life.

8 Q. Your entire life. Now, before you moved to [REDACTED]
9 [REDACTED] [REDACTED], were you right around that area or were you
10 somewhere else? Where did you live?11 A. We lived in a mobile home for two years before we
12 found the household in the home we're living in now.
13 Prior to that I lived in a house on Emily Lane for 25
14 years.15 Q. What caused the chain of events, if any, that
16 caused you to leave the mobile home to go to [REDACTED] [REDACTED]
17 Lane?

18 A. This was a chance to buy.

19 Q. So you'd rather purchase than rent?

20 A. Yes.

21 Q. Tell the jury what do you do for a living? What
22 kind of work do you do?23 A. I've done maintenance work all my life, heating
24 and air conditioning, electrical, plumbing.

25 Q. Are you licensed or certified to do that kind of

Michael Henderson - Direct Examination

1 stuff.

2 A. I'm licensed in heating and air conditioning.

3 Q. Are you married?

4 A. Yes, I am.

5 Q. To whom?

6 A. Tina Henderson.

7 Q. Tina Henderson. Now, Tina got arrested along
8 with you; is that correct?

9 A. Yes, she did.

10 Q. And do you have any children?

11 A. Yes. I have two children by a previous marriage
12 and I have Jake who is 13 years old.

13 Q. Jake is sitting on the first row there?

14 A. Yes.

15 Q. Tell me when, to the best of your recollection,
16 that you moved into [REDACTED] [REDACTED] [REDACTED]?

17 A. 2009.

18 Q. Tell me how you came about to find out about this
19 house?

20 A. I was at somebody's house and Ms. Lukor was there
21 and she and I started talking and she said a house for
22 sale and we decided to try to buy it.

23 Q. What is Ms. Lukor's name?

24 A. Freida.

25 Q. What were the terms of your agreement?

Michael Henderson - Direct Examination

1 A. I had given her \$800 and I was paying her \$200
2 per months.

3 Q. Any other terms to that?

4 A. No, sir.

5 Q. Did Ms. Lukor own the property?

6 A. She said she did but it wasn't in her name I
7 found out later.

8 Q. How did you find out later that it wasn't in her
9 name?

10 A. We got a thing on the door that says they were
11 going to sell the property.

12 Q. Who was going to sell the property?

13 A. Taxes, Greenville County.

14 Q. She hadn't paid taxes or somebody hadn't.

15 A. Yes.

16 Q. When you moved into [REDACTED] [REDACTED], can you
17 describe for the jury the condition of the house and the
18 property and any surrounding outbuilding would have been.

19 A. The house was really trashed. It was in really
20 bad shape. Everything -- there was holes in the wall, no
21 carpet on the floor. The doors were busted through. It
22 was just a wreck basically.

23 Q. How about the outside? What was the outside
24 like.

25 A. It was trashed, too. The grass was long. There

Michael Henderson - Direct Examination

1 were burn piles all over the place, many of them. There
2 were cans, bottles, debris everywhere.

3 Q. What kind of specific items if you can recollect
4 any were in the burn piles?

5 A. Cans, jars, coke bottles, Toluene cans.

6 Q. Toluene, do you know what that is?

7 A. It's something to do with paint, paint thinner, I
8 think.

9 Q. How about inside of the house? You tell me about
10 the condition of the house but were there any items
11 inside?

12 A. There was a lot of cans and a lot of cans of
13 Coleman fuel.

14 Q. You said there were cans of that inside the home.

15 A. There were empty cans of that in there

16 Q. Do you remember how many?

17 A. There was a couple big trash bags that my wife
18 had given to the kid next door to take to the crusher. It
19 was not only that but different kinds of stuff. It was a
20 lot of that.

21 Q. Let me ask you about the shed the officers have
22 talked about. What do you recall when you first moved in,
23 what was the condition of the shed.

24 A. Both sides were full when we first moved in. She
25 had gotten the stuff out of the front side of it later on

Michael Henderson - Direct Examination

1 so we can put our stuff. The other side was full for
2 quite a while.

3 Q. Let me back you up and let's identify our
4 pronouns here. Who did you refer to as she?

5 A. Freida Lukor.

6 Q. So Freida Lukor's stuff was in the shed you said.

7 A. Yes.

8 Q. What types of items, if you remember, were in the
9 shed at the time that you moved in?

10 A. She had a whole side full of different things
11 when we moved in. I don't know but it was a lot of her
12 and full of her personal items, I guess.

13 Q. When, if ever, were you able to see inside the
14 shed?

15 A. When she came with the trailer with the truck and
16 got her stuff out.

17 Q. Did she move everything out of the shed?

18 A. There was a few things left in there, nothing
19 that I saw that was major or anything, you know.

20 Q. I'm going to show you some pictures. Exhibit 1,
21 do you recognize this?

22 A. Yes.

23 Q. What does this depict?

24 A. That's my house.

25 Q. And what is this at the bottom of this picture?

Michael Henderson - Direct Examination

1 A. That's a burn pile.

2 Q. Is that your burn pile?

3 A. It was there.

4 Q. It was there when you moved in.

5 A. Yes.

6 Q. This is a picture of what?

7 A. Burn pile.

8 Q. Did the burn pile look like this when you moved
9 in?

10 A. I don't remember. It was just a pile there.

11 Q. It doesn't appear to be a pile there.

12 A. There was a lot of stuff taken, cans and stuff,
13 and the kid up the street took them to the crusher.

14 Q. This appears to be another picture of the burn
15 pile.

16 A. That's another one, yes.

17 Q. Is this your burn pile?

18 A. It's in the backyard. That was there also.

19 Q. Do you recognize this, Exhibit 4 and 5? You
20 don't recognize this, okay.

21 A. When I looked into it I didn't see what they call
22 the blister packs or the battery pills. I wasn't looking
23 for that. All I saw was just junk.

24 Q. Exhibit 9, can you tell us what that is?

25 A. No, I can't tell.

Michael Henderson - Direct Examination

1 Q. If the officers told you that was lithium
2 batteries, would you disagree?

3 A. I don't know.

4 Q. Exhibit 13, what is this of here?

5 A. That's my wife's bedroom.

6 Q. When you saw your wife's bedroom, are you
7 married?

8 A. No, I don't sleep in there.

9 Q. Why is that if you don't mind me asking?

10 A. She likes quiet and I like the tv on.

11 Q. So where do you sleep?

12 A. On the couch.

13 Q. With the tv.

14 A. Yes.

15 Q. What is this a picture of here?

16 A. That's the building.

17 Q. You referred to Ms. Lukor coming down and picking
18 some stuff up. Where did she pick it up?

19 A. On this side of the building right here.

20 Q. Can you point to that.

21 A. (Witness complies.)

22 Q. This side of the building here. When she came
23 and picked up stuff out of here, was there stuff still
24 left on this side of the building?

25 A. There was some things there, yes.

Michael Henderson - Direct Examination

1 Q. And you described it, I believe, as junk?

2 A. Yes.

3 Q. Do you recognize this picture here?

4 A. Yes, that's inside of the building.

5 Q. And is it the same side of the building you just
6 identified?

7 A. Yes.

8 Q. This is the junk you called it.

9 A. Yes.

10 Q. Exhibit 18, what does is this, Mr. Henderson?

11 A. (Inaudible).

12 Q. Is it yours?

13 A. No, it's not.

14 Q. You don't think so but you know it's not?

15 A. I know it's not.

16 Q. I know this is getting monotonous, but what is
17 this a picture of here?

18 A. I have no idea.

19 Q. Do you recognize this stuff.

20 A. No.

21 Q. In this picture here, Exhibit 20, do you
22 recognize what this is here? .

23 A. It's like a table.

24 Q. Do you recognize what this right here? You don't
25 recognize that?

Michael Henderson - Direct Examination

1 A. No.

2 Q. I believed I showed you a farther away picture of
3 this. Is this yours?

4 A. No.

5 Q. Was this here in that shed? Where was this, do
6 you recall?

7 A. I don't recall.

8 Q. You don't recall seeing this at all?

9 A. No.

10 Q. How about this one here?

11 A. I don't know.

12 Q. Have you ever used a propane tank before?

13 A. Inside the house for a heater.

14 Q. Now, is that the type of heater that you attach
15 on top of the propane tank?

16 A. Yes.

17 Q. Do you know what this is?

18 A. It looks like a valve of some sort.

19 Q. Is it yours?

20 A. No, sir.

21 Q. Do you recognize this?

22 A. No.

23 Q. Do you know what it is by reading it?

24 A. Yes.

25 Q. What does it say?

Michael Henderson - Direct Examination

1 A. (Inaudible).

2 THE COURT: Speak up a little bit.

3 BY MR. HARBIN:

4 Q. Acetone.

5 A. Acetone.

6 Q. Now, this the officer represented it as a can of
7 Coleman fuel. Is this what you saw inside the house and a
8 garbage bag full, is that what you recall?

9 A. (No response).

10 Q. You're having trouble reading it. This a can of
11 Toluene. Do you know what Toluene is?

12 A. Yeah. It's a thinner, paint thinner.

13 Q. Did you ever have a can of Draino?

14 MR. HOLLOWAY: Objection. That question is
15 leading.

16 THE COURT: Don't lead.

17 BY MR. HARBIN:

18 Q. Do you recognize what this picture is?

19 A. It's Draino.

20 Q. Is this yours?

21 A. No.

22 Q. These pictures represented by the officers as
23 being inside this shed. Do you recognize what this
24 picture is.

25 A. It says salt.

Michael Henderson - Direct Examination

1 Q. Do you have any salt in the shed that is yours?

2 A. (Witness nods.)

3 THE COURT: You're going to have to speak,
4 sir.

5 BY MR. HARBIN:

6 Q. Mr. Henderson, you're going to have to speak up
7 so everyone can hear you.

8 A. Sorry.

9 Q. Can you make out what this is a picture of here?

10 A. Is it fertilizer.

11 Q. Is this your fertilizer?

12 A. No.

13 Q. How did it get in the shed to your knowledge.

14 A. It was in there. Like I said all this stuff was
15 boxed up.

16 Q. This tool box here, is this yours?

17 A. No.

18 Q. Do you recognize any of the items that are inside
19 the tool box by this picture?

20 A. No.

21 Q. Mr. Henderson, did you ever have any coffee
22 filters outside in the shed?

23 A. No.

24 Q. Did you ever see any coffee filters inside the
25 shed?

Michael Henderson - Direct Examination

1 A. No, I never did.

2 Q. I'm going to show you a series of pictures. Do
3 you recognize these items as yours or were they in the
4 shed?

5 A. They were in the shed.

6 Q. Do you recognize these items as being in the shed
7 prior to you moving in?

8 A. Not really. Like this one right here I've seen,
9 but I don't know.

10 Q. Can you point to that again as to what you
11 remember seeing?

12 A. This right here.

13 Q. Tubing or wires or something?

14 A. Yes.

15 Q. The items depicted in this picture laying on this
16 tarp, do you recognize any of these items being items that
17 you owned, purchased or used?

18 A. No. Let me clarify, that side of the building
19 when we moved in it was full so we moved all of our stuff
20 to the other side. I had nothing to go in this side of
21 the building. I had no reason so I really didn't use that
22 side.

23 Q. Now, you said you didn't use that side but did
24 you ever do any work inside that building?

25 A. I did. Christmas I bought my son a motorcycle.

Michael Henderson - Direct Examination

1 It was used. I rebuilt it on the one side but when we got
2 ready to paint it I put it into that side to paint it.

3 Q. Did you work on it by yourself?

4 A. No, I didn't. A friend of mine, Sterling, he
5 helped me.

6 Q. Briefly tell me what you did to the bike?

7 A. We redid some of the motor and the tires on it
8 and we stripped the paint down and repainted it. Sterling
9 was doing the painting because that was his thing.

10 Q. Now, we had some pictures of stuff that was paint
11 thinner, is that something you used or he used?

12 A. I wouldn't use it. He may have brought it in. I
13 didn't, he may have but I'm not sure. We usually did it
14 at night when my son was sleep where he wouldn't know what
15 he was doing.

16 Q. Why wouldn't you want him to know?

17 A. Because it was a Christmas present.

18 Q. What type of paint did you use on that
19 motorcycle?

20 A. It was several different kinds. One of them was
21 a powder coating that you had to have heat to make it
22 bond.

23 Q. How did that powder package coating come to you?

24 A. It was a bag, a plastic bag.

25 Q. Do you know where he got it from?

Michael Henderson - Direct Examination

1 A. I don't know. I think from one of his friends at
2 a body shop or something.

3 Q. And what color? Do you remember what color it
4 was?

5 A. It was like a pearl white or something.

6 Q. Let's move on into the interior of the house.
7 You had already commented on you had some Coleman fuel
8 tanks that you saw in there and the house was generally in
9 disarray. Let me show you a picture one of the officers
10 put into evidence here, Exhibit No. 48, can you tell what
11 these things are on the coffee table there?

12 A. No.

13 Q. Does any of these items belong to you?

14 A. No.

15 Q. Mr. Henderson, there were three firearms found in
16 your house. Did you know they were in your house?

17 A. Uh-hum.

18 Q. What kind of guns were they?

19 A. One is 410 shotgun, one is a .30 caliber, the
20 other one is a miniature .22 riffle.

21 Q. And what are they used for

22 A. The .22 was used for target practice. My son
23 likes to shoot. The 410 we bought for him when he was
24 four years old to shoot.

25 Q. How about the third gun?

Michael Henderson - Direct Examination

1 A. It was a gift to him.

2 Q. From whom?

3 A. His grandfather.

4 Q. Mr. Henderson, the officers in this case
5 indicated that they found a whole bunch of Sudafed tablets
6 in a drawer.

7 A. Yes, that's my tablets.

8 Q. Can you explain to the jury why in the world
9 these Sudafed tablets were out of their blister packets?

10 A. There was 96 in a pack and you can take them and
11 bust them out but it's hard for me to do so I took a knife
12 and cut them and put them in something so I can get to
13 them because I have sinuses and I do take the Sudafed
14 tablets for that.

15 Q. Where did you get the 96 tablets, do you
16 remember?

17 A. A friend gave me a pack, gave them to me.

18 Q. Now, do you know anything about the components to
19 this meth lab that were in your storage building?

20 A. I have no idea how to make meth, never have made
21 it, don't know nothing about it. I know more about it now
22 than I did when all this started.

23 Q. So after you had gotten arrested you acquired a
24 little bit of information?

25 A. Yeah.

Michael Henderson - Direct Examination

1 Q. How did you acquire that information?

2 A. In talking to people and listening to what people
3 are saying.

4 Q. Do you recall one of the officers describing the
5 process of methamphetamine cooking and that one of the
6 components is fertilizer? Do you recall him saying
7 something about that?

8 A. Yes.

9 Q. And do you recall that he said that the purpose
10 of the fertilizer to extract from fertilizer anhydrous
11 ammonia? Do you know what that is?

12 A. It's -- in air conditioning we use it to charge
13 air conditioning systems in motor homes, campers. It's a
14 refrigerant.

15 Q. And you know that because -- how do you know
16 that?

17 A. Because I do heating and air.

18 Q. And as heating and air guy, I believe you
19 testified to this before you said you're certified or
20 licensed?

21 A. Yes, certified.

22 Q. As a certified and heating tech, are you allowed
23 to purchase anhydrous ammonia?

24 A. Yes, I am.

25 Q. So you could go to a store and just buy it

Michael Henderson - Direct Examination

1 outright?

2 A. Yes, sir, I could.

3 Q. Mr. Henderson, the jury needs to be told that you
4 actually have a criminal history, do you not?

5 A. Yes, I do.

6 Q. In fact in 2005 you were convicted for possession
7 of controlled substance and again in 2006. Is there any
8 reason you can give the jury why you haven't been
9 convicted of anything since 2006?

10 A. I quit doing -- I had a heart attack. I quit
11 doing it because, my son, I want to see him grow up and
12 have a life with him so I quit doing things to make my
13 heart raise up because I did have a heart attack.

14 Q. Are you under medical care now for any heart
15 condition?

16 A. Yes, I am.

17 Q. Can you describe to the best of your ability what
18 your heart condition is?

19 MR. HOLLOWAY: Objection, Your Honor. This
20 is not relevant.

21 THE COURT: Go ahead.

22 BY MR. HARBIN:

23 Q. Just very briefly.

24 A. I have a bi-pass operation that has to be done.

25 MR. HARBIN: One second, Your Honor.

Michael Henderson - Cross-Examination

1 BY MR. HARBIN:

2 Q. Mr. Henderson, when you moved into [REDACTED]
3 Lane did you have a written agreement with Ms. Freida
4 Lukor?

5 A. Yes.

6 Q. Can you take a look at what I've got in my hand
7 here. Do you recognize that document? You can look
8 through the pages if you need to.

9 A. I'm pretty sure that's the agreement.

10 Q. That's the written lease agreement between you
11 and Freida Lukor?

12 A. Yes, sir.

13 MR. HARBIN: Judge, if there's no objection
14 I'd like to offer this as Exhibit 1.

15 MR. HOLLOWAY: The State has no objection.

16 THE COURT: Without objection.

17 (Lease marked as Defendant's Exhibit No. 1
18 for identification and admitted into evidence.)

19 MR. HARBIN: That's all I have.

20 THE COURT: Cross.

21 CROSS-EXAMINATION

22 BY MR. HOLLOWAY:

23 Q. Mr. Henderson, can you explain to the jury why
24 you had coffee filters in your shed, coffee filters with
25 meth residue in your bedroom and your coffee maker was in

Michael Henderson - Cross-Examination

1 the kitchen? Can you explain it to them why that's the
2 case?

3 A. I didn't have coffee filters in my building. I
4 didn't have coffee filters in my bedroom because like I
5 said I sleep in the living room.

6 Q. So you're saying you only own part of this
7 property and you're separating yourself from the rest of
8 the property?

9 A. No, sir. I'm saying -- you said in my bedroom.
10 I sleep in the living room. I don't have anything in the
11 bedroom.

12 Q. Do you own this property?

13 A. I hope so.

14 Q. You hope so or do you?

15 A. I think so, yes. Actually it's in my wife's
16 name.

17 Q. Let's look at State's 50, the quick claim deed.
18 Tell the jury who signed this deed accepting ownership?

19 A. I did.

20 Q. Let's cut to the chase you own this property.

21 A. Okay, yes.

22 Q. And you own the contents of the property too,
23 correct?

24 A. That's correct.

25 Q. You own the contents of your house, correct?

Michael Henderson - Cross-Examination

1 A. Yes.

2 Q. And you own the contents of your shed?

3 A. Yes.

4 Q. Now, when did you first move to this property?

5 A. 2009, 2010.

6 Q Let me help you out here, this is Exhibit No. 1
7 you just referred to, isn't that correct?

8 A. Yes.

9 Q. What is the date the agreement --

10 A. I can't see it. May 14th.

11 Q. Of what year?

12 A. '09.

13 Q. When did the police come to your house?

14 A. I'm not sure.

15 Q. Is it fair to say it was March 30, 2010?

16 A. Okay.

17 Q. Is that correct?

18 A. If you say so, I'm not sure.

19 Q. You don't recall when the police came to your
20 house?

21 A. No.

22 Q. Really. Would you say it's a fair statement,
23 2010?

24 A. Yes.

25 Q. So you're telling this jury you didn't know about

Michael Henderson - Cross-Examination

1 these items that were in your house for 10 months?

2 A. I really hadn't been in my house for ten months,
3 sir.

4 Q. They were on your property, right, for at least
5 10 months.

6 A. You mean the ones that were in the building?

7 Q. And in your house?

8 A. I looked in the building and it didn't look
9 anything in there that was against the law. Everything in
10 there you could go buy. I didn't see anything in there
11 that was against the law?

12 Q. Do you find it odd that there was a meth lab in
13 your shed and there was actual meth inside your house?

14 A. Do I find it odd?

15 Q. Isn't it odd to you?

16 A. I found it odd that it was in my house.

17 Q. Whose meth was that?

18 A. It belonged to my wife.

19 Q. There was also meth on coffee filters, correct?

20 A. That's what they said.

21 Q. And you had these coffee filters in your bedroom?

22 A. Sir, it's not my bedroom.

23 Q. You own the house don't you? Let's cut to the
24 chase. You own the house don't you?

25 A. I own the house.

Michael Henderson - Cross-Examination

1 Q. That's your bedroom, isn't it?

2 A. Yes.

3 Q. Coffee filters with meth residue ---

4 A. I didn't know they were there.

5 Q. You didn't know they were there?

6 A. I didn't know they were in there.

7 Q. Some how they made it to your bedroom without
8 your knowledge?

9 A. I didn't know they were there.

10 Q. Is that part of Ms. Lukor's belongings she left
11 in the house?

12 A. I wouldn't think so.

13 Q. You signed this quick claim deed apparently
14 without inspecting your own shed, isn't that true?

15 A. Inspecting?

16 Q. Did you check over this property before saying I
17 want to own this property?

18 A. If I had a choice, it wouldn't have been a
19 property I bought but I didn't have a choice. It was the
20 only thing I had to do at the time.

21 Q. I understand that, but now you own the property,
22 correct?

23 A. Yes.

24 Q. And now you're trying to deflect blame of a meth
25 lab on your property here today in this trial, correct?

Michael Henderson - Cross-Examination

1 A. No, sir, I'm not trying to deflect anything. I'm
2 just telling you what the truth is.

3 Q. Let's talk about the truth. The truth is the
4 tool for a meth lab were in your shed, correct?

5 A. Okay.

6 Q. Isn't that true?

7 A. That's true.

8 Q. And you own the property for at least five months
9 prior to this incident date, isn't that true?

10 A. That's true, too.

11 Q. And you lived on the property five months longer
12 than that, isn't that true?

13 A. The building had stuff -- had things in it for a
14 while before it was empty.

15 Q. Now, you testified that when you moved in these
16 burn piles had all kinds of trash in it.

17 A. Yes, it did.

18 Q. And there were household items like empty cans.

19 A. That's true.

20 Q. And you testified under direct examination that
21 some of those cans of Acetone and Toluene were taken by
22 someone to be crushed; is that true?

23 A. That's true.

24 Q. So what you're saying is that you and your family
25 actually cleaned those piles up when you first moved in?

Michael Henderson - Cross-Examination

1 A. We got some of it out there.

2 Q. And now when the police arrive 10 months later,
3 the tools, the ingredients to cook meth are in your piles,
4 correct? Isn't that true?

5 A. We got the cans and the stuff -- the metal out.

6 Q. My question to you is the day the police arrived,
7 after you cleaned these piles up, there's still tools of
8 the trade ---

9 A. We didn't ---

10 Q. Let me finish my question, please. The tools for
11 making meth were in these piles, isn't that true?

12 A. That's probably true.

13 Q. Now, in these photographs, State's Exhibit No. 1
14 for example, whose dirt bike is that out there in the
15 yard?

16 A. That's my sons.

17 Q. State's Exhibit No. 3 you have an old frig.

18 A. Looks like an old refrigerator.

19 Q. And this is more -- another angle from your
20 house, this old stuff sitting around, isn't that true?

21 A. Yes.

22 Q. Now, State's Exhibit No. 16, what is that? An
23 old futon frame and other scrape there and a tire jack
24 right there, why isn't this stuff being stored in your
25 shed?

Michael Henderson - Cross-Examination

1 A. This right here is the shed.

2 Q. Okay.

3 A. Because it was full of other stuff. The wood and
4 stuff I was going to use it to do some repairs.

5 Q. You wouldn't want to just keep this stuff out of
6 your shed so you can protect your meth lab?

7 A. I don't have a meth lab, sir.

8 Q. Tools for making meth was in your shed and you
9 were keeping other stuff out of your shed.

10 A. I wasn't making meth, no, sir.

11 Q. You have scales -- what is that right there?

12 A. I have no idea.

13 Q. It was found in your house and you don't know
14 what it is?

15 A. No.

16 Q. Is it your wife scales?

17 A. She had put them there.

18 Q. So she put them there. Let's look at the inside
19 of the shed. You testified that the shed is full of
20 stuff. There's a lot of space in there, isn't there?

21 A. That's the side where we had stuff stored.

22 Q. Why wouldn't you notice this?

23 A. It looked like a bunch of stuff. Do you see
24 anything that looks like ---

25 Q. I'm asking the questions, sir.

Michael Henderson - Cross-Examination

1 A. But do you see anything that ---

2 Q. Again, I'm asking the questions. The fact is
3 when you saw these items on State's Exhibit 35 and 19 you
4 didn't pick up the phone and all anybody to take it away.

5 A. Who were you going to call?

6 Q. Let me ask you this, you knew it wasn't your
7 stuff, right?

8 A. Yes.

9 Q. Why didn't you throw it away? Why were you
10 keeping it?

11 A. Because a friend of mine was going to use the
12 building to put some stuff in and I just -- I hadn't used
13 this side. All my stuff is in the other side of it.

14 Q. You're saying that someone else was going to use
15 the building, itself, isn't that all the more reason to
16 remove stuff that's not yours and get rid of it.

17 A. No. If he was going to use it, he can move it.

18 Q. You were keeping it because you were using it to
19 cook meth, weren't you?

20 A. No, sir, I wasn't.

21 Q. What did you think when the police arrived and
22 started putting on hazmat suits? What did you think?
23 What was on your mind?

24 A. I had no idea.

25 Q. You had no idea.

Michael Henderson - Redirect Examination

1 A. I was pulled out of my house. I was cooking my
2 kid and his friend breakfast and I was pulled out of my
3 house and made to sit there and it just seemed like it
4 went worse.

5 Q. Did it shock you that your son was around items
6 that was so volatile and explosive?

7 A. Absolutely.

8 Q. And yet you didn't inspect your property to
9 confirm these dangers weren't on your property, did you?

10 A. Sir, I didn't know these dangers were on my
11 property. I didn't think what was on my property was
12 dangerous or I certainly would have gotten rid of it.

13 Q. Because you knew how to use those items, didn't
14 you?

15 A. If I knew how to use them, would that make them
16 any less dangerous for my son, sir?

17 Q. Maybe the fact is you felt a little bit of
18 hubris, didn't you? You felt a little bit overconfident,
19 didn't you?

20 A. Sir, I don't know how to do that.

21 Q. You felt like things were in control and you knew
22 how to cook the meth properly without, didn't you, without
23 exploding your eyebrows off your head?

24 A. I have no idea how to cook meth.

25 MR. HOLLOWAY: That's all I have for this

Tina Henderson - Direct Examination

1 witness. Thank you.

2 THE COURT: Any redirect?

3 MR. HARBIN: Briefly, Judge.

4 REDIRECT EXAMINATION

5 BY MR. HARBIN:

6 Q. Again, do you sleep in the bedroom that
7 Mr. Holloway was asking you about?

8 A. No, I don't.

9 Q. Keep your stuff in that bedroom?

10 A. No.

11 Q. Who does?

12 A. My wife.

13 Q. Do you have a routine of going through your
14 wife's belongings?

15 A. No.

16 Q. Do you have any reason to?

17 A. No, sir.

18 Q. Thank you.

19 MR. HARBIN: No further questions.

20 THE COURT: You can step down. Thank you,
21 sir.

22 MR. HARBIN: The defense calls Tina
23 Henderson.

24 THE CLERK: Could you please come around to
25 be sworn. Place your left hand on the Bible and raise

Tina Henderson - Direct Examination

1 your right.

2 TINA HENDERSON, having been duly sworn,
3 testified as follows:

4 Thank you. You may be seated. State your
5 name for the record.

6 THE WITNESS: Tina Henderson.

7 DIRECT EXAMINATION

8 BY MR. HARBIN:

9 Q. Could you tell the jury how old you are?

10 A. Thirty-eight.

11 Q. And are you married?

12 A. Yes, sir.

13 Q. To whom?

14 A. Michael Henderson for sixteen years.

15 Q. And do y'all have a child together?

16 A. Yes, sir, Jake.

17 Q. Is that him sitting on the front row over there?

18 A. Yes.

19 Q. Ms. Henderson, what do you do for a living?

20 A. Currently I had a CNA license. I've worked on
21 and off for the past five years, third shift, as a nursing
22 assistant or waitressing.

23 Q. Are you currently working now?

24 A. No.

25 Q. Now, you were charged in this incident along with

Tina Henderson - Direct Examination

1 your husband, correct?

2 A. Correct.

3 Q. Let me back up now that we got some preliminary
4 things out of the way, how did you come to move to [REDACTED]
5 Lane?

6 A. We were living on Emily Lane and unfortunately my
7 husband had a heart attack, a stroke, my car got totaled.
8 They foreclosed on us because I was working within walking
9 distance at a gas station making \$6.50 an hour and
10 unfortunately that wasn't paying the \$640 per month house
11 payment.

12 Q. And how did you find [REDACTED]
13 particularly?

14 A. That I really don't know. My husband was the one
15 that actually found out the property had come up for sale.
16 It was an opportunity and the situation we were in, we
17 could so much down and so much per month and it would be
18 hours but the place looked so bad I didn't want to move in
19 it. But do to the circumstances and not having a place to
20 live, it was better than nothing.

21 Q. Can you describe for the jury the condition of
22 the outside of the yard when you moved in?

23 A. The yard had debris, burn piles, beer cans, coke
24 cans, Coleman fuel cans, propane tanks, miscellaneous
25 furniture items. It was just trashed.

Tina Henderson - Direct Examination

1 Q. Did you know what Toluene is or were you just
2 reading it on the cans?

3 A. I know that's what I gave to the neighbor to take
4 to the crushers.

5 Q. Expand a little bit on that, what did the
6 neighbor get and how did he get it and who gave him
7 permission to take it?

8 A. I was cleaning up my property. My sister helped
9 a little bit, so did Claude who lived was the neighbor
10 that lives that directly no more than me to that desk in
11 front of us practically. I had lawn leaf bags and the
12 cans and anything I would put inside there. Unfortunately
13 there was peanut butter jars in there because Claude
14 actually got in trouble when he took him to the crushers.
15 They was going to band him from going to the scrap yard
16 because I didn't tell him there was peanut butter jars
17 which was glass inside the bags.

18 Q. Where, generally, do you remember the burn piles
19 being?

20 A. There was like an old tree stump so as soon as
21 you pull in the driveway between our house and the
22 outbuilding. There was a pre-existing burn pile there.
23 There was one to the left of the house, one to the right
24 of the house, one to the right of the building, one in the
25 backyard.

Tina Henderson - Direct Examination

1 Q. Okay. How about the interior of the home,
2 describe that for us please?

3 A. When we moved in, it was -- we had to paint,
4 replace the carpet, replace holes in the walls, replace
5 every single light fixture was taken out of the house
6 which I got all that from Walmart. The front door, back
7 doors, the porch, you name it, it was just pretty much
8 destroyed. My husband's sister brought new linoleum for
9 the bathroom, the kitchen. There was tile squares still
10 waiting to be put in my son's room.

11 So it was just an absolute mess, and there
12 was beer cans, empty peanut butter jars, and those Coleman
13 cans was definitely inside the house as well.

14 Q. Let me move on to the shed in the back, the
15 storage shed, what do you remember the condition of the
16 shed being prior to you moving in or as you're moving in?

17 A. Well, both sides of the shed was locked. Each
18 side was locked individually because Freida had stuff
19 stored inside of the shed. She had, I think around in
20 June, had came and got all the stuff out of the one side
21 of the shed that way we had a place to store our stuff
22 because I had some Christmas and, unfortunately, my sister
23 needed a place to store herself. The other side she
24 didn't come until later.

25 Q. I'm going to show some pictures and you tell me

Tina Henderson - Direct Examination

1 if you recognize them.

2 THE COURT: Could you identify them by
3 exhibit number, please.

4 MR. HARBIN: Yes, sir.

5 BY MR. HARBIN:

6 Q. Exhibit No. 35.

7 A. No, that's ours.

8 Q. How did it get -- when did it get there?

9 A. I'm assuming it was left there. I've never seen
10 anything taken into the house or taken out of the house.

11 Q. Exhibit No. 19.

12 A. That fan is ours. I think the jumper cables was
13 my husband's.

14 Q. Do you recognize any of those things that you saw
15 before specifically?

16 A. The box and this stuff, but this stuff right here
17 was left on the shelf previously. This dresser and this
18 dresser was all left behind.

19 Q. This is a picture of one of the sides of the
20 shed. This is Exhibit No. 16. Which side is this that
21 you're describing specifically?

22 A. The front is where me and my sister had our stuff
23 stored, the side is the picture that you just showed me.

24 Q. Is this a picture of the side?

25 A. Yes.

Tina Henderson - Direct Examination

1 Q. This is Exhibit 15. This is the side of the shed
2 that ---

3 A. That had a lot in there. I didn't never go in
4 there. Freida had completely taken everything from this
5 side.

6 Q. Now, when you say Freida, are you referring to
7 Ms. Freida Lukor?

8 A. Yes, sir. She's the one that we did the contract
9 agreement with.

10 (Document marked as Defendant's Exhibit No. 1
11 for identification.)

12 Q. Could you look at this document, please?

13 A. Yes, sir.

14 Q. Do you recognize this document?

15 A. Yes, sir.

16 Q. What is it?

17 A. That is the rental agreement with the option to
18 buy where we paid so much down and so much a month. We
19 weren't allowed to be late. Come to find out she didn't
20 own the property later on but that wasn't until we
21 received a foreclosure notice where it was three years
22 taxes owed. When my husband went to speak to her about
23 it, she quote/unquote told him that it wasn't none of his
24 business and he was like lady it is my business if they're
25 going to put my family out in the street. We just waited

Tina Henderson - Direct Examination

1 and when the taxes came up due, we went and paid them and
2 she signed it over to us.

3 Q. So y'all had some type of disagreement as to the
4 payment of the taxes. How was it ultimately resolved?

5 A. We just paid it and it became ours. And I also
6 had a copy of a statement that I gave to my attorney where
7 she stated that the taxes ---

8 MR. HOLLOWAY: Objection.

9 THE COURT: That's hearsay.

10 BY MR. HARBIN:

11 Q. Other than the rent agreement, did you have any
12 other agreement with the landlord or the previous owner?

13 A. No, I didn't.

14 Q. With respect to a shed or any storage facility?

15 A. No, I didn't know until we moved in.

16 Q. You didn't know what, I'm sorry.

17 A. I didn't know Freida until we moved into the
18 property.

19 Q. Let me rephrase my question as to whether or not
20 you had any other agreements outside of just what's in
21 that document as to the use of the shed or anything with
22 Ms. Freida Lukor?

23 A. No, just verbal agreement.

24 Q. And what was that verbal agreement?

25 A. Just for her to be allowed to leave her stuff

Tina Henderson - Direct Examination

1 there until they could get it out.

2 Q. So did she ever come back to get her stuff?

3 A. She did.

4 Q. And I believe you testified she took stuff out of
5 the lean-to side?

6 A. She completely cleaned that out.

7 Q. And did she clean out the other side of the
8 building?

9 A. She came back later but she left some stuff
10 behind right before we ended up owning the property.

11 Q. So your testimony is that it was not entirely
12 cleaned out, is that your testimony?

13 A. Correct.

14 Q. So she removed some items but not all items from
15 the other side of the building?

16 A. Correct.

17 Q. So this is the picture No. 42 of all of the items
18 the officer said had been used or could be used in the
19 manufacturing of methamphetamine. Do you recognize any of
20 these things as having been in the shed when you moved in?

21 A. All of the stuff here and this, this, this and
22 this stuff, I had seen in like in the corner. It had been
23 in the far right corner where the shelf was.

24 Q. This is Exhibit No. 13, what is this a picture
25 of?

Tina Henderson - Direct Examination

1 A. That is my bedroom.

2 Q. Who stays in the bedroom with you?

3 A. It's just me and my son does sleep with me still.
4 My husband has always slept on the couch.

5 Q. So your husband does not sleep in the bedroom
6 with you?

7 A. No, sir, my son does. He's a momma's boy.

8 Q. This is Exhibit No. 48. Can you tell me what you
9 see in this picture?

10 A. My scales and my clothes.

11 Q. There also appears to be a -- this is Exhibit No.
12 49, do you recognize this?

13 A. Yes, that is my scale.

14 Q. Whose it is?

15 A. Mine.

16 Q. And where was it?

17 A. In my bedroom.

18 Q. And do you know where in the bedroom was it?

19 A. Yeah, in my dresser drawer.

20 Q. Where were the things in this picture here?

21 A. Those were to the best of my knowledge I had an
22 eyeglass case.

23 Q. Is that the eyeglass case there?

24 A. Yes.

25 Q. Do you share those items with your husband?

Tina Henderson - Direct Examination

1 A. No, sir, it's just mine.

2 Q. Why don't you share these items with your
3 husband?

4 A. Up to this past year I have -- well, up to that
5 year I had never tried anything. The girl Twilight came
6 by and I started going out and spending the night at
7 friends houses and she was giving it to me for free and
8 giving her rides and helping me keep my house clean.

9 Q. To be clear, did your husband share in the
10 ownership of the things in that picture.

11 A. No, sir.

12 Q. Did your husband share in the ownership of this
13 methamphetamine?

14 A. No, sir.

15 Q. Are you admitting to the jury that you are a
16 methamphetamine user?

17 A. Ex-meth user.

18 Q. You were charged in this investigation and you
19 actually were charged with the same things that
20 Mr. Henderson was charged with. In fact, at the beginning
21 of this trial after the swearing of the jury, you chose to
22 pled guilty; is that correct?

23 A. I pled guilty for the possession of the meth and
24 my son testing positive because it was my fault.

25 Q. On what basis did you pled guilty for the

Tina Henderson - Direct Examination

1 exposure of the meth? How did he test positive?

2 A. I didn't realize until after I completed my
3 Phoenix drug class that methamphetamine, the residue from
4 that clings to everything, your walls, your furniture,
5 your bed. So by me smoking it in my bedroom, even though
6 my son wasn't there, when he would come the next night and
7 got in bed with me, he was getting it on his skin and
8 anybody that would sweat. Like if I would sweat and he
9 was sitting next to me just my pores opening up and
10 touching on him, he could test positive. I found out
11 through the Phoenix Center that's the reason by babies
12 test so high when they're pulled out of families because
13 it goes into the carpet, the walls, the furniture,
14 blankets or whatever. I didn't realize that. I had to
15 scrub my whole house down with bleach.

16 Q. The picture that I showed you before of the
17 coffee table, it contained a scale, did it not?

18 A. Yes, sir.

19 Q. Can you tell the jury why you have the scale?

20 A. The girl twilight who I would get the meth from
21 gave it to me to hold on to it for her and that way I
22 could weigh out what she gave me if I needed to.

23 Q. And let me ask you about, and I don't know if you
24 have any knowledge of this, the officers found 95 blue
25 Sudafed tablets in the house somewhere, in a drawer

Tina Henderson - Direct Examination

1 somewhere, can you tell the jury if you have any knowledge
2 of why they were in that particular condition?

3 A. Yes, sir. The Sudafed pills belonged to my
4 husband Mike. They found in the kitchen like in an
5 antique microwave cart that was given to us. To my
6 knowledge there was also some other loose pills because
7 Mike, he has no feeling in his fingers from being a
8 worker, and he take razor blades and cuts the packs of
9 pills out and pops them out and puts them in a baggie
10 because it's easier for him to access that way. Any kind
11 of tablet that comes in a packet, he does that with.

12 Q. To your knowledge and observation, what does he
13 take the pills for?

14 A. Allergies and sinuses.

15 Q. One final thing, Ms. Henderson, were you aware of
16 spending any time in the shed, and if so, what was he
17 doing in the shed?

18 A. Around Christmas time, a little bit before
19 Christmas, he did purchase a used dirt bike for my son.
20 On and off he would go out there occasionally and try to
21 get it to work.

22 Q. Do you have any particular knowledge of what he
23 did to the bike to make it work or make it pretty or
24 whatever?

25 A. He did soak a carburetor or something because it

Tina Henderson - Cross-Examination

1 was clogged to try to get it clean or whatever, and he
2 painted the gas tank white because he said I could choose
3 the decals that were on the gas tank.

4 Q. Ms. Henderson, have you ever seen your husband
5 cook methamphetamine?

6 A. No, sir, I've never seen my husband do anything
7 like that.

8 Q. Do you have any reason to believe he was cooking
9 methamphetamine?

10 A. No, sir, I don't because he can't even burn
11 leaves without coughing.

12 Q. Have you seen him messing with any of the things
13 that have been pictured here today that the officers
14 assert are ---

15 A. No, sir, I have not.

16 Q. And are you around him enough to know?

17 A. Yes, other than when I'm at work.

18 Q. Have you ever seen anything funny or smelled
19 smoke coming from the shed or anything like that?

20 A. No, sir, I have.

21 Q. Thank you.

22 MR. HARBIN: No further questions, Judge.

23 CROSS-EXAMINATION

24 BY MR. HOLLOWAY:

25 Q. You just told the jury that you smoked meth in

Tina Henderson - Cross-Examination

1 your bedroom; is that correct?

2 A. Yes, sir.

3 Q. You smoked meth where you son sleeps, isn't that
4 true?

5 A. Yes, sir.

6 Q. When was the last time you smoked meth?

7 A. Prior to going to jail.

8 Q. So March 2010?

9 A. Correct.

10 Q. How often would you smoke meth?

11 A. Whenever my son -- my son finally got of age
12 where he would go and spend the night at somebody's house
13 and that's when I did it.

14 Q. How often would that be, twice a week?

15 A. Maybe once or twice a week.

16 Q. How much is meth?

17 A. How much does it cost?

18 Q. How much would you pay for meth?

19 A. I don't know. I got it for free when I gave the
20 lady a ride.

21 Q. Would you ever buy meth on your own?

22 A. I know that it was \$25.

23 Q. And for someone making \$6.50 an hour, that's a
24 lot of money.

25 A. It is.

Tina Henderson - Cross-Examination

1 Q. And the addiction of meth, how would you describe
2 that? Did it escalate?

3 A. I really couldn't answer that. Going through the
4 Phoenix Center drug class she said I was what was called
5 an empty nest user, which is why when my son wasn't there
6 that I did use it. And like I said I didn't have to buy
7 it, it was free.

8 Q. You have knowledge of much it is. What's the
9 basis for that knowledge?

10 A. Because I have purchased a gram from Twilight
11 before.

12 Q. So you have purchased from someone before?

13 A. Yes, the same person that was giving me and she
14 wanted to know if I'd be interested in getting some for
15 giving her a ride.

16 Q. During that time how much you were making how
17 much at the gas station or as a waitress?

18 A. When I was working as a certified nurses aide, I
19 was making \$10.50 an hour.

20 Q. At that time you had to move because you couldn't
21 afford the house note at this other place?

22 A. Yes, sir. We're talking about this house, the
23 one where you found the meth at, that's where I started
24 using it.

25 Q. But you moved from the other location for what

Tina Henderson - Cross-Examination

1 reason? You testified on direct examination that you
2 couldn't afford the house payment; isn't that true?

3 A. I couldn't afford the house payment, sir. That's
4 when I was working at a gas station making \$6.50 an hour
5 and I did not smoke meth then.

6 Q. When did you start smoking, shortly after moving
7 into the house?

8 A. I started smoking meth when I moved on to this
9 property because it was in the area.

10 Q. The meth was in the area. And the tools to make
11 meth were on your property, isn't that correct?

12 A. That I don't know, sir. I don't know what it
13 takes to make methamphetamine. I just know what belongs
14 to me and what does not belong to me.

15 Q. Since your arrest have you learned what it takes
16 to make meth?

17 A. I have learned some of the stuff to make meth.

18 Q. You've been shown on your discovery the evidence
19 the State has against you, haven't you?

20 A. Yes. I had no idea like fire ant killer,
21 fertilizer, salt, stuff like that. Everybody has got that
22 on their property?

23 Q. But you had actual meth residue, didn't you, in
24 your own house?

25 A. Yes, sir, and I admitted that I did smoke. That

Tina Henderson - Cross-Examination

1 is what I'm guilty of.

2 Q. And the meth on the coffee filters, that is your
3 meth?

4 A. That is how she give it to me. She would twist
5 it and hand it to me like that.

6 Q. Did you understand from talking to your attorney
7 in your case that's how meth is sifted through the
8 solvent?

9 A. I know that now.

10 Q. So you had a tool that was used possibly to make
11 meth in your own house, correct?

12 A. I don't know ---

13 Q. The coffee filters with the meth residue were
14 used to make meth.

15 A. They were given to me by the person that I would
16 get my meth from.

17 Q. But you've learned that's also how you make meth,
18 that's part of the process of making meth.

19 A. To be honest with you, I don't know. To this day
20 I do not know how the process was done.

21 Q. Nobody explained that to you?

22 A. No, not even in my drug class.

23 Q. And when you were charged with these crimes you
24 were never told.

25 A. No, sir, all I was told was that I can make

Tina Henderson - Cross-Examination

1 everything on that property go away if I knew where
2 another meth lab was is what I was told and I told them
3 quote/unquote I did not know I had the stuff in my
4 building to make it with let alone where anyplace else
5 was.

6 Q. The last time that Freida Lukor was on your
7 property to get her belongings was October 2009; is that
8 correct?

9 A. I'm not exactly sure, but, yes, it was before we
10 got the property through taxes.

11 Q. It's fair to say that several months prior to
12 this incident is when this happened she came and got her
13 stuff?

14 A. Yes, sir, but she did leave some stuff behind.

15 Q. Why didn't you say I own the property now, why
16 didn't you say Ms. Lukor take the rest of your stuff, we
17 don't want your stuff?

18 A. I didn't go out there and look in the building.
19 I have never been out there.

20 Q. You moved your son to this property and you
21 didn't even check around the place?

22 A. I cleaned it up the best I could by myself, yes,
23 sir.

24 Q. So you did go around the property?

25 A. Around the house, yes, I did.

Tina Henderson - Cross-Examination

1 Q. Who cleaned up the shed?

2 A. Freida Lukor did when she took her stuff out.

3 Q. Your testimony is that this stuff was left behind
4 by Freida Lukor?

5 A. Yes, it was. I didn't have a key to it.

6 Q. But you own the property?

7 A. I did. I had enough to do.

8 Q. As of March of 2010, five months after Freida
9 Lukor left, you had the keys to that shed, didn't you?

10 A. I did not.

11 Q. Who had those keys?

12 A. My husband.

13 Q. So your husband had the keys and access to this
14 shed?

15 A. He did and he was the only one that did.

16 Q. You just said that Ms. Lukor had it too?

17 A. I meant between me and my husband.

18 Q. Did you ever tell Ms. Lukor come get the rest of
19 your stuff, we don't need Acetone, we don't need salt, we
20 don't need the coffee grinder?

21 A. Why would I tell her to come get the rest of her
22 stuff when she was going to have us put out in the street.

23 Q. It's fair to say based on that question you asked
24 me you were making the meth, weren't you?

25 A. No, sir, I was not.

Tina Henderson - Redirect Examination

1 MR. HOLLOWAY: Thank you, sir. That's all I
2 have.

3 THE COURT: Redirect?

4 REDIRECT EXAMINATION

5 BY MR. HARBIN:

6 Q. Ms. Henderson, the two pieces of methamphetamine
7 that I showed you, how were they wrapped up?

8 A. I'm not sure what the question was that you
9 asked.

10 Q. How were they packed up?

11 A. I guess like a football.

12 Q. And is this the way you normally receive -- is
13 this a quarter gram? What is this?

14 A. I don't know. Can I borrow the scale? I don't
15 know.

16 Q. You don't know enough to know?

17 A. No. Like I said Twilla would call me up and ask
18 me if I would give her a ride. Sometimes it would be down
19 in the Pelzer area, sometimes it would be into the
20 Williamston area, sometimes it would be just across the
21 river like you're headed towards Powdersville, I would
22 take her to various locations and three to four hours
23 later she'd ask me to come give her a ride back home.

24 I would go pick her up and then I would either
25 take her to this one boyfriend's house of hers that lived

Paulette Croxston - Direct Examination

1 to the side of us or sometimes I would take her to the
2 house above the corner that lived directly up on the hill.
3 There was somebody she knew up there that she would go and
4 see and then sometimes she was also seeing some guy by the
5 name of Farmer or something that stayed at a body shop on
6 Highway 20.

7 Q. So to be clear, those two packets of
8 methamphetamine came from this girl Twilla?

9 A. Yes, sir, she give it to me.

10 Q. That did not come from a meth lab in your shed?

11 A. No, sir, it did not.

12 Q. You didn't cook it?

13 A. No, sir.

14 Q. Your husband didn't cook it?

15 A. No, sir.

16 MR. HARBIN: No further questions.

17 THE COURT: Anything else?

18 MR. HOLLOWAY: No, sir.

19 THE COURT: Thanks. You can step down.

20 MR. HARBIN: The defense calls Paulette
21 Croxston.

22 THE CLERK: Would you come forward to be
23 sworn in. Place your left hand on the Bible and raise
24 your right.

25 PAULETTE CROXSTON, having been duly sworn,

Paulette Croxston - Direct Examination

1 testified as follows:

2 Thank you. You may be seated. Please state
3 your name for the record.

4 THE WITNESS: Paulette Croxston.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MR. HARBIN:

8 Q. Ms. Croxston, can you tell the jury what your
9 relationship to Mr. Henderson is?

10 A. He's my brother-in-law.

11 Q. He's your brother-in-law.

12 A. Yes.

13 Q. Did you have an opportunity to visit the property
14 at [REDACTED]?

15 A. I actually stayed there from June 2009 to October
16 of 2009.

17 Q. When in relation to when the Hendersons first
18 moved in did you see the property?

19 A. Before they moved in.

20 Q. Can you describe for the jury, please, what the
21 condition of the exterior of the home and by that I mean
22 the yard?

23 A. The grass was extremely overgrown. There was
24 metal cans, various debris everywhere, just junk
25 basically. There was several burn piles. There was like

Paulette Croxston - Direct Examination

1 a cul de sac driveway like a loop, there was one right
2 there as you were coming around the corner almost directly
3 in front of the storage building.

4 Q. What did you see, if anything, inside the home?

5 A. Inside the home it was no paint on the walls or
6 it was peeling. There was holes in the walls, no carpet,
7 no tile. It was trashed. The molding was coming off.

8 Q. What about items in the house other than just the
9 general condition of the structure?

10 A. To me it just looked like trash. There was cans
11 and jars and what I assume would be general household
12 trash, junk. There was metal cans full of nails and
13 screws all over the floors and there were many fish hooks
14 that we had to clean up.

15 Q. Did you actually help them clean the house?

16 A. I did.

17 Q. What types of cleaning did you do? Did you clean
18 up outside and inside or just inside?

19 A. I did both. Unfortunately my brother-in-law has
20 health issues and my sister and I were the ones that
21 cleaned up the outside.

22 Q. What do you mean by cleaned up outside?

23 A. We tried to get as much of the loose debris as we
24 could, cans in the yard. I tried to stay away from the
25 very high grass because I didn't want to go into it, but

Paulette Croxston - Direct Examination

1 around the driveway and the front entrance of the house I
2 helped clean up. I helped clean off the back porch of the
3 house that was cluttered with trash.

4 Q. Can you look at these pictures, State's Exhibits
5 1, 2 and 4 and tell me if these burn piles and pictures of
6 the things in the burn piles represent what they looked
7 like after you cleaned or the extent that you did clean
8 it?

9 A. As far as cleaning up the burn piles, themselves,
10 I did not help with that. I did help with cleaning up
11 around the home, but this Exhibit No. 1 is a picture of
12 the burn pile that was previous there when we started
13 cleaning up.

14 Q. Did you have an opportunity to view the shed or
15 any of the contents in the shed?

16 A. Yes, I did.

17 Q. How did you come to see the interior of the shed?

18 A. When I moved in with my sister and my brother-in-
19 law basically I had household furniture that was not going
20 to fit in the home, so when the front part of the storage
21 she became empty, I was moving my furniture, basically
22 household furniture. I was storing it in the front part.

23 Q. You made reference to when it became empty. Can
24 you tell me what you mean by that, when it became empty?

25 A. During the clean up process before they even

Paulette Croxston - Direct Examination

1 moved in, I was informed that the previous owner still had
2 things in the shed. While we were there cleaning up,
3 somebody in a black pick up truck and a trailer came to
4 empty out the interior part of the storage building.

5 MR. HOLLOWAY: Your Honor, I'm going to
6 object. I believe we are getting into hearsay testimony
7 here.

8 THE COURT: She can testify to what she
9 observed personally.

10 BY MR. HARBIN:

11 Q. Perhaps that's a question, did you observe that
12 somebody did pull up in a black pick up truck?

13 A. Yes, I observed the vehicles.

14 Q. Did you observe who was in the vehicle?

15 A. I did not see the person face to face, no.

16 Q. Did you observe generally what they were doing?

17 A. They were unloading the interior part.

18 Q. After they got through unloading, did you have a
19 chance to view the anterior of the building?

20 A. Yes, I did.

21 Q. And what I'm going to ask you to do is go through
22 these pictures and point out to the jury which ones you
23 recognize as items as in the shed after Ms. Lukor came and
24 picked up her stuff. If you see one, if you could stop
25 and identify to the jury what it is that you can identify.

Paulette Croxston - Direct Examination

1 A. I believe this is Exhibit 34, it's a bag of
2 fertilizer. It was in the backside of the building. 39,
3 the white PVC pipes, that was actually throughout the
4 building and the back. I do remember when I was storing
5 some of mine I actually removed some of those.

6 Exhibit No. 20 looks like a handmade table
7 that was in the exterior that I see through from the front
8 and there was items underneath the table. Exhibit 22 is
9 as propane tank. The one is the picture is missing a
10 valve. I can not say if it was the exact one but I did
11 see a propane tank in that sort of condition.

12 Exhibit 17 there were several pieces of
13 furniture that was left as well as boxes, a propane tank,
14 and you can actually see where there is a space in the
15 very left hand corner that you can actually see to the
16 very front. So you can see where you could see all the
17 way to the other side.

18 Q. This would be kind of a window area here?

19 A. Yes, right there is a wall that separates both
20 side and this, I believe, is raise up here.

21 Q. The other side of this which looks to be a tin
22 wall is the lean-to side?

23 A. That's where I had my stuff stored, yes, sir.
24 And again, 18, propane tank. 16.

25 Q. This is just a picture of the front of the

Paulette Croxston - Direct Examination

1 storage room. Is this the part where you had your
2 furniture in originally?

3 A. It is. 5, 6, 7 and 8 all look like general trash
4 that were in the burn piles that were scattered throughout
5 the yard. Again I believe it's the same propane tank in
6 26. The tool box that was left in 43, and 44 the
7 fertilizer and No. 9 more debris that was all over the
8 yard.

9 Q. Did you ever see Mr. Henderson or anybody else
10 for that matter, occupying the shed to do any kind of work
11 whatsoever.

12 A. No, I did.

13 Q. And how long were you living with them?

14 A. Until October 2009.

15 Q. Did you ever see anything, smell anything, smoke
16 or anything like that?

17 A. No, sir.

18 Q. Do you have any reason to believe that
19 Mr. Henderson was engaged in the making of meth?

20 A. Absolutely not.

21 Q. How about Tina?

22 A. Absolutely not. I wouldn't have stayed there.

23 Q. Did anyone from law enforcement ever interview
24 you?

25 A. No, sir.

Paulette Croxston - Cross-Examination

1 Q. Anybody ever ask you any questions?

2 A. No, sir.

3 Q. Thank you. Nothing further.

4 THE COURT: Cross.

5 CROSS-EXAMINATION

6 BY MR. HOLLOWAY:

7 Q. Were you present when the officers arrived in
8 this case on March 30, 20104?

9 A. No, sir, I had moved out by then.

10 Q. Mr. Harbin just made a big deal about you not
11 being interviewed by law enforcement, is that correct?

12 A. I don't know if it's a big deal, but, yes, he
13 mentioned it.

14 Q. It's a big deal. Your brother-in-law is charged
15 with serious crimes here, isn't he?

16 A. Yes, he is.

17 Q. Did you come forward with information?

18 A. Nobody asked me about information.

19 Q. That's not my question. Did you come forward to
20 law enforcement to help him out?

21 A. No, sir.

22 Q. It's been 20 months and your brother-in-law has
23 been charged with these crimes for 20 months and it's only
24 today you're coming forward? Is that fair to him?

25 A. This is the only legal proceeding ---

Paulette Croxston - Cross-Examination

1 Q. Answer my question.

2 A. I'm trying ---

3 THE COURT: Wait. Let her answer.

4 THE WITNESS: This is the only legal
5 proceeding I was aware of that I had an option to say
6 anything.

7 BY MR. HOLLOWAY:

8 Q. Did you call 911?

9 A. For what?

10 Q. For this. You're saying it's someone else's meth
11 lab and your brother-in-law is charged, right?

12 A. I never said it was anybody's meth lab.

13 Q. It's somebody's, isn't it?

14 A. I didn't know that was a meth lab.

15 Q. Okay. These items that your saying weren't your
16 brother-in-laws everyone one of them you mentioned in your
17 testimony happen to be ingredients for making meth,
18 correct?

19 A. I don't know.

20 Q. Do you know why you're here?

21 A. Yes, sir.

22 Q. Why is that?

23 A. To testify to what I saw when I lived there in
24 2009.

25 Q. But you weren't there for five months prior to

Paulette Croxston - Cross-Examination

1 this incident, were you?

2 A. Correct.

3 Q. You don't know what else was put in that shed
4 between October '09 and March 2010, do you?

5 A. I never said I did.

6 Q. Well, you're here to say -- you just testified
7 from these photos Exhibits 27, 29, 13, you just testified
8 about those photos, haven't you?

9 A. Yes, I just testified.

10 Q. When were these photos taken?

11 A. In 2010.

12 Q. But you just said you're not here to talk about
13 what happened in March 2010, correct?

14 A. Right.

15 Q. You're talking about stuff before you moved out.
16 That's the limit of your knowledge, isn't it?

17 A. The pictures that I testified are the exact same
18 items that were there when I moved in, in 2009.

19 Q. Let me ask you this, these are some pictures of
20 Acetone, State's Exhibit 29, coffee grinder, State's
21 Exhibit 27. How do you know these items aren't Michael
22 Henderson's? What specifically about them can you tell
23 this jury they don't belong to Michael Henderson?

24 A. I can not. I did not see these items.

25 Q. So these items that you just said were not

Paulette Croxston - Cross-Examination

1 Michael Henderson's you are not testifying, isn't it true,
2 that you didn't see these items?

3 A. I never said they were not Michael Henderson's.

4 Q. But you're here today to get him off these
5 charges, aren't you?

6 A. No ---

7 MR. HARBIN: Objection.

8 THE COURT: Go ahead.

9 BY MR. HOLLOWAY:

10 Q. You're here to help your brother-in-law out of
11 these charges, are you not?

12 A. I am here to testify as to what I saw when I
13 moved into the residence.

14 Q. Which was 10 months before this incident, isn't
15 that true?

16 A. Yes.

17 Q. And you moved out five months before this
18 incident?

19 A. Correct.

20 Q. That really is the limit of your knowledge,
21 correct?

22 A. Correct.

23 THE COURT: Any redirect?

24 REDIRECT EXAMINATION

25 BY MR. HARBIN:

Paulette Croxston - Redirect Examination

1 Q. As soon as you were asked to proffer any
2 testimony, isn't it true that you volunteered to do so?

3 A. It is.

4 Q. Thank you.

5 THE COURT: You can step down.

6 MR. HARBIN: The defense would call David
7 Mathis.

8 THE CLERK: Mr. Mathis, please come forward
9 to be sworn in. Place your left hand on the Bible and
10 raise your right hand.

11 DAVID MATHIS, having been duly sworn,
12 testified as follows:

13 Thank you. You may be seated. State your
14 name for the record.

15 THE WITNESS: David Mathis.

16 DIRECT EXAMINATION

17 BY MR. HARBIN:

18 Q. Good afternoon, Mr. Mathis.

19 A. Good afternoon.

20 Q. Can you tell the jury how you know
21 Mr. Henderson?

22 A. I met him through some friends a while back, you
23 know.

24 Q. What kind of friends would you say you are?

25 A. Pretty good, had a lot of things to do with Jake.

David Mathis - Direct Examination

1 Q. So your social friends or business friends?

2 A. Social.

3 Q. When did you have an occasion to visit [REDACTED]

4 Lane?

5 A. He told me that he was moving and I went down
6 there and I was in the process of moving in and I told him
7 that I had a friend of mine that had some land that we
8 could deer hunting on later on that year. And I was
9 trying to get everything set up so when deer season come
10 we can up there and hunt.

11 Q. So you went to visit and check his new place out
12 and talk about hunting?

13 A. Yes, sir.

14 Q. When you got to the property, were the Hendersons
15 already moved in or in the process of moving in or had
16 they not yet started moving in?

17 A. They still had boxes stacked up and in the
18 process of moving.

19 Q. What did you observe outside of the home?

20 A. I observed a couple of burn piles.

21 Q. I'm going to show you Exhibit No. 9, does that
22 look familiar?

23 A. Yeah, it looks like, you know, household trash.

24 Q. How many burn piles do you remember seeing?

25 A. I don't remember.

David Mathis - Direct Examination

1 Q. Now, did you walk all the way around the property
2 or you just kind of between the cars?

3 A. Just between the cars.

4 Q. I'm going to show you Nos. 5, 6, 7 and 8, could
5 you look at this for me. Does that look like the same
6 kind of trash piles that you just said you saw?

7 A. Yeah, bottles and a lot of trash.

8 Q. Did you go inside the house at all or did you
9 just stay outside?

10 A. I went to the door and he was hooking everything
11 up and trying to unload.

12 Q. What, if anything, did you observe about the
13 interior of the building?

14 A. The building or house?

15 Q. The house.

16 A. The house was like no carpet and holes in the
17 wall and it needed to be painted.

18 Q. Did you observe any items in the house other than
19 the boxes they were moving in?

20 A. It was, you know, he said the person that lived
21 there before still had some stuff there.

22 MR. HOLLOWAY: Objection.

23 THE COURT: I'll sustain that. That's
24 hearsay. You can say what somebody else said.

25 BY MR. HARBIN:

David Mathis - Direct Examination

1 Q. The shed outside, did you have an occasion to
2 look or to see anything inside the shed at the time?

3 A. No, sir. I seen a truck pulling by with a
4 trailer and a woman said ---

5 MR. HOLLOWAY: Objection.

6 THE COURT: Sustained. You can't -- I just
7 told you that.

8 BY MR. HARBIN:

9 Q. Just tell us what you observed and not
10 specifically what you heard said.

11 A. A truck pulling out and a trailer behind it had
12 some boxes on it.

13 Q. What were the folks with the truck and the
14 trailer doing to your observation?

15 A. Get the stuff out of the building.

16 Q. When was this? Do you remember how soon after --
17 in other words Mr. Henderson called you and said, hey, I'm
18 moving, how soon after did you go by their house?

19 A. Two or three weeks.

20 Q. So it was fairly soon after the moved in and you
21 observed somebody coming in to pull the stuff out of the
22 shed. Okay. When you were over there, did you observe
23 anything by way of Mr. Henderson, and I don't know if you
24 know how to recognize this or not, did you recognize
25 anything illegal or not?

David Mathis - Direct Examination

1 MR. HOLLOWAY: Objection, Your Honor, calls
2 for speculation.

3 THE COURT: He asked if he saw anything
4 illegal going on, I think that's what he said. If that's
5 the question, it's alright.

6 THE WITNESS: No, sir, I have not.

7 BY MR. HARBIN:

8 Q. Was he cooking meth when you were over there?

9 A. No, sir.

10 Q. Did you smell anything funny?

11 A. No, sir.

12 Q. Smell any smoke?

13 A. No, sir.

14 Q. Did anyone ever contact you about this case to
15 ask any questions to see if there any information you
16 could add, any law enforcement official ever contact you
17 about this case?

18 A. No, sir.

19 MR. HARBIN: One moment, Your Honor. I have
20 nothing further.

21 THE COURT: Cross.

CROSS-EXAMINATION

22 BY MR. HOLLOWAY:

23 Q. You testified that you went to see the Hendersons
24 about a hunting trip; is that right?
25

David Mathis - Cross-Examination

1 A. Yes.

2 Q. And that's when you saw this person out there
3 moving stuff out of the shed; is that correct?

4 A. Yes.

5 Q. What month was this?

6 A. A little before September.

7 Q. Are you saying when they moved in was September?

8 A. I'm not saying that. I'm saying when I moved in
9 it was September. I'm not for sure on the date.

10 Q. You testified right now that you had gone over
11 there shortly after the moved in?

12 A. Yes, about two or three weeks afterwards.

13 Q. You said it was there about hunting season. When
14 does hunting season start?

15 A. Hunting season starts about September, September
16 14th.

17 Q. Now, the items that you've identified in these
18 photographs, the ones that Mr. Harbin showed you, 6,7,8,5
19 and 9, can you tell the jury from these photographs how do
20 you know whose items these were?

21 A. I don't know who they was.

22 Q. You don't have a clue?

23 A. No.

24 Q. So it's quite possible they belonged to
25 Mr. Henderson, correct?

David Mathis - Cross-Examination

1 A. They was there. I do not know whose they are.

2 Q. These photos were taken on March 30, 2010,
3 correct?

4 A. I guess. I don't know when all this happened.

5 Q. So you're testifying for the jury and you don't
6 know much about what's going on with this case?

7 A. I'm testifying saying that when I went down
8 there, there was burn piles in the yard.

9 Q. Those burn piles were full of trash, weren't
10 they?

11 A. It was different trash, yes.

12 Q. And these photos aren't full of trash are they?

13 A. I guess they cleaned them up.

14 Q. And it stands to reason that what's left behind
15 has come afterwards, hasn't it, since they moved in?

16 A. All I can say is they was cleaning up.

17 Q. It's also possible that the Henderson, this is
18 their items, they cleaned up the stuff anybody left months
19 ago, correct?

20 MR. HARBIN: Judge, objection, calls for
21 speculation.

22 THE COURT: That's okay. Go ahead.

23 BY MR. HOLLOWAY:

24 Q. It's possible the items you're talking about was
25 cleaned up by the Hendersons, isn't that true?

Sam Croxston - Direct Examination

1 A. I guess so.

2 Q. And it's also possible by the same logic that
3 these items are what they left behind, isn't it?

4 A. I don't have no idea. I'm saying when I went
5 down there I seen the burn piles.

6 Q. The items I'm talking about on Exhibits 5 through
7 9, it's possible that the Hendersons left those behind but
8 these weren't in the burn piles when you arrived several
9 months before, isn't that correct, isn't that possible?

10 A. I guess it's possible.

11 MR. HOLLOWAY: Thank you very much.

12 MR. HARBIN: No further questions.

13 THE COURT: Thank you very much. You can
14 step down.

15 MR. HARBIN: Defense calls Sam Croxston.

16 THE CLERK: Mr. Croxston, would you come
17 around to be sworn, please. Place your left hand on the
18 Bible and raise your right.

19 SAMUEL CROXSTON, having been duly sworn,
20 testified as follows:

21 Thank you. You may be seated. Please state
22 your name for the record.

23 THE WITNESS: Samuel Croxston.

24 DIRECT EXAMINATION

25 BY MR. HARBIN:

Sam Croxston - Direct Examination

1 Q. Mr. Croxston, how are you this afternoon?

2 A. Okay, I guess.

3 Q. Mr. Croxston, I apologize for the redundancy of
4 these questions but I'm going to ask you very similar
5 questions I'm going to ask you. What is your relationship
6 to Michael Henderson?

7 A. I am his father-in-law.

8 Q. So you are Tina's dad?

9 A. Yes.

10 Q. When did you have occasion to visit [REDACTED]
11 Lane?

12 A. Shortly after they acquired the property.

13 Q. What is shortly? Try to be as specific as you
14 can.

15 A. It was probably a week or two after they acquired
16 it.

17 Q. What did you go over there to do?

18 A. Basically it's on my way home, stop in there to
19 see my grandson, stop in to see my daughter.

20 Q. What did you observe, if anything, about the
21 exterior of the home, the yard and such?

22 A. It was just totally a mess, overgrown, trash
23 piles, debris everywhere. It was just in disarray.

24 Q. Did you see anything burned in the yard?

25 A. I recall at least three burn piles, one was close

Sam Croxston - Direct Examination

1 to the entrance of the house, one was a little further
2 away and up in towards the driveway, and there was fairly
3 large one in the driveway. That's the three I recall but
4 like I said it was so overgrown.

5 Q. I'm showing you Exhibit No. 1, 5,6,7,8 and 9,
6 does this look like what you saw when you visited early on
7 in their stay?

8 A. This was the one that ---

9 Q. This is Exhibit No. 1.

10 A. This is the one that was away from the house.
11 There should be one right down in here somewhere right in
12 front of the house.

13 Q. How about the other exhibits? Do you see
14 anything there that you recognize one way or the other?

15 A. To me debris was debris. I saw a lot of bottles
16 and a lot of cans. I did see the Coleman fuel cans and I
17 thought that was very bright throwing something like that
18 in the fire. I did see that, but as far as looking for
19 anything in particular, it was just trash to me.

20 Q. Did you observe at any time the interior of the
21 shed?

22 A. Just briefly when I helped my daughter unload
23 some of her stuff in there.

24 Q. What kind of stuff were you helping your daughter
25 with.

Sam Croxston - Direct Examination

1 A. Pieces of furniture and boxes, stuff like that.

2 Q. And which side of the shed did you actually
3 unload that stuff into?

4 A. She had her stuff closest to the house.

5 Q. And that what we been calling the lean-to side?

6 A. The lean-to side you can see from the garage.

7 Q. This side here?

8 A. The other.

9 Q. This is Exhibit 21 and you're saying it's around
10 here.

11 A. Yeah.

12 Q. Is this picture better?

13 A. Yeah.

14 Q. And you saw the interior from the view here?

15 A. Yeah.

16 Q. This is Exhibit No. 15 right here.

17 A. Yeah.

18 Q. When you looked in there, can you describe as
19 best you can what you saw inside that shed?

20 A. That side was mainly old and then the rest of it
21 just looked like clutter. It was just clutter to me.

22 Q. Just lots of clutter. When she moved the
23 furniture in -- strike that. So the extent of what you
24 can help us with today is what you observed outside and
25 there was some clutter in the shed?

Sam Croxston - Direct Examination

1 A. Yes.

2 Q. Okay. Did you observe anything while you were
3 there that led you to be suspicious of Mike Henderson and
4 any kind of illegal activity or cooking methamphetamine?

5 A. No.

6 Q. Any sights, sounds, or smells?

7 A. No. I try and do things with my grandson and I
8 took him on motorcycle rides. Sometimes I pop him during
9 the week afterwards and most of the times it would be on
10 the weekend that I spend with my grandson. Like I said it
11 wasn't every week.

12 Q. When you popped in you did it just to do it and
13 it wasn't necessarily planned? Was it a planned event or
14 would you come by when you come by.

15 A. I'd say half the time I'd stop by after work. It
16 wasn't planned. On the motorcycle runs and stuff like
17 that, that would be planned. I'd have it set up for the
18 weekend and sometimes he'd ride with the people I'd ride
19 with.

20 Q. Did you ever observe Mr. Henderson other than
21 whether or not you observed him cooking meth or anything
22 like that, had you ever observed him smoking meth or high?

23 A. Never. Never around me.

24 Q. Thank you, Mr. Croxston, I appreciate it.

25 MR. HARBIN: No further questions.

Minor

- Direct Examination

1 THE COURT: Cross.

2 CROSS-EXAMINATION

3 BY MR. HOLLOWAY:

4 Q. Did you ever see your daughter smoking meth
5 around your grandson?

6 A. She's know better than to smoke it around me.

7 Q. It's also possible that they would know better
8 than to cook meth around you and leave signs of that,
9 isn't that true?

10 A. Yeah. Well, that's definitely.

11 Q. If they were hiding smoking meth around your
12 grandson, it's possible they were hiding cooking the meth
13 around you -- away from your eyes.

14 A. It's possible.

15 Q. Thank you very much.

16 THE COURT: Thank you, sir. You can step
17 down.

18 MR. HARBIN: Judge, we call Jake Henderson to
19 the stand.

20 THE CLERK: Please step forward to be sworn.
21 Place your left hand on the Bible and raise your right
22 hand.

23 Minor , having been duly sworn,
24 testified as follows:

25 Thank you. You may be seated. State your

Minor

- Direct Examination

1 name for the record.

2 THE WITNESS: Jake Henderson.

3 DIRECT EXAMINATION

4 BY MR. HARBIN:

5 Q. Minor you okay this afternoon?

6 A. Yes, sir.

7 Q. Minor , you've heard me ask a whole bunch of
8 questions to a whole bunch of folks. I'm going to start
9 off by asking you Mr. Henderson is your dad; is that
10 correct?

11 A. Yes, sir.

12 Q. You lived with him at [REDACTED] ?

13 A. Yes, sir.

14 Q. When you first moved in the property, did you
15 visit the property with your folks when y'all -- were you
16 with your folks when you first moved in?

17 A. Yes, sir.

18 Q. So the very first day y'all were there, you were
19 with them?

20 A. Yes, sir.

21 Q. What did you see in the yard when you very first
22 walked up to the piece of property?

23 A. I seen like cans and like old trash and stuff
24 thrown all over the place, burn piles everywhere, and just
25 a bunch of trash.

Minor

- Direct Examination

1 Q. You've heard mention of these Coleman cannisters,
2 do you know what they are?

3 A. Yes, sir.

4 Q. Did you recognize any of those in the yard or in
5 the house or anything?

6 A. Yes, sir, there were a couple in the house and
7 some outside all over the place.

8 Q. When you went inside can you describe for the
9 folks in the jury what you saw inside of the house?

10 A. I saw that there were holes in the walls, paint
11 was coming off and floors weren't that good and there was
12 a lot of stuff that needed to be done to the house.

13 Q. What kind of debris, items, if any, were in the
14 house that you saw?

15 A. Peanut butter jars, cans and trash and stuff like
16 that.

17 Q. And how about the shed, the shed that everybody
18 is talking about, did you get to peek inside the shed?

19 A. No, not at the time.

20 Q. When did you get to peek inside of the shed?

21 A. When she came and got all of her stuff out or
22 most of it any ways.

23 Q. When who got all of her stuff out?

24 A. Freida.

25 Q. And how do you know Freida? Is this Freida Lukor

Minor

- Direct Examination

1 you're talking about?

2 A. Yes, sir.

3 Q. And how do you know Ms. Freida Lukor?

4 A. Well, my mom was going up there one day with the
5 rent money and I had the guitar on me and she said she'd
6 string it for me but I didn't leave it there.

7 Q. So you were able to recognize her when she came
8 to your house?

9 A. Yes, sir.

10 Q. What was she riding in and or driving when she
11 came by?

12 A. She had a truck and a trailer that she put her
13 stuff in.

14 Q. How do you know what she was doing back there?

15 A. She was inside the building loading the stuff
16 putting it on the back of the truck.

17 Q. So you saw her moving stuff out of the building
18 and you assume she's getting her stuff out there?

19 A. Yes, sir.

20 Q. Did you ever see your dad go in the building?

21 A. Only motorcycle for Christmas, that's when I seen
22 him go in.

23 Q. You weren't supposed to know about the motorcycle
24 at first, were you?

25 A. No, sir.

Minor

- Direct Examination

1 Q. Can you tell the jury how you stumbled upon that
2 information?

3 A. I was going to go look for my tackle box because
4 I wanted to go fishing. I thought it was on the other
5 side and I hopped over like this little window that was on
6 the side of the building and I went in and I stumbled on
7 the motorcycle.

8 Q. So you figured out your dad was hiding a
9 motorcycle from you for Christmas?

10 A. Yes.

11 Q. When you peeked into that side of the shed, did
12 you have a chance to glance around a little bit?

13 A. Yes, sir.

14 Q. Now, prior to you discovering this motorcycle,
15 did you ever see your dad moving anything in or out of
16 this shed?

17 A. Not really he was mostly in there at night and I
18 was sleeping.

19 Q. Did you ever smell anything or see any smoke or
20 anything like that coming from the shed?

21 A. No, sir.

22 Q. I'm going to show you Exhibit No. 19, 35, do you
23 recognize any of those items from being in the shed?

24 A. I remember the fan.

25 Q. You recognize the fan. How about Exhibit No. 39?

Minor

- Direct Examination

1 A. I recognize the tubing.

2 Q. Where was that tubing, do you remember?

3 A. It was over here on the floor.

4 Q. In the corner?

5 A. Yes.

6 Q. Did you ever see your dad do anything with that
7 tubing?

8 A. No, sir.

9 Q. Do you know if that tubing was every moved or
10 missing?

11 A. No, sir. I just noticed that the box had tubing
12 in it and I just looked at it. I didn't think nothing
13 about it.

14 Q. This is Exhibit No. 22, do you recognize that?

15 A. Yes, sir.

16 Q. What is that?

17 A. It's a propane tank.

18 Q. Do you recognize that from the house or from the
19 shed?

20 A. From the shed. It was there when we moved in.

21 Q. This is Exhibit No. 44, do you recognize any of
22 those items there at all?

23 A. No.

24 Q. Exhibit No. 13, what is this a picture of?

25 A. My mom's room.

Minor

- Direct Examination

1 Q. You call it your mom's room, why?

2 A. Because it's my mom's room.

3 Q. Where does your dad sleep?

4 A. Couch.

5 Q. And your mom told us that you spend some nights
6 in her room with her; is that correct?

7 A. Yes, sir.

8 Q. Does your dad ever sleep in your mom's room with
9 her?

10 A. Maybe once in a while.

11 Q. Minor, do you ever remember your dad doing
12 anything that you didn't know what he was doing? Did he
13 ever do any suspicious that you couldn't figure out what
14 in the heck he was doing?

15 A. No.

16 Q. Up to no good?

17 A. No.

18 Q. Anything illegal?

19 A. No.

20 Q. How old were you at the time?

21 A. Eleven.

22 Q. And you're 13 now?

23 A. Yes, sir.

24 Q. Do you have any believe whatsoever, I know you're
25 not totally grown but you're part grown, and all the

Minor

- Direct Examination

1 observations and all the time you spent at your house, do
2 you have any belief whatsoever ---

3 MR. HOLLOWAY: Objection, leading.

4 THE COURT: Leading and I'm not sure he's
5 qualified to answer that type of question. If you'd like
6 to approach, I'd be happy to talk to you. Come on up.

7 MR. HARBIN: I'll rephrase.

8 THE COURT: Okay.

9 BY MR. HARBIN:

10 Q. Did you ever see your dad in the building when
11 the building was smoking or smelled funny or any kind of
12 strange sounds coming from it?

13 A. I never.

14 Q. The burn piles that you heard all the officers
15 talk about, those are the same burn piles you observed
16 when you first moved into the house?

17 A. Yes, sir.

18 Q. Thank you, ^{Minor} . I appreciate it.

19 MR. HARBIN: No further questions.

20 THE COURT: Cross.

21 CROSS-EXAMINATION

22 BY MR. HOLLOWAY:

23 Q. When this first happened, isn't it true that you
24 had to go live with your aunt?

25 A. Yes, sir.

Minor

- Cross-Examination

1 Q. How long did you have to go live with your aunt?

2 A. About two or three weeks.

3 Q. So based on that you would have been back in your
4 parents house in 2010?

5 A. Yes, sir. After I got through living with my
6 aunt and Uncle Junior, then I went and stayed with my
7 grandpa for a little while.

8 Q. For how long?

9 A. (Inaudible).

10 Q. So you would say that you were with your parents
11 back living with them back in the early summer of 2010.

12 A. I really don't know.

13 Q. Would you say more than six months back living
14 with your parents since today?

15 A. I would say yes.

16 Q. More than a year? Have you been back living with
17 your parents for more than a year as of today?

18 A. Yes, sir.

19 Q. All that time how often have you talked about
20 this case?

21 A. A good bit.

22 Q. Had they asked you questions about this case?

23 A. I guess so. I pretty much wanted the truth?

24 Q. So in all the time that you've been back there,
25 you've discussed how your parents say they're innocent?

Minor

- Cross-Examination

1 A. Yes, sir.

2 Q. Did your father ever offer any explanations as to
3 where these items came from?

4 A. No, sir.

5 Q. He just said blanket I'm innocent, I didn't do
6 this?

7 A. Pretty much and I believe him.

8 Q. How often do people burn piles in your yard?

9 A. We ain't burn stuff in a while. Like me and my
10 nephew when we moved in there and all of this stuff
11 happened, we burned like sticks and stuff on top of them.
12 We didn't burn no trash or anything like that.

13 Q. So when you and your nephew burned in these piles
14 it's after all of the debris everyone talked about was
15 cleared away, isn't that true?

16 A. No, we just piled it on top of the stuff.

17 Q. Okay. You seen the photos of these burn piles,
18 haven't you?

19 A. Yes, sir.

20 Q. You're saying when you moved in there was debris
21 in the pile?

22 A. Yes.

23 Q. And then more debris was on the pile, correct,
24 that's what you just said?

25 A. Yes.

Minor

- Cross-Examination

1 Q. And then you burned some of that stuff, right?

2 A. And that's it.

3 Q. You saw the photographs, where's this big pile
4 at? Where's the added debris that was on top of the
5 debris that was there at the house when you moved in?
6 Where's that stuff at in these photographs? For example,
7 State's Exhibit No. 1, where is it?

8 A. My mom cleared it out. She was cleaning up the
9 burn piles.

10 Q. So she cleared it out, correct?

11 A. Yes, sir.

12 Q. So it stands to reason these items belong to your
13 family, correct? This is your debris, right, your
14 family's debris in this burn pile right here, State's
15 Exhibit No. 1?

16 A. I don't know about the cans but I know my mom was
17 trying hard to clean it up and the reason me and my nephew
18 burned a bunch of sticks is because they were right on the
19 side of the building. They were blocking a bunch of like
20 boards and stuff.

21 Q. The fact is you just -- you don't know for sure
22 whose property this is, the items in these burn piles, you
23 don't know?

24 A. I really don't.

25 Q. Thank you.

Freida Lukor - Direct Examination

1 THE COURT: Any redirect?

2 MR. HARBIN: No further questions.

3 THE COURT: Thanks. You can step down.

4 MR. HARBIN: Judge, I call Freida Lukor to
5 the stand.

6 THE COURT: All right, I have to ask the jury
7 the same question. Is there any member of the jury panel
8 related by blood, marriage, or have a business, personal
9 or social relationship with a woman by the name of Freida
10 Lukor?

11 (No response.)

12 Thank you very much.

13 THE CLERK: Ma'am, would you come around to
14 be sworn, please. Place your left hand on the Bible and
15 raise your right.

16 THE COURT: Before we start, I think this is
17 a good time to take a short afternoon break. Okay. Y'all
18 take about 10 minutes or so. I'm sorry to go so long. I
19 apologize.

20 (Jury exits the courtroom.)

21 (Whereupon, there was a brief break.)

22 MR. HOLLOWAY: I'd like to ask Mr. Harbin
23 what he intends to ask Ms. Lukor on direct examination.

24 MR. HARBIN: Judge, I can proffer her
25 testimony and make sure it's okay. I intend to ask her if

Freida Lukor - Direct Examination

1 any of that stuff in the shed was hers, if she left
2 anything in the house, if the burn piles were hers.
3 Unless she opens the door, I'm not going to mention any of
4 the convictions or anything like that.

5 THE COURT: I'll just say this, you can ask
6 you -- you can impeach her credibility if she's got it
7 under 609, but the same condition applies to her as it
8 does to your client. You're not going to be asking her if
9 she's in there for manufacturing methamphetamine.

10 MR. HARBIN: Yes, sir. Is it limited to
11 possession?

12 THE COURT: Are you in for violation of drug
13 laws? What else does she have? I don't know what she's
14 got.

15 MR. HOLLOWAY: I think that's the scope of it
16 for the past 10 years and I think that's the rule for Rule
17 609.

18 MR. HARBIN: My understanding is she has a
19 2008 conviction in Greenville County for which she
20 received one year for manufacturing methamphetamine.
21 Subsequent to that ---

22 MS. MCCALL: PWID.

23 MR. HARBIN: PWID. Subsequent to that she
24 was involved in the State Grand Jury in Anderson in which
25 she received eight years as far as I know.

Freida Lukor - Direct Examination

1 THE COURT: I'm going to explain to her -- it
2 would be very prejudicial to -- what's good for the goose
3 is good for the gander. We're going to keep it a very
4 level playing field.

5 MR. HARBIN: She informed me when I
6 interviewed her that she has cases, State Grand Jury cases
7 for which she received eight years, that is on appeal. I
8 just want to Court to know that if the Court wants to
9 instruct her about that. Obviously she doesn't have an
10 attorney.

11 THE COURT: Did she ask for an attorney? I
12 don't know why she needs an attorney.

13 MR. HARBIN: I'm just sharing information,
14 Judge.

15 THE COURT: No one is going to ask her if
16 she's cooking meth at the place, is that what I'm hearing?

17 MR. HARBIN: Judge, I'm going to ask her
18 about the materials that are in the pictures, is that
19 yours, were you cooking meth here, that seems to be the
20 logical conclusion to do with the pictures and the
21 evidence that's been admitted.

22 MR. HOLLOWAY: I think that was limited in
23 the ruling earlier to ask her are these items yours ---

24 THE COURT: I hadn't ruled on anything with
25 respect to this woman.

Freida Lukor - Direct Examination

1 MR. HOLLOWAY: It's was earlier with third
2 party guilty and that's what I'm going on, the limit would
3 be to see if she will confirm or deny those items are
4 hers. If she denies it, I think that's the limit of how
5 far he can go, take her answer as it is.

6 MR. HARBIN: Judge, I would argue if she
7 volunteers she was cooking meth I'm allowed to ask. She
8 can simply say, no.

9 THE COURT: I'm not clear on this one so I'm
10 ready for some argument. If she says, yeah, I'm cooking
11 meth there that doesn't exonerate Mr. Henderson. That
12 does say he wasn't cooking meth there.

13 MR. HOLLOWAY: Yes, but I'm concerned that if
14 she says yes, I'm cooking, the jury is going to assume she
15 was cooking and not Mr. Henderson. That's the dangers of
16 it.

17 MR. HARBIN: The evidence in this case is the
18 ownership of the items in the shed. We had direct
19 testimony that Freida Lukor stored stuff in that shed. I
20 can ask her is that her stuff, it seems like it's her
21 stuff. There's been absolutely no evidence presented by
22 the State that Mike Henderson actually cooked. It's just
23 that he owned some stuff.

24 THE COURT: There's reasonable inference from
25 the evidence that they presented that he was manufacturing

Freida Lukor - Direct Examination

1 methamphetamine. There certainly is. Let's do a proffer.

2 THE CLERK: Have a seat.

3 THE COURT: State your name.

4 THE WITNESS: Freea Luker.

5 THE COURT: Spell that for us, please.

6 THE WITNESS: F-R-E-E-A, L-U-K-E-R.

7 DIRECT EXAMINATION

8 BY MR. HARBIN:

9 Q. Do you know why we're here today?

10 A. Yes.

11 Q. Mike Henderson is on trial for manufacturing

12 methamphetamine. Are you familiar with [REDACTED] [REDACTED] [REDACTED]

13 A. Yes, sir.

14 Q. In fact you lived there?

15 A. Yes.

16 Q. And you executed a rental agreement with Mike and
17 Tina?

18 A. Yes.

19 Q. Would you exam this document for me, please. Is
20 that the document that you entered into with Mike and
21 Tina?

22 A. Yes.

23 Q. And on what basis did you enter that agreement?

24 A. That they were -- when they moved in I was not
25 going to responsible for anything there. If something

Freida Lukor - Direct Examination

1 tore up that they would fix it.

2 Q. Is this a lease to own agreement?

3 A. Yes.

4 Q. There's been evidence presented in this trial of
5 drug activity. State's Exhibit No. 1, do you recognize
6 this burn pile?

7 A. No, sir.

8 Q. You do not. Do you recognize any of the items in
9 this picture here?

10 A. No, sir.

11 Q. That was State's Exhibit No. 15, do you recognize
12 that?

13 A. That's the barn there but I don't know what
14 these.

15 Q. Do you recognize this building?

16 A. Yes.

17 Q. That's your storage shed?

18 A. That was the storage unit.

19 Q. Where you stored all your stuff?

20 A. Yes.

21 Q. What did you store in there?

22 A. Christmas stuff, Halloween stuff, stuff that
23 wasn't needed in the house.

24 Q. My understanding is that shed was fairly packed
25 up before you took everything out, is that correct?

Freida Lukor - Direct Examination

1 A. No, sir.

2 Q. How much stuff was in there?

3 A. There might have been some stuff over here on
4 this side right here. There wasn't nothing here. It was
5 a little bit of stuff right here, Christmas stuff, stuff
6 that belonged to my boyfriend. It was not packed. There
7 was stuff in there but it wasn't packed.

8 Q. There was stuff that belonged to your boyfriend
9 in there?

10 A. Stuff that belonged to me and my boyfriend.

11 Q. What does your boyfriend do for a living?

12 A. He's a carpenter.

13 Q. State's Exhibit No. 27, do you recognize that?
14 Do you know what it is?

15 A. No, sir.

16 Q. State's Exhibit NO. 30, do you know what that is?

17 A. Coleman fuel.

18 Q. How much Coleman fuel did you use over at the
19 house when you were there?

20 A. I didn't use it.

21 Q. None?

22 A. No.

23 Q. No reason to have empty Coleman fuel tanks around
24 there? How about coffee filters, did you drink coffee
25 when you were up there?

Freida Lukor - Direct Examination

1 A. I drink coffee but I seldom every drink coffee.
2 Like maybe in the mornings, but that was it.

3 Q. Did you use a coffee maker to make it?

4 A. Uh-hum.

5 Q. Let me show you several items here. State's No.
6 41, 38, 40, 31, 36, do you recognize any of that stuff
7 there.

8 A. No, sir.

9 Q. Your boyfriend's stuff in the building?

10 A. No, sir.

11 Q. Never seen any of that stuff in your life?

12 A. No, sir.

13 Q. Do you know what any of that stuff is?

14 A. I'm assuming it makes drugs.

15 Q. You're assuming it makes drugs?

16 A. Uh-hum.

17 Q. State's Exhibit No. 38, do you know what that is?

18 A. Some kind of washer pan.

19 Q. How about this stuff right there?

20 A. I don't have my glasses so I can't see very good.

21 Q. Do you recognize this tool box you might have
22 left behind or your boyfriend?

23 A. There was nothing left there at the house.

24 Q. How about burn piles, did you ever have any burn
25 piles?

Freida Lukor - Direct Examination

1 A. No.

2 Q. Not a single burn pile?

3 A. Not a single burn pile.

4 Q. Not one single burn pile.

5 MR. HOLLOWAY: Objection, Your Honor, asked
6 and answered.

7 BY MR. HARBIN:

8 Q. You don't have any reason to burn anything?

9 A. No.

10 Q. Ms. Lukor, when were you actually at the
11 property, if you recall?

12 A. May.

13 Q. Of what year?

14 A. 2009.

15 Q. When did you first move into the property?

16 A. February.

17 Q. So you were there for three months?

18 A. Maybe a month and a half I was trying to get my
19 other trailer the lights turned on so I could live there.

20 Q. You bought a house to only stay there a month and
21 a half?

22 A. I bought the house and then I got incarcerated.
23 My boyfriend stayed there at the place. He kept the place
24 until I got out and when I got out maybe a month and a
25 half and then we moved back to 102 (Inaudible.)

Freida Lukor - Direct Examination

1 Q. So you bought the place to stay -- okay -- your
2 boyfriend moved in. Ms. Lukor, I'm going to ask you a
3 direct question, did you ever cook meth on this property.

4 A. No, sir, I have not. I have never cooked any
5 meth.

6 Q. Never cooked any meth.

7 MR. HARBIN: One second, Your Honor.

8 BY MR. HARBIN:

9 Q. Ms. Lukor, could you identify to the Court the
10 name of your boyfriend, please?

11 A. Vincent Stewart.

12 MR. HARBIN: Nothing further, Judge.

13 THE COURT: Do you want to ask any questions.

14 MR. HOLLOWAY: The State has no questions for
15 this witness.

16 THE COURT: Ms. Lukor, I understand that
17 you're incarcerated for manufacturing methamphetamine; is
18 that correct?

19 THE WITNESS: Yes, sir.

20 THE COURT: I'm going to allow, you are in
21 prison garb, they can ask if you're in prison, but I do
22 not want mentioned the nature of the charge that you are
23 in prison for. They can ask you if you are in prison for
24 violation of the drug laws and the truthful response would
25 be yes.

Freida Lukor - Direct Examination

1 THE WITNESS: Okay.

2 THE COURT: I've done the same for other
3 folks with prior convictions as well.

4 Let's go ahead and bring the jury.

5 (Jury re-enters the courtroom.)

6 Ladies and gentlemen, welcome back is duly
7 sworn to testify so you may presume that she is under
8 oath.

9 Madam, would you please state your name for
10 the record.

11 DIRECT EXAMINATION

12 BY MR. HARBIN:

13 Q. Do you know why you're here this afternoon?

14 A. Yes.

15 Q. Do you know what proceeding this is involved in,
16 allegation that Mike Henderson was manufacturing meth at
17 [REDACTED]?

18 A. Yes.

19 Q. Can you tell the jury what is your relationship
20 to that address [REDACTED]?

21 A. I was buy the property. I hadn't had all the
22 paperwork done to say it was my property but I had filled
23 out a deed for Mike Henderson to buy the place from me.
24 The deal was that he bought the place as is and I was not
25 go back to fix anything or if anything was broken or

Freida Lukor - Direct Examination

1 whatever he would do that and be responsible for it.

2 I owned the place for maybe a year. I was in
3 the process of getting the paperwork done. The guy died
4 and I haven't had time to get back to get the paperwork.
5 Mike Henderson was living there. He lived there from
6 probably May, I guess, up until now. He was renting to
7 own the place.

8 Q. I'm going to hand you a document, can you tell me
9 if you recognize the document?

10 A. Yes.

11 Q. What is that document?

12 A. That's the rental agreement with the options to
13 buy.

14 Q. What you just describe to the jury?

15 A. Yes.

16 Q. What was the dates that you lived at [REDACTED]
17 Lane?

18 A. I would say February to May, late part of April
19 to May.

20 Q. Now, you said you owned the property or you
21 bought the property?

22 A. Yes.

23 Q. And why did you buy a property that you only
24 stayed at for three months?

25 A. I was getting into buying property where I could

Freida Lukor - Direct Examination

1 rent it out. Buy it so we can resell it.

2 Q. Where did you move to after there?

3 A. I had a place at 102 Roy Stroud Drive.

4 Q. When did you move back to 102 Roy Stroud?

5 A. It was in May -- April to May.

6 Q. You said you had moved back to Roy Stroud. Had
7 you lived at Roy Stroud first?

8 A. I use to live at Roy Stroud.

9 Q. What caused you to move back to Roy Stroud?

10 A. I had got in some trouble there. I ---

11 MR. HOLLOWAY: Objection. This is not
12 relevant.

13 THE COURT: I'll let her go just a little bit
14 but not far.

15 THE WITNESS: I had been incarcerated and my
16 boyfriend was staying there and when I got out, we moved
17 back to 102.

18 BY MR. HARBIN:

19 Q. So why you were not living at [REDACTED],
20 your boyfriend was living there, is that my understanding?

21 A. Yes.

22 Q. What is your boyfriend's name?

23 A. Vincent Stewart.

24 Q. Roughly, when did he live there without you
25 there?

Freida Lukor - Direct Examination

1 A. Let's see may June to February -- I'm not really
2 sure on the dates.

3 Q. If you meant June to February, June 2008 to
4 February 2009?

5 A. Yes.

6 Q. And then you moved in February 2009 through May?

7 A. Last of April, first of May.

8 Q. And then you moved out whenever and you moved out
9 to 102 and then you rented to these folks?

10 A. Yes.

11 Q. You started to tell the jury just a little bit
12 about the kind of weird situation about the title to this
13 property.

14 A. The title is still up in the air. Al Mitchell he
15 went with my at Roy Jenkins and had signed the paper for
16 me to get the property put in my name. In the meantime
17 all of that happened and I didn't get the paperwork done,
18 so when I got out I was getting the paperwork done and
19 everything so I had signed an agreement saying that I
20 would pay the taxes and when the paperwork was filled out,
21 I would give them the paperwork?

22 Q. Now, as I understand it Mr. Henderson actually
23 ended up paying several years worth of taxes. What
24 happened there?

25 A. He didn't pay several years in taxes.

16 A. Yes.

17 Q. And you are currently incarcerated for violation
18 of drug laws; is that correct?

19 A. Yes, I am.

20 Q. Is this a picture of your shed on your property?

21 A. Yes, sir.

22 Q. No. 16. Do you recognize this photo, No. 17?

23 A. Yes, that's the farm.

24 Q. This?

25 A. This right here, it's like a walk -- this right

Freida Lukor - Direct Examination

1 Q. He didn't.

2 A. He may have paid one year in taxes and they had
3 went and got a quick deed from my understanding that I
4 didn't know anything about.

5 Q. So you actually got cut out from under all this
6 stuff?

7 A. Yes, sir.

8 Q. They stopped paying you.

9 A. Yes, sir.

10 Q. I don't think you appreciated that very much?

11 A. I had to deal with what I had to deal with at the
12 time.

13 Q. And just to back up, quickly, when you said you
14 were incarcerated, you were incarcerated for violation of
15 drug laws, is that correct?

16 A. Yes.

17 Q. And you are currently incarcerated for violation
18 of drug laws; is that correct?

19 A. Yes, I am.

20 Q. Is this a picture of your shed on your property?

21 A. Yes, sir.

22 Q. No. 16. Do you recognize this photo, No. 17?

23 A. Yes, that's the farm.

24 Q. This?

25 A. This right here, it's like a walk -- this right

Freida Lukor - Direct Examination

1 here it's nothing that was there.

2 THE COURT: Mr. Harbin, could you just hold
3 it and let her point with her free hand.

4 THE WITNESS: This right here is just a walk.
5 I'm not sure what that is right there.

6 BY MR. HARBIN:

7 Q. How about the stuff in here?

8 A. No, sir.

9 Q. None of that is yours?

10 A. No, sir.

11 Q. How about your boyfriend?

12 A. No, sir.

13 Q. Exhibit No. 26, do you recognize any of that
14 there.

15 A. No.

16 Q. Exhibit No. 2 burn pile?

17 A. No, sir.

18 Q. When you were there, did you burn anything in the
19 yard?

20 A. No, sir.

21 Q. Nothing?

22 A. No, sir.

23 Q. Never. Exhibit No. 38, do you recognize any of
24 that stuff?

25 A. No, sir.

Freida Lukor - Direct Examination

- 1 Q. Boyfriend have any of that stuff?
- 2 A. No, sir.
- 3 Q. Acetone or anything like that ever in your
- 4 garage?
- 5 A. No, sir.
- 6 Q. How about this burn pile here, do you recognize
- 7 that.
- 8 A. No.
- 9 Q. No. Do you recognize anything in that picture at
- 10 all?
- 11 A. Carpet.
- 12 Q. Was any of that stuff yours at all?
- 13 A. No, sir.
- 14 Q. When I mean anything, was the table yours?
- 15 A. The table was already there.
- 16 Q. Any propane tanks?
- 17 A. No, sir.
- 18 Q. Nothing. State's Exhibit 40, none of this rings
- 19 any bells?
- 20 A. No, sir.
- 21 Q. How about coffee filters? Did you drink any of
- 22 the coffee at the house?
- 23 A. Yes, sir.
- 24 Q. Camp fuel?
- 25 A. No, sir.

Freida Lukor - Direct Examination

1 Q. Never had camp fuel in your house.

2 A. Never had it, never owned it.

3 Q. Any items on this tarp in Exhibit No. 42 do you
4 recognize any of those at all.

5 A. No, sir?

6 Q. Nothing. Finally, I don't know if this is the
7 same burn pile at all, do you recognize this at all?

8 A. No, sir.

9 Q. Can you recognize in this picture what direction
10 the house is?

11 A. This is the driveway right here.

12 Q. So when you pull into the driveway, you'd be
13 looking at this burn pile?

14 A. Yes, or runner over it.

15 Q. Did you leave anything in the shed, anything in
16 the house?

17 A. No.

18 Q. Nothing at all?

19 A. There was nothing left nowhere.

20 Q. So it was slap clean?

21 A. Yes, sir.

22 Q. Nothing nowhere?

23 A. Yes, sir.

24 Q. So did you ever -- was it clean the very day they
25 came in or did you have to come and get some things?

Freida Lukor - Direct Examination

1 A. The day that I moved out, I never went back to
2 the property since the day that I moved.

3 Q. When you rented the property to them, when you
4 gave them possession of that property, how would you
5 characterize that property? In other words, was it in
6 good shape?

7 A. It was in fair shape.

8 Q. Was it clean?

9 A. It was clean, decent.

10 Q. Spotless?

11 A. I ain't going to say it was spotless because I
12 had just moved out and I hadn't really had that much time
13 to do any cleaning up.

14 Q. To be clear, there was no drug activity at your
15 house?

16 A. No, sir, and to my knowledge if something like
17 that was there, they had plenty of time to come and let me
18 know it was there. I could have called the police to get
19 it removed or I could have removed it myself. They had
20 five months there, you know, they could have told me that
21 that was my stuff or what did I need to do with it.
22 Nobody said anything about being in the property, so if it
23 was mine, and I know it wasn't, why didn't they say
24 something about it before they got caught with it.

25 Q. So you're saying that it was yours. So it's a

Freida Lukor - Direct Examination

1 chance that some things were left behind?

2 A. No, I'm just saying if any of that would have
3 belonged to me, don't you think they would have told me
4 that it was on the property and I should have removed it?

5 Q. I understand. So I asked you if there was any
6 drug activity. You've never cooked meth at that address?

7 A. I've never cooked meth.

8 Q. Does your boyfriend?

9 A. I've been -- I don't want myself here but ---

10 THE COURT: That's far enough.

11 MR. HARBIN: That's all I have, Judge.

12 THE COURT: Cross.

13 CROSS-EXAMINATION

14 BY MR. HOLLOWAY:

15 Q. Ms. Lukor, you actually met with me and my
16 colleague about two months ago?

17 A. Yes.

18 Q. You've also met with the defense and their
19 investigator in the past?

20 A. Right.

21 Q. Do you know when that was?

22 A. It was probably about maybe two weeks before or a
23 week.

24 Q. And what you've told this jury is what you told
25 us a few months ago, correct?

Freida Lukor - Cross-Examination

1 A. Yes.

2 Q. And the same thing you told the defense before
3 that?

4 A. Yes.

5 Q. Your story hasn't changed, has it?

6 A. No, sir.

7 Q. As of May of 2009 when the Hendersons executed a
8 lease to own agreement with you, from your perspective,
9 they showed the intent to rent the property and ultimately
10 own the property at that time?

11 A. Yes.

12 Q. And in your mind that was their property as of
13 May of 2009?

14 A. Yes, sir.

15 Q. Thank you very much.

16 REDIRECT EXAMINATION

17 BY MR. HARBIN:

18 Q. Ms. Lukor, the solicitor brought up your
19 interview with not only their investigator but mine as
20 well. You recognize Mr. Silvaggio there?

21 A. Yes.

22 Q. Do you remember telling him, in fact, there was a
23 burn pile at the front of the house there?

24 A. No, sir. There was no burn pile. I had a grill
25 right there but there was no burn pile.

Freida Lukor - Redirect Examination

1 Q. Can you describe what you mean by grill?

2 A. What I had to cook out. I had cooked out right
3 there. That was the only thing that I ever had any kind
4 of fire whatsoever?

5 Q. On a grill, you mean, a barbecue grill?

6 A. Yes.

7 Q. And so to be clear, you never told my
8 investigator that you had a burn pile in front?

9 A. No, sir.

10 Q. Thank you very much.

11 THE COURT: All right. Thank you, ma'am.
12 You may step down.

13 MR. HARBIN: Your Honor, may we approach?

14 THE COURT: Okay.

15 (Whereupon, there was a bench conference.)

16 MR. HARBIN: If it please the Court, we call
17 Paul Silvaggio to the stand.

18 THE COURT: Come on around.

19 THE CLERK: Investigator, if you would place
20 your left hand on the Bible and raise your right to be
21 sworn in.

22 PAUL SILVAGGIO, having been duly sworn,
23 testified as follows:

24 Thank you. You may be seated. State your
25 name for the record.

Paul Silvaggio - Cross-Examination

1 THE WITNESS: Paul Silvaggio.

2 DIRECT EXAMINATION

3 BY MR. HARBIN:

4 Q. Mr. Silvaggio, could you introduce yourself as
5 what you do for a living?

6 A. I'm a licensed practicing private investigator
7 for the State of South Carolina.

8 Q. What is your previous employment?

9 A. I am retired as a homicide supervisor for the
10 Greenville County Sheriff's Office. I have 26 and a half
11 years in law enforcement.

12 Q. And as it pertains to this case, I hired you to
13 conduct and interview; is that correct?

14 A. Yes, you did.

15 Q. Can you tell me when that interview with
16 Ms. Freida Lukor took place?

17 A. Yes. The interview that I conducted with
18 Ms. Freida Lukor took place Friday, September 23, 2011 at
19 9:48 a.m.

20 Q. And I'm going to cut to the chase here, you just
21 heard Ms. Lukor's testimony. In fact, did Ms. Lukor tell
22 you during that meeting ---

23 THE COURT: Don't lead.

24 BY MR. HARBIN:

25 Q. Did you ask Ms. Lukor whether or not there were

Paul Silvaggio - Cross-Examination

1 any burn piles on the property?

2 A. Yes, I did.

3 Q. And what was her response?

4 A. She stated there was one burn pile at the
5 driveway near a tree and that was the only one she was
6 familiar with.

7 MR. HARBIN: Thank you. No further
8 questions.

9 THE COURT: Cross.

10 CROSS-EXAMINATION

11 BY MR. HOLLOWAY:

12 Q. Did you tell her who you were there on behalf of?

13 A. Yes, I did, sir.

14 Q. How long were you with the Sheriff's Department
15 in the homicide division?

16 A. Approximately 14 years.

17 Q. And you're very skilled at interrogation, aren't
18 you?

19 A. I am.

20 Q. And you know the ends and outs of how to get the
21 information you want out of the witness, don't you?

22 A. I do.

23 Q. Did you use those skills with her?

24 A. The posture that I've always taken throughout my
25 career and in my retirement was just be honest and show

Paul Silvaggio - Cross-Examination

1 your cards. I showed that I was there on behalf of Chase
2 Harbin and that he was representing Michael Henderson. I
3 even presented her documents that she could reflect on we
4 would have correspondence back and forth with each other.

5 Q. But my question was, do you recall those question
6 you asked her?

7 A. I do. I've got my notes here.

8 Q. And in those questions, were they leading
9 questions?

10 A. No, they were not.

11 Q. They were not leading questions. Were they
12 questions that you would use as a police officer to
13 procure information that you wanted out of her?

14 A. I wanted the truth so, yes.

15 Q. The truth from the version of who was paying you
16 or the truth as the truth of reality?

17 A. No, the truth of reality. My job is a licensed
18 private investigator is not to give whatever side whatever
19 they want. What I do is I go out and I seek out the
20 truth, that's my job. If a party is lying, I divulge
21 that. If it benefits the State, benefits the defense, it
22 makes no difference to me who it benefits. My job is to
23 go out and seek the truth and to provide the best very
24 possible investigation to the process, the judicial
25 process.

State versus Michael Henderson

1 Q. So even if a witness that you interviewed is
2 lying to you, you know that despite the fact that you're
3 being paid by the defense -- this defendant -- you would
4 come traipsing up to the court house and tell the
5 prosecutor that?

6 A. I would not tell the prosecutor that. I would
7 tell the attorney that hired me exactly what I disclosed.
8 Money is no factor to me, I could care less about money.
9 My reputation, my credibility and my upbringing is what
10 counts. My name is what counts to me, not the dollar
11 signs.

12 Q. Thank you. Nothing further.

13 MR. HARBIN: No further questions.

14 THE COURT: Thank you. You can stand down.

15 MR. HARBIN: The defense rests.

16 THE COURT: Let me see the lawyers again.

17 (Whereupon, there was a bench conference.)

18 Mr. Foreman, ladies and gentlemen of the
19 jury, the defense has rested. I have understand that we
20 have no concluded the second part of the trial. I'm not
21 going to ask if any of you remember my little procedural
22 road map and the parts of the trial. Now is a good time
23 to stop. I was told earlier in my career that you should
24 never charge a jury or let lawyers begin their arguments
25 after 4:00 and we're well past that. I would ask y'all

State versus Michael Henderson

1 to be back in your jury room 9:15, if that's okay.

2 Y'all have a pleasant night but I again I
3 remind you you're going to want to talk about it more
4 tonight than you did last night. I know that. The people
5 who you are going to see tonight are going to want to talk
6 about it more and now it is more important than ever that
7 you not discuss it.

8 You've made a huge sacrifice to sit on this
9 jury and those folks have not. Don't let them participate
10 in this case because they haven't paid the price. Y'all
11 have a good night and we'll see you tomorrow.

12 (Jury dismissed for the evening.)

13 Motions?

14 MR. HARBIN: Judge, I reassert the same
15 motions as we have previous made in the suppression
16 hearing and the trial.

17 THE COURT: Nothing is going to change my
18 previous rulings.

19 MR. HARBIN: Yes, sir.

20 THE COURT: Do you have any requested jury
21 charges?

22 MR. HOLLOWAY: None from the State, Your
23 Honor.

24 MR. HARBIN: No, Your Honor.

25 THE COURT: Y'all want direct and

State versus Michael Henderson

1 circumstantial evidence.

2 MR. HOLLOWAY: Yes, sir.

3 THE COURT: Tell them that the prior record
4 of Mr. Henderson is limited only to impeachment. Is there
5 anything else? We'll charge the crimes.

6 MR. HARBIN: I'm sorry, Judge, I think I have
7 an argument for mere presence. I think that's what the
8 defense is, is that being around this meth lab does not
9 make you a meth lab cook.

10 THE COURT: Mr. Holloway.

11 MR. HOLLOWAY: I would presume that the Court
12 is going to charge that those property owners are presumed
13 to have knowledge of the items that were found on their
14 premises.

15 MR. HARBIN: I wouldn't object to that charge
16 on top of that. I see the solicitor's point.

17 THE COURT: We're talking about constructive
18 possession.

19 MR. HOLLOWAY: Yes, sir.

20 THE COURT: He's talking about possession
21 with intent as well?

22 MR. HARBIN: Manufacturing.

23 MR. HOLLOWAY: And PWID -- I'm sorry, Judge.
24 The indictment was originally PWID, on the trial docket
25 it's possession.

State versus Michael Henderson

1 THE COURT: The grand jury in his county has
2 indicted him for possession with intent to distribute,
3 right?

4 MR. HOLLOWAY: Yes, sir.

5 THE COURT: Because the Solicitor's Office
6 puts him on the document for simple possession doesn't
7 change the indictment. I know the solicitor has a lot of
8 power but they don't have that kind of power. Now, do you
9 want it as a lesser included, that's certainly --

10 MR. HOLLOWAY: Yes, sir.

11 THE COURT: I've got the actual constructive
12 possession and mere presence and I think it's probably
13 appropriate.

14 Let me just say if y'all come up tonight with
15 another charge you think that's appropriate let me know.

16 MR. HARBIN: Judge, my client asked me to ask
17 the Court if he could stay out on bond.

18 THE COURT: Nope.

19 MR. HARBIN: Thank you, Judge.

20 THE COURT: Thank you.

21

22

23

24

25

State versus Michael Henderson

1
2 I, the undersigned Caroline Hiskell, Official
3 Court Reporter for the Thirteenth Judicial Circuit of the
4 State of South Carolina, do hereby certify that the
5 foregoing is a true, accurate, and complete transcript of
6 record of all the proceedings had and evidence introduced
7 in the trial of the captioned case, relative to appeal, in
8 the Court of General Sessions, Greenville, South Carolina
9 on the 8th day of December, 2011

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

12
13
14 

15 Caroline Hiskell
16
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24
25

State versus Michael Henderson

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF GREENVILLE) 2010-GS-23-5199
3)
4 State of South Carolina) TRANSCRIPT OF RECORD
5)
6 -vs-)
7 Michael Henderson)

8 Day 3 - December 9, 2012
9 Greenville, South Carolina

10 B E F O R E:

11 THE HONORABLE EDWARD W. MILLER, Judge.

12 A P P E A R A N C E S

13 Ryan Holloway, Solicitor
14 Kayce McCall, Solicitor
15 Attorney for the State

16 Chase Harbin, Esquire
17 Attorney for the Defendant

18 CAROLINE HISKELL
19 Thirteenth Circuit Court Reporter
20
21
22
23
24
25

State versus Michael Henderson

I N D E X

(No witnesses or exhibit admitted on this day.)

State versus Michael Henderson

P R O C E E D I N G S

1
2 THE COURT: Anything before we bring the jury
3 back in?

4 MR. HARBIN: Nothing from the defense.

5 MR. HOLLOWAY: Nothing from the State.

6 THE COURT: Bring them in.

7 (Jury re-enters the courtroom.)

8 Good morning, Mr. Foreman, ladies and
9 gentlemen of the jury. Thank you for, again, for your
10 patience.

11 As I told you a couple of days ago there are
12 five parts of a trial and now we've finished two of them.
13 We're about to engage in the third part of the trial and
14 this will be closing arguments of the attorneys. This is
15 where they advocate their positions to you.

16 You all have paid great attention throughout
17 the course of this trial and I ask you to continue to do
18 so through the arguments of these attorneys. Thank you
19 very much.

20 Mr. Harbin.

21 MR. HARBIN: Thank you, Judge, may it please
22 the Court. Solicitor.

23 Y'all, I apologize. There's a lot of stuff
24 to go over and I unlike in the movies they got it all
25 memorized but I don't. I'm cheating reading off of this

State versus Michael Henderson

1 but this is an important day for my client.

2 We begin with the assumption of innocence
3 and I would ask you to remember that throughout this whole
4 argument, throughout this whole trial that and not only my
5 comments but the comments made by the Solicitor's Office.

6 He's innocent. He's presumed to be innocent
7 and that's important to our client. I believe your duty
8 now is to review this case and every piece of evidence
9 with a very critical eye. You should ask yourself
10 questions about how things were done, what things were
11 done, what things were done correctly, what things were
12 done incorrectly. What things were not done at all.
13 I'll be going over all these points with you.

14 As I mentioned in my opening to you as
15 American citizens in our system of justice, we do not take
16 our freedom lightly, not at all and our system of justice
17 has been so designed that the very highest evidentiary
18 burden is demanded of the government when it seeks to
19 abridge our freedom. In this case, the Solicitor's Office
20 is seeking to abridge Mr. Henderson's freedom by
21 convicting him of a crime.

22 The 13 of your has an awesome responsibility
23 and I urge you to take it that way. I would suggest to
24 you that if you can find an explanation that you find even
25 remotely reasonable however unlikely, you must find

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1 Mr. Henderson not guilty.

2 The very burden of proof in our particular
3 system of justice begins with reasonable suspicion. It's
4 a very low burden of proof that essentially allows an
5 officer to begin an investigation. After that level comes
6 probable cause. You probably heard this on television and
7 that essentially gives an officer the power to arrest you
8 or issue a warrant to arrest you. It doesn't mean you
9 guilty, it means that you have an opportunity (inaudible)
10 to prove your guilt or innocence.

11 The next level is a civil burden but it's
12 essentially more likely than not, more than 50 percent.
13 It's not here, of course, but it's the next level up. The
14 next level up from that which we use in some evidentiary
15 matters is clear and convincing evidence. Clear and
16 convincing evidence which means exactly what it sounds
17 like. But even beyond clear and convincing evidence is
18 what we have here today, the very highest burden we demand
19 and that's beyond all reasonable doubt. A doubt for which
20 you can assign a reason and obviously not everything can
21 be known but every possible doubt, but any reasonable
22 doubt. So if there's reasonable explanation, there's
23 reasonable doubt.

24 Let's begin speaking kind of generally about
25 the case. I would like to ask you if you would imagine

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1 for a moment if you had only heard the State's side of the
2 case and only heard the State's side of the case from the
3 questions posed only by the prosecution. That essentially
4 means you heard an officer went to a house, tried to serve
5 a warrant, saw a burn pile, found a meth lab, found meth
6 in the house and found Sudafed.

7 That doesn't sound like a whole lot of a case
8 to me. That is the Solicitor's case. The problem is it
9 doesn't get any better than what I just told you. That's
10 it. It doesn't take into account any further
11 investigation. It doesn't take into account any further
12 explanation. I would argue to you that this case deserved
13 more of an investigation and it deserves to to be
14 explained more thoroughly by the State.

15 Let's talk about the fact that Tina
16 Henderson, y'all saw her at this table at the beginning or
17 before this trial started actually, starts with ever
18 single count that my client is charged with, the exact
19 same thing manufacturing methamphetamine and essentially
20 ownership of this lab. But when we start this trial,
21 Mr. Henderson is sitting by himself and we learn from
22 Ms. Henderson's testimony that she pled guilty to simple
23 possession of methamphetamine based upon her smoking
24 methamphetamine in the home. She pled guilty to exposure
25 of methamphetamine to Jake, her son.

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1 She explained to you without objection from
2 the State that skin to skin contact got on her closed and
3 got in Jake and it's not that she was providing it. I
4 would ask you to examine the evidence in this case about
5 who owned that meth. She pled guilty to owning it. She
6 told you the meth was hers. The meth was in a drawer in
7 the bedroom and she told you it was hers.

8 Now, it is unusual, granted, that two married
9 people don't sleep in the same bed, but she testified
10 that's the way it was and so did Jake.

11 What I find interesting is that on one hand
12 they charged Tina with possession with intent to
13 distribute methamphetamine and let her later plead simple
14 possession and they want to use this or insinuate that
15 this scale means she's a dealer. Users use scales to to
16 make sure dealers don't cheat you. The meth was found
17 right beside three glass pipes. That's not what a dealer
18 uses, that's what a user uses.

19 Meth in a drawer in the bedroom but I wanted
20 to know what else was in the drawer, that's what I wanted
21 to know. Would it make a difference if there was men's
22 underwear in that drawer? Sure. They didn't tell you
23 probably because it (inaudible) case.

24 I found it interesting that they didn't touch
25 upon or offer any evidence that my client would actually

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1 know or have any reason to know or have any ability to
2 know that Tina was smoking meth in her bedroom. Now,
3 that's important because if I'm the State I argue that
4 even if my client is not smoking meth and he's letting his
5 wife smoke meth in the house, then he ought to know that
6 would get on Jake's skin. That could be -- would have
7 been a decent point, however, they didn't offer any
8 evidence whatsoever that Mike would have the ability to
9 know she was smoking meth in the house.

10 For instance, does meth smell like
11 cigarettes? Does Tina smoke cigarettes? Does Mike smoke
12 cigarettes? Does it take 10 seconds to smoke meth or does
13 it take half an hour to smoke meth? In other words, did
14 Tina sneak the meth real quick in the bathroom or in the
15 bedroom or does it take a long time to get high. They
16 didn't offer anything like that, nothing to help you
17 decide whether or not Mike knew or should have known she
18 was smoking meth in the house and that it would affect
19 Jake.

20 Fingerprints, we heard a lot about
21 fingerprints. And I understand it's kind of difficulty to
22 offer expert testimony sometimes but I don't like those
23 cases where they destroy evidence whether purposely or
24 not. They destroyed evidence that could have exonerated
25 my client. For that matter, the State should be angry too

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1 because destroyed evidence upon their theory should have
2 hung my client.

3 I asked the expert about all types of
4 surfaces carry fingerprints and we've probably all seen it
5 on television. Smooth surfaces that are shiny and able to
6 accept fingerprints and you can look at pictures all you
7 want back in the jury room, but there's all kinds of flat
8 metal surfaces in that building, plastic or rubber tubing
9 could have fingerprints. Anything like that could have
10 fingerprints. The explanation of course was that hazmat
11 team came in and cleaned it all up, but what did they do
12 with that stuff from that shed?

13 They actually took everything out from the
14 shed and put it on a tarp. In other words, it was
15 handled. Was it dangerous? Maybe. We didn't hear those
16 things. We heard that it could be dangerous. We didn't
17 hear that this particular chemical or this particular
18 chemical in the shed was dangerous. He didn't say this
19 shed was dangerous, he just said that's our procedure,
20 hazmat comes in and gets it and throws it away.

21 So it was safe enough to transport to a tarp
22 to take a picture, but they couldn't have taken the time
23 to take the tarp out there to fingerprint it. You have to
24 hold that against the State because it's their burden to
25 prove to you who owns this meth lab.

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1 As a final matter in the fingerprints, I
2 would ask you would it make a difference if they did test
3 all that stuff and somebody else's fingerprints were all
4 over it? Keep in mind that the fingerprint expert told
5 you that he's got a success rate of 65 percent. All that
6 stuff with all those surfaces he didn't touch them because
7 hazmat takes them. I don't think that's a sufficient
8 explanation.

9 There is a coffee filters. It wasn't really
10 shown, it was just in this baggie. I'm taking their word
11 for it. And this coffee filter apparently has
12 methamphetamine residue and as a matter of fact other than
13 those two packs that's right in front of you there, that's
14 the only methamphetamine they found in the whole place.
15 Tina told you where that came from, right? I think they
16 want you to draw the inference that that coffee filter had
17 meth on it and there were some coffee filters in the shed.
18 That makes since to me but good police work would have
19 been to take that coffee filter and compare it to the
20 coffee filters in the shed.

21 You can't tell me coffee filters make the
22 case. In fact I'll share a person story with you. When I
23 got home last night I went to my coffee and I looked at my
24 coffee filters. I learned that I have three different
25 types of coffee filters. I don't drink coffee so I went

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1 to my wife and asked. One of them looked strange and had
2 some triangular thing and I think that's for some fancy
3 coffee maker, Starbucks or something. We had two of the
4 ordinaries ones that were circular. I did notice that
5 they weren't exactly the same. One of them had some kind
6 of writing on it.

7 Now, I don't know and it's not in evidence
8 that the other coffee filters had any distinguishing
9 characteristics on it, but they might have. That's good
10 police work. That's what you're obligated to do as a
11 police office. You're looking for justice.

12 The two baggies of meth right in front of
13 you, they have a distinct packaging and you all can look
14 at if you can when you get back to your jury room, but it
15 also not make since to try to find or offer into evidence
16 that that packaging there was also available somewhere
17 else in the house. In other words, they want you to think
18 and I'm sure if I was a prosecutor, they want you to think
19 that that meth came from their lab. That's what they want
20 from you. So that's the way they package their meth,
21 fine, but where's the raw material, the package, zip lock
22 bags, cut up cellophane. There's nothing like that. They
23 didn't find anything in the shed that they offered to tie
24 them to that meth.

25 I'll tell you why. It's because Tina is

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1 telling the truth. Tina got it from somewhere else and if
2 she got it from somewhere else, why would she get it from
3 someone else if she's cooking it or her husband is cooking
4 it. It doesn't make any sense.

5 The other thing I found lacking is where is
6 the cookbook? Where's the instruction on how to make meth
7 because as much as I think of Mr. Henderson I don't think
8 he's a rocket scientist. I don't think he came across
9 that way on the stand. I don't mean to insult him but if
10 he was cooking meth, he would need directions. He would
11 need instructions. I doubt it would be uncommon to find
12 instructions where you find a meth lab when it's your meth
13 lab. Where is the cookbook? For that matter, is the
14 customer ledger? If he's cooking meth, then he's selling
15 meth, right? He's a little bit older and a little bit
16 overweight. He's not a meth user. He's skinny with no
17 teeth. Where's the customer book?

18 Where's the money box? Where are the
19 proceeds? Where is any evidence whatsoever that my client
20 has ever cooked meth or ever distributed meth or even
21 knows how to do it any of it? Give me anything.

22 I think the easiest way to begin to settle
23 this problem is for Officer Godfrey to may be have asked
24 one more question of this tipster that he found on the
25 road. It was Mr. Sellers if you recall this. Officer

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1 Godfrey two months prior to this arrest he goes out to [REDACTED]
2 [REDACTED] [REDACTED]. Now, mind you Officer Godfrey is an
3 employee of the Greenville County Sheriff's Office. He
4 goes out to [REDACTED] [REDACTED] [REDACTED] apparently to serve a
5 Simpsonville City warrant and then he finds out the
6 warrant doesn't exist.

7 Number 1, I don't know how you serve a
8 warrant when you don't have it in your hand. Number 2,
9 why is a Greenville County Sheriff's officer outside of
10 Simpsonville City serving a Simpsonville City warrant? Be
11 that as it may with no explanation, two months later he
12 runs into Mr. Sellers who is driving a car with a stolen
13 tag and in the process of getting a ticket for a stolen
14 tag and false information to police in the very same stop,
15 he just randomly provides information that there's drug
16 activity at [REDACTED] [REDACTED].

17 Now, I have no doubt that police tips from
18 random suspects, but Officer Godfrey was unable to provide
19 a single detail about that tip. Nothing. Does it make
20 any sense whatsoever that you would get a tip that you
21 consider worth following up on because he did, right, why
22 would you go not go, hey, how do you know? Did you buy
23 drugs there? Are you an employee of the meth lab? Are
24 you related to them? Who sold it if you did buy there?
25 Do you know who lives there? How long ago was it? That

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1 would have been a thorough investigation. How old is your
2 information especially in this particular circumstance.

3 I think you know where I'm going with this.
4 How old is this information? There's drug activity at
5 [REDACTED] [REDACTED] but when? When was it? I find Officer
6 Godfrey's testimony full of wholes and I have no
7 explanation for why but it doesn't add up to me at all.

8 Keep in mind that the tip that Officer
9 Godfrey received along with an additional attempt to serve
10 a warrant that he knew didn't exist from Simpsonville
11 City, he already figured out there was no warrant. And
12 then he goes and starts with the very vague tip that he
13 didn't know anything else about for drug activity at

14 [REDACTED] [REDACTED] That's the only reason the police ever went
15 there. There's no other complaints of criminal activity
16 or suspicious activity. There's nothing going on at this
17 house other than Officer Godfrey snooping around.

18 Now, if he had more information, give it to
19 us. If he did do good police work and he had additional
20 information, why not tell us? He didn't tell us anything
21 so I don't think he had it. I have no reason to believe
22 it.

23 Sometimes I believe that officers just end up
24 finding what they're looking for and that's evidence that
25 we make think he's guilty and he's guilty. What we need

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1 to be looking at as I suggested earlier all of the
2 evidence because they need all of the evidence. That's
3 what this trial was for. My grandfather had a saying for
4 everything that I believe if you look at this case and you
5 look at the investigation or lack of investigation, he
6 would tell you guys that if you're holding a hammer,
7 everything looks like a nail. You're only going to find
8 what you're looking for. That's what the police did in
9 this case.

10 Now, by way of example, I'm going to tell you
11 guys something in my home I have right now decongestant, I
12 have paint thinner. I have fertilizer. I have copper
13 tubing, pvc pipes, fittings joints. I have flexible
14 plastic tubing and I got salt. I've got propane tanks.
15 I've got a pump sprayer and I got coffee filters, three
16 kinds. I don't have a meth lab and if I wasn't a defense
17 attorney I probably wouldn't know that that counts as a
18 meth lab. I gave you just about every component you would
19 need, as best I can tell, in my house, in my garage,
20 underneath my kitchen sink or in my bathroom.

21 Now, the point is I have the benefit of
22 particular knowledge to know those are elements of a meth
23 lab. An ordinary should not be held to that knowledge.
24 It's absurd to ask an ordinary person to know what
25 constitutes a meth lab especially when these are common

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1 household items.

2 I think the solicitor's argument is to ask
3 you to find Mr. Henderson guilty of lying because he could
4 not recognize disassembled pieces of a former meth lab
5 looked like in a shed.

6 I'd like to touch on one thing. I think the
7 idea that you have to clean out your shed when you move in
8 -- these folks don't live like all of us do and they might
9 live quite as well as they want to live. It was a shabby
10 home and building. They said that the doors were off the
11 hinges, holes in the walls, holes in the floors and there
12 was no carpeting or linoleum. It was just basically kind
13 of necessities. They cleaned up the yard as best they
14 could which is probably the big pieces leaving what the
15 officers called active burn piles and this was more likely
16 the junk that they picked up.

17 So if you have all that work to do, I don't
18 blame them for not getting around cleaning out everything
19 in the shed. He told you he didn't necessarily need the
20 space. He didn't have that much to store and he didn't
21 necessarily need the space. He offered a reasonable
22 explanation as to why he didn't spend any time in the
23 storage building at all. I do think he has a special
24 relationship with his son. I believe he would hide a
25 Christmas present in that shed for his son.

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1 There wasn't any testimony that Mr. Henderson
2 was spending odd hours in that shed. They didn't bother
3 to ask neighbors. They didn't bother to canvas the
4 neighbors or see smoke and they're hanging their hats on
5 these burn piles. Every meth lab has a burn pile, I
6 guess. They didn't ask neighbors if there was smoke. Has
7 there been smoke lately? Was there smoke a year ago? Did
8 you notice a lot of activity coming in and out that might
9 indicate some criminal activity? Just ask some questions
10 first. Questions that were never asked because they were
11 carrying a hammer. They thought they had a nail. They
12 were holding a hammer.

13 I think that the major deal is the State has
14 a flawed idea of this case. They relied on the officers
15 activity that ammonia can be distilled from burn piles.
16 It's kind of difficult and even dangerous to do it, but
17 what they didn't know because they didn't ask because they
18 didn't investigate is that Mr. Henderson is a certified
19 HVAC tech and that means you can go buy this. Why in the
20 world would you go about mixing some chemicals when you
21 can walk in the store and buy it? They didn't know that.
22 It kills the case. There's no reason for him to have
23 fertilizer to make meth and they presented it to you.

24 Fertilizer is one of the things that they had
25 on that tarp. That's one of the things that makes him a

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1 meth dealer because he had fertilizer. Whoever was
2 cooking meth -- and I believe somebody might have done
3 this, I do -- but I don't doubt that the officer knows
4 what he's talking. I don't doubt it at all. I believe
5 that somebody did.

6 Skip over to the burn piles and this I
7 believe is important because the defense knew what our
8 defense was going to be that the components in that shed
9 did not belong to Mr. Henderson and that he had only been
10 there for so long. So the expert came and said this meth
11 lab was active not a month before they came there. And
12 you heard me get my dander up and I asked him several
13 questions that I don't think he answered very well.
14 That's just my opinion and that's up to you, but I got
15 something that will prove that he's wrong.

16 I want to ask you on March 3rd what color are
17 the leaves? They're green. All of the leaves have fallen
18 and when you burn a pile, what color does everything in
19 the pile turn? Black. Leaves then fall on the pile and
20 they be the color they were when they fell on the pile,
21 right? These on this pile were brown. That means this
22 fire was last burnt when the leaves were falling and the
23 leaves were brown.

24 I'm telling you that not because it
25 exonerates Mr. Henderson because it does because he was

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1 there when the leaves were brown, but what I am telling
2 you is this so-called expert testimony doesn't mean
3 anything. He's wrong. His opinion to you that that meth
4 lab was used within a month was not right because you burn
5 stuff after you make the meth and not before so the last
6 time the meth was used, whoever used it, had a burn pile.
7 That burn pile had dead leaves so it wasn't done a month
8 before they arrested him. The point of that is don't take
9 his expert opinion as gospel.

10 Now, let's get to Freida Lukor. Freida Lukor
11 was an interesting character. She rented them this house.
12 Actually she rented to own the house when she didn't own
13 the house. She tried to get money for something she
14 didn't own. She told us that she was incarcerated for a
15 drug law violation prior to moving into [REDACTED] [REDACTED] and
16 she told us, and you saw, that she was incarcerated for a
17 drug law violation right after she moved to [REDACTED] [REDACTED].

18 I had hoped that Freida Lukor would get up on
19 the stand and say, yes, that was my lab. I did. Maybe I
20 don't believe her. I don't know if she wants to be in
21 prison longer than she has to be. But I was hoping that I
22 might get some information for you guys from the stand you
23 can decide if she was telling the truth or not, and I did
24 get lucky and catch her in a lie. She told my
25 investigator, police for 26 years, homicide, good fella,

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1 that I had a burn pile in the front yard. She told you
2 she didn't have any burn piles in the front yard. She
3 also told you this house was clean and there was nothing
4 in there. I don't believe her for a second.

5 Do you believe her that she didn't leave
6 anything in the shed? Do you believe her that she never
7 came back to the house or do you believe several witnesses
8 that we had to say that several burn piles were out there,
9 and the witnesses who said that she came back to pick up
10 stuff. She came back to pick up stuff and that indicates
11 the things in the shed were her things.

12 What about the statement I started to ask
13 about who was living in the house when she was
14 incarcerated. She said her boyfriend was living in the
15 house and something akin to what does he have to do with
16 it or whatever. And her response was also something along
17 the lines of well, I don't want to say anything to hurt
18 myself. That's what I remember. What does that mean? I
19 can tell you that I can't imagine that it means anything
20 innocent. Nothing that I could come up with that an
21 innocent person in this situation would say I don't want
22 to say anything that would hurt myself.

23 The witnesses that you saw for Mr. Henderson
24 and Mrs. Henderson, every witness has potentially a reason
25 to be biased and I understand that. In this case it's

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1 difficult to ask people to testify to what you were doing
2 and what you weren't doing if they are not related to you
3 somehow in your life and they're apparently friends. So
4 there is an inherent bias but I argue to you that most
5 folks doesn't have much of a dog in this fight. Some are
6 directly related to them and some are not but they all
7 said the same thing. The house was in the condition which
8 was not consistent with what Freida Lukor told you it was.

9 There were some activity before is
10 essentially what they're telling you and I believe them
11 over Freida Lukor. I'll tell you who I believe the most,
12 Jake Henderson. He was honest when he answered the
13 solicitor's hard hitting questions. When the solicitor
14 said why do you think (inaudible) and he said what an
15 honest child would say, because my parents told me to. He
16 gave you an honest answer that there was all kinds of drug
17 activity evidenced at that house like burn piles, not that
18 he didn't know that's what it was, but he told you.

19 Now, as to specific indictments and you'll
20 get these when you go back to the jury room. He didn't
21 manufacture meth and I don't think Mr. Henderson should be
22 responsible for exposing Jake to methamphetamine. I think
23 that it's accepted that Jake was exposed.

24 (Due to technical difficulty the remainder of
25 the closing argument can not be transcribed.)

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1 MR. HOLLOWAY: I want to thank you for your
2 patience for the past few days. I know this is a
3 complicated case. It's a case that both sides deserve to
4 receive your undivided patience and we both appreciate
5 that. Thank you for listening throughout the past few
6 days. It's a lot of State's witnesses, a lot of defense
7 witnesses. A lot of things yesterday were administered
8 and asked at nauseam yesterday.

9 What I want to say to you is this, the
10 evidence is clear. The evidence is clear that these items
11 that are used in the manufacturing of methamphetamine were
12 on his property. He owned this property. He sought to
13 own this property even after Freida Lukor left her stuff
14 that they say was hers on the property.

15 It's ironic that everything that Freida Lukor
16 left on her property were items and the ingredients to
17 manufacture methamphetamine. Every photo they pointed out
18 didn't point to any of the other common household items
19 like clothing, the radio, the power tools inside of this
20 shed. None of those items were Freida Lukor's belongs.
21 It was all the items that incriminated him that they
22 wanted to attribute to Freida Lukor or anybody else that
23 might have been on the property.

24 They had their opportunity to answer -- the
25 defense had the opportunity to defend themselves. He had

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1 a right not to testify but he did testify in his defense.
2 Every single witness was across the board about these burn
3 piles. None of them could definitely tell you what was on
4 these burn piles, when they first saw them, the number of
5 burn piles. A lot of time was spent showing these
6 witnesses photo after photo after photo. When I got up
7 there and asked them questions, to put their feet to the
8 fire, to test their credibility, which is my job. It's my
9 job to test their credibility. They were not straight on
10 the facts.

11 The one thing they were straight on is they
12 had no knowledge of what was on this property including
13 these ingredients to use to manufacture meth beyond
14 October 2009. Think about that. Those are their
15 witnesses. They have no clue what was put on this
16 property or kept on the property how it was maintained,
17 after five months prior to this search warrant being
18 executed.

19 The defense also in their cross-examination
20 discussed and probed into what the officers did and didn't
21 do. That is certainly their job, Mr. Harbin's job to do,
22 but the fact is they are hanging their hats on a few
23 things and you heard this. I sat there for 40 or 45
24 minutes listening to them. The hang their hat on what
25 these officers didn't do, like fingerprints.

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1 The Drug Enforcement Agencies said, the
2 federal government said, these are volatile chemicals.
3 The defense said where's the danger? Take a look at these
4 photographs. These officers are wearing these hazmat
5 suits that when I was a kid I saw them in the movie ET.
6 These hazmat suits show what level of care must be done to
7 these items to make sure that everybody is safe from
8 Mr. Henderson to his child and he really didn't care about
9 maintaining that stuff on his property apparently.

10 They had to dispose of these chemicals. You
11 can't put these chemicals in property and evidence. The
12 expert officer we had who lifts prints, that's what his
13 expertise is on lifting the prints, he has to go in to
14 property and evidence and get these items out. You can't
15 put these chemicals in property and evidence. Combined,
16 they are very dangerous.

17 Mr. Harbin spoke about his client's
18 intelligence and said it's rocket science. I will tell
19 the jury it takes a bigger rocket scientist to cook meth.
20 It doesn't take someone who has a degree in engineering or
21 science to be able to manufacture methamphetamine. That's
22 why it is called clandestine. The expert witness
23 characterized this as a clandestine meth lab. It doesn't
24 take a rocket scientist. That's why they have officers to
25 investigate this all the time. It is underground, it is

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1 hidden. It's not a underground group of rocket scientists
2 cooking meth. It's people like Mr. Henderson who hide it
3 on their property in wooded areas like this.

4 Mr. Harbin harped on smells. First of all
5 when the officer rolled up, Mr. Henderson wasn't actually
6 cooking meth. Still under the statute he is still guilty
7 of manufacturing meth because he was in possession of
8 these items with an intent to manufacture this poison.
9 Mr. Harbin talked about where is the smell. First of all,
10 if you're not cooking meth at the time when the officer
11 rolled up, other nature is going to eliminate the smells.
12 That is why they went to this property. They knew Freida
13 Lukor. They knew who she was yet they went to rent this
14 property. They owned it and they said this is a great
15 place to cook meth. That's why they decided five months
16 later, hey, we want to own this property. The evidence
17 shows that they owned the property.

18 I tested them yesterday. I asked them about
19 their knowledge of Freida Lukor and they didn't know who
20 she was and they don't know about burn piles.
21 Mr. Henderson talked about high burn piles up to here and
22 they were wading through trash when they moved onto the
23 property and she was some sort of empty nest meth user as
24 she described it who exposed her son to her own meth
25 addiction which is in part fueled by what you see in these

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1 photographs.

2 None of the other witnesses talked about high
3 burn piles and my point yesterday -- as a matter of fact I
4 did ask this question of every witness testing their
5 knowledge of the burn piles. Every one of them said they
6 were cleaning up when they moved in which stands to reason
7 why the burn piles have really only the objects used to
8 manufacture meth.

9 Mr. Harbin said in his closing arguments that
10 these burn piles are covered in brown leaves. No they're
11 not. If they were covered, the leaves would cover the
12 blister packs. By the way there's an old saying that
13 pictures are worth a thousand words. To test whether our
14 expert was correct in the recency of when the last burn
15 was, look at the blister packs. On some of the blister
16 packs you can still see the name Sudafed. Bear in mind
17 they've been there for a long time on this property,
18 through winter, through snow, and rain and the wintertime.
19 The fact is you wouldn't be able to see this.

20 Mr. Harbin told you to rest his client's
21 innocence in part on this one major glaring mistake,
22 glaring error. No, this burn piles is not covered in
23 leaves. They're not.

24 I asked Mr. Henderson yesterday why do you
25 have all these coffee filters in your shed? By the way

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1 the expert said that coffee filters were used in the
2 manufacturing process. I'm not an expert in this. I'm a
3 lawyer. I'm a prosecutor and I can't explain it and
4 that's why we have experts to testify to this stuff. The
5 fact is that coffee filters are readily used in the
6 manufacturing. Coffee filters with meth residue were in
7 the shed. Coffee filters with meth residue were in the
8 house. A coffee maker without filters was in the kitchen.

9 These people were not using the coffee
10 filters for the most part for making coffee. They were
11 making methamphetamine.

12 We dragged Ms. Lukor in here. It is
13 convenient they know someone who does drugs. How
14 convenient it is that they rent from that person. How
15 convenient it is they accept that property after
16 conveniently the things that are used to make meth is left
17 behind. Take a look at that photograph, too

18 Ms. Lukor is paying her price and that's all
19 we can ask of anybody yet they want to bring her in blame
20 her. I think that's pretty sad actually. Part of the
21 justice system is taking responsibility. Part of the
22 jury's job is to find the truth. Truth that would lead to
23 justice and that is of the defendant's guilt.

24 The defense says this shed was a mess. It
25 was a mess. No, it wasn't. It's a lean to type shed on

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1 the property. This is the photograph I mentioned with the
2 danger. Mr. Harbin said there was no danger, but, yeah,
3 this is dangerous stuff. This is a lean to shed but
4 inside the shed, if you look inside it's pretty clean
5 actually. You see a tower cord on the back of the wall.

6 Look at these photographs when you get into
7 the jury room. There's a tower cord to be plugged in.
8 There's a radio in there, there's power tools in there,
9 there's clothing in there. There's all sorts of their
10 belongs in there. And to believe the defense, you have to
11 believe we separated our shed, we kept our stuff separate.
12 We didn't want our stuff from Paulette to the Hendersons,
13 we didn't want it near Freida Lukor's property. How
14 convenient is that.

15 This sort of reminds me of an episode of the
16 Brady Bunch back in the 70's where Peter and Bobby got
17 that duct tape and separated their bedroom. That was
18 ludicrous in their episode and that's a ludicrous thing to
19 believe that they separated their stuff and again why
20 would they do that? They own the property, No. 1, the
21 never called and said come get your stuff. Think about
22 this, what was their motivation to kept their stuff
23 separate. Why are they telling the story? Why are the
24 witnesses telling this story? Because they know he's in
25 trouble.

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1 They know that the evidence is clear so what
2 can we do to muddy the water and that's what they've done
3 all afternoon yesterday at nauseam. They were muddying
4 the water to blind you to the clear evidence here.

5 The law, the law of South Carolina, the Judge
6 will instruct you on the law. That's his job. It's to
7 make sure that you understand what we're asking of you and
8 that's to measure this defendant's guilt which is beyond a
9 reasonable doubt but not beyond all doubt.

10 The law says possession of equipment or
11 paraphernalia used in the manufacturing of methamphetamine
12 is prima fascia evidence of an intent to manufacture.
13 That's the law in South Carolina. I'm going to read it to
14 you again. Possession of equipment or paraphernalia used
15 in the manufacturing of methamphetamine is prima fascia
16 evidence of an intent to manufacture. He was in
17 possession of it.

18 They're focusing on knowledge. They're
19 entire case depends on your believing he had a lack of
20 knowledge of what he had on his hands. His wife smoked
21 meth. She was an empty nest user. Was he also?

22 In this case equipment paraphernalia in
23 propane tanks that were filled with pneumonia that were
24 failing. The expert says that the blue were tanks that
25 were failing. These tanks were never meant to contain the

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1 type of substance and that's why it's so dangerous. Any
2 rocket scientist would know. No rocket scientist would do
3 this. The fact is his intelligence was to the level where
4 he could mix up the ingredients and the fact was that he
5 let that danger go. He knew about the danger and he let
6 it go and exposed a child to it.

7 The blister packs, they said he had a bad
8 cold, bad sinuses. People in the south have bad colds and
9 bad sinuses. The fact is he says it's hard for him to
10 take out the pills when he has a cold. It's also probably
11 true, in our assessment of the case, it's easier for him
12 to take them out of the blister packs to cook because it's
13 about timing. It's about timing and heating up. You
14 don't want to be back there trying to get into these
15 blister packs. You want it there at your disposal to put
16 it in the coffee grinder and grind it up which is in the
17 open.

18 All of these things were in the open. They
19 weren't boxed up. Every one of these witnesses said they
20 were boxed up. They weren't boxed up. Look at these
21 photographs, they weren't boxed up. The coffee grinder,
22 the salt, the fertilizer. They were stored away but they
23 weren't covered and they weren't out of view and he went
24 in that shed.

25 Now ask yourself this because I asked this

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1 question, why would he put his son's dirt bike three
2 months after Christmas out in the elements. Why would
3 they keep all of this scrap wood and metal objects, why
4 would they keep it outside? Because they're using the
5 shed as a meth lab and keeping the meth lab out of the
6 elements.

7 All of this equipment and paraphernalia were
8 inside their house and in their shed and the stories just
9 don't make sense. The meth in the house, Ms. Henderson
10 took responsibility, took responsibility for exposing
11 their son to meth. How can it be that the methamphetamine
12 in the manufacturing process, how can that be used without
13 intent of distributing it?

14 Distribution is not selling it. Mr. Harbin
15 wants to say -- we don't know that's the problem. We know
16 that he possessed the items with the intent -- he shared
17 it with his wife. Part of distribution is sharing,
18 perpetuating the addiction with someone else. That's a
19 part of a distribution wit intent to distribute.

20 The possession of these weapons, he was
21 committing what the law classified a violent offense. He
22 possessed these guns during that process. Guns are used
23 for protection and they are used for homes and all kinds
24 of benign things. They are also used to protect what's
25 yours and our assessment is that he was using these guns,

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1 in part, to protect himself and his meth lab. They make
2 act pursuant to their high. They can be uncontrollable
3 and that is why they carry guns, to protect their
4 merchandise and equipment.

5 The law says the prima fascia evidence in an
6 attempt to manufacture. Prima fascia is a fancy term
7 lawyers use. Lawyers love fancy terms, but it's on the
8 face of it is the intent to manufacture.

9 The danger to Jake is evident. We heard from
10 the experts that this is a dangerous situation. Not
11 everybody understands the danger of this. This is poison
12 and it was in the house. You can live as a family and
13 have that operation in the shed. It may have been fine to
14 them but it was very dangerous to the child.

15 Yes, Jake is must older now and he is soft
16 spoken. He doesn't understand what's going on here. He's
17 been living with these people who are charged with harming
18 him for 16, 18 months now. He mentioned on cross-
19 examination when I asked him did you talk about the case?
20 He is a material witness and they're asserting as parents
21 they're innocent. That may seem normal, but on our side
22 of the fence, that seems like unduly influence on a
23 possible witness in this case. That's why the defendant
24 called him and not the State.

25 The defense says it's not a working lab that

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1 things were taken apart, things weren't plugged in and
2 things weren't attached, but your oven is still an oven
3 even if it's not plugged in and turned on. Meth labs are
4 usually not put together so they're easy to hide to
5 procure these items like the Sudafed. That's what so
6 danger, it's easy to hide them like they did. These
7 things aren't out in the open like drug dealers out on the
8 street corners. You can't cook meth on the street corner.

9 Down in Louisiana where I'm from every spring
10 you smell the smells of crawfish and it's a wonderful
11 smell. It's almost on every street corner where I'm from
12 and the fact is that's not how meth is used or dealt.
13 It's kept hidden and dangerous.

14 Mr. Harbin said that the officer should have
15 follow up. Well he did follow up. How he reasonably say
16 he didn't follow up? This deputy is a warrant deputy.
17 He's not a vice officer. He did ask questions. He did
18 follow up with the neighbors. He said did Michael
19 Henderson live there. He went there, thought there might
20 be an active warrant, that's what shows on his computers.
21 That's what he has to rely on. That's his tools. He went
22 out there, they let him in the house. They went outside,
23 he saw the burn piles. They didn't say get off my
24 property. He called the higher ups like he was supposed
25 to.

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1 That's the step back step process these
2 officers take. The deputy didn't go racing out to the
3 shed. He asked for a search warrant. He told the vice
4 officers this is what I got. They responded. From the
5 phone call, they didn't get a search warrant. They came
6 out there to look. The Hendersons didn't say get off my
7 property and they got a search warrant.

8 They found that stuff and by then the
9 Hendersons knew the gig was up. They were placed under
10 arrest. The items were out there, the blister packs, the
11 coffee filters. Look at the brass fittings, the garden
12 hose with the sludge. How can it reasonably be said that
13 they didn't know about this and they were involved?

14 It's not about rocket science, it's about
15 people who are looking for their next high. They are
16 amateur chemists or you can call them what you want but
17 this is not an amateur chemistry set, this is major stuff.
18 Now, they want to in desperation, and it's understandable,
19 bring in witnesses who don't have direct knowledge of
20 what's going on in there. They love them. The defense
21 can diminish their motivation all they want, but they have
22 every reason to lie. This is serious stuff and some of
23 them were living there for months.

24 It's beyond a reasonable doubt. The Judge
25 will instruct you that beyond a reasonable doubt is doubt

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1 that would cause a reasonable person to hesitate to act is
2 what the law says. What that means is -- first of all
3 you've heard the saying nothing is certain by death and
4 taxes. My father said that. We can never get inside of
5 his head and that's not what we're asking you to do.

6 Circumstantial evidence in this case is very
7 strong evidence in this case, that he knew what was going
8 on and was actively involved. It's convenient that
9 someone he knew who sold drugs that he brought the
10 property from and that's Ms. Lukor.

11 We're asking you to examine the evidence from
12 both sides and assess the strengths and weaknesses.
13 Listen to and consider the motivation of the defense
14 witnesses.

15 You heard from our experts about fingerprints
16 and these items. Not every surface -- this is not CSI.
17 This is not science fiction like you see on television.
18 Prints aren't always lifted. You heard him that 65
19 percent of the time you can lift prints, but who knows how
20 many times you can get a comparison. What's important is
21 our expert says the elements, being in the wind, how often
22 is it used, what kind of surface the fact is beyond that
23 the federal government has said that these items are
24 dangerous and are to be disposed of.

25 Based on everything, the strength of the case

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1 is he is guilty of this. He's responsible for his actions
2 and hold him accountable.

3 Thank you for your attention and your
4 patience.

5 THE COURT: Let's stand up for just a second
6 and stretch.

7 Ladies and gentlemen, during this trial you
8 and I have certain duties to perform and as the trial
9 judge it is my duty to preside over the trial of the case
10 and to rule on the admissibility of the evidence that's
11 offered throughout the trial. It's also my job to charge
12 the law to you that is applicable to the case and it is
13 your duty as jurors to accept and apply the law as I now
14 state it to you.

15 If you think you have any ideas as to what
16 the law is or what the law ought to be and it does not
17 agree with what I now tell you what the law is, you have
18 sworn an oath to set aside your own idea and apply the law
19 precisely as I state it to you.

20 I would also remind you that in every case
21 tried in this court before a jury, the jury is the sole
22 and exclusive judge of the facts. The law does not allow
23 a trial judge to have an opinion about the facts of the
24 case so please don't think by anything I may have said or
25 done throughout the course of the trial that I have such

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1 an opinion. You are the sole judges of the facts.

2 I again charge you that the fact that the
3 defendant was arrested, charged and indicted in this case
4 is not evidence of guilt, nor does it create any
5 presumption or inference of guilt. These documents are
6 simply the formal written instruments which contain the
7 charges made against the defendant and they serve as the
8 formal documents by which the case is processed and
9 brought into court for disposition.

10 Now there are several indictments in this
11 case. There are actually four indictments. One
12 indictment has two counts and Indictment No. 1, and this
13 is not in numerical order but this is the way I will read
14 them to you, says that manufacturing methamphetamine.
15 That would be Count 1. Count 2 would be possession of a
16 weapon during the commission of a violent crime. The next
17 indictment would be unlawful exposure of a minor child to
18 manufacturing methamphetamine. The next indictment is
19 unlawful conduct towards a child and the final indictment
20 is possession of methamphetamine with intent to
21 distribute.

22 Now, each indictment and each count of these
23 indictments charges a separate and distinct defense and
24 you must decide each count on each indictment separately
25 on the evidence and the law applicable to that count

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1 uninfluenced by your decision as to any other indictment
2 or count of that indictment. A defendant may be convicted
3 or acquitted of any or all of the offenses charge and you
4 will be asked to write a separate verdict of guilty or not
5 guilty for each separate indictment or counts of
6 indictments.

7 Necessarily your job as jurors you must
8 determine the credibility or believability of the
9 witnesses who have testified and it becomes your duty as
10 jurors to evaluate the evidence and determine which
11 evidence convinces you that it is true. And in
12 determining the believability of the witnesses, you may
13 believe one witness over several or several over one. You
14 may believe a part of the testimony of a witness and
15 reject the remaining part. You may believe the testimony
16 of a witness in its entirety or reject that same testimony
17 in its entirety.

18 You may consider whether the witness has an
19 interest in the result of the trial, whether the witness
20 is prejudice towards either the State or the defendant,
21 the opportunity for the witness to have seen the matters
22 and things about which that witness has testified and the
23 way that a witness acts on the witness stand or what we
24 call a witness's demeanor.

25 Now, you've heard evidence that the defendant

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1 was convicted of a crime other than the one for which he
2 is now on trial and this evidence may be considered by you
3 if you conclude it as true only in deciding whether the
4 defendant's testimony is believable and for no other
5 purpose. You must not consider the defendant's prior
6 record as any evidence of the defendant's guilt of the
7 charge we are trying today.

8 Now, the defendant has pled not guilty to
9 these indictments and that plea puts the burden on the
10 State to prove the defendant guilty. A person charged
11 with committing a criminal offense in South Carolina is
12 never required to prove themselves innocent.

13 I charge you that it is a cardinal and
14 important rule of the law that a defendant in a criminal
15 trial will always be presumed to be innocent of the crime
16 for which an indictment is issued unless and until guilt
17 has been proven by evidence satisfying you of guilt beyond
18 a reasonable doubt.

19 A reasonable doubt is the kind of doubt that
20 would cause a reasonable person to hesitate to act and
21 reasonable doubt may arise from the evidence which is in
22 the case or from the lack of evidence in the case and you
23 the jury must determine whether or not reasonable doubt
24 exists as to the guilt of the defendant as to each
25 separate indictments and charge. The State has the burden

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1 of proving each and every element of each offense beyond a
2 reasonable doubt and any reasonable doubt that you may
3 have in your deliberations must be resolved in favor of
4 the defendant.

5 There are two types of evidence which are
6 generally presented during a trial, direct and
7 circumstantial evidence. Direct evidence is the testimony
8 of a person who claims to have actual knowledge of a fact
9 such as an eyewitness. It is evidence which immediately
10 establishes the main fact sought to be proved.

11 Circumstantial evidence is proof of a chain
12 of facts and circumstances indicating the existence of the
13 main fact. It is evidence which immediately establishes
14 collateral facts from which the main facts may be
15 inferred. Circumstantial evidence is based on inference
16 and not on personal knowledge or observation. The law
17 makes absolutely no distinction between the weight or
18 value to be given to either direct or circumstantial
19 evidence.

20 The defendant is charged with manufacturing
21 methamphetamine and the State must prove beyond a
22 reasonable doubt that the defendant manufactured,
23 distributed, dispensed, delivered, purchased or provided
24 financial assistance or otherwise aided, abetted,
25 attempted or conspired to manufacture, distribute,

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1 dispense, deliver, purchase or possess with intent to
2 distribute, dispense or deliver methamphetamine.

3 Possession of equipment or paraphernalia or
4 ingredients and or supplies commonly used in the
5 manufacturing of methamphetamine under circumstances
6 convincing an intent to so use these items constitutes
7 prima fascia evidence of intent to manufacture.

8 In order to be guilty as an aider or abetter,
9 the participant must be chargeable with knowledge of the
10 principal's criminal conduct and manufacture means to
11 produce, prepare, convert, process, plant, cultivate,
12 grow, or harvest a drug naturally or chemically and
13 manufacturing includes any packaging or repackaging of the
14 drug or labeling or relabeling of a drug's container.

15 The defendant is also charged with possession
16 of a weapon during the commission of or attempt to commit
17 a violent crime. The State must prove beyond a reasonable
18 doubt that the defendant was in possession of a firearm or
19 visually displayed what appeared to be a firearm during
20 the commission of a violent offense.

21 A firearm means any machine gun, automatic
22 riffle, revolver, pistol or any weapon which will or is
23 designed to or may be readily converted to expel a
24 projectile. In order to find the defendant guilty of
25 possession of a weapon during the commission of a violent

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1 crime, you must first find the defendant guilty of either.
2 committing a violent crime or attempting to commit a
3 violent crime.

4 I will tell you that under the law of South
5 Carolina that manufacturing methamphetamine is a violent
6 crime, so in order to consider this particular charge, you
7 the jury, must first unanimously find beyond a reasonable
8 doubt that the defendant is guilty of manufacturing
9 methamphetamine.

10 Now, the defendant is also charged with
11 possession with intent to distribute methamphetamine and
12 the State must prove beyond a reasonable doubt that the
13 defendant possessed methamphetamine with the intent to
14 distribute it. To prove possession, the State must prove
15 beyond a reasonable doubt that the defendant had both the
16 power and the intent to control the disposition or use of
17 the methamphetamine and possession may be either actual or
18 constructive.

19 Actual possession means that the
20 methamphetamine was in the actual physical custody of the
21 defendant and constructive possession means that the
22 defendant had dominion and control or the right to
23 exercise dominion or control over either the
24 methamphetamine itself or the property on which the
25 methamphetamine was found.

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1 Mere presence at the scene where the drugs
2 were found is not enough to prove possession. Actual
3 knowledge of the presence of the methamphetamine is strong
4 evidence of the defendant's intent to control it's
5 disposition or use. The defendant's knowledge or
6 possession may be inferred when a substance is found on
7 the property under the defendant's control.

8 However this inference is simply an
9 evidentiary fact to be taken into consideration by you
10 along with the other evidence in the case and to be given
11 the weight you decide it should have. I would tell you
12 that two or more persons may have joint possession of a
13 drug. And the State must also prove beyond a reasonable
14 doubt that the defendant intended to distribute the
15 methamphetamine.

16 Distribute means to deliver other than by
17 administering or dispensing a drug. An intent may be
18 shown by acts and conduct of the defendant and other
19 circumstances from which you may naturally and reasonably
20 infer intent.

21 In determining whether the defendant had the
22 intent to administer the methamphetamine, you may consider
23 the circumstances surrounding the defendant's alleged
24 possession. You may consider the amount of the substance
25 alleged to have been possessed, the manner in which was

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1 allegedly possessed, the place where it was allegedly
2 possessed and other factors which you consider to be
3 important and you must find that the defendant did not
4 have the methamphetamine solely for his own personal use.

5 I would tell you the law says that possession
6 of more than one gram of methamphetamine creates an
7 inference that the defendant possessed the methamphetamine
8 with the intent to distribute it and this inference does
9 not relieve the State from proving beyond a reasonable
10 doubt that the defendant had the intent to distribute. It
11 is simply an evidentiary fact to be taken into consider by
12 you along with all the other evidence in the case and to
13 be given the weight that you decide it should have.

14 Now, if you find that the State has failed to
15 prove beyond a reasonable doubt that the defendant is
16 guilty of possession with intent to distribute
17 methamphetamine, you may consider whether the State has
18 proved beyond a reasonable doubt that the defendant is
19 guilty of simple possession of methamphetamine. Simple
20 possession does not require an intent to distribute the
21 drug. The State must prove beyond a reasonable doubt that
22 the defendant knowingly or intentionally possessed the
23 methamphetamine.

24 This may be a little bit repetitive, but I'm
25 going to go over what actual or constructive possession

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1 mean and mere presence means and this applies not only to
2 the drug but it also applies to the other illegal
3 substances we discussed with respect to the manufacturing
4 methamphetamine.

5 So to prove possession, the State must prove
6 beyond a reasonable doubt that the defendant had both the
7 power and the intent to control the disposition or use of
8 the illegal substances or the drug. Possession may be
9 either actual or constructive. Actual possession means
10 that the illegal substances or drug was in the actual
11 physical custody of the defendant. Constructive
12 possession means that the defendant had the dominion and
13 control or the right to exercise dominion or control over
14 either the illegal substances or drugs themselves or over
15 the property on which the illegal substances or the drugs
16 were found.

17 Proof of constructive possession requires a
18 showing that the defendant had dominion and control over
19 either the drugs, the illegal substances, or the premises
20 where the drugs or illegal substances were found and is
21 showing that the defendant had knowledge of the presence
22 of those illegal substances and/or drugs.

23 Now mere presence at the scene where the
24 drugs were found is not enough to prove possession nor is
25 mere presence enough to prove knowledge of the presence of

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1 the illegal substances or drugs. Proof of actual
2 knowledge of the presence of illegal substances or drugs
3 is strong evidence of a defendant's intent to control it's
4 disposition or use and a defendant's knowledge or
5 possession may be inferred when an illegal substance or
6 drug is found on the property under the defendant's
7 control.

8 However, this inference is simply an
9 evidentiary fact to be taken into consider by you along
10 with the other evidence in the case and to be given the
11 weight that you decide it should have. Again, two or more
12 persons may have joint possession of the illegal substance
13 or drug.

14 Now, the defendant is also charged with
15 exposing a child to methamphetamine. The State must
16 prove beyond a reasonable doubt that first the defendant
17 is 18 years of age or older and that he either directly or
18 indirectly by extraction from natural substances or
19 independently by means of chemical processes or both
20 unlawfully manufactured amphetamine, its salts, isomers or
21 salts of isomers or methamphetamine, its salts, isomers,
22 salts of its isomers in the presence of a minor child, or
23 two, knowingly permits a minor child to be in an
24 environment where a person is selling, offering for sale,
25 or having in such persons possessions with the intent to

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1 sell, distribute, prescribe, administer, dispense,
2 manufacture or attempt to manufacture amphetamine or
3 methamphetamine, or three, knowingly permits a child to be
4 in an environment where the drug paraphernalia or volatile
5 toxic or flammable chemicals are stored for the purpose of
6 manufacturing or attempting to manufacture amphetamine or
7 methamphetamine and a minor child means a person under the
8 age of 18.

9 Finally, the defendant is charged with
10 unlawful conduct towards a child. The State must prove
11 beyond a reasonable doubt that the defendant had charge or
12 custody of the child, was the parent or guardian of the
13 child, or was responsible for the care and support of the
14 child. And a person responsible for a child's welfare
15 includes the child's parent, guardian, or foster parent,
16 an operator, employer, employee or care giving in a
17 public, private or residential home, institution agency,
18 or child day care center facility or an adult who has
19 assumed the role or responsibility of a parent or guardian
20 for the child that does not necessarily have legal custody
21 of the child. That does not include a person whose only
22 role is a caregiver and whose contact is only incidental
23 with the child such as a babysitter.

24 The State must also prove beyond a reasonable
25 doubt that the defendant placed the child at unreasonable

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1 harm affecting the child's life, physical or mental
2 health, or safety, or unlawfully or maliciously did or
3 caused to be done any bodily harm to the child so that the
4 life or health of the child is in danger or likely to be
5 in danger. And again a child mean a person under the age
6 of 18.

7 Ladies and gentlemen, that's a lot of
8 information. I want to tell you that for separate charge
9 that I have discussed with you, there are two possible
10 verdicts. There's no importance to the order I state
11 them, ones got to be said first, so that the two possible
12 verdicts are either guilty or not guilty.

13 Now, I want to tell you that all 12 of you
14 must agree on the verdict for each separate charge. Your
15 verdicts must be unanimous and the verdict can not be
16 based on sympathy, passion, prejudice, emotion or any
17 other consideration that is not evidence in this case.
18 You have no friends to reward and you have no enemies to
19 punish.

20 We have prepared a verdict form which I am
21 going to send back in the jury room with you. I hope it's
22 self-explanatory. If there is any confusion whatsoever
23 about this, please let me know and I will straighten it
24 up. I have no listed the indictments numerically. The
25 numbers are a little out but I thought I'd put them in an

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1 order that might make sense.

2 The first one to consider would be Count 1 of
3 the indictment which charges manufacturing
4 methamphetamine. Now, you must consider that. If you
5 reach a unanimous decision of guilty, then you must
6 consider Count 2 which would be possession of a weapon
7 during the commission of a violent crime. If you
8 unanimously decide not guilty, you should not consider
9 Count 2.

10 The next one I've got is the possession with
11 intent to distribute methamphetamine. If you unanimous
12 agree guilty, then you should not consider the lesser
13 included offense of simple possession of methamphetamine,
14 but if you unanimously agree not guilty of possession with
15 intent to distribute, then you must consider the lesser
16 included offense of simple possession of methamphetamine.

17 The last two, unlawful conduct towards a
18 child and unlawful exposure of a minor child to the
19 manufacturing of methamphetamine a little more simple.
20 You consider them on their own. They are separate
21 individual charged, but hopefully this will be self-
22 explanatory and you will have this with you.

23 When you have completed your verdict,
24 Mr. Fore person, I would ask you to check the appropriate
25 box, a clear indication of what the unanimous decision of

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1 the jury is, sign your name, date it, indicate to the
2 bailiffs, we'll receive you back into the courtroom to
3 take your verdict.

4 Now, I'm going to excuse you all and ask you
5 not to begin deliberating just yet. I have to go over my
6 charge on the law to make sure I have not misstated
7 something or omitted something, but when the verdict form
8 comes back into the jury room along with the evidence in
9 the case then you all can begin your deliberations.

10 Thank you very much.

11 Unfortunately, Mr. Babbs, I'll have to ask
12 you to remain in the courtroom.

13 (Jury exits the courtroom.)

14 Mr. Babbs, you are just as qualified as every
15 one of those 12 people and paid just as close attention
16 and you've been here faithfully and performed your duty
17 and it just seems unfair that I can't let you go back
18 there to deliberate. The law is pretty clear that there
19 is only 12. I hope you understand that this is a case
20 that took three days and something could have happened to
21 a juror and they might have not been able to participate
22 and we would have had to have. But you're all through
23 with your service and so I appreciate everything you've
24 done and you're free to talk about it with whoever you
25 want to.

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1 I want to tell you if you don't want to talk
2 about it and somebody bothers you, you let the Clerk of
3 Court's Office know and we'll stop that because I will not
4 have a juror be harassed or intimidated in any fashion
5 whatsoever. Thank you very much for your service. You're
6 free to go.

7 Any exception or objection to the charge?

8 MR. HOLLOWAY: None from the State, Judge.

9 MR. HARBIN: None from the defense.

10 THE COURT: Okay. Look at the verdict form
11 and then the evidence and let's get them going.

12 (Whereupon, the jury began deliberations at
13 11:20 a.m.)

14 THE BAILIFF: Ladies and gentlemen, please
15 rise. Court is now in session.

16 THE COURT: Thank you. Please be seated. We
17 got a note: "Can we get a copy of the jury charge/law
18 description?"

19 I'm going to give it to them. Any objection?

20 MR. HOLLOWAY: None from the State.

21 MR. HARBIN: None from the defense.

22 THE COURT: I'm going to get the court
23 reporter to put an exhibit sticker on there so they know
24 we're supposed to get it back.

25 (Whereupon, note was marked as Court's

State versus Michael Henderson

1 Exhibit for identification.)

2 THE BAILIFF: All rise. Court is now in
3 session.

4 THE COURT: Please be seated.

5 We have a verdict.

6 (Jury re-enters the courtroom with verdict at
7 3:25 p.m.)

8 Mr. Foreman, I understand you have a verdict.

9 THE FOREMAN: We do.

10 THE COURT: Hand it to the bailiff, please.

11 Madam Clerk, would you publish that for us.

12 THE CLERK: Your Honor, this is Case No.

13 2010-GS-23-5199, 5200, 5201, 5202. As to the Count of
14 Indictment 2010-GS-23-5201, the charge of manufacturing
15 methamphetamine, we the jury find the defendant not
16 guilty. As to Indictment 2010-GS-23-5200, the charge of
17 possession of methamphetamine with intent to distribute,
18 We the jury find the guilty. As to Indictment 2010-GS-
19 23-5199, the charge of unlawful exposure of a minor child
20 to the manufacturing of methamphetamine, we the jury find
21 the defendant not guilty. As to Indictment 2010-GS-
22 23-5202, the charge of unlawful conduct towards a child,
23 we the jury find the defendant guilty.

24 I certify this decision was the unanimous
25 decision of the jury, Russell Frazier.

State versus Michael Henderson

1 If this is your verdict, please raise your
2 right hand.

3 (Jury complies.)

4 THE COURT: Anything further from the State?

5 MR. HOLLOWAY: No, sir.

6 THE COURT: From the defense?

7 MR. HARBIN: No, sir.

8 THE COURT: Mr. Foreman, ladies and gentlemen
9 of the jury, thank you for your service. You have been a
10 very diligent hardworking group of people and I can't
11 express enough thanks to -- I got lost in that sentence,
12 but thank you very much. Your service is through and I
13 hope I didn't make a liar out of myself. I hope it's been
14 a rewarding experience for you and I hope that y'all will
15 have a great holiday.

16 If you need anything for your work, the clerk
17 will be back in your room to give it to you. Also let me
18 just say that you're free to talk about the case now with
19 anybody you want to and if you don't want to talk about it
20 and somebody persists and bothers you, just let the Clerk
21 of Court know who it is and we will fix that problem. We
22 will not have any jury suffer any harassment or
23 intimidation or anything. Y'all have a great holiday.

24 (Jury dismissed from the courtroom.)

25 Anything from the State?

State versus Michael Henderson

1 MR. HOLLOWAY: No, Your Honor.

2 THE COURT: Defense?

3 MR. HARBIN: Judge, just to protect my
4 client's appeal rights, I make a motion to set aside the
5 verdict that no reasonable jury could come to that
6 conclusion on the evidence presented and especially since
7 the weight of the drugs was not over a gram. The other
8 thing would do is reassert my previous motions and ask the
9 Court to reconsider the suppression motion previously
10 presented.

11 THE COURT: Okay. All my prior ruling remain
12 the same and the weight is less than a gram, that's just
13 an inference that can be drawn from two separate packages
14 and I don't know how many distributions cases that I have
15 that are .25, so weight is a factor that could come into
16 play and it was and I do find that this jury was
17 reasonable. So I deny your motions.

18 ---END OF TRIAL TRANSCRIPT RECORD---

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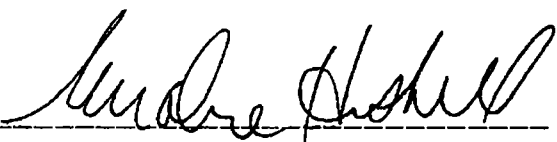
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State versus Michael Henderson

1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Court of General Sessions, Greenville, South Carolina
8 on the 9th day of December, 2011

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

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14 Caroline Hiskell
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1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF GREENVILLE) 2010-GS-23-5199

3)
4 State of South Carolina) TRANSCRIPT OF RECORD

5)
6 -vs-)

7 Michael Henderson)

8 December 9, 2011
9 Greenville, South Carolina

10 B E F O R E:

11 THE HONORABLE EDWARD MILLER, Judge.

12 A P P E A R A N C E S

13 KAYCE MCCALL, Esquire
14 RYAN HOLLOWAY, Esquire
15 Attorney for the State

16 CHASE HARBIN, Esquire
17 Attorney for the Defendant

18 CAROLINE HISKELL
19 Thirteenth Circuit Court Reporter
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I N D E X

(No witnesses or exhibits)

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State versus Henderson

P R O C E E D I N G S

THE COURT: Tell me about, Mr. Henderson.

MS. MCCALL: Mr. Henderson served 32 plus the two months. Criminal record, 1992 gambling, 1993 distribution of marijuana, 1996 possession of cocaine, resisting arrest with assault, 2005 possession of meth and possession of cocaine. He also has a federal charge of 1992 conspiracy in dealing with counterfeit securities.

THE COURT: The sentence range?

MS. MCCALL: For the PWID meth third offense is 10 to 30 years and can't be suspended. And then unlawful conduct up to 10.

MR. HARBIN: Judge, Mr. Henderson was telling me that the 1992 charge she told you about he said that was back in the 70's.

THE COURT: I'm not concerned about that.

MR. HARBIN: Judge, if this is the proper time to bring it up, I'd like to make a motion to actually have this considered as something less than a third due to the fact the new sentencing laws which I'm not sure allow an enhancement of PWID or manufacturing if your priors are possessions. The 2005 was the same incident for meth and cocaine found on him at the same instance.

THE COURT: Well, he has a 96 possession of cocaine, too.

State versus Henderson

1 MR. HARBIN: My motion would be that it would
2 outside the 10 year enhancement range.

3 THE COURT: There's no time limit on that. I
4 know you have family here.

5 MR. HENDERSON: May I approach?

6 THE COURT: That's fine.

7 MR. HENDERSON: My name is Harry Henderson
8 this is my brother Mike. I know him to be a good man. He
9 stumbled along the way a few times in his life but I'd
10 like the Court to know that he has seven siblings to stand
11 beside him to help him be straight and help him to walk
12 right. I know he and Tina's concern is the welfare of
13 their son and I would just ask that the Court have mercy.

14 THE COURT: Thank you very much. I
15 appreciate it. Yes, ma'am.

16 MS. SPROUSE: Tracy Sprouse. I just want you
17 to know that Mike comes from a good family and he has
18 stumbled along the way and he has some problems but since
19 that happened in 2005 he has worked for a company that I
20 owned until his health issues have not allowed him to
21 work. He has been clean, I know, since that time and has
22 not done anything. He has some serious health issues that
23 he's facing now where he needs another bi-pass surgery.

24 Judge, in knowing that he's telling you the
25 truth about this and I know that he blows smoke ---

State versus Henderson

1 THE COURT: No, I don't know that.

2 MS. SPROUSE: I know that he's been clean
3 since 2005 and he has some learning issues and some issues
4 but basically is his health issues. Right now that
5 concerns me, his heart and health. I'd just like you know
6 that he comes from a good family and like Harry said we're
7 behind him and we'll do whatever to support him and his
8 health and his wife in raising their son and getting him
9 the medical treatment that he needs.

10 THE COURT: Thank you very much.

11 MR. HENDERSON: I'm Minor and that's
12 my dad and I know he stumbled along the way like they said
13 but I would like you to have mercy on him because he's old
14 and I would like him to be around for me when I got to
15 college.

16 THE COURT: Okay.

17 MR. HARBIN: Just for the record, I want to
18 clarify the motion I was attempting to make. The one
19 enhancement under the new law would be the 1996
20 manufacturing second offense. My argument would be
21 possessions don't enhance.

22 THE COURT: This is a PWID. Do you have some
23 authority for that?

24 MR. HARBIN: If I could research and lay
25 something on your desk on Monday -- Mr. Sullivan and I

State versus Henderson

1 have ---

2 MR. SULLIVAN: It says something about
3 possession.

4 MS. MCCALL: This offense was before the new
5 law. This was March 30, 2010 and according to the new law
6 he shouldn't get the benefit for the new law. He was
7 under the old law for enhancement.

8 THE COURT: I'll tell you what we'll do, I'll
9 just sentence him on Monday. You do the research and if
10 you find something in the law that shows he shouldn't be
11 enhanced, I'd be happy to take a look at it.

12 -- END OF TRANSCRIPT RECORD --

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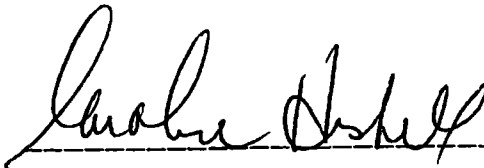
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State versus Henderson

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2 I, the undersigned, Caroline Hiskell, the
3 Official Court Reporter for the Thirteenth Judicial
4 Circuit of the State of South Carolina, do hereby certify
5 that the foregoing is a true, accurate, and complete
6 transcript of record of all the proceedings had and
7 evidence introduced in the trial of the captioned case,
8 relative to appeal, in the Court of General Sessions,
9 South Carolina.

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

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State versus Henderson

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF GREENVILLE) 2010-GS-23-5199
3) Sentencing
4)
5)
6 State of South Carolina) TRANSCRIPT OF RECORD
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9 -vs-)
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11 Michael Henderson)
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December 12, 2011
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD MILLER, Judge.

A P P E A R A N C E S

KAYCE MCCALL, Esquire
RYAN HOLLOWAY, Esquire
Attorney for the State

CHASE HARBIN, Esquire
Attorney for the Defendant

CAROLINE HISKELL
Thirteenth Circuit Court Reporter

State versus Henderson

I N D E X

(No witnesses or exhibits)

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State versus Henderson

P R O C E E D I N G S

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2 THE COURT: We are here on the State versus
3 Michael Henderson, deferred sentencing from a trial last
4 week. He has been convicted of manufacturing meth and
5 unlawful neglect of a child. Okay.

6 MS. MCCALL: I want to hand up to you the
7 drug tests after the incident. The first one was from
8 June of 2010 and the second was March 2010 and then they
9 did several more where they actually went up. I would
10 also like to point out, Your Honor, that Tina Henderson at
11 the same time she tested negative.

12 THE COURT: That's interesting.

13 MS. MCCALL: This is also the son's drug
14 test, the ones that we think were relevant. I spoke with
15 Officer Brandon Brown about those tests and they said that
16 1600 for an adult male is about the average for a meth
17 user.

18 THE COURT: 4200, 2100, 1700. Okay.

19 MS. MCCALL: Were we left off last week is
20 whether we would consider this a second or a third
21 offense. Based on the defendant's record and the fact
22 that he was arrested March 30, 2010 and the new law did
23 not go into effect until June of 2010, the old law should
24 be in effect pursuant to the Savings(ph) clause and that
25 would be our argument.

State versus Henderson

1 It says that any charges does not affect
2 pending actions, rights, duties or liabilities ---

3 THE COURT: If this was treated even as a
4 first offense, it would still carry up to 15 years, right?

5 MS. MCCALL: The first would be up to 15,
6 second 5 to 30, and third 10 to 30. So second or third
7 you can get up to 30.

8 THE COURT: What do you want to tell me?

9 MR. HARBIN: By way of explanation when I
10 asked Mr. Henderson and his family about his drug tested
11 results, after Jake tested positive, Ms. Henderson was
12 removed from the house. Subsequent to that Mr. Henderson
13 was responsible for ripping up carpet, walls and things
14 like that so his explanation to the Court is that he was
15 involved in construction in the house and if you can get
16 it from skin on skin contact and laying on a sheet, I
17 guess you can get it from carpet, too, Judge.

18 I can address the sentencing first or if you
19 want to talk to Mr. Henderson about the drug use.

20 THE COURT: You can always come up with some
21 excuse. You can always do that.

22 MR. HENDERSON: I'd like to tell you the
23 truth.

24 THE COURT: I'd love to hear the truth.

25 MR. HENDERSON: There was stuff that was left

State versus Henderson

1 there by the people that was there but there was stuff
2 that was put in by Sterling Esque(ph) and he would take
3 that stuff and make meth with it. My wife and I would get
4 some to use. I didn't sell it but I had got like a gram
5 or so to use.

6 THE COURT: Who is that?

7 MR. HENDERSON: It's a friend of mine.

8 THE COURT: So the stuff in the place was
9 being used to cook?

10 MR. HENDERSON: Yes, sir, but not there.

11 THE COURT: How bad was your habit? I can
12 look at you and tell you're eat up with it. I'm not
13 trying to be mean to you.

14 MR. HENDERSON: We did it some. I'm not that
15 deep into it but I did enjoy it, I guess. What I'm trying
16 to do is get my son to be home to raise him.

17 THE COURT: I know you would. The first
18 thing they say about this addiction is you got to be
19 honest and you've got to admit it and accept that you got
20 this problem. That's the first thing you got to do. I
21 hate that anybody has got a problem with it, it's a bad
22 deal. It feels like you're doing good for yourself, but
23 you are tearing yourself apart.

24 MR. HENDERSON: I just hope that you can see
25 fit for the bracelet thing for however long you need to do

State versus Henderson

1 it. I would just like to stay home and help raise my son
2 and any test that I have to go through it. I never ever
3 done nothing legal in my home.

4 MR. HARBIN: Judge, as to the sentencing
5 issue, it would be our position that the savings clause
6 was intended to stop and influx of appeals and PCR and for
7 those folks that are sitting in SCDC that have recently
8 been sentenced. It's counter to the point of the
9 sentencing reform and not given benefit of the new law,
10 there would be two ways the Court could chose to do that.
11 One would be it would be actually a second offense and the
12 other if you chose to make it a third offense. The prior
13 two offenses would be the cocaine and the meth.

14 THE COURT: All of the prior offenses were
15 for possession.

16 MR. HARBIN: And I believe the new law allows
17 for even a third to be suspended if your priors were
18 possession. In other words, if this is your first visit
19 to PWID or higher, you're allowed to treat that as a
20 suspendable offense to the extent you want to.

21 MS. MCCALL: 1992 was a distribution but it
22 was marijuana.

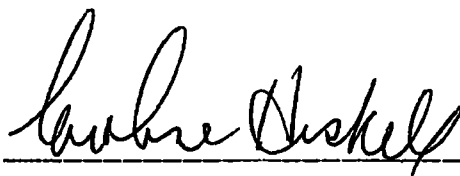
23 MR. HARBIN: And our position is marijuana
24 doesn't enhance the new marijuana charges.

25 THE COURT: I wish the best for you,

State versus Henderson

1 I, the undersigned, Caroline Hiskell, the
2 Official Court Reporter for the Thirteenth Judicial
3 Circuit of the State of South Carolina, do hereby certify
4 that the foregoing is a true, accurate, and complete
5 transcript of record of all the proceedings had and
6 evidence introduced in the trial of the captioned case,
7 relative to appeal, in the Court of General Sessions,
8 South Carolina.

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

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FORM 5

STATE OF SOUTH CAROLINA)

County of Greenville)

IN THE COURT OF COMMON PLEAS

Michael Wayne Henderson 00348971

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

2012-CP-23-02777

INSTRUCTIONS TO 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 MacDougall Correctional Institute, 1516 Old
Billiard Rd., Ridgewood, SC 29472
2. Name and location of Court which imposed sentence Greenville County Court
305 E. North St., Greenville, SC 29601
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010 GS 2305200 Distribution of Methamphetamine
2010

- (b) 2010 BS 2305202 Unlawful Neglect of Child
 (c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) 10 years on December 9, 2011
 (b) 10 years on December 9, 2011
 (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

- i. _____
 ii. _____
 iii. _____

(b) the result in each such Court to which you appealed:

- i. _____
 ii. _____
 iii. _____

(c) the date of each such result:

- i. _____
 ii. _____
 iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
 ii. _____
 iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

- (a) Defense attorney failed to file proper paperwork to protect and grant my rights to file an appeal

Continued from original application:

10. State the grounds on which you base your allegation that you are being held in custody unlawfully.
- (d) The existence of newly discovered material which require the court to vacate the conviction or sentence.
 - (e) The use by the State in determining sentence of a prior conviction
 - (f) Sentence imposed other than in accordance with the sentencing procedures established by rule and statute.
 - (g) The failure of petitioner's attorney to file a timely notice of appeal after being instructed to do so.

Question #

11. Continued from original application

- (a) I was on scene on 3.30.2010 and in fact stated he was there that day to serve an arrest warrant on Michael Wayne Henderson. Such warrant was never in existence and therefore all search & seizure was unconstitutional.
- (b) Petitioner feels that he was not represented and constitutional rights protected by said attorney.
- (d) The amount of methamphetamine seized from property was below level to indicate charge of distribution of same; the packaging of two (2) bags was basis of distribution charge when in fact the two (2) bags were evidence bags and not property of petitioner, the trace amounts found at premises was on coffee filter and saucer plate and placed in two (2) bags by officers of Greenville County Sheriff's Dept.
- (e) Prior conviction of drug charge of petitioner was prior to sentence guideline changes and should not be considered in determining sentence for the offense.
- (f) Petitioner was charged with manufacturing methamphetamine, the jury found petitioner not guilty of said charge, yet the judge sentenced petitioner on same charge that he was found not guilty of by jury trial.
- (g) Petitioner's defense attorney failed to file or correctly file notice of appeal and petitioner rights for appeal were aborted. Defense attorney has acknowledged his error and admits that he failed to properly file said appeal notice.

- (b) _____
- (c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) The introduction at trial of evidence obtained by an unconstitutional search
- (b) The denial of constitutional right to representation by a competent lawyer at every stage of trial
- (c) The unconstitutional suppression of evidence by the state

11. Continued on new page
State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Initial officer on premises had harassed petitioner prior to his arrival (cont sup page)
- (b) As demonstrated by failure to protect petitioner's rights of appeal (cont sup page)
- (c) Court did not allow testimony of prior tenant at residence arrest for manufacture methamphetamine

Continued on blank page
12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (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 Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
- i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
 - ii. _____
 - iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

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. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

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) My defense attorney, Chase Harbin failed to file papers to protect
 (b) sent right to appeal
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (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? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Chase Harbin
419 Vardry Street, Greenville, SC 29601
 ii. _____
 iii. _____

(b) the proceedings at which each such attorney represented you:

i. The trial and sentencing at Greenville County
Courthouse during period of December 9, 2011.
 ii. _____
 iii. _____

19. State clearly the relief you seek in filing this application:

a) The right to file an appeal (delayed)

b) The right to a new trial

c) Release from incarceration and discharge

20. Are you now under sentence from any other court that you have not challenged?

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, Michael Wayne Henderson, 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.

Michael Henderson

SWORN to and subscribed before me this 13th day of April, 2012.

Jay (L.S.)
Notary Public

My Commission Expires March 9, 2014

31624162 →

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Michael Wayne Henderson, 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.

Michael Henderson
Applicant

SWORN or affirmed to and subscribed before me this

13 day of April, 2012.

[Signature]
Notary Public

My Commission Expires March 9, 2014

**SIGN
HERE** 