

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

Edgar W. Dickson, Circuit Court Judge

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Appellate Case No.: 2014-002071

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**RECEIVED**

MAR - 2 2015

**S.C. Supreme Court**

Ronald Boozer #342268,..... Petitioner,

vs.

State of South Carolina, .....Respondent.

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APPENDIX

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STATE OF SOUTH CAROLINA )  
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)  
COUNTY OF YORK )

IN THE GENERAL SESSIONS  
COURT OF YORK

CASE NO.: 2009-GS-46-0309;3779  
2010-GS-46-1168-1170

STATE OF SOUTH CAROLINA )  
)  
PLAINTIFF., )  
)  
-v- )  
)  
RONALD TIMOTHY BOOZER., )  
)  
DEFENDANT. )  

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TRANSCRIPT OF RECORD

YORK, SOUTH CAROLINA  
AUGUST 11-12, 2010

B E F O R E:

HONORABLE JOHN C. HAYES, JUDGE, and a jury.

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

MS. JENNY DESCH  
MS. MINDY LIPINSKI  
ASSISTANT SOLICITORS  
SIXTEEN JUDICIAL CIRCUIT  
YORK, SOUTH CAROLINA  
FOR THE PLAINTIFF

MR. JONATHAN SULLIVAN  
MR. ERIK DELANEY  
PUBLIC DEFENDERS  
SIXTEEN JUDICIAL CIRCUIT  
YORK, SOUTH CAROLINA  
FOR THE DEFENDANT

**COPY**

WANDA NELSON, CVR  
OFFICIAL COURT REPORTER  
SIXTEEN JUDICIAL CIRCUIT  
AT LARGE

## E-X-A-M-I-N-A-T-I-O-N

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## E-X-H-I-B-I-T-S CON'T

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REPORTER'S NOTE: ALL STATE'S EXHIBITS RETURNED TO THE  
SIXTEENTH JUDICIAL SOLICITOR'S OFFICE.

1 (ON THE RECORD WEDNESDAY, AUGUST 11, 2010 @ 10:00  
2 A.M. IN THE MATTER OF STATE V. RONALD TIMOTHY BOOZER.)

3 (WHEREUPON: STATE'S EXHIBIT'S ONE THROUGH FORTY-SIX  
4 PREMARKED FOR IDENTIFICATION.)

5 THE COURT: All right. This is two indictments  
6 against Mr. Ronald Timothy Boozer.

7 Are you Mr. Boozer?

8 MR. BOOZER: Yes, sir.

9 THE COURT: All right. You represented by Mr. Delaney  
10 and Mr. Sullivan. It looks like Ms. Desch and Ms. Lipinski  
11 will be the prosecutors. Mr. Boozer of course has pled not  
12 guilty to these two charges.

13 MR. SULLIVAN: Yes, sir, Your Honor.

14 THE COURT: They are attempt to manufacture  
15 methamphetamine on September 13th 2009. And possession of  
16 methamphetamine on that same date. All right any pretrial  
17 matters?

18 SOLICITOR DESCH: Yes, Your Honor. Before we get into  
19 the crux of the pretrial arguments the State would move on  
20 the indictments for manufacturing methamphetamine. It's  
21 number 2010-1170. On the bottom the CDR code is 3015 which  
22 is the CDR Code that is appropriate for the crack and meth  
23 and the same CDR Code however there is a more specific CDR  
24 Code 3199. It's the exact same thing as far as sentencing  
25 and notice it just is more specific to methamphetamine and

1 we would move to amend the CDR Code to 3199.

2 THE COURT: Any objection?

3 MR. SULLIVAN: No objection, Your Honor.

4 THE COURT: All right. Anything else?

5 SOLICITOR DESCH: Yes, Your Honor. I anticipate  
6 motions from the defense as Mr. Sullivan is handing up to  
7 us now. In addition to dealing with those motions the  
8 State also has motions. A memo has been given to the Court  
9 and to the Defense to preclude any third party guilt. We  
10 would like to be heard on that motion. Have no idea to  
11 know if they are going to enter it or not or attempt to but  
12 we would like to include it on the onset or at least deal  
13 with it on the onset. We would also like to move to  
14 preclude any mention of a possible sentence it is not for  
15 the jury to hear. Statement of sentence is not for the  
16 jury to hear to determine guilt or innocence so for them to  
17 hear that he is facing up to thirty years in jail would  
18 obviously influence them and lead to a possible jury  
19 nullification argument. We would like to discuss that and  
20 - -

21 THE COURT: Well let me stop you there.

22 The Defense doesn't plan on going into the sentencing  
23 range?

24 MR. DELANEY: No, Your Honor.

25 THE COURT: Now as to third party guilt do you have

1 any issue about that?

2 MR. DELANEY: Well in just looking at this right here  
3 now, Your Honor, to give you a little background; there was  
4 an individual found in this house when the officers went  
5 in. My client was not at the house he was not on the  
6 property. There were things out in the open in the kitchen  
7 area this individual was found right off the kitchen area.  
8 Everything found there as far some methamphetamine in a  
9 straw; things that are used to manufacture meth were found  
10 out in that open area with this guy in the house. So that  
11 is a you know an area that we were - -

12 THE COURT: That's a fact. You don't - you're not  
13 saying they can't go into that?

14 SOLICITOR DESCH: No, sir. No. Obviously the facts  
15 will come out more. The person that was found in the house  
16 was actually asleep in a bedroom passed out if you would  
17 and didn't even hear the law enforcement officers outside  
18 until they went in for a protective sweep and that will  
19 come out. Obviously if - The only thing that the State  
20 will bring up, Your Honor, is the fact that if there is  
21 guilt -- If they are doing a some other dude did it or Plan  
22 B defense it has to be mutually exclusive or it has to  
23 completely exclude any guilt that would be on the Defendant  
24 himself and it's his house, his car and so to bring in some  
25 other person obviously they can bring in those facts but we

1 would just like to preclude just saying you know somebody  
2 else other than the person that was found in the house;  
3 perhaps somebody visiting that day. We are trying to limit  
4 it to just the facts.

5 THE COURT: Well I don't think you can get into  
6 speculation. Are you familiar with State versus Holmes?

7 SOLICITOR DESCH: I am familiar with State versus  
8 Holmes. I'm also familiar - -

9 THE COURT: A United States Supreme Court Case.

10 SOLICITOR DESCH: I am familiar with that and I am  
11 also familiar with - -

12 THE COURT: Do you realize what judge got reversed in  
13 that one - - -

14 SOLICITOR DESCH: I am also familiar - -

15 THE COURT: - - - on third party guilt?

16 SOLICITOR DESCH: I am also familiar with Gregory that  
17 is still the rule and Holmes did not over rule that.

18 THE COURT: Well the South Carolina Supreme Court said  
19 that judge was right. The United States Supreme Court said  
20 the South Carolina Supreme Court was wrong. I'm not too  
21 dissatisfied. All right.

22 You into some other dude did it kind of as she calls  
23 it?

24 MR. DELANEY: Again we would just prospect there was  
25 another individual in the house and if he takes the stand

1 in this case and testifies - -

2 THE COURT:

3 MR. DELANEY: But also through our questioning of the  
4 officers that is obviously a line of questioning we will  
5 pursue. Who was in that house and - -

6 THE COURT: I think we are just going to have to see  
7 though obvious a third party guilt issue but if it pops up  
8 just I'll take care of it at that time.

9 MR. DELANEY: Okay. This is essentially in my looking  
10 at the cases a constructive type of possession case in  
11 terms of everything found in the house with an individual  
12 being found in that house and not my client.

13 THE COURT: We can certainly go into that. Obviously  
14 if somebody is found in the house it doesn't mean they are  
15 guilty and it doesn't mean they are not guilty. It just  
16 means that somebody else was in the house and whatever you  
17 tell the jury use your common sense and your sense of  
18 reason and logic and all of those things and they can  
19 deduce that person being in the house their possible  
20 involvement and how that relates to any involvement by the  
21 owner of the home.

22 I think they can consider that.

23 SOLICITOR DESCH: Absolutely, Your Honor, We would  
24 also like to put on notice the fact that should they focus  
25 their defense on Ricky Brookshire who was found in that



1 house then that may or may not open the door to the fact  
2 that Mr. Boozer has already pled guilty to one meth lab in  
3 his house. And I do think that can come in under Lyle as  
4 far as identity that as to who the stuff in the house  
5 belonged to or his knowledge so we were just put on notice  
6 that should that come out we are prepared we have provided  
7 that information to the other side about all that original  
8 information from the original case but Mr. Sullivan and Mr.  
9 Delaney did not represent Mr. Boozer. John Rhea did so I  
10 provided all of that to the other side in case it comes up.

11 THE COURT: All right. She calls that putting you on  
12 notice. I call it a shot across the bow.

13 MR. DELANEY: You know, Judge, I disagree with the  
14 Solicitor as far as up being opening the door with - -

15 THE COURT: We will just have to see. You know all  
16 these things you all plan to do I got to see on the cuff so  
17 to speak and then rule. Their strategy and your strategy  
18 is developed throughout the trial.

19 But you warned them I guess. Like I say the shot  
20 across the bow.

21 They warned you what they plan to do you do what they  
22 think you are going to do.

23 Anything else from the State?

24 SOLICITOR DESCH: Nothing at this point. Nothing at  
25 this time.

1 THE COURT: All right. Now we got Defense motions  
2 let's take care of them. Discovery? State complied?

3 SOLICITOR DESCH: The State has complied with  
4 discovery.

5 THE COURT: All right prior record if Mr. Boozer  
6 testifies.

7 SOLICITOR DESCH: If he testifies, Your Honor, his  
8 prior record he has been convicted, Your Honor, of felonies  
9 that carry over a year. He's got a record from '93 and '97  
10 but skipping ahead to 2006 - -

11 THE COURT: Those would be too old.

12 SOLICITOR DESCH: In 2008 there was a - The Meth lab,  
13 Your Honor, the manufacturing in methamphetamine he pled to  
14 in 2008.

15 THE COURT: I will allow you to ask him whether or not  
16 he has a felony but not a major drug - -

17 SOLICITOR DESCH: Correct. Unless of course the door  
18 is open but yes I understand that.

19 THE COURT: All right. State witnesses do they have  
20 any records?

21 SOLICITOR DESCH: they do, Your Honor. We can get  
22 those printed out for you.

23 THE COURT: Not for me I don't want them. Get them  
24 printed out for the Defense. Let's do that. All right.  
25 Any deal with any of the State's witnesses?

1 SOLICITOR DESCH: No, Your Honor. Two of the State's  
2 witnesses actually three of the State's witnesses one of  
3 which is also on the Defense witness list they have been  
4 caught up in charges involving Mr. Boozer as well. They  
5 pled guilty to what they were responsible for and the State  
6 did not talk to them until afterwards so there were no  
7 deals.

8 THE COURT: All right. Any statements in Jackson  
9 versus Denno hearing?

10 SOLICITOR DESCH: No statements that I am aware of.

11 THE COURT: Well if you are not aware of them that  
12 would be popping up in the trial.

13 SOLICITOR DESCH: No. But he was not there at the  
14 time so no statements were made at the time.

15 THE COURT: Okay. Lyle testimony you kind of hit on  
16 that. That would if the door was open but otherwise no  
17 planned Lyle?

18 SOLICITOR DESCH: No planned Lyle unless the door is  
19 opened or if it becomes part of rebuttal to Defense.

20 THE COURT: All right. We got a suppression motion I  
21 have to hear that. You got a list of witnesses and you  
22 will have the usual sequestrations. I believe the search  
23 warrant -- Was it a search warrant I would imagine?

24 SOLICITOR DESCH: Yes, sir.

25 THE COURT: A search warrant issue is the only matter

1 and what is the Defense position on what is wrong with the  
2 search?

3 MR. DELANEY: Judge, before we get to that Ms. Desch  
4 did say that as far as Lyle she does not intend to  
5 introduce any Lyle testimony and I know she referenced two  
6 witnesses in this case that didn't have deals and Keith  
7 Greene while seated in the courtroom and Bridget Darty they  
8 were both charged in a subsequent offense of Mr. Boozer's  
9 and I don't know if they were being called in this case as  
10 witnesses. My understanding is that they would testify  
11 they had purchased meth from Mr. Boozer in the past or  
12 something of that effect and were led to believe that their  
13 testimony would elicit which I would obviously argue, Your  
14 Honor, would fall under Lyle.

15 SOLICITOR DESCH: Your Honor, two things. One when the  
16 original subpoenas went out I had noticed in early July I  
17 had noticed the Defense of going forward on all three  
18 indictments you see before you including a - Mr. Boozer  
19 wasn't there on the 13th warrants were issued based on what  
20 was found in his house and then ten days later he was found  
21 with Keith Greene and Bridget Darty in a car more chemicals  
22 were found so I was going to do all three together. There  
23 were some discussions pretrial and a request of the Defense  
24 to narrow it down to one which we did which brings us  
25 forward with you today but Mr. Greene and Ms. Darty were

1 subpoenaed when I was going to do all three. So at this  
2 point I kept them on the witness list in case at some point  
3 there is mention of the fact that if the defense is not  
4 manufacturing meth then I would have witnesses to rebut  
5 that or at least attempt to move in at that time Lyle  
6 evidence that not only is he making it but he's giving it  
7 to people.

8 THE COURT: So you are saying that Darty and Greene  
9 will not be called absence some again a door being opened -

10 - -

11 SOLICITOR DESCH: Correct.

12 THE COURT: - - - or in reply?

13 SOLICITOR DESCH: Correct. They are part of the  
14 twenty -- The ten days later, the part of the other trial.

15 THE COURT: All right. Anything else before we get  
16 into the suppression? And tell me what the issue is so I  
17 will know what to look for?

18 MR. SULLIVAN: Lack of probable cause and support  
19 issues in the search warrant.

20 THE COURT: All right. Call your first witness.

21 SOLICITOR DESCH: Thank you, Your Honor. And just  
22 briefly on the defense witness list we would need date of  
23 birth for Shelly Pettigrew to run her record. I believe we  
24 had information on the others.

25 MR. SULLIVAN: Ms. Pettigrew is under subpoena she is

DEPUTY DANIEL SEAFORD: DIRECT EXAMINATION BY SOLICITOR DESCH

17

1 not here. As soon as she gets here we will be happy to  
2 provide that information to Ms. Desch.

3 SOLICITOR DESCH: Thank you. And the State's first  
4 witness will be Deputy Seaford.

5 MADAME CLERK: Raise your right hand.

6 (WHEREUPON: DEPUTY DANIEL  
7 SEAFORD, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS  
8 FOLLOWS:)

9 MADAME CLERK: Please have a seat.

10 DIRECT EXAMINATION - IN CAMERA

11 DEPUTY DANIEL SEAFORD BY SOLICITOR DESCH:

12 Q. Good morning.

13 A. Good morning.

14 Q. Would you please state your name and spell your last  
15 name for the record?

16 A. Deputy Daniel Seaford; S-e-a-f-o-r-d.

17 Q. And, Deputy Seaford, where is it that you work?

18 A. I work for the York County Sheriff's Office.

19 Q. And how long have you worked there?

20 A. Since 2002.

21 Q. Any other law enforcement experience before that?

22 A. No, ma'am.

23 Q. So your eight or so years with the sheriff's  
24 department what kind of things have you done?

25 A. I've been on patrol the whole time. I've answered

1 calls for service as a shift deputy from domestics to  
2 thefts to drug related activity.

3 Q. And then the drug related activity have you been  
4 trained in narcotics at all?

5 A. I have had some classes in narcotics in our shift  
6 training yes, ma'am.

7 Q. In any of those classes or in any of your experiences  
8 on the road have you come across items that related to meth  
9 manufacturing?

10 A. Yes, ma'am.

11 Q. And in part of those classes do they teach you what to  
12 look for?

13 A. Yes, ma'am. I did have a candescent lab class and  
14 that class did give some indicators as to what to look for.

15 Q. Were you working on December 13th 2009?

16 A. Yes, ma'am.

17 Q. What shift were you working?

18 A. I was in the York District on day shift.

19 Q. So that's what Six in the morning to Six in the  
20 afternoon?

21 A. That's correct.

22 Q. And at some point were you called out to 2100  
23 Willowcreek Road in Rock Hill?

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

25 Q. And what was that a call for?

1 A. The call came to us as a trespassing issue with a  
2 vehicle in the driveway that the person that made the call  
3 wanted the vehicle removed.

4 Q. Do you know who made the call?

5 A. I believe it was the Defendant's parents.

6 Q. What's the area out there on Willow Creek and  
7 specifically to 2100 Willow Creek?

8 A. It is - That residence it's in a rural area and its  
9 located a good ways from the main road.

10 Q. You say a good ways; about how long?

11 A. Nearest house is approximately three or four hundred  
12 yards.

13 Q. When you went out to that address were you alone or  
14 with somebody else?

15 A. I arrived at the location with Deputy Whitaker.

16 Q. And was he in his car or in his own?

17 A. He was in his own car.

18 Q. And how were you dressed that day?

19 A. I was dressed as I am today.

20 Q. So you were wearing your uniform?

21 A. Yes, ma'am.

22 Q. And in a marked car?

23 A. That's correct.

24 Q. When you got to that property who did you meet up  
25 with?



1 A. I met with Mr. and Ms. Boozer the Defendant's parents.

2 Q. And where were they when you came across them?

3 A. They were located parked a distance behind the vehicle  
4 that they had called at Timothy Boozer's house.

5 Q. Do you remember what kind of vehicle it was that they  
6 were objecting to?

7 A. I do not. It was a smaller; I want to say it was a  
8 smaller gray vehicle but I can't remember.

9 Q. Car or SUV?

10 A. I believe it was a car. Seemed like it had temporary  
11 paper plates on it.

12 Q. Anybody else out there besides Mr. and Ms. Boozer?

13 A. That was it.

14 Q. And you said they were by Tim's house. Describe -  
15 When you get out there what does it look like?

16 A. It looked kind a like a log home a wooden style home.  
17 It's all the way at the end of the driveway in the back of  
18 a field right next to some woods.

19 Q. And so you and Deputy Whitaker get out there and talk  
20 with Mr. and Ms. Boozer?

21 A. That's correct.

22 Q. All right. What did you talk to them about? How did  
23 they greet you?

24 A. Mr. and Ms. Boozer spoke with me in regards to that  
25 vehicle. They advised that they owned that property and

1 that Tim Boozer their son had been living there and they  
2 were in the process of trying to move him from the property  
3 and the vehicle in question belonged to a lady they didn't  
4 want at the property that they owned. At that time I  
5 explained to them what they needed to do to try to have Mr.  
6 Boozer evicted and explained the process of having to try  
7 to get their property back from him.

8 Q. So while you are talking to Mr. and Ms. Boozer about  
9 their complaint what else was going on?

10 A. While I was speaking to them there was a fire from the  
11 back that was left unattended. While I was speaking with  
12 them also you could smell a chemical smell coming from that  
13 fire. While I spoke with Mr. and Ms. Boozer Deputy  
14 Whitaker went over to check the fire because of the  
15 location to the house and another vehicle.

16 Q. And what other vehicle was it near?

17 A. There was a SUV that was parked approximately six to  
18 eight feet from that fire.

19 Q. And when you say fire describe the size and location  
20 of the fire.

21 A. There was a fire in a bucket; galvanized bucket  
22 possibly two or three gallon bucket on the ground.

23 Q. And you said Deputy Whitaker went over to check it  
24 out?

25 A. That's correct. While I spoke with Mr. and Ms. Boozer

1 he went to check the fire to make sure it was going to be  
2 contained.

3 Q. Now backing up just a little bit Mr. and Ms. Boozer  
4 call you out there for a trespass call and wanting to get  
5 their son and another girl off the property. When you get  
6 out there Tim Boozer is not there; did they say anything  
7 about where he had gone or possibly - -

8 A. Yes, ma'am. They advised while I was in route that  
9 they had confronted or went down to confront Mr. Boozer.  
10 And Mr. Boozer and that other person drove around them in  
11 the driveway and left in another vehicle.

12 Q. So Tim was there and after being confronted by mom and  
13 dad left shortly before you got there?

14 A. That's correct.

15 Q. And when you went up to talk to Mr. And Ms. Boozer did  
16 they seem receptive to you? In other words were they - -

17 A. They did.

18 Q. Okay. All right so getting back to the fire in the  
19 bucket. Did you eventually go over and look at it  
20 yourself?

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

22 Q. And what was the source of the fire as far as you  
23 could tell?

24 A. Inside the bucket that was on fire were lithium  
25 batteries and it appeared to be some type of blister packs

1 from medicine.

2 Q. Okay. So you are looking in this galvanized bucket  
3 and you see lithium batteries and blister packs?

4 A. That's correct.

5 Q. What else did you do?

6 A. I noticed a strong smell of that fire. Looked in the  
7 vehicle that was in close proximity to it. Through the  
8 back windshield I could see a can of camping fuel and also  
9 a bag of ammonium nitrate.

10 Q. And so you said - How far was it; how close was the  
11 car to the fire?

12 A. Approximately six to eight feet from the vehicle.

13 Q. And how close were both of the cars, the fire and the  
14 house, how close was all of that?

15 A. The vehicles were parked approximately twenty feet  
16 from the back porch.

17 Q. So the car is behind the back porch of the house?

18 A. That's correct.

19 Q. And the fire is it between the car and the house?

20 A. It's directly in behind the vehicle approximately the  
21 same distance from the house.

22 Q. Still burning?

23 A. Yes, ma'am.

24 Q. What was the weather out like? If you remember.

25 A. It had been raining prior to. It wasn't raining at

1 that time but it had rained earlier in that day.

2 Q. When you looked in the car windows was there any tint  
3 on it? How could you see in the car?

4 A. There was some tint but it was daylight so you could  
5 still see inside the vehicle. Also inside the vehicle I  
6 noticed that the camp fuel can had what appeared to be  
7 condensation on it which appeared to be it had been let --  
8 It had been out in the rain earlier that day and just put  
9 up.

10 Q. And did you have to open the car; manipulate it in any  
11 way to see through the windows?

12 A. No, ma'am.

13 Q. So what was the significance of the lithium batteries  
14 and the blister packs and the ammonium nitrate and camping  
15 fuel? How was that significant to you?

16 A. From my training those chemicals are used in the  
17 making of methamphetamine.

18 Q. So that's part of what you learned in your cadet  
19 lab training?

20 A. That's correct.

21 Q. What did you do at that point?

22 A. At that time I looked around a little further. I  
23 noticed a large number of car batteries. Also some cans of  
24 Drano. At that time I made a phone call to the narcotics  
25 lieutenant and spoke with him and told him the indicators

1 that I had.

2 Q. When you say a large number of car batteries about how  
3 many were out there?

4 A. It would be in excess of fifty. Between fifty and a  
5 hundred maybe car batteries.

6 Q. After the call to narcotics did somebody come out to  
7 help you guys?

8 A. Yes.

9 Q. And once the narcotics officers got there what did you  
10 guys do?

11 A. Once the narcotics got on scene we just secured the  
12 scene and checked the traffic that was coming in the  
13 driveway.

14 Q. And what was the traffic like in the driveway?

15 A. While we were there securing the scene there were  
16 multiple vehicles that had come to the house. One person  
17 actually come twice. Once before narcotics had arrived and  
18 then later again that night.

19 Q. Do you remember who that person was who came twice?

20 A. That was Ms. Pettigrew.

21 Q. So Shelly Pettigrew came to the house while you were  
22 there and then came back later that night?

23 A. That's correct.

24 Q. When she came that day - You guys were in marked cars  
25 and uniform?

1 A. That's correct.

2 Q. And yet people are still coming up on you at Tim's  
3 house?

4 A. That's correct. From his house you can't see the main  
5 road and by the time they come down the driveway enough to  
6 be able to see us we can also see those vehicles.

7 Q. So the driveway is so long by the time they got there  
8 they've committed to being there or explaining why they  
9 would turn around later?

10 A. That's correct.

11 Q. Did you interact with Ms. Pettigrew the first time she  
12 came up?

13 A. Yes, ma'am. She was asking what was going on and if  
14 anybody was home. I had told her that nobody was home and  
15 that we had knocked on the door and couldn't get anybody.  
16 And she subsequently left and then later that night came  
17 back.

18 Q. So she comes up looking for - Did you know how she was  
19 looking for?

20 A. I do not recall if she was looking for Mr. Boozer or  
21 another person.

22 Q. So she leaves. Who else came up while you were  
23 waiting?

24 A. There was another vehicle I believe a Ms. Ratterree  
25 and Ms. Boone also came up asking what was going on.

1 Q. What happened with them?

2 A. At that time narcotics spoke with them. I didn't have  
3 any further contact with anybody after that.

4 Q. Now when you got out there it was daylight. At some  
5 point did it start getting dark?

6 A. It did. Approximately the time that narcotics got  
7 there it was either dark or getting close to dark.

8 Q. Now going back to the initial scene of the fire. Were  
9 you still standing -- You were still standing and talking  
10 to Mr. and Ms. Boozer when you noticed the fire; correct?

11 A. Yes, ma'am. I actually noticed the fire as I was  
12 coming down the driveway. You could see the smoke coming  
13 from behind the house. And was also told by Mr. and Ms.  
14 Boozer that they had noticed the fire. So when I was  
15 speaking to Mr. and Ms. Boozer Deputy Whitaker went over  
16 and checked to make sure that the fire was contained and  
17 what was going on because we could smell the chemical  
18 smell.

19 Q. So Ms. Boozer tells you I notice the fire?

20 A. That's correct.

21 Q. The Court's indulgence.

22 Thank you. Please answer any questions that the  
23 Defense has for you.

24 A. Yes, ma'am.

25

CROSS EXAMINATION



DEPUTY DANIEL SEAFORD: CROSS EXAMINATION BY MR. SULLIVAN 28

1 DEPUTY DANIEL SEAFORD BY MR. SULLIVAN:

2 Q. When you arrived you said it was day outside; correct?

3 A. That's correct.

4 Q. Do you recall exactly what time you arrived on scene  
5 that day?

6 A. I do not recall the exact time. It was approximately  
7 4:00 to 5:00 p.m.

8 Q. And you received the call from dispatch; is that  
9 correct?

10 A. That's correct.

11 Q. Do you recall what time you received that phone call?

12 A. I do not.

13 Q. And you testified that you and Deputy Whitaker were  
14 responding to a trespass call; correct?

15 A. That's correct.

16 Q. And each of you went out there in your individual  
17 patrol car?

18 A. That's correct.

19 Q. And you were dressed in uniform?

20 A. Yes, sir.

21 Q. And the only people who were there when you initially  
22 arrived were Barbara and Larry Boozer; correct?

23 A. That's correct.

24 Q. And they are Mr. Tim Boozer's parents; correct?

25 A. That's correct.

DEPUTY DANIEL SEAFORD: CROSS EXAMINATION BY MR. SULLIVAN 29

1 Q. And they actually own the property upon which Tim is  
2 living?

3 A. That's correct.

4 Q. You stated at some point while you were talking with  
5 Mr. and Ms. Boozer Deputy Whitaker went over and checked  
6 out this fire; correct?

7 A. Yes, sir.

8 Q. So while he was checking out this fire your attention  
9 was basically focused on Larry and Barbara Boozer?

10 A. I was continuing to answer their questions while he  
11 checked the fire yes, sir.

12 Q. All right. At any time during your investigation did  
13 you walk over there yourself to check out the contents of  
14 the bucket.

15 Q. Yes when Deputy Whitaker came back to me and told me  
16 what he saw inside the bucket I did return to the fire.

17 Q. You stated that inside that bucket there were some  
18 lithium batteries; correct?

19 A. Yes, sir.

20 Q. And there appeared to be blister packets from some  
21 type of medication you stated?

22 A. That's correct.

23 Q. You're not sure what type of medication those packets  
24 were?

25 A. No, sir. The packets were empty. They were on fire

DEPUTY DANIEL SEAFORD: CROSS EXAMINATION BY MR. SULLIVAN 30

1 and just had the foil type packets; the pop out type  
2 packets.

3 Q. So it could have been any medication?

4 A. In the packets it could have been yes, sir.

5 Q. When you were talking with Mr. and Ms. Boozer they  
6 never indicated any concern about smoke coming from the  
7 house; correct?

8 A. Ms. Boozer actually did tell me or instructed me that  
9 she had went down - one of the reasons they had went down  
10 there was because of the smoke coming from behind the house  
11 yes, sir.

12 Q. Of course any concern you might have had was quashed  
13 pretty quickly once you arrived on the scene and realized  
14 the fire was contained in a two gallon bucket; correct?

15 A. Where we were parked in the driveway, sir, you  
16 couldn't actually see. The fire was behind the vehicle so  
17 we didn't know until Deputy Whitaker went behind the  
18 vehicle what exactly was on fire or whether it was in a  
19 bucket or not.

20 Q. Well once Deputy Whitaker went over there you knew  
21 exactly what you were dealing with inside that bucket?

22 A. Deputy Whitaker went over to the bucket and noticed  
23 what was on fire and then come back and told me what he had  
24 saw.

25 Q. And there was of course nothing illegal inside that

DEPUTY DANIEL SEAFORD: CROSS EXAMINATION BY MR. SULLIVAN 31

1 can; right?

2 A. Lithium batteries are not illegal that's correct.

3 Q. Blister packets and some type of unknown medication  
4 are not illegal?

5 A. That's correct.

6 Q. And there was also some other unidentifiable trash  
7 burning inside that tin can; right?

8 A. That's correct.

9 Q. You don't know what that material was?

10 A. No, sir.

11 Q. And the smell you indicated that was coming from the  
12 bucket itself?

13 A. It was coming from the fire yes, sir.

14 Q. Okay. And there was no smell coming from inside the  
15 house?

16 A. Not that I could tell no, sir.

17 Q. There were no flames going on inside the house?

18 A. No, sir.

19 Q. You stated that Deputy Whitaker also went over and  
20 looked inside this vehicle that was parked in the driveway;  
21 right?

22 A. That's correct.

23 Q. And the vehicle was parked in close proximity to where  
24 this bucket was; right?

25 A. Yes, sir. It was close to the house and the bucket.

1 Q. That was about six or eight feet away?

2 A. That's correct.

3 Q. And the house was another twenty feet away?

4 A. Approximately from myself to the bench there.

5 Q. The car was parked in the driveway; right?

6 A. It was actually parked not really in the driveway. It  
7 was kind of in the backyard right next to the back porch.

8 Q. And Deputy Whitaker also looked inside that vehicle;  
9 right?

10 A. He did.

11 Q. And inside the vehicle you testified that he saw in  
12 plain view a can of camp fuel; right?

13 A. I can testify to what I saw, sir.

14 Q. Excuse me. You saw the can of camp fuel?

15 A. That's correct.

16 Q. And you saw some ammonium nitrate; right?

17 A. I saw a bag of ammonium nitrate; that's correct.

18 Q. Ammonium nitrate is fertilizer?

19 A. Yes, sir.

20 Q. And you are on a farm; right?

21 A. I didn't see a farm, sir. It was a rural area.

22 Q. You are aware of the lay out of the property though;  
23 correct?

24 A. I am.

25 Q. Seventy acres; right?

DEPUTY DANIEL SEAFORD: CROSS EXAMINATION BY MR. SULLIVAN 33

1 A. That's correct.

2 Q. There is live stock on that property is there not?

3 A. There may be sir. I can't testify to that. I didn't  
4 see any.

5 Q. You recall seeing three barns on the property though;  
6 right?

7 A. I recall seeing a barn between over next to the  
8 parents house.

9 Q. Now you testified that at some point you also noticed  
10 fifty or a hundred car batteries of some type; correct?

11 A.

12 A. Yes, sir.

13 Q. Where were those located?

14 A. They were located all through the back yard and around  
15 the side of the house.

16 Q. When you pull up in Mr. Boozer's drive way this house  
17 is in front of you. You state the back yard meaning back  
18 behind the house or over to the side where?

19 A. When you pull up to the driveway the house sits on  
20 your right. The car batteries were behind the house and  
21 along the fence line on the opposite from where the  
22 driveway is.

23 Q. And those batteries scattered about everywhere?

24 A. That's correct.

25 Q. And they weren't burning?

1 A. No, sir.

2 Q. Did not appear to be used?

3 A. They just appeared to be just old batteries.

4 Q. And you testified that the can of camp fuel in your  
5 opinion appeared to have some condensation on it; right?

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

7 Q. And it's your opinion it had been left out in the  
8 rain?

9 A. That's correct.

10 Q. And recently placed into that automobile?

11 A. That's correct. It had rained earlier that day and  
12 the can was inside the vehicle and it was wet or appeared  
13 to be wet so yes I - My opinion was that it was setting  
14 outside just prior to.

15 Q. But you didn't see anybody place those items into that  
16 vehicle?

17 A. That's correct.

18 Q. So you don't really know how long those items had been  
19 inside that vehicle?

20 A. Actually I don't know how long but a short amount of  
21 time for it to still be wet.

22 Q. That's not necessarily true. What time did it begin  
23 raining that day?

24 A. It had rained earlier that day. I do not recall  
25 exactly the time it had quit raining but I did notice about

DEPUTY DANIEL SEAFORD: CROSS EXAMINATION BY MR. SULLIVAN 35

1 the camp fuel can with the beads of water that was running  
2 down the side of the can.

3 Q.. Again just like the items that were found inside, the  
4 tin can, the items that were found inside the car were also  
5 legal; correct?

6 A. That's correct.

7 Q. They are household items; correct?.

8 A. Household items except for ammonium nitrate would be a  
9 farm item.

10 Q. And it can be found on - Found in any home or garage?

11 A. I hadn't seen ammonium nitrate most places but the  
12 camp fuel yes the camp fuel can could be anyway.

13 Q. Sir, you would agree that it wouldn't be out of the  
14 ordinary to have fertilizer on the farm?

15 A. That's correct.

16 Q. Of course you testified that your training experience  
17 you know what indicators to look for when it comes to  
18 making meth; right?

19 A. I know some of the indicators yes.

20 Q. And some of these items that you found in your opinion  
21 are some of those indicators that can be used to make meth;  
22 right?

23 A. Yes, sir.

24 Q. But those are also just common ordinary household  
25 goods?



1 A. That's correct they are.

2 Q. No further questions, Your Honor.

3 THE COURT: Redirect?

4 REDIRECT EXAMINATION - IN CAMERA

5 DEPUTY DANIEL SEAFORD BY SOLICITOR DESCH:

6 Q. Deputy Seaford, do you commonly find lithium batteries  
7 and blister packs burning outside when it's not related to  
8 a meth lab?

9 A. No, ma'am. That's the only time I've actually found  
10 burning lithium batteries.

11 Q. And you indicated you didn't see any farm animals or  
12 any farm equipment. Did you see any equipment out there?

13 A. I did not.

14 Q. If we could - So no equipment for a farm - - -

15 A. No, ma'am.

16 Q. - - - that you saw?

17 A. I did not see any equipment.

18 Q. And the stables where did you see the stable?

19 A. The stable was located over next to the parent's house  
20 approximately three to four hundred yards across the field.

21 Q. So at the parent's house there is stables but there is  
22 nothing down by Tim's house?

23 A. That's correct. The stable I saw was at the parent's  
24 house.

25 Q. Ms. Naylis, could you dim the lights please?

1 (MADAME CLERK DIMMING COURTROOM LIGHTS.)

2 Q. Could you focus your attention on that?

3 (SOLICITOR PLACING PICTURE ON OVER HEAD PROJECTOR.)

4 Q. Is that the house that you went to? Is that Tim  
5 Boozer's house?

6 A. It is.

7 Q. Can you see that okay?

8 A. I can.

9 Q. Now in this picture there's a Jeep parked out from the  
10 house. Is that where the Jeep was or where was the Jeep  
11 located when you got there?

12 A. No. The Jeep was behind the house approximately where  
13 you see that shadow located just behind the house.

14 Q. So this right here where I am pointing with the laser  
15 pointer?

16 A. Yes. Yes, ma'am.

17 Q. So as the house does kind of an "L" shape the Jeep is  
18 actually behind that?

19 A. That's correct.

20 Q. So over here on the left is this where you come down  
21 the road? Is this the driveway?

22 A. That's correct.

23 Q. So is it fair to say that if you are coming down this  
24 driveway you can't see that Jeep parked behind that "L"  
25 shape?

1 A. We could not see the Jeep until we got all the way up  
2 to where they parked the vehicles.

3 Q. And where were Mr. and Ms. Boozer when you got there?

4 A. They were right behind the vehicle that was still  
5 sitting in the driveway.

6 Q. So using this picture as an example it would be where  
7 this white Jeep is parked now?

8 A. Just behind that white Jeep is where the vehicle was  
9 parked and in behind it was where Mr. and Ms. Boozer was  
10 parked.

11 Q. And where could you see the smoke coming out of?

12 A. We could see the smoke actually coming down the  
13 driveway and when we got up to right there where they park  
14 you can see the smoke coming from behind the vehicle that  
15 was in the back yard.

16 Q. Where are the car batteries located?

17 A. Along the pine trees that you see behind the house and  
18 up the fence line. There is a fence line there where the  
19 woods are along the edge of that fence line.

20 Q. So this clump of pine trees right here within a couple  
21 of feet of that shadow that is where some of the car  
22 batteries were?

23 A. That's correct.

24 Q. Now what is in your training and your meth lab  
25 training your candescent lab training what are they talking

OFFICER DANIEL SEAFORD: REDIRECT EXAMINATION  
BY SOLICITOR DESCH

39

OFFICER LEWIS ALLEN CANTY: DIRECT EXAMINATION BY DESCH

1 about if I say the volatility of these items being mixed  
2 together? Do you understand what I am asking?

3 A. Yes, ma'am. They are very volatile; a dangerous  
4 combination of chemicals.

5 Q. So if you've got this dangerous combination of  
6 chemicals and a fire what's your concern?

7 A. My concern was for the combustion or the bad gases  
8 that can come from these chemicals and also the fire that  
9 can erupt from these chemicals being mixed.

10 Q. Thank you.

11 THE COURT: Any redirect? I mean recross.

12 MR. SULLIVAN: Nothing additional, Your Honor.

13 THE COURT: You can step down. We appreciate your  
14 time.

15 DEPUTY DANIEL SEAFORD: Yes, sir.

16 (WITNESS LEAVING WITNESS STAND.)

17 THE COURT: Call your next witness.

18 SOLICITOR DESCH: Office Canty please.

19 (WHEREUPON: OFFICER LEWIS

20 ALLEN CANTY, BEING FIRST CALLED AND DULY SWORN, TESTIFIED  
21 AS FOLLOWS:)

22 DIRECT EXAMINATION - IN CAMERA

23 OFFICER LEWIS ALLEN CANTEY BY SOLICITOR DESCH:

24 Q. Officer Canty, could you please state your full name  
25 and spell your last name for the record?

1 A. Lewis Allen Cantey, Junior. Spelling of Cantey is C-  
2 a-n-t-e-y.

3 Q. And where is it that you work?

4 A. I work for the Rock Hill Police Department assigned to  
5 the York County Multi-Jurisdictional Drug Enforcement Unit.

6 Q. How long have you been in law enforcement?

7 A. Sixteen years.

8 Q. How long have you been with the DEU?

9 A. A little bit over six years now.

10 Q. On December 13th 2009 were you called out by some  
11 deputies from the sheriff's department?

12 A. Yeah I was called out by Commander Brown to go assist  
13 the deputies at 2100 Willow Creek.

14 Q. All right so Marvin Brown tells you deputies are  
15 called first you since go out there?

16 A. That's correct.

17 Q. Who else did you go out there with?

18 A. Officer Del Castillo.

19 Q. Do you remember about what time that it was that you  
20 got out there?

21 A. Not a - At the time I arrived I received a phone call  
22 from Commander Brown between 5:30 and Six o'clock.

23 Q. So it's starting to get dark about that time?

24 A. I believe it is around dark during that time of  
25 December.

1 Q. Are you yourself familiar with Tim Boozer?

2 A. Yes, ma'am.

3 Q. Okay. Have you dealt with him in the past?

4 A. Yes, ma'am.

5 Q. How have you - How are you familiar with Tim Boozer?

6 A. I had received information several months if not a  
7 year prior to in reference to a meth lab at Tim Boozer's  
8 house and when I was on call.

9 Q. And did you investigate that meth lab at his house?

10 A. Yes, ma'am.

11 Q. And when we say his house what do we mean?

12 A. The house at the end of the drive at 2100 Willow  
13 Creek.

14 Q. So the same house you are getting called out to on  
15 December 13th?

16 A. That's correct.

17 Q. And what were the results of the investigation of that  
18 meth lab a year prior to this?

19 A. We recovered chemicals from it and charged him with  
20 attempt to manufacture methamphetamine.

21 Q. And what happened with those charges?

22 A. He pled guilty to them.

23 Q. So on the 13th of December 2009 you go out to help the  
24 York County Sheriff's Department?

25 A. That's correct.

1 Q. What do you see when you get there?

2 A. When I arrive Deputy Seaford and Deputy Whitaker are  
3 the two officers on scene. They tell me the reason they  
4 were called out there and the smell of strong chemical  
5 smell coming from a bucket in the back yard that had  
6 previously been on fire they advised me that they saw a  
7 blister pack in the trash can lithium batteries and inside  
8 the truck they saw the bags of ammonium nitrate and Coleman  
9 camp fuel. And when I got to the rear of his vehicle, the  
10 white Jeep, what I observed in the bucket was a partially  
11 burned blister pack of the small what appeared to be the  
12 thirty milligram pseudoephedrine tablets and some burnt  
13 lithium batteries. The fire was out but it was smoldering  
14 a little bit because of the plastic and the issues - the  
15 other items that were in the bucket.

16 Q. Now when you said it appears to be the small packs of  
17 thirty milligram pseudoephedrine how do you know that?

18 A. From dealing with meth labs and people purchasing  
19 pseudoephedrine.

20 Q. So in the last years is it fair to say that there has  
21 been an increase of pseudoephedrine being bought in this  
22 area?

23 A. Within the last few years yes, ma'am.

24 Q. And in that how much have you personally dealt with in  
25 pseudoephedrine pills and the meth labs?

1 A. I'm one of the primary officers dealing with the  
2 purchasing of pseudoephedrine from the pharmacies around.

3 Q. And so could you even estimate how many blister packs  
4 or pseudoephedrine pills you've seen in the last couple of  
5 years?

6 A. No, ma'am.

7 Q. So it's fair to say it's numerous?

8 A. Yes, ma'am.

9 Q. Enough that when you looked in the bucket you see  
10 something that appears to you to be - - -

11 A. Yes, ma'am.

12 Q. - - - pseudoephedrine pills? The ammonium nitrate and  
13 the Coleman camp fuel that you seen in the back of the Jeep  
14 did you manipulate the car in any way or the Jeep in any  
15 way to see all that?

16 A. No, ma'am. When I got there it was dark and I used a  
17 flash light to illuminate it through the tint of the back  
18 glass because I couldn't see through it without it. But  
19 that's all prior to getting the search warrant.

20 Q. Full bags, half empty bags, what's the status of the  
21 bags of ammonium nitrate?

22 A. If I recall correctly one of them was about a third of  
23 a bag left of the fifty pound bags and I believe the other  
24 one was just a bag.

25 Q. Now as you were walking around did you see any



1 fertilizer on the ground around Tim Boozer's house?

2 A. No, ma'am.

3 Q. What in relation to your training in meth labs and  
4 your experience with them what is ammonium nitrate used  
5 for?

6 A. After the anhydrous ammonia became hard to get a hold  
7 of ammonium nitrate the 34-0-0 bags of ammonium nitrate  
8 were utilized mixing that with drain clearer or form of lye  
9 I believe it is would produce a substance similar to  
10 ammonia.

11 Q. And so we've got the fertilizer here and did you see -  
12 What else did you see on the property when you got there?

13 A. On the property I didn't walk around through the wood  
14 line like the deputies did. Like I said it was also dark  
15 and I was using a flash light to illuminate my way. There  
16 was a thirty pound propane cylinder that was on the back  
17 deck next to a gas grill but one thing that caught my eye  
18 about it was it was not attached to the gas grill but it  
19 had been manipulated in a way that they had placed some  
20 form of a nipple screwed into the port that comes out for  
21 the gas down to I believe it was a quarter inch size which  
22 would not have been used for the gas grill.

23 Q. Were there any other tubings on it?

24 A. No, ma'am.

25 Q. Or was there just that - -

1 A. There was no tubing on it but it would fit about a  
2 quarter inch tubing.

3 Q. So essentially when you are looking at a propane tank  
4 it usually has something that is about the size - -

5 A. It's usually a little bit over an inch; inch and a  
6 half the exit I guess for the gas. The nipple kind of  
7 maybe from the neck down was about the size of a quarter  
8 inch.

9 Q. Did you also see the car batteries that were described  
10 earlier?

11 A. No, ma'am.

12 Q. Are you familiar with car batteries what's in them?

13 A. I believe sulfuric acid is the main component of car  
14 batteries.

15 Q. So based on your training if there is a hundred or  
16 fifty to a hundred car batteries with sulfuric acid is that  
17 significant to you in any way in relation to a meth lab?

18 A. The batteries could have been drained for their  
19 sulfuric acid.

20 Q. And what does sulfuric acid do?

21 A. It's one of the components used toward the final  
22 production of methamphetamine.

23 Q. When you got there and looked around and talked to the  
24 deputies what did you do at that point?

25 A. After I spoke with the deputies Officer Del Castillo

1 arrived. When I noticed the stuff in the back of the Jeep  
2 I called Commander Brown again to let him know what I had  
3 and he advised me to contact Sergeant Lubben and request a  
4 search warrant to be typed up. At that time I gave  
5 Sergeant Lubben a call and advised him where I was what I  
6 had and that I was requesting that I have a search warrant.

7 Q. So you called Sergeant Lubben and he's taking down all  
8 the information to get a search warrant?

9 A. That's right over the phone.

10 Q. And what happened from there?

11 A. I advised him that I was at 2100 Willow Creek at Tim  
12 Boozer's house and that what I had observed burning in the  
13 can to the rear of the white Jeep that belongs to Boozer  
14 and that I gave him the VIN number off of the Jeep for him  
15 to call in for a search warrant.

16 Q. So you told him where you were and what you wanted  
17 searched?

18 A. That's correct.

19 Q. Was Sergeant Lubben able to obtain a search warrant?

20 A. Yes, ma'am, he was.

21 Q. Based on the information that you had provided as the  
22 man on scene?

23 A. That's correct.

24 Q. What happened after he obtained the search warrant?

25 A. While he was obtaining the search warrant I called him

1 and told him my concerns about the possibility of a lab  
2 being inside the residence. And a officer safety issue I  
3 didn't want it to be left unattended and possibly explode  
4 so I asked him about what his thoughts were on doing a  
5 protective sweep on the house to make sure that it was not  
6 an active lab inside the house. And he advised me to go  
7 ahead myself, Officer Del Castillo and the two deputies  
8 made entry into the house clearing the house found a Rick  
9 Brookshire sleeping in one of the back bedrooms. And I  
10 had to physically go shake him to wake him up.

11 Q. So at this point law enforcement had been out on the  
12 property for about two hours at least.

13 A. Prior to me getting there yes, ma'am.

14 Q. And nobody thought anybody was home?

15 A. That's correct.

16 Q. And when you say you had to physically shake him up  
17 describe how hard it was to wake him up.

18 A. I ordered him to wake up several times standing from a  
19 distance to him. He didn't budge. I walked over and  
20 grabbed his arm and shook him and he woke up then kind of  
21 in a daze didn't know what was going on or where anyone  
22 else was in the house.

23 Q. Did he ask anything; what did you talk to him about?

24 A. He kept wondering where Mr. Boozer was and a female  
25 named Danielle Craig. I told him when we arrived he was

1 gone. He was like I was waiting on them to go to U Pull It  
2 to pull some parts.

3 Q. So he was waiting on Tim and Danielle Craig to go run  
4 errands?

5 A. Yes, ma'am. And I asked him were you waiting on them  
6 to come back. His comment was I thought they were still  
7 here.

8 Q. So from the protective sweep did you do anything else  
9 aside from just clearing th residence and clearing an  
10 active lab?

11 A. No, ma'am. At that time we just backed out and waited  
12 for Sergeant Lubben to call that the search warrant had  
13 been signed.

14 Q. You've got stuff outside burning and stuff in a car so  
15 what does that mean to you? Why the house; why did you  
16 think an active lab was going on in the house?

17 A. Meth during the production of it some of the chemicals  
18 react rather violently when coming in contact with water  
19 and from dealing with Mr. Boozer in the past and the people  
20 who gave information on Mr. Boozer some of the things we  
21 were told that whenever it rained he would go inside the  
22 house.

23 Q. Protect the chemicals from getting wet?

24 A. Yes, ma'am.

25 Q. At some point did the search warrant come?

1 A. Yes, ma'am, it did.

2 Q. And what did you do at that point?

3 A. We began a search of the residence.

4 Q. Ricky still there?

5 A. Yes, ma'am.

6 Q. Mr. Brookshire still there?

7 A. Yes, ma'am.

8 Q. At some point did he wake up enough to discuss what  
9 was going on in the house?

10 A. Yes, ma'am.

11 Q. What was the discussion with Mr. Brookshire was he  
12 involved at all?

13 A. No, ma'am, he said he came over there to get a ride  
14 with Danielle to go to like I said to the U Pull It. I'm  
15 not even sure where that is but to get some car parts.

16 Q. So he told you he just got there that day?

17 A. Yes, ma'am.

18 Q. And did you see how he got there? Was there any car  
19 that was his?

20 A. The only vehicle that was there when I got there  
21 besides the deputies vehicles was a white Jeep that appears  
22 to be the one in the photo.

23 Q. So the only car there is Tim Boozer's?

24 A. Yes, ma'am.

25 Q. And then the deputies cars?

1 A. Yes, ma'am.

2 Q. Did you ask him about the stuff in the house; anything  
3 related to the manufacturing of meth?

4 A. I don't recall if I did or not.

5 Q. Was he arrested that day for anything that was found  
6 in the house - - -

7 A. No, ma'am.

8 Q. - - - to your knowledge? Why not?

9 A. He advised he had just got there that day and appeared  
10 to be just as much surprised at what was going on as  
11 someone who would have been just visiting and police come  
12 inside the house.

13 Q. To your knowledge does Mr. Brookshire have a house of  
14 his own?

15 A. Yes, ma'am. I believe it's off of Carrwood.

16 Q. Now the deputy indicated that there were cars that  
17 came in in the driveway while they were out there. Did you  
18 make contact with any of the people that were -- That had  
19 come up during the initial sweep?

20 A. Yes, ma'am. I made contact with a Wanda Kaye Boone  
21 and a Jennifer Ratterree.

22 Q. And those are two that had driven up together - - -

23 A. Yes, ma'am.

24 Q. - - - during while the deputies were out there?

25 A. Yes, ma'am.

1 Q. When you made contact with them what happened?

2 A. Well I spoke with Ms. Boone and Ms. Ratterree they  
3 were kind of wasn't real sure what was going on believed  
4 they were coming to get more stuff because Ms. Ratterree  
5 was moving out of Mr. Boozer's house. Asked for a search  
6 of the vehicle Ms. Boone gave consent to search of it and  
7 found methamphetamine in the back floorboard of the  
8 vehicle.

9 Q. How was the methamphetamine packaged?

10 A. It was wrapped up in some coffee filters. The round  
11 type coffee filters.

12 Q. And does the coffee filters does that mean anything to  
13 you?

14 A. Coffee filters are - -

15 Q. In relation to them?

16 A. - - - mainly used to in the meth relationship to it or  
17 used to type of dry out the methamphetamine. That's from  
18 my understanding of it. I've never been certified from  
19 meth labs.

20 Q. The Court's indulgence.

21 Briefly going back to the phone call that you made to  
22 Sergeant Lubben about the search warrant. Where were you  
23 when you made that phone call? Tell me again what about  
24 after what you see you made that phone call.

25 A. I was standing at the rear of Boozer's Jeep and called



1 Officer Lubben to let him know what I had and that I needed  
2 a search warrant for Tim Boozer and his residence and his  
3 white Jeep. At that time I gave - I did not remember his  
4 date of birth or anything like that so I just gave him the  
5 name Tim Boozer and for the Jeep I read the VIN number off  
6 the VIN plate on the front of the vehicle.

7 Q. But you are looking at it in the dark with a flash  
8 light?

9 A. That's correct.

10 Q. And you gave him the name Tim Boozer; - - -

11 A. That's correct.

12 Q. - - - correct? And the address of 2100 Willow Creek?

13 A. Yes, ma'am.

14 Q. And this is all - Your conversation with Sergeant  
15 Lubben about the search warrant that was all before you  
16 went in for a protective sweep?

17 A. Yes, ma'am.

18 Q. So did you relay any information to him after the  
19 protective sweep?

20 A. I believe after the protective sweep that's when  
21 Officer Lubben called me to let me know the search warrant  
22 had been signed and that he leaving the judge's residence  
23 on the way out to me.

24 Q. So there was nothing that happened while you were in  
25 the house that added to the probable cause of the search

OFFICER LEWIS CANTEY: CROSS EXAMINATION BY MR. SULLIVAN 53  
1 warrant?

2 A. No, ma'am.. I believe the search warrant was already -  
3 He was on the way to the Judge's house.

4 Q. Please answer any questions the Defense might have.

5 CROSS EXAMINATION - IN CAMERA

6 OFFICER ALLEN CANTEY BY MR. SULLIVAN:

7 Q. You and Officer Del Castillo went out there  
8 separately; is that correct?

9 A. That's correct.

10 Q. You testified you received a phone call between 5:30  
11 and 6:00?

12 A. Approximately yes, sir.

13 Q. So what time did you arrive at the scene?

14 A. It takes me probably about twenty minutes maybe to get  
15 from my residence to his house.

16 Q. So six to 6:20?

17 A. Either Six o'clock or 6:20.. I don't recall exactly  
18 when the phone call came in.

19 Q. When you arrived obviously you were not the first  
20 officer to arrive on the scene that day; is that right?

21 A. That's correct.

22 Q. By the time you arrived on the scene that day the  
23 deputies had already been on the scene for about possibly  
24 two hours; right?

25 A. That's correct.

OFFICER LEWIS CANTEY: CROSS EXAMINATION BY MR. SULLIVAN 54

1 Q. When you arrived at Mr. Boozer's house you stated that  
2 the fire was already out; right?

3 A. Yes, sir. The bucket was smoldering. There were no  
4 flames it was just smoldering.

5 Q. And you went into this smoldering materials; right?

6 A. That's correct.

7 Q. And that's where you saw there was an empty  
8 pseudoephedrine blister pack; is that right?

9 A. That's what it appeared to be yes, sir.

10 Q. How many packages were in there?

11 A. It appeared to be one pack that was half burned. I  
12 could not make out the burn contents that was in the bottom  
13 of the bucket.

14 Q. Of course you know through your training and  
15 experience that someone who is making meth uses hundreds  
16 upon hundreds of pseudoephedrine pills; right, not just one  
17 pack?

18 A. Yes, sir, that's correct. But as I just stated the  
19 package that I observed was partially burned. I could not  
20 make out the other burned contents that was - That would  
21 have been destroyed by the fire in the bottom of the  
22 bucket.

23 Q. You don't know what they were?

24 A. I can't tell you what they were no, sir.

25 Q. Trash or something?

OFFICER LEWIS CANTEY: CROSS EXAMINATION BY MR. SULLIVAN 55

1 A. It was about two to three inches off the bottom of the  
2 bucket of stuff that was sitting underneath of the  
3 batteries and the blister pack.

4 Q. But at that point there were no flames coming out of  
5 the fire, out of the can; right?

6 A. That's correct.

7 Q. And you noticed no fertilizer on the ground?

8 A. I saw no fertilizer on the ground no, sir.

9 Q. You stated ammonium nitrate is used in the meth  
10 manufacturing process; right?

11 A. Yes, sir.

12 Q. You say it can be mixed with lye a drain cleaner to  
13 produce something that is similar to anhydrous ammonia?

14 A. Yes, sir. I'm not a chemist but from what I've been  
15 told that the substance from mixing the two together  
16 produces an ammonia type substance.

17 Q. Could you tell the court how that process is done?

18 A. The process of mixing the two to make the ammonia?

19 Q. Yes, sir.

20 A. You combine certain parts of the anhydrous or the  
21 ammonium nitrate with the lye.

22 Q. What are those parts?

23 A. I'm not sure.

24 Q. Okay.

25 A. I don't know how to make meth. The - You combine them

OFFICER LEWIS CANTEY: CROSS EXAMINATION BY MR. SULLIVAN 56

1 into a container seal off the container have an exit tube  
2 coming out of the container and upon shaking the parts  
3 together produces an ammonia type substance which then  
4 comes out of the tube.

5 Q. And that's mixed with lye; correct?

6 A. Drain cleaner.

7 Q. But you didn't find any drain cleaner or lye outside  
8 Mr. Boozer's house - -

9 A. I did not see none no, sir.

10 Q. And to your knowledge no one else found any lye or  
11 drain cleaner outside?

12 A. I can testify to what I know. I did not see any that  
13 night. But I know - -

14 Q. I know you are listed as the case agent - - -

15 A. Yes, sir.

16 Q. - - - on the witness list but you are aware of what  
17 the other officers saw that day; right?

18 A. I believe testimony was given just a moment ago, sir,  
19 of containers of drain cleaner located around the property.  
20 But personally I did not see any and I did not seize any  
21 from outside the residence.

22 Q. Ammonium nitrate is actually just in the back; back of  
23 the car; right?

24 A. That's correct.

25 Q. It hadn't been combined with any other material?

OFFICER LEWIS CANTEY: CROSS EXAMINATION BY MR. SULLIVAN 57

1 A. From what I observed it was just separate. They were  
2 separated.

3 Q. I can't recall did you say you observed the car  
4 batteries yourself?

5 A. No, sir, I did not.

6 Q. Okay. But you testified as to the significance to  
7 those batteries; right?

8 A. Yes, sir, that you could obtain sulfuric acid from  
9 them.

10 Q. But you didn't - obviously you didn't see the  
11 batteries so you didn't check to see if - - -

12 A. If they were open no, sir.

13 Q. - - - those batteries had been drained or opened?

14 A. No, sir, I did not check.

15 Q. How much - how long after you arrived on the scene did  
16 Officer Del Castillo get on scene?

17 A. Shortly after within probably ten minutes or so.

18 Q. So 6:10 or 6:30 - - -

19 A. Yes, sir.

20 Q. - - - or something like that? Okay. You were  
21 responsible for contacting Sergeant Lubben to get the  
22 search warrant?

23 A. Yes, sir, I first contacted Commander Brown who  
24 advised me to contact Sergeant Lubben.

25 Q. And you conveyed to him everything you are telling

OFFICER LEWIS CANTEY: CROSS EXAMINATION BY MR. SULLIVAN 58

1 this court today?

2 A. That's correct.

3 Q. He would put everything in the search warrant  
4 affidavit that you conveyed to him; right?

5 A. Yes, sir.

6 Q. You stated of course you went in the house not one  
7 time that day but actually two times; right?

8 A. Yes, sir, but with a search warrant correct.

9 Q. Well the first time you went in was the protective  
10 sweep?

11 A. That's correct, sir, and the second one was the search  
12 warrant.

13 Q. What time did you do that protective sweep? If you  
14 arrived on scene at 6:00 or 6:20 what time did you do that  
15 sweep?

16 A. I would say probably close to 6:50; Seven o'clock. I  
17 don't have an approximate time.

18 Q. So half an hour or so after you had been on the scene/

19 A. Yes, sir.

20 Q. And that's the first time you notice Mr. Brookshire  
21 inside the house?

22 A. That's correct.

23 Q. And your basis for conducting the protective sweep it  
24 wasn't anybody being arrested inside that house; right?

25 A. That's correct. To our knowledge of the protective

OFFICER LEWIS CANTEY: CROSS EXAMINATION BY MR. SULLIVAN 59

1 sweep, sir, was just to make sure a active lab had not been  
2 abandoned just for our safety...

3 Q. And you are aware that a protective sweep is something  
4 that is conducted pursuant to arresting somebody inside the  
5 house; right?

6 A. That's correct.

7 Q. So going in to check to make sure there is no meth lab  
8 is not a general basis to conduct a protective sweep?

9 A. I believe there is an officer's safety issue, sir, of  
10 being standing outside of an active or a possible active  
11 lab.

12 Q. The officer's safety issue comes into play when you  
13 are arresting somebody in the house being concerned about  
14 other people in the house posing a danger to the other  
15 officers on scene. That's a protective search; right?

16 A. Yes, sir.

17 Q. When you went in to conduct the protective search  
18 where all did you look?

19 A. We just walked through the house. Did not check into  
20 the - I walked in and checked into the first bedroom on the  
21 left that appeared to be a child's bedroom due to all the  
22 toys. Walked through a connecting bathroom into another  
23 bedroom towards the front of the house and that's where Mr.  
24 Brookshire was sleeping on the bed.

25 Q. So you - -



OFFICER LEWIS CANTEY: CROSS EXAMINATION BY MR. SULLIVAN 60

1 A. At that time I woke him up and walked him out towards  
2 the kitchen.

3 Q. So at that point you had been in the mud room; right?

4 A. Yes, sir.

5 Q. You had been in the kitchen?

6 A. Walked through the mud room in through the kitchen  
7 into the bedroom yes, sir.

8 Q. Okay. Of course some of these items were sitting out  
9 in the open; right?

10 A. Yes, sir.

11 Q. But none of the information that you went in when you  
12 went in with the search warrant the protective search you  
13 didn't utilize any of that information in getting the  
14 search warrant is that what you are saying?

15 A. I don't recall.

16 Q. The search warrant was conducted after you called in -  
17 - Excuse me. The protective sweep was done after you  
18 called in the search warrant?

19 A. That's correct.

20 Q. You didn't obtain any statements from Mr. Brookshire  
21 that day; right?

22 A. No, sir, there was no statements taken.

23 Q. Basically you testified that he told you that he had  
24 gotten a ride there that day from Danielle Craig; right?

25 A. He had gotten a ride there and was to get a ride away

STATE OF SOUTH CAROLINA CROSS EXAMINATION BY GENERAL SESSION 61  
REDIRECT EXAM. BY SOLICITOR DESCH

1 from there with Danielle Craig ASEIN. no 2008r6Se46e0B99h8Q79  
2 he got there. 2010-GS-46-1168-1170  
3 QOUNTMOOFUYORR questions) Your Honor.

4 REDIRECT EXAMINATION - IN CAMERA

5 OFFICER ALLEN CANTEY BY SOLICITOR DESCH:  
6 STATE OF SOUTH CAROLINA )

7 Q. Officer Cantey, you've been in law enforcement sixteen  
8 PLAINTEFF., )  
9 years; correct? )

10 -V- ) TRANSCRIPT OF RECORD  
11 A. That's correct. )  
12 RONALD TIMOTHY BOOZER., )

13 Q. Now the Defense made mention of the fact that a  
14 DEFENDANT. )

15 protective sweep is only to do when people are being

16 arrested. Is that in fact a true statement SOUTH CAROLINA you  
17 AUGUST 11-12, 2010

18 do a protective sweep? IN other words let me give you an  
19 B E F O R E:

20 example. You see me with what you believe to be green  
21 HONORABLE JOHN C. HAYES, JUDGE, and a jury.

22 leafy substance in my pocket I take off running into a  
23 A P P E A R A N C E S:

24 house slam the door you come after me. Why are you coming  
25 MS. JENNY DESCH

after MME? MINDY LIPINSKI

ASSISTANT SOLICITORS

17 A. SIXTEEN JUDICIAL CIRCUI trying the evidence or the drug.  
18 YORK, SOUTH CAROLINA

19 Q. SORRY THEA PAKNEPFEg me from destroying evidence but

20 what MBu 60NAYHABO60BLI5ANouse is he's already destroying  
21 MR. ERIK DELANEY

22 pill P8883C DEFENDERS  
23 SIXTEEN JUDICIAL CIRCUIT

24 A. T88K's SOUTH CAROLINA  
25 FOR THE DEFENDANT

Q. So aside from just the sheer volatility of this lab  
WANDA NELSON, CVR

23 that can blow up at any time why else FACEALOGOMATIREP88TER  
24 SIXTEEN JUDICIAL CIRCUIT

that you check out the residence? AT LARGE

25 A. Well like I advised is to make sure there is no one

1 else inside the residence. And to make sure there was not  
2 an active lab.

3 Q. At the time you went in you didn't know that Ricky  
4 Brookshire was inside; correct?

5 A. I didn't know if anyone was inside.

6 Q. If there was somebody inside and sees law enforcement  
7 outside any of the things found inside could it have been  
8 destroyed? In other words if you find pill wash or any of  
9 the things that would be part of an active lab could Ricky  
10 or anybody inside have destroyed that if you hadn't done  
11 the protective sweep?

12 A. Yes it's possible.

13 THE COURT: I think I can take judicial notice of  
14 that.

15 SOLICITOR DESCH: Thank you, Your Honor. Nothing  
16 further.

17 RECROSS EXAMINATION - IN CAMERA

18 OFFICER ALLEN CANTEY BY MR. SULLIVAN:

19 Q. You are familiar with the lay out of this property;  
20 right?

21 A. Yes, sir.

22 Q. You are familiar that it's seventy acres?

23 A. I'm not sure of the acreage, sir. It's a large piece  
24 of property I'm not sure of the acreage.

25 Q. Were you highly concerned about the safety of the

1 officers due to the futility of these substances; correct?

2 A. That's correct.

3 Q. The reason you conducted the protective search was out  
4 of concern for officer's safety; right?

5 A. That's correct.

6 Q. At this point you had already called in the search  
7 warrant; right?

8 A. That's correct.

9 Q. And you were waiting for Officer Lubben to arrive on  
10 scene with that search warrant; right?

11 A. That's correct.

12 Q. There's really nothing that would have prevented you  
13 at this point you knew that the search warrant was coming  
14 and certainly if officer's safety was a main issue as to  
15 what you testified to you could have removed yourself a  
16 great distance from that property; correct?

17 A. Yes, sir, we could have.

18 Q. I mean you could have come down here to the bottom of  
19 the screen; right?

20 A. Yes, sir.

21 Q. And driven even further down this driveway to his  
22 parents house; right?

23 A. Yes, sir, we could have gone all the way out to the  
24 main road but someone could have made there from another  
25 residence.

1 Q. So you really weren't conducting that protective  
2 search as a result of concern out of the officer's safety;  
3 right?

4 A. Yes, sir, I was.

5 Q. You were?

6 A. Yes, sir.

7 Q. Okay. You also testified that on redirect that you  
8 were also concerned about the possibility of somebody  
9 destroying those items; right?

10 A. That's correct./

11 Q. But you didn't know there was anybody inside that  
12 house; right, up to the point that you went inside to  
13 conduct the protective search?

14 A. That's correct.

15 Q. So you had no basis to believe that there was anybody  
16 inside that house who could destroy that evidence?

17 A. I also had no basis to believe there was not someone  
18 inside that house. The officers that had arrived prior to  
19 me stated that Mr. Brookshire and Ms. Craig had left the  
20 scene while the parents were there. I did not know if  
21 anyone else was still inside the residence.

22 Q. You knocked on the door; right?

23 A. I did not no, sir. The officers stated that they had  
24 prior to and no one came.

25 Q. No one answered?

1 A. That's correct.

2 Q. Of course the windows you could look through the  
3 windows; right?

4 A. I believe the windows had some type of window  
5 treatment on them that you could see through the windows.

6 Q. But at that point you had no evidence there was  
7 anybody inside the house? The person who lives there you  
8 know is gone. The person who makes meth according to you  
9 you know is gone; right?

10 A. That's correct.

11 Q. No further questions, Your Honor.

12 THE COURT: All right. You can step down.

13 OFFICER CANTEY: Thank you, Your Honor.

14 (WITNESS LEAVING WITNESS STAND.)

15 THE COURT: I think we will take a break now. How  
16 many more witnesses are you going to have, Ms. Desch?

17 SOLICITOR DESCH: Your Honor the only other person we  
18 can offer is the actual ABHAN who wrote down basically what  
19 Officer Cantey just testified to.

20 THE COURT: well I mean I can't control how you  
21 present your case. It's kind of hard to determine the  
22 validity of a search warrant if it's not in evidence. You  
23 present your case like you want to but we will take a break  
24 and when we come back see where we go.

25 (COURT IN RECESS AT 11:23 A. M.)

OFFICER JIM LUBBEN: DIRECT EXAM. BY SOLICITOR LIPINSKI 66

1 (BACK ON THE RECORD AT 11:35 A. M..)

2 THE COURT: Thank you. You may take your seats.

3 (PAUSE.)

4 THE COURT: Is the State ready?

5 SOLICITOR LIPINSKI: Yes, Your Honor.

6 The State would call Mr. Lubben to the stand.

7 THE COURT: All right. Officer, please come forward  
8 and be sworn.

9 (WHEREUPON: SERGEANT JIM  
10 LUBBEN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS  
11 FOLLOWS:)

12 DIRECT EXAMINATION - IN CAMERA

13 SERGEANT JIM LUBBEN BY SOLICITOR LIPINSKI:

14 Q. Officer Lubben, with whom are you employed?

15 A. Rock Hill Police Department and I'm currently assigned  
16 to the York County Multi-Jurisdictional Drug Enforcement  
17 Unit.

18 Q. And did you have the occasion to be involved in  
19 getting a search warrant in this case?

20 A. Yes I did.

21 Q. Wanda, can you mark this as a Court's Exhibit; we are  
22 not going to enter it into evidence.

23 (WHEREUPON: COURT'S EXHIBIT NUMBER ONE PREMARKED FOR  
24 IDENTIFICATION ONLY.)

25 BY SOLICITOR LIPINSKI:

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1 Q. Now let me show you what's been marked - -

2 Do you guys need a copy of the search warrant?

3 Let me show you what's been marked as Court's Exhibit

4 Number for ID only and ask you if you can review that

5 document and is that the search warrant you obtained in

6 this particular case? Or a copy thereof; I apologize.

7 A. Yes, ma'am, this is a copy of the search warrant that  
8 I did obtain.

9 Q. And did you have prior to getting the search warrant  
10 did you have the occasion to go out to on that particular  
11 night to go out to 2100 Willow Creek?

12 A. No I did not.

13 Q. So any information you relate to the magistrate in  
14 this particular case would have been received from who?

15 A. Officer Cantey.

16 Q. And that would be the officer who just testified?

17 A. That's correct.

18 Q. All right. And if you could go to the Attachment I  
19 which would be the probable cause affidavit and skipping  
20 the experiencing and those type of things but moving to the  
21 paragraph that states with the "yet the affiant has  
22 received information from Officer Cantey". Could you  
23 relate to the Court probable cause you used in this  
24 particular case?

25 A. Yes. Basically a summary of it is that deputies from



OFFICER JIM LUBBEN: DIRECT EXAM. BY SOLICITOR LIPINSKI 68

1 the York County Sheriff's Office had received a call for  
2 service out to the residence of 2100 Willow Creek and  
3 responded and met with Mr. and Ms. Boozer who were trying  
4 to evict their son from the premises who is Timothy Boozer.  
5 Upon the investigation the deputies observed flames coming  
6 from a bucket on the ground located at the back of a '94  
7 white and colored Jeep Grand Cherokee located on the  
8 property. The belongings were in plain view the bucket  
9 contained battery parts which were stripped to obtain the  
10 lithium from inside the batteries along with  
11 pseudoephedrine packs. The officers also observed ammonium  
12 nitrate and Coleman lantern fuel in plain view inside the  
13 cargo area of the vehicle. The items listed lithium,  
14 ammonium nitrate, pseudoephedrine packs, Coleman lantern  
15 fuel are all consistent with ingredients to manufacture  
16 methamphetamine. And also the effect that Mr. Boozer has  
17 been investigated in the past for manufacturing  
18 methamphetamine at the same residence of 2100 Willow Creek.

19 Q. And do you have any special training or education in  
20 the field of methamphetamine manufacturing in identifying  
21 candescent meth labs?

22 A. I've received training as far as what is used to  
23 manufacture methamphetamine chemicals things like that.  
24 Not expert but things to identify meth labs.

25 Q. Is what you know - So when you relate this information

1 to - Do you remember what magistrate you went to?

2 A. ~~Yes. I believe it was~~ Judge Davenport.

3 Q. Did you relate any of this specialized training or  
4 knowledge to him to explain the significance of the  
5 pseudoephedrine packs or the lithium or did you limit it to  
6 that affidavit?

7 A. I limited it to this affidavit.

8 Q. You represented to him that based on your training and  
9 experience those items are consistent with the  
10 manufacturing of methamphetamine?

11 A. Yes I did.

12 Q. And you weren't relating that based solely on what  
13 Officer Cantey had; you similarly have that same knowledge?

14 A. That's correct.

15 Q. And if you could is there anything in the affidavit  
16 relating the items located inside the house?

17 A. No there is not.

18 Q. And was that because you had spoken with officer  
19 Cantey that was before anybody had ever made entry to the  
20 house?

21 A. That's correct.

22 Q. To the best of your knowledge but you are obviously  
23 not there but you didn't receive any particular information  
24 about items that might have been in plain view in the  
25 house?

OFFICER JIM LUBBEN: DIRECT EXAM. BY SOLICITOR LIPINSKI 70

1 A. That's correct. Everything that's placed in this  
2 affidavit is what was seen outside the residence. Officer  
3 Canteley and the other deputies did not go inside until after  
4 we had spoke about what's pertained in this search warrant.

5 Q. Now the search warrant if you could turn to the actual  
6 description or premises or items to be searched. Was the  
7 search warrant for just the Jeep or the house?

8 A. It was for the house, the vehicle, Mr. Boozer and also  
9 Amy Danielle Craig.

10 Q. And when you got the search warrant did you notify  
11 Officer Canteley that you had gotten it signed by the Judge?

12 A. Yes as soon as it was signed I notified Officer Canteley  
13 of the same thing.

14 Q. And do you then go to the house and then participate  
15 in the search or do you just deliver the search warrant?

16 A. I went to the house and I assisted in the execution of  
17 the search warrant.

18 Q. And there was a return properly filled out?

19 A. Yes there was.

20 Q. And was that also filed with the Magistrate?

21 A. It was signed by Officer Canteley who executed the  
22 search warrant. And I wasn't there when he had the return  
23 signed.

24 Q. Is the copy in front of you? Is the copy of that  
25 return signed?

1 A. Yes it is.

2 Q. ~~Which would have indicated that Officer Cantey~~  
3 complied with that provision of that search warrant?

4 A. That's correct.

5 Q. Your Honor, at this time we submit just for your  
6 review a copy of Court's Exhibit Number One so you can  
7 examine the search warrant.

8 Any objection?

9 THE COURT: Well over objection that it be admitted  
10 but for purposes of this hearing as a Court's Exhibit.

11 (WHEREUPON: COURT'S EXHIBIT NUMBER ONE MARKED AND  
12 IDENTIFIED, ADMITTED INTO EVIDENCE IN PRETRIAL HEARING  
13 ONLY.)

14 SOLICITOR LIPINSKI: I'm not trying to admit it into  
15 evidence. I marked it exclusively as a Court's Exhibit so  
16 you can review it for the purposes of this hearing.

17 THE COURT: Okay.

18 SOLICITOR LIPINSKI: It's not listed as State's One  
19 for that particular reason.

20 (PAUSE. COURT REVIEWING COURT'S EXHIBIT ONE.)

21 THE COURT: All right.

22 SOLICITOR LIPINSKI: Your Honor, that's all the  
23 questions we have of Sergeant Lubben we intend to - -

24 THE COURT: Cross?

25 CROSS EXAMINATION - IN CAMERA

1 SERGEANT LUBBEN BY MR. SULLIVAN:

2 Q. ~~So you are responsible for getting the search warrant~~  
3 that night; correct?

4 A. That's correct.

5 Q. And you got that search warrant at approximately 8:30  
6 p.m.?

7 A. Approximately 8:30 or around that time.

8 Q. And you stated that you appeared before Judge  
9 Davenport; correct?

10 A. That's correct.

11 Q. And Judge Davenport granted a search warrant based  
12 upon the information that you had provided to him?

13 A. That is correct.

14 Q. And you testified earlier you prepared of course a  
15 search warrant affidavit; correct?

16 A. Yes.

17 Q. And you submitted that document to the Judge?

18 A. That's correct.

19 Q. And the affidavit contained various cites of  
20 information between why you wanted a search warrant;

21 Correct?

22 A. Yes.

23 Q. And the affidavit contained information explaining in  
24 detail what you intended to get with the search warrant?

25 What you intended to see?

1 A. Yes.

2 Q. ~~It stated what you were looking for?~~

3 A. Correct.

4 Q. And the search warrant was very specific; right?

5 A. Yes it was.

6 Q. And it was very detailed?

7 A. Yes.

8 Q. You didn't leave out any details while you were  
9 preparing this affidavit?

10 A. Not to my knowledge. I went off the facts that were  
11 provided to me and I put them into the search warrant.

12 Q. Okay. And you testified that the information that you  
13 presented to Judge Davenport on December the 13th was  
14 limited to the information that you put into your  
15 affidavit; correct?

16 A. Yes.

17 Q. All right. Now according to the affidavit your  
18 justification which you state for probable cause going into  
19 Mr. Boozer's house and his Jeep that night was the fact  
20 that the deputies when they arrived on the scene they  
21 observed some flames and smoke coming from this tin can;  
22 correct?

23 A. That's correct.

24 Q. And that tin can was sitting on the ground; right?

25 A. Yes.

1 Q. It was sitting on the ground outside the house?

2 A. Right.

3 Q. And directly behind a Jeep; right?

4 A. Yes.

5 Q. And you also got the search warrant to cover the Jeep  
6 that was parked in the driveway?

7 A. Yes.

8 Q. And inside that bucket the deputies found some empty  
9 pill packs; right?

10 A. Correct.

11 Q. And you put that in your search warrant affidavit;  
12 right?

13 A. Yes.

14 Q. It also included some stripped batteries; right?

15 A. Yes.

16 Q. Of course you don't put any information in your search  
17 warrant affidavit about quantity of pill packs that might  
18 have been in there; right?

19 A. No I did not.

20 Q. A quantity of batteries; right?

21 A. No.

22 Q. And there was also some type of chemical odor coming  
23 from that bucket; - - -

24 A. Correct.

25 Q. - - - right? Okay. And Officer Cantey - You put this

1 in your affidavit also Officer Cantey also found some  
2 ammonium nitrate located in the Jeep; right?

3 A. That is correct.

4 Q. And that was located in the back cargo area of the  
5 Jeep?

6 A. Yes.

7 Q. And he also located some Coleman lantern fuel; right?

8 A. Yes.

9 Q. But you didn't put any information about any of these  
10 items being found inside the house; right?

11 A. That is correct.

12 Q. There were no smells coming from the house; right?

13 A. I wasn't told that there was at that time no.

14 Q. And you didn't present any information to Judge  
15 Davenport about your fellow officers smelling any odors  
16 coming from the house; right?

17 A. That's correct.

18 Q. And with relationship to these empty pill blister  
19 packets those were contained within a two foot area; right?

20 A. Yes.

21 Q. They weren't strung up to the house; right? There was  
22 no trail of pseudoephed packets leading to the house;  
23 right?

24 A. No there was not.

25 Q. There was no trail of other precursors or components



1 leading up to the house; right?

2 A. Correct.

3 Q. All these items were found in just two locations the  
4 Jeep and the tin can; right?

5 A. Right.

6 Q. Okay. All these items can be used or are considered  
7 precursors for making methamphetamine; correct?

8 A. That is correct.

9 Q. And you know that through your training and  
10 experience; right?

11 A. Yes.

12 Q. All these items are also uniquely house common -  
13 Common household items; right?

14 A. Yes correct.

15 Q. And there's nothing - It's not illegal to possess any  
16 one of these items; right?

17 A. No it's not illegal to possess any of the items but  
18 when they are all combined together that's what makes it  
19 illegal.

20 Q. It's not illegal to possess fertilizer; right?

21 A. No it's not.

22 Q. It's not illegal to even possess pseudoephedrine;  
23 right?

24 A. Correct.

25 Q. It's not illegal to possess batteries; right?

OFFICER JIM LUBBEN: REDIRECT EXAM. BY SOLICITOR LIPINSKI 77

1 A. Right.

2 Q. And you put nothing in your search-warrant affidavit  
3 about any of these items being combined; right?

4 A. That is correct.

5 Q. The only thing you put in your affidavit was the fact  
6 that these items were burning in a trash - In a tin can;  
7 right?

8 A. Yes.

9 Q. And you received not information that day that anybody  
10 contacted law enforcement complaining that there were drugs  
11 being manufactured inside that house?

12 A. No.

13 Q. Your Honor, we have no other questions. We wish to be  
14 heard on the motion at the appropriate time.

15 THE COURT: Thank you.

16 SOLICITOR LIPINSKI: Just briefly on redirect, Your  
17 Honor. I don't want to belabor any point.

18 REDIRECT EXAMINATION -- IN CAMERA

19 SERGEANT JIM LUBBEN BY SOLICITOR LIPINSKI:

20 Q. Mr. Sullivan ask you about not relating the quantity  
21 of items in the bucket in that they were actively burning  
22 or smoldering was that something that Officer Cantey was  
23 able to readily ascertain and provide it?

24 A. No he couldn't tell how many packs were in the bucket.

25 Q. And while Mr. Sullivan described these as common

OFFICER JIM LUBBEN: REDIRECT EXAM. BY SOLICITOR LIPINSKI 78

1 household items you indicated it was that unique

2 ~~combination that alerted you as a member of law enforcement~~

3 and Officer Cantey as a member of law enforcement?

4 A. That's correct..

5 Q. And how long have you been in law enforcement?

6 A. Approximately almost fifteen years.

7 Q. And responded to a number of calls during that time?

8 A. Yes.

9 Q. Have you ever responded to a call where you saw  
10 someone or found burning lithium batteries and blister  
11 packs outside a house that wasn't involved in manufacturing  
12 methamphetamine?

13 A. No I have not.

14 Q. And you stated that it was really specifically these  
15 type batteries that had been stripped?

16 A. That is correct.

17 Q. Could you just explain just educate the court what is  
18 the significance of stripping that battery?

19 A. Basically individuals involved in manufacturing Meth  
20 will take lithium batteries they will strip the batteries  
21 and take all the lithium inside the battery and use that as  
22 part of the manufacturing process.

23 Q. SO instead of just using the battery and the battery  
24 going dead the way I might use it in a common electronic  
25 item they actually dismantle that?

OFFICER JIM LUBBEN: REDIRECT EXAM. BY SOLICITOR LIPINSKI 79

1 A. That is correct.

2 ~~Q. And Mr. Sullivan asked you about the fertilizer being~~  
3 a common fertilizer that's used; correct?

4 A. I wouldn't say it's common. It wouldn't be something  
5 that I would normally use no.

6 Q. Are you aware of whether or not you have to sign for  
7 that particular type of fertilizer?

8 A. Yes you do.

9 Q. And you can purchase other fertilizers you wouldn't  
10 have to sign for it?

11 A. That is correct.

12 Q. Are you aware of the significance of why you would  
13 have to sign and particular to this type of fertilizer?

14 A. Yes.

15 Q. And what would that be?

16 A. They are only allowed so much ammonium nitrate and  
17 they have to sign for it through the Farmer's Market or  
18 wherever they are going to purchase it from.

19 Q. Is that a federal law or is - -

20 A. Yes. Yes it is.

21 Q. And why is that? Are you aware of the reason behind  
22 that?

23 A. Oklahoma. The bombing in Oklahoma ammonium nitrate  
24 was used for that bombing and that's why they put the  
25 federal law out on it.

1 Q. That's all we have, Sergeant Lubben.

2 THE COURT:-- All right. -- You can step down. -- Thank you.

3 (WITNESS LEAVING WITNESS STAND.)

4 SOLICITOR LIPINSKI: Your Honor, we are ready for the  
5 Defendant's motion.

6 MR. SULLIVAN: Your Honor, at this time we would move  
7 to suppress any and all evidence that was seized from  
8 inside Mr. Boozer's house located at 2100 Willow Creek  
9 Road, Rock Hill. Pursuant to the search warrant as that  
10 search warrant was not supported by probable cause, Your  
11 Honor. And the only information provided to the issuing  
12 judge is limited to what is found outside of the residence  
13 and there has been nothing provided to the issuing judge  
14 via an affidavit search warrant affidavit or perhaps even  
15 supplemented by oral testimony which there wasn't in this  
16 case that does not under the totality of the circumstances  
17 give probable cause to search inside someone's house. Your  
18 Honor, there has been nothing presented today or there is  
19 nothing included in the search warrant affidavit regarding  
20 anything outside the house that would be linked to  
21 something inside the house. Your Honor heard testimony  
22 from various officers today. They found basically four  
23 different items possibly five. Of course the information  
24 that was provided in the search warrant affidavit primarily  
25 was the concern that these items burning in this small tin

1 can Your Honor heard that it was a very small quantity of  
2 ~~items that was burned in that tin can the tin can was~~  
3 flaming and smoldering when the deputies arrived but by the  
4 time when the officers arrived on the scene it had  
5 basically stopped burning at that point. Yet these other  
6 two items the ammonium nitrate and the camp fuel which were  
7 found inside or in plain view in Mr. Boozer's jeep but  
8 again there has been no testimony that those items or any  
9 other items found outside the house were in any way  
10 combined. Obviously these items as the officer testified  
11 are household items it's legal to possess them there is  
12 nothing inherently illegal on their face in looking at any  
13 of these items. The officers testified there was no smell  
14 was coming from the house the smell was limited to the tin  
15 can. The officers testified that in one place they found  
16 the blister packets within that tin can there is nothing  
17 leading up to the house, Your Honor. I would analogize  
18 this to a situation where an officer stumbles upon a house  
19 finds some scales finds some baggies and a pager sitting  
20 out on the street or sitting on the porch. You have heard  
21 hundreds of times officers have testified that that's  
22 indicia of selling crack. When an officer finds those  
23 three items on the porch and I would argue those are even  
24 more inherently illegal than would be these household items  
25 that doesn't give the officer probable cause to go inside

1 the house in order to find what's inside the house.

2 THE COURT: Well add to your hypothetical the fact

3 that they know the resident of that house has in the past  
4 manufactured illegal substances and that they had in the  
5 past seized items related to those illegal substances  
6 inside the residence and that the occupant of that house  
7 had been arrested for being involved with those illegal  
8 substances in the past.

9 MR. SULLIVAN: Certainly - -

10 THE COURT: Add that to your hypothetical.

11 MR. SULLIVAN: Yes, sir, Your Honor. And certainly  
12 there was testimony that Mr. Boozer had been arrested as a  
13 result of an incident that occurred a year ago and he went  
14 to court and the case has been disposed of. But on that  
15 particular day which is why we're assessing the probable  
16 cause for the evidence although they would like to make the  
17 raw generalizations the evidence that day didn't bore out  
18 the fact that Tim Boozer was making meth inside that house.  
19 Not one person contacted law enforcement that day saying ha  
20 we think there is meth making going on inside that house.  
21 Barbara Boozer who actually owns the property who contacted  
22 law enforcement that day called them purely for a trespass  
23 call. She didn't say anything about meth being made inside  
24 that house. The officers saw these items and based upon  
25 their own experience made this broad general observation

1 that something was going on inside that house. They don't  
2 have anything else to link the outside materials to what's  
3 going on inside. And I would submit that without that  
4 link, Your Honor, that there is not enough probable cause  
5 to go inside that house.

6 THE COURT: So there is no link in the fact that this  
7 has been - The owner of this house has in a past experience  
8 - Law enforcement has past experience with an individual  
9 who allegedly occupies this house and that included seeing  
10 items from inside of the house?

11 MR. SULLIVAN: But I think it's not an irrelevant fact  
12 that occurred over a year ago, Your Honor. I know that  
13 gets - -

14 THE COURT: There is nothing in the affidavit that  
15 says that and I don't know that time and I don't know  
16 whether the time really matters. I know we have a seventy  
17 two hour rule about confidential informants and illegal  
18 activity but this is not that kind of case. I think case  
19 law establishes that an officer can factor into their  
20 presentation and the magistrate judge can factor into their  
21 determination of probable cause prior experience of the  
22 officer. I will be glad now to hear from the State. Thank  
23 you.

24 SOLICITOR LIPINSKI: May it please the court, Your  
25 Honor. We further take exception to the Defendant's



1 analogy about scales and baggies and those type of items as  
2 those are predominately involved in the distribution of a  
3 drug and as you are well aware there are many people who do  
4 distribute drugs that aren't necessarily actively involved  
5 in the manufacture. Had the officers simply found the  
6 evidence outside the home of selling methamphetamine that  
7 would be one thing but in particular in this case what they  
8 found was specifically in regard to the manufacture of the  
9 methamphetamine. And for that particular reason I think  
10 what they do find that's more indicative is those items  
11 will be found inside the house. And if the court would  
12 call -- The State would call the Court's attention to State  
13 v. Kelly which is a Court of Appeals case out of North  
14 Carolina obviously not binding on the Court but it did  
15 involve methamphetamine and where they searched not only  
16 the Defendant's house but what led them to a search warrant  
17 to a Defendant's storage shed. They had some other  
18 information that he also maintained a storage shed where he  
19 used some of the property. Here again they were relying on  
20 information they find outside the home to get into the home  
21 and then to trace that home to a storage shed. The Court  
22 of Appeals also cites in that particular case information  
23 where a car can lead to a house and those items. What the  
24 Defense fails to acknowledge is the imminent close  
25 proximity of these items to the house. The car wasn't four

1 hundred yards down the road. According to the testimony of  
2 the responding officer this car is parked in particular  
3 concealed behind the house within a few feet of the house  
4 so the items are found in close proximity to the house  
5 itself.

6 THE COURT: I park my car behind my house and I don't  
7 consider that concealing it.

8 SOLICITOR LIPINSKI: Pardon me?

9 THE COURT: You said the car was concealed. I park my  
10 car behind my house but I don't consider that concealment.  
11 It's just the way I choose to park.

12 SOLICITOR LIPINSKI: And I understand that but it had  
13 to just --

14 THE COURT: You don't need to. I'm --

15 SOLICITOR LIPINSKI: I understand.

16 THE COURT: I can rule. You can argue more if you  
17 want but I find -- I can find that there is -- I am going  
18 to deny their motion but I will be glad to hear you further  
19 if you want me to.

20 SOLICITOR LIPINSKI: No. I will let you get there.

21 THE COURT: I am going to deny the motion to suppress  
22 those items seized pursuant to the search warrant. I  
23 believe that taking practical common sense look at the  
24 totality of the circumstances set forth in the affidavit  
25 that there existed sufficient probable cause for the

1 issuance by the magistrate of this particular warrant.

2 There is Dupree and Davis; Dupree a State of South Carolina  
3 case of 354 SC 676; Davis 587 a SE 2nd 778 stand for among  
4 other propositions past criminal activity consistent with  
5 current indicators to give rise to probable cause. They  
6 were a number of indicators some of which are not listed in  
7 the affidavits so I can't consider those. But the  
8 indicators listed in the search warrant affidavit signed by  
9 Officer Lubben including the observation of home and smoke,  
10 battery parts stripped, pseudoephedrine packs, ammonium  
11 nitrate, Coleman lantern fluid all these being stated in  
12 the warrant. I mean in the affidavit to be considered this  
13 is ingredients to be used in the manufacturer of  
14 methamphetamine. I find that even though these were  
15 outside that the magistrate was presented with probable  
16 cause to issue the search warrant and I deny the motion to  
17 suppress any of the items located in the house as a result  
18 of the search warrant. I find it is a valid search warrant  
19 supported the search of Mr. Boozer's automobile and  
20 residence at 2100 Willow Creek Road, Rock Hill, South  
21 Carolina on the date in question which was the 13th of  
22 December of 2009. All right. Anything else before we get  
23 the jury up?

24 SOLICITOR LIPINSKI: Nothing from the State.

25 MR. SULLIVAN: Nothing from the Defense, Your Honor.

1 THE COURT: Let's get the jury up and we will draw the  
2 jury and then let them go to lunch and take our lunch.

3 MR. SULLIVAN: Your Honor, -- Nothing additional.

4 (COURT IN RECESS AT 12:08 P.M..)

5 (WHEREUPON: STATE'S EXHIBITS NUMBERS ONE THROUGH  
6 FORTY-SIX PREMARKED FOR IDENTIFICATION.)

7 (BACK ON THE RECORD AT 12:10 P.M..)

8 THE COURT: We're ready for the jury if that's them.

9 (JURY ENTERING COURTROOM AT 12:10 P.M..)

10 THE COURT: Strikes are five and five?

11 SOLICITOR LIPINSKI: Yes, Your Honor.

12 THE COURT: I am going to go ahead. We are still  
13 waiting on a piece of paper from downstairs but we can go  
14 forward without it. This is the case of the State versus  
15 Ronald Timothy Boozer.

16 Mr. Boozer would you stand and let us see you?

17 (NOTE: DEFENDANT STOOD.)

18 THE COURT: This is Mr. Boozer. You may be seated.

19 He is charged with attempting to manufacture  
20 methamphetamine and possession of methamphetamine. It's  
21 alleged this occurred on December 13th of 2009. The  
22 location I believe - -

23 Is it Willow Brook?

24 SOLICITOR DESCH: Willow Creek.

25 THE COURT: Willow Creek Drive; it's a Rock Hill

1 address. The State is represented by Ms. Desch and Ms.

2 ~~Lipinski.~~

3 (SOLICITOR'S STOOD.)

4 THE COURT: The Defense, Mr. Boozer by Mr. Sullivan  
5 and Mr. Delaney.

6 (DEFENSE ATTORNEYS' STOOD.)

7 THE COURT: First I ask are any of you related by  
8 blood or marriage to any of the five individuals to which  
9 you've been introduced? The four attorneys or Mr. Boozer;  
10 if so please stand? If you are a friend to or related to  
11 any of those individuals if so please stand?

12 No one stands. If any of you have been represented by  
13 our solicitor's office or our public defender's office or  
14 any of these attorneys individually or if you have  
15 participated in any program connected to those offices  
16 please stand?

17 No one stands. Do any of you know anything about this  
18 case; have any of you heard anything about it from any  
19 source whatsoever or have any of you formed or expressed  
20 any opinion about any matter or issue that would be  
21 involved in this case please stand at this time?

22 No one stands. Are any of you members of the Grand  
23 Jury which passed on these indictments at an earlier time  
24 if so please stand?

25 No one stands. Do any of you have any - This is a

1 case involving drugs that by our legislature a illegal  
2 drug. Do any of you have any moral or religious or other  
3 bias that would prevent you from being fair and impartial  
4 in a charge of this type if so please stand?

5 No one stands. The next question your response to  
6 which would be somewhat personal so I am not going to ask  
7 you to go into detail. All I am going to do is ask if you  
8 need to to stand and in response to this then I will ask  
9 you whether or not you would be fair and impartial. Have  
10 any of you or a member of your immediate family - -

11 Is he having trouble hearing?

12 A. Yes, sir.

13 THE COURT: Okay. I will speak up a little bit then.

14 Are any of you or a member of your immediate family  
15 involved as a prosecutor or law enforcement officer either  
16 anything from military police, Judge Advocate General,  
17 Solicitor's Office, anything dealing with the prosecution  
18 or the law enforcement or the prosecution of criminal cases  
19 if so please stand?

20 All right tell me your name and number and why you are  
21 standing?

22 A. My name is David Bailey Juror Number Nine. And my  
23 brother is a police officer in Jacksonville, Florida.

24 THE COURT: all right. Remain standing.

25 Yes, sir.

1 A. Military police, law enforcement specialist Air Force  
2 for four years.

3 THE COURT: All right. And your name and number?

4 A. Harold Davis Number Fifty-two.

5 THE COURT: All right. Would the fact that you have a  
6 brother and that you were formerly involved in law  
7 enforcement would that affect your ability to be fair and  
8 impartial if so please raise your right hand?

9 Neither does. All right. Thank you. You may be  
10 seated.

11 Are any of you or a member of your immediate family  
12 involved with or contributors to organizations such as  
13 Students Against Drunk Drivers; Mother's Against Drunk  
14 Drivers; CAV, that is Citizen's Against Violence; Trooper's  
15 Association and the Sheriff's Association and Fraternal  
16 Order of Police if so please stand?

17 No one stands. I believe I started to ask and  
18 interrupted myself; are any of you have any moral or other  
19 biases that would prevent you from - I mean moral,  
20 religious, philosophical or deeply held personal reasons  
21 that would prevent you from being fair and impartial in  
22 this particular trial if so please stand?

23 No one stands. Have any of you and again this is one  
24 of those that could be somewhat personal so I am not going  
25 to ask you to go into great detail. I will simply ask you

1 to stand and tell me who you are. Have any of you or a  
2 member of your family been affected by in your opinion a  
3 drug which would be determined to either be a controlled  
4 substance, misuse or a use of an illegal drug? That is if  
5 any of you have been affected you or your family by use or  
6 by use of someone of illegal drugs please stand?

7 All right. And I am going to simply ask you to give  
8 your name and number and I am not going to ask you to give  
9 me the particulars and then I will ask you about being a  
10 fair and impartial juror. Your name and number?

11 A. Robert Winkler Juror Number 2-2-4.

12 THE COURT: All right. Yes, ma'am.

13 A. Janice Crawley Juror Number Forty-Eight.

14 THE COURT: All right. Would either of you be unable  
15 to be fair and impartial in the trial of this case? Based  
16 on this you would be unable to be fair and impartial please  
17 raise your right hand?

18 Neither does. All right you may be seated.

19 Anything else - Oh. Possible witnesses in this case  
20 are - These are the possible witnesses I don't know that  
21 all of them will testify but these are the individuals who  
22 may testify. If any of you are related by blood or  
23 marriage or you are a close personal friends or  
24 acquaintance of any of these individuals please stand?

25 From the Multi County Jurisdictional Unit here in York



1 County and or the York County Sheriff's Office Jim Lubben,  
2 Allen Cantey, Michelle Del Castillo, Shane Whitaker and  
3 Daniel Seaford. And Sharon Hartsoe and Cynthia Mitchum.  
4 All right the other individuals who's names I am going to  
5 call are not connected to law enforcement in York County.  
6 I will call them civilians. Richard Brookshire; Bridget  
7 Daugherty; Keith Greene; Jason Owens, Barbara Boozer, Larry  
8 Boozer, John Garrett, Shelly Pettigrew.

9 Anybody related by blood or marriage to any of those  
10 individuals or close personal friends please stand?

11 No one stands. Anything further from the State?

12 SOLICITOR DESCH: No, Your Honor.

13 THE COURT: From the Defense?

14 MR. SULLIVAN: No, sir.

15 THE COURT: Do any of you know of any reason  
16 whatsoever why you could not or should not serve as a fair  
17 and impartial juror in the trial of this particular case if  
18 so please stand?

19 No one stands. Now some of you were up here yesterday  
20 and in fact some of you ended up on the jury. But for  
21 those of you who have not been up here and to refresh those  
22 who were the way we draw jurors in this court is as  
23 follows. Please come forward if you hear your name called  
24 and bring with you if you have any books, newspapers, coats  
25 or anything like that so that if you are seated you won't

1 have to go back and get them. Stand next to the bailiff  
2 turn around and face the table where the Solicitor's are  
3 seated. One of them will say either present the juror or  
4 excuse the juror. If they say excuse the juror simply  
5 return to your seat. If they say present the jury turn to  
6 the table where Mr. Boozer and his attorney's are seated.  
7 One of his attorneys will say either swear the juror which  
8 means you will take a seat in the jury box and the bailiff  
9 will help you with that. Or Mr. Boozer's attorney may say  
10 excuse the juror. If you hear that simply return to your  
11 seat.

12 Madame Clerk.

13 MADAME CLERK: Number Two-Sixteen, Karen Ward.

14 (NOTE: WHITE FEMALE COMING FORWARD.)

15 MADAME CLERK: What say you for the State?

16 SOLICITOR DESCH: Please present this juror.

17 MADAME CLERK: Defense?

18 MR. SULLIVAN: Please swear the juror.

19 MADAME CLERK: Please have a seat in the jury box.

20 Number Two Seventeen, Richard Warner.

21 SOLICITOR LIPINSKI: What number; I'm sorry.

22 MADAME CLERK: Two Seventeen.

23 (NOTE: WHITE MALE COMING FORWARD.)

24 MADAME CLERK: What say you for the State?

25 SOLICITOR DESCH: Please present this juror.

1 MADAME CLERK: Defense?

2 MR. SULLIVAN: Please excuse the juror.

3 MADAME CLERK: You are excused from this case, sir.

4 Number Fifty-Five, Vonda Demarest.

5 MADAME CLERK: What say you for the State?

6 SOLICITOR DESCH: Please present this juror.

7 MADAME CLERK: Defense?

8 MR. SULLIVAN: Please seat the juror.

9 MADAME CLERK: Please have a seat in the jury box.

10 Number Forty-Eight Janice Crawley.

11 (NOTE: WHITE FEMALE COMING FORWARD.)

12 MADAME CLERK: What say you for the State?

13 SOLICITOR DESCH: Please present this juror.

14 MADAME CLERK: Defense?

15 MR. SULLIVAN: Please excuse this juror.

16 MADAME CLERK: You are excused from this case.

17 Number Eighty-seven Heather Gordon.

18 (NOTE: WHITE FEMALE COMING FORWARD.)

19 MADAME CLERK: What say you for the State?

20 SOLICITOR DESCH: Please present this juror.

21 MADAME CLERK: Defense?

22 MR. SULLIVAN: Please present the juror.

23 MADAME CLERK: Please have a seat in the jury box.

24 Number Ten Kathrine Baird.

25 (NOTE: WHITE FEMALE COMING FORWARD.)

1 MADAME CLERK: What say you for the State?

2 SOLICITOR DESCH: Please present the juror please.

3 MADAME CLERK: Defense?

4 MR. SULLIVAN: Please excuse the juror.

5 MADAME CLERK: You are excused from this case.

6 Number Two Judson Abraham.

7 (NOTE: WHITE MALE COMING FORWARD.)

8 MADAME CLERK: What say you for the State?

9 SOLICITOR DESCH: Please present this juror.

10 MADAME CLERK: Defense?

11 MR. SULLIVAN: Please swear the juror.

12 MADAME CLERK: Please have a seat in the jury box.

13 Number Forty-one Benny Collins.

14 (NOTE: WHITE MALE COMING FORWARD.)

15 MADAME CLERK: What say you for the State?

16 SOLICITOR DESCH: Please excuse this juror.

17 MADAME CLERK: You are excused from this case.

18 Number Nine, David Bailey.

19 (NOTE: WHITE MALE COMING FORWARD.)

20 MADAME CLERK: What say you for the State?

21 SOLICITOR DESCH: Please present this juror.

22 MADAME CLERK: Defense?

23 MR. SULLIVAN: Please excuse the juror.

24 MADAME CLERK: You are excused in this case.

25 Number Two Fourteen Karen Tripp.

1 (NOTE: WHITE FEMALE COMING FORWARD.)

2 MADAME CLERK: What say you for the State?

3 SOLICITOR DESCH: Please present this juror.

4 MADAME CLERK: Defense?

5 MR. SULLIVAN: Please swear the juror.

6 MADAME CLERK: Please have a seat in the jury box.

7 Number Twenty Gene Brakefield.

8 (NOTE: WHITE MALE COMING FORWARD.)

9 MADAME CLERK: What say you for the State?

10 SOLICITOR DESCH: Please present this juror.

11 MADAME CLERK: Defense?

12 MR. SULLIVAN: Please swear the juror.

13 MADAME CLERK: Please have a seat in the jury box,

14 sir.

15 Number Fifty-One Stephen Crump.

16 (NOTE: WHITE MALE COMING FORWARD.)

17 MADAME CLERK: What say you for the State?

18 SOLICITOR DESCH: Please seat this juror.

19 MADAME CLERK: Defense?

20 MR. SULLIVAN: Please swear the juror.

21 MADAME CLERK: Please have a seat in the jury box.

22 Number One Ninety-Eight Ontwain Simpson.

23 (NOTE: BLACK MALE COMING FORWARD.)

24 MADAME CLERK: What say you for the State?

25 SOLICITOR DESCH: Please excuse this juror.

1 MADAME CLERK: You are excused from this case.

2 Number One Fifty-nine Katharina Muraco.

3 (NOTE: WHITE FEMALE COMING FORWARD.)

4 MADAME CLERK: What say you for the State?

5 SOLICITOR DESCH: Please present this juror.

6 MADAME CLERK: Defense?

7 MR. SULLIVAN: Please swear the juror.

8 MADAME CLERK: Please have a seat in the jury box.

9 Number 1-0-8 Shirley Hunt.

10 (NOTE: WHITE FEMALE COMING FORWARD.)

11 MADAME CLERK: What say you for the State?

12 SOLICITOR DESCH: Please present this juror.

13 MADAME CLERK: Defense?

14 MR. SULLIVAN: Please swear the juror.

15 MADAME CLERK: Please have a seat in the jury box.

16 Number One Forty Seven Kathryn McMath.

17 (NOTE: WHITE FEMALE COMING FORWARD.)

18 MADAME CLERK: What say you for the State?

19 SOLICITOR DESCH: Please present this juror.

20 MADAME CLERK: Defense?

21 MR. SULLIVAN: Please swear the juror.

22 MADAME CLERK: Please have a seat in the jury box.

23 Number One Twenty-One Philip Knudson.

24 SOLICITOR DESCH: Whose number? I apologize.

25 MADAME CLERK: One Twenty-One.

1 What say you for the State?

2 ~~SOLICITOR-DESCH: Please present this juror.~~

3 MADAME CLERK: Defense?

4 MR. SULLIVAN: Please swear the juror.

5 MADAME CLERK: Please have a seat in the jury box.

6 Number Two twenty-Four Robert Winkler.

7 (NOTE: WHITE MALE COMING FORWARD.)

8 MADAME CLERK: What say you for the State?

9 SOLICITOR DESCH: Please present this juror.

10 MADAME CLERK: Defense?

11 MR. SULLIVAN: Please excuse the juror.

12 MADAME CLERK: You are excused from this case.

13 Number One Seventy-Two Thomas Pearson.

14 (NOTE: WHITE MALE COMING FORWARD.)

15 MADAME CLERK: What say you for the State?

16 SOLICITOR DESCH: Please present this juror.

17 MADAME CLERK: Defense?

18 MR. SULLIVAN: Please swear the juror.

19 MADAME CLERK: Please have a seat in the jury box.

20 THE COURT: Draw one alternate strikes will be one and  
21 two.

22 MADAME CLERK: Number Two Ten Janice Taibi.

23 (NOTE: WHITE FEMALE COMING FORWARD.)

24 MADAME CLERK: What say you for the State?

25 SOLICITOR DESCH: Please present this juror.

1 MADAME CLERK: Defense?

2 ~~MR. SULLIVAN: Please excuse the juror.~~

3 MADAME CLERK: You are excused from this case.

4 Number Ninety Eight Garth Hewitt.

5 (NOTE: WHITE MALE COMING FORWARD.)

6 MADAME CLERK: What say you for the State?

7 SOLICITOR DESCH: Please present this juror.

8 MADAME CLERK: Defense?

9 MR. SULLIVAN: Please swear the juror.

10 MADAME CLERK: Please have a seat in the jury box.

11 THE COURT: Anything from the State involving the  
12 striking of the panel?

13 SOLICITOR DESCH: No, sir, nothing from the State.

14 THE COURT: Defense?

15 MR. SULLIVAN: Nothing from the Defense, Your Honor.

16 THE COURT: All right. Those of you who were not  
17 chosen I am going to allow you to leave. I am going to ask  
18 you to do so quietly so I can start working with this  
19 panel. I am going to ask you to call back tonight after  
20 Seven again follow the instructions that you receive. So  
21 thank you for being here today and call back tonight after  
22 Seven. Thank you.

23 (JURY PANEL LEAVING COURTROOM.)

24 Those of you who were chosen I am going to ask you to  
25 stand and the Clerk is going to administer the oath.



1 MADAME CLERK: Please raise your right hand.

2 (WHEREUPON: PETIT JURY SWORN AT  
3 12:33 P.M..)

4 THE COURT: You may be seated. Since it's 12:30 I am  
5 going to chat with you just a minute and then we are going  
6 to break for lunch. You are on this panel now so you are  
7 not to let anyone discuss this case with you. If anyone  
8 does try to discuss this case with you tell them you cannot  
9 that you are serving as a juror. And don't start a  
10 conversation with anybody concerning this case. If anyone  
11 does try to discuss this case with you report that back to  
12 me hopefully giving me that person's identity because I  
13 will have to take action against someone who has tried to  
14 talk to a seated juror. Do not try to make up your own  
15 mind or discuss the case among yourselves until we reach  
16 the point in the trial where I instruct you to jointly  
17 deliberate and return a unanimous verdict. Prior to that  
18 time you are not equipped with all the tools you need to  
19 make a fair and reasonable decision so don't be trying to  
20 make up your own mind or discuss the case until we reach  
21 that point. Do not let yourselves be exposed to any news  
22 coverage if there is any. I don't know whether there will  
23 or not be. Do not listen to anything watch anything or  
24 read anything that can remotely deal with this trial.  
25 Remember your oath you will have to make your decision

1 based solely on the law and the evidence that's developed  
2 here in the trial. Along those same lines do not do any  
3 independent research. Do not of course go to the scene  
4 that you will hear about and do not go on line to research  
5 anything dealing with any of the issues. Don't look up  
6 anything about the substance about the individuals or about  
7 the defendant. Just remember don't go outside the record;  
8 don't go outside what you hear in this courtroom either  
9 with or without electronic means to determine anything to  
10 do with this case that would be unfair. Also it would  
11 violate your oath and we have had cases in South Carolina  
12 and in other jurisdictions that have been reversed by a  
13 higher court because jurors did not follow that  
14 instructions and did independent research particularly on  
15 line. Don't do it.

16 Now, Ms. Moroco, when we come back I am going to ask  
17 you to be the Forelady. You will sit in this seat on the  
18 front row. And the alternate will sit on that seat where  
19 he is seated now. The rest of you there are no assigned  
20 seating just simply sit where you happen to come in in  
21 line. In just a moment I am going to let you follow the  
22 bailiff he will show you where the jury room is that is  
23 where you will be housed while the trial is progressing.  
24 The procedure now is that when you come back from lunch and  
25 I am going to ask you to be back at Two o'clock. That

1 sounds like a long lunch hour but there is only one place  
2 to eat. It's within walking distance it's a rather  
3 precarious walk since you have to cross Highway 5 but there  
4 is a place to eat within walking distance but most of you  
5 will have to get in your car and travel so we do take about  
6 an hour and a half for lunch.

7 Anything further before we break for lunch from the  
8 State?

9 SOLICITOR DESCH: Nothing from the State, Your Honor.

10 THE COURT: Defense?

11 MR. SULLIVAN: Nothing from the Defense, Your Honor.

12 THE COURT: All right. We will see you back with the  
13 bailiff will tell you how to get in and out of the building  
14 while you are serving as a juror and we will see you back  
15 and hopefully be able to start promptly at Two o'clock.  
16 Have a pleasant lunch.

17 (JURY LEAVING COURTROOM FOR LUNCH AT 12:36 P.M..)

18 THE COURT: Anything else before we break for lunch?

19 SOLICITOR DESCH: Nothing from the State, Your Honor.

20 THE COURT: Anything?

21 MR. SULLIVAN: Nothing. Your Honor, the only thing I  
22 would ask is that Mr. Boozer be allowed to stay - -

23 THE COURT: No. Based on the significance of these  
24 charges and the fact that he has prior experience in this  
25 area I am going to require that he remain incarcerated

1 throughout the trial.

2 MR. SULLIVAN: Thank you, Your Honor.

3 THE COURT: All right. We will be at ease until Two  
4 o'clock.

5 (COURT IN RECESS FOR LUNCH AT 12:37 P.M..)

6 (BACK ON THE RECORD IN THE MATTER OF STATE V. RONALD  
7 TIMOTHY BOOZER AT 2:10 P.M..)

8 THE COURT: All right is the State ready?

9 SOLICITOR DESCH: Yes, Your Honor.

10 THE COURT: Let's get Mr. Boozer in.

11 (NOTE: DEFENDANT ENTERING COURTROOM.)

12 THE COURT: We got the State and the Defense and Mr.  
13 Boozer let's bring in the jury..

14 MR. SULLIVAN: Your Honor, we do have - -

15 THE COURT: Whoa, wait.

16 MR. SULLIVAN: Your Honor, we have one matter to bring  
17 up before the court before the jury comes in. And that  
18 relates specifically to this officers search warrant  
19 Officer Lubben. Obviously I understand the State intends  
20 to call Officer Lubben to testify as to the contents of the  
21 search warrant affidavit I believe I ask Your Honor to  
22 preclude them from going into the fact Mr. Boozer was  
23 arrested previously in 2008 and that was part of the basis  
24 to establishing probable cause for the issuance of the  
25 search warrant. Also if they intend to introduce a copy of

1 the affidavit into evidence I would ask that that affidavit  
2 be redacted excluding that portion.

3 SOLICITOR DESCH: I can take this one.

4 If Your Honor is - -

5 THE COURT: Don't fight over it.

6 SOLICITOR DESCH: I have no intention of entering the  
7 search warrant.

8 THE COURT: Yeah I don't even think it's necessary.  
9 I've already ruled. That's a question for the court so I  
10 don't know whether the search warrant has any relevancy to  
11 that - to the charge so unless again the door is opened for  
12 some reason.

13 MR. SULLIVAN: Yes, sir.

14 THE COURT: There won't be any involving the search  
15 warrant other - Lubben would testify I would think that a  
16 search warrant was issued and a search was conducted but as  
17 far as the underlying episode or whatever you want to call  
18 it a search warrant that's not an issue.

19 MR. SULLIVAN: Very well. Thank you, Your Honor.

20 The COURT: All right. Bring in the jury.

21 (JURY ENTERING COURTROOM AT 2:13 P.M..)

22 THE COURT: Members of the jury panel, in just a  
23 minute the attorneys have the right but no obligation to  
24 come before you and make what are called opening  
25 statements. They are not witnesses so they are not

1     testifying and they are not at this time trying to convince  
2     you what your verdict should be. They will do that and  
3     then they will have an opportunity to do that at the end of  
4     the trial. Right now they are just giving you a blueprint  
5     or an outline or what some people call a roadmap of the  
6     trial.

7             Mr. Boozer as to these two indictments has entered  
8     pleas of not guilty. These pleas of not guilty place on  
9     the State the burden of proving his guilt beyond a  
10    reasonable doubt before you can convict him as to one or  
11    both of these indictments. I have several like three  
12    primary jobs in the trial of the case. One is I am the  
13    logistics person I make sure that we take breaks; that only  
14    one person talks at a time. I try to make sure you see and  
15    hear what you need to see and hear. I also rule on  
16    questions and the admissibility of evidence and if during  
17    the trial we get to a point where one lawyer thinks certain  
18    evidence should be admitted and one from the other side  
19    should think it should not I may have to excuse you to take  
20    up matters of law. But don't hold that against the  
21    attorneys they are simply doing their job. My third job is  
22    that I am the sole judge of the law in this case. You must  
23    take accept and apply the law as I charge it. This is true  
24    even if you think I charge the law in error or if you think  
25    the law should be different. Your oath requires you to

1 take accept and apply the law as I charge it.

2 You are not to infer from anything I say or do at any  
3 time during this trial as indicating an opinion of mine on  
4 the facts. A trial judge is not allowed to formulate or  
5 express to a jury any opinion on the facts that is solely  
6 your job and it is solely up to you and to examine the  
7 facts give the evidence the weight and truth that you  
8 believe it should have. You may believe one witness as  
9 opposed to several several witnesses as opposed to one.  
10 You may believe all part or none of a witnesses testimony.  
11 Use your common sense your sense of logic use your  
12 experiences in life as you analyze the evidence.

13 As judges of the facts you must also judge the  
14 believability or credibility of the witnesses who testify.  
15 In assessing believability use the things I've just talked  
16 about use the things that you find in your day to day life.  
17 as indicating to you truthfulness in an individual. You  
18 can use certain evaluators how a witness acts on the stand  
19 their demeanor whether they are straightforward or hesitant  
20 when they respond to questions. Look at the consistencies  
21 and inconsistencies in their testimony. You can also look  
22 at any bias or prejudice a witness may have that is whether  
23 a witness wishes to help or hurt one side or the other.  
24 And you can also consider the opportunity a witness had to  
25 actually know those things to which they testified. All of

1 these things you consider you will be in a position to  
2 determine the true facts apply the law and return a verdict  
3 that speaks the truth.

4 I have told you about not discussing the case. I told  
5 you what to do when you are outside and what not to do  
6 while you are outside the courtroom. If you can't see or  
7 hear let me know. It's not fair to present this case to  
8 you and then not let you see and hear what needs to - What  
9 you need to see and hear so cup your ear or give me a voice  
10 raising gesture or a nudging gesture and I will make sure  
11 that - I will do my best to make sure that you can see and  
12 hear what is going on.

13 Madame Forelady, you will be the liaison between the  
14 jury and myself preside over the jury's deliberations and  
15 ultimately sign the jury's unanimous verdict. We take  
16 breaks about every hour and a half I find that's good break  
17 time but if anyone needs a break at any time just let me  
18 know. Just raise your right hand and with no questions  
19 asked we will take a break. I know you can't pay attention  
20 if you are not comfortable and I want you to be able to pay  
21 attention. This of course is a very important case as all  
22 we try in this courtroom. So let me know if you need to  
23 take a break and I extend that to counsel and Mr. Boozer.  
24 We do want to move the case along but we are not in such a  
25 hurry that we want to do it and anybody or some or more of



1 the jurors not being in a position to pay the attention  
2 they need to.

3 Counsel.

4 SOLICITOR DESCH: May it please the Court, Your Honor.

5 December 13th, 2009 when Ms. Barbara Boozer called up  
6 the sheriff's department she had some concerns about her  
7 son on her property and a girl that was hanging out. She  
8 had some concerns. There were some history she wanted it  
9 dealt with she wanted a trespass notice to be given to this  
10 woman and she asked the sheriff's department to come out  
11 and help her with that so they did. The sheriff's deputies  
12 that got out there on this trespassing call when they got  
13 there they met with Mr. and Ms. Boozer. Now Mr. And Ms.  
14 Boozer are Tim Boozer's parents. Tim Boozer is the  
15 defendant in this case here today.

16 You are going to hear testimony about the layout of  
17 the land it's several acres of land. Mr. And Mr. Boozer  
18 they own all of it. On the property is their house down  
19 this long driveway in Willow Creek; down Willow Creek  
20 continues and the driveway continues down a dead end in  
21 almost like a T and on that is Tim Boozer's house a house  
22 owned by his family but is his house on their property.

23 Apparently there was a girl there that Ms. Boozer  
24 didn't exactly like and she I would assume or would hope  
25 that prior to calling the police had dealt or tried to deal

1 with it and came to her wits end and called the police to  
2 say that girl's car is down there can you do something  
3 about it. The officers came out. They came out in their  
4 marked police cars and in their uniforms and they got out  
5 there and they met Mr. And Ms. Boozer at Tim Boozer's  
6 house. While they are talking to her they notice that  
7 there is a bucket behind the house so there is smoke coming  
8 up behind the house. One of those deputies is going to  
9 take the stand and he is going to tell you what he  
10 observed. He's going to tell you that that smoke in that  
11 bucket that fire caused him some concern. Both deputies  
12 are out there at the same time they investigate that fire  
13 and what they discover in that fire raised some other  
14 concerns. In the fire was some smoldering what they may  
15 refer to as blister packs packs of medicine that pop out  
16 medicine and some batteries some lithium batteries.  
17 Now that may not mean anything to you and I but there  
18 are two things that cause concern to them so while they are  
19 out there they start looking around. And they found some  
20 other items located in a jeep in close proximity to that  
21 fire. Some Coleman fuel, some fertilizer, ammonium nitrate  
22 fertilizer. Again those individual things might not mean  
23 anything. Coleman fuel you can take that camping.  
24 Ammonium nitrate fertilizer is used on some industrial  
25 farms. But now we've got those two things in addition to

1 two more things that are found in the bucket. So at this  
2 point the deputies have some concerns and they call for the  
3 narcotics officer's to come out. Narcotic officers are  
4 basically the drug officers they are especially trained in  
5 drug dealing, drug selling, drug possessing, what marijuana  
6 looks like, what cocaine, crack, methamphetamine, heroin.  
7 That's their specific job they focus on those things. What  
8 to look for in a meth lab. And being concerned about the  
9 items that the officers were seeing they called out the  
10 narcotics officers and determined what exactly it meant.  
11 Narcotic officers came to the scene they confirmed some  
12 suspicions had some discussions between the two of them.  
13 Over the phone another narcotics officer calls another one  
14 says ha I got some worries about this and they present  
15 their findings to a judge.

16 What you are going to hear is testimony from the  
17 officers about why they are concerned about these items.  
18 What those items put together can make. A search warrant  
19 was obtained and that essentially says they were allowed to  
20 go into Tim Boozer's house at that point. Now you hear  
21 about it on TV a search warrant. Somebody's house is their  
22 private domain they have an expectation of privacy. So its  
23 very important that the officers follow everything that  
24 they are supposed to follow and they did. When they got  
25 into the house the officers are going to tell you what else

1 they found acetone, drain cleaner, coffee filter bags.  
2 Everything that they are going to tell you that they found  
3 in a vacuum may not mean anything to you. In this  
4 particular case the State is going to present testimony  
5 about what that means based on people's expertise and their  
6 experience. We are going to present witnesses that can  
7 tell you if in fact the ingredients found are put together  
8 what it can possibly produce. That if you find  
9 pseudoephedrine pills, drain cleaner, acetone, fertilizer,  
10 put all that stuff together you can produce a product  
11 called methamphetamine. Now you've probably heard a lot  
12 about meth labs on the media on TV. It's a little tough  
13 though to judge what we see on TV. CSI is one of my  
14 favorite shows or NCIS is one of my favorite shows but they  
15 can't - There is a tad bit of fiction in a lot of those  
16 shows. It's very easy if everybody gathered everything in  
17 the show you are probably going to get an active lab people  
18 busting in with HAZ-MAT suits you are going to have things  
19 that are fingerprinted in a second it's going to be hyped  
20 up for the entertainment value. We don't have that here.  
21 We have a small home made meth lab where that's what we are  
22 proposing it to be in a rural house in York County that Tim  
23 Boozer lives in. And Tim is not there at the time he left  
24 shortly before the officers got there but its his house  
25 it's his car. There is traffic that comes in and out

1 people coming to visit. Its going to be up to you to  
2 decide why they are there. You are in a very rare  
3 situation. You get to be the fact finder after everything  
4 that you hear. Judge Hayes is going to be the decider on  
5 the law if there is legal issues. That's what he takes  
6 care of. The facts of the case are going to be presented  
7 to you from the witnesses on that stand. As each witness  
8 takes that stand no matter who they are testifying for the  
9 State or the Defense it's your job to view their  
10 credibility. It's your job to decide whether they are  
11 telling the truth or not.

12 And in the case of an expert witness we present an  
13 expert witness to you it's because he's telling you telling  
14 us in the courtroom something that is not everyday  
15 knowledge. Most people don't know what happens when you  
16 mix the ingredients that we found. Most people don't know  
17 how to make methamphetamine that's why we need witnesses to  
18 explain that. To explain the process to what it means.  
19 How you take something that could be industrial fertilizer  
20 for a farm you mix it with something that cleans out your  
21 drains you run it through a coffee filter that you make  
22 coffee with in the morning you get it with a little bit of  
23 acetone and some other things that's what he's here to  
24 explain.

25 When we present that evidence to you and the testimony

1 it's our burden as the State to prove the case beyond a  
2 reasonable doubt. We are here to present evidence to prove  
3 that Timothy Boozer; Ronald Timothy Boozer was making or  
4 manufacturing methamphetamine in his house. Its our job to  
5 prove that. Now reasonable doubt is just that. It's not  
6 beyond all doubt. Nothing can we prove beyond a shadow of  
7 a doubt that's not our burden. Our burden is reasonable  
8 doubt. Something that leaves your firmly convinced that  
9 Tim Boozer is making meth in that house. Coupled with the  
10 ingredients and the items that are found there is some  
11 finished product that is also found. There is actually  
12 some powdered meth found in the house and we will present  
13 to you a chemist who actually tested that. And she will  
14 explain that process to you. This is new ground and we  
15 appreciate your patience for coming in here today. We  
16 present the evidence and then at the end we will ask for  
17 you to come back with one verdict and that is guilty.  
18 Thank you.

19 MR. DELANEY: May it please the Court?

20 THE COURT: Yes, sir.

21 MR. DELANEY: Good afternoon. Assumption,  
22 speculation, guess work that is what you are going to hear  
23 from this chair throughout this trial. The State's case  
24 against Tim Boozer for attempting to manufacture meth is  
25 built upon assumptions. And you've already heard as far as

1 some of the items that were found in this residence 2100  
2 Willow Creek Road. A place that Tim Boozer owned by  
3 Timothy Boozer's parents a place where Timothy Boozer was  
4 staying. You heard about these items that were in there  
5 and how they are precursors to manufacturing meth. Now  
6 you've also heard and you will hear that these items can be  
7 legitimately obtained lawfully possessed in their homes  
8 garages throughout this country. All of these items that  
9 you will hear about are legal to possess.

10 Now to mix no that's not legal to start mixing them  
11 together and start making meth no. But what I want you to  
12 pay attention to in this trial is where certain items were  
13 found in that house. And if something was used or  
14 something was found is there any evidence that it was being  
15 used to mix with anything else in that house. Because you  
16 are going to hear about a few things that were sitting out  
17 that were apparent and that were being used to mix. Ask  
18 yourselves where they were found in the house. And some of  
19 these items, ladies and gentlemen, were they used at all?  
20 Is there any evidence?

21 December the 13th 2009 Deputy Seaford and Whitaker you  
22 will hear arrived at 2100 Willow Creek Road a little after  
23 4:00 p.m.. And when they got there as you heard Timothy  
24 Boozer was not on the property he was not at the house.  
25 Now what the Solicitor neglected to mention is that when

1 officer's went in that house there was somebody in there  
2 and his name is Rick Brookshire. What you all collectively  
3 are going to have to do and ask yourselves at the end of  
4 this case when you retire to the jury deliberation room is  
5 this. Are you firmly convinced firmly convinced of the  
6 guilt of Timothy Boozer? Firmly convinced. And what I say  
7 to that, ladies and gentlemen, is no way. Your role in  
8 this courtroom there is not one more important. As you've  
9 heard your job duty in this case are to be the fact finders  
10 and you will determine those facts based upon the evidence  
11 that is presented to you.

12 Now also take into consideration what evidence has not  
13 been presented to you. The majority of the evidence will  
14 come from that stand. And you will have to determine the  
15 credibility the weight you are going to give to that  
16 testimony. You are going to set to see and listen are  
17 there inconsistencies with the testimony? And take an  
18 individuals credibility while they are on that stand  
19 testifying. At the end of this trial Judge Hayes will  
20 instruct you charge you as to the law and he will tell you  
21 Timothy Boozer walks into this courtroom presumed innocent  
22 and that presumption that cloak of innocence stays on him  
23 throughout that trial. And only you twelve can remove that  
24 cloak at the end of this case at the end of this trial.  
25 And he is presumed innocent throughout this trial.



1 Tim Boozer has a constitutional right not to testify.  
2 Why is that? That is because the State has the burden of  
3 proof and you all will have to hold them to their burden.  
4 Their burden is to present evidence to you in this case.  
5 Hold them to that burden. The State must prove that  
6 Timothy Boozer is guilty beyond a reasonable doubt of the  
7 charges that they have brought against him. Beyond a  
8 reasonable doubt. That is the standard that we have in  
9 this court. Reasonable doubt is the kind of doubt that  
10 would leave a reasonable person not firmly convinced  
11 hesitant to act. And why this burden this standard is so  
12 important in this process is because if you are not firmly  
13 convinced of that man's guilt if you are hesitant to act  
14 you must find him not guilty. That's why this burden is so  
15 important.

16 Now some of you may have had experiences in the past  
17 with proceedings in civil court that deal a lot of times  
18 with monetary issues. Civil court the standard is much  
19 lower. It's the mere preponderance of the evidence what is  
20 more likely than not. And in criminal court the court that  
21 we are in here today the standard is much higher, ladies  
22 and gentlemen. In a civil case if you would picture a old  
23 set of scales. In a civil case you take all the evidence  
24 the plaintiff has present; all the evidence the defendant  
25 has presented and if you weigh that evidence and if that

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 117

1 evidence tips ever so slightly they've met their burden.

2 If those scales tip ever so slightly by the evidence

3 presented they've met their burden. But in this case,

4 ladies and gentlemen, those scales don't have to tip.

5 There is no comparison.

6 We have the greatest legal system in the world. The  
7 power to render a fair verdict is taken away from the State

8 it's taken away from the defense it's taken away from the

9 Judge and that power is given to you, ladies and gentlemen.

10 This system demands better. Timothy Boozer deserves

11 better. And I contend to you at the end of this case you

12 will not be firmly convinced of Timothy Boozer's guilt.

13 Thank you.

14 THE COURT: Call your first witness.

15 SOLICITOR DESCH: State calls Deputy Seaford.

16 (WHEREUPON: DEPUTY DANIEL

17 SEAFORD, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS

18 FOLLOWS:)

19 DIRECT EXAMINATION

20 DEPUTY DANIEL SEAFORD BY SOLICITOR DESCH:

21 Q. Good afternoon.

22 A.. Good afternoon.

23 Q. Can you please state your name and spell your name  
24 again for the record.

25 A. Deputy Daniel Seaford, S-e-a-f-o-r-d.

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 118

1 Q. And where is it that you work, Deputy?

2 A. I work for the York County Sheriff's Office as a  
3 deputy.

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

5 A. Eight years.

6 Q. What is the training that you get to be a deputy with  
7 York County?

8 A. We get training in a vary of different types of  
9 scenarios from criminal domestic violence; larcenies, drug  
10 related activity, calls that we have to answer on the  
11 street.

12 Q. What are your duties as a sheriff's deputy?

13 A. I'm a patrol shift deputy.. I answer calls for service  
14 and anything that you call the police for as - If you pick  
15 up the phone and call the police the deputy that is going  
16 to come out is the road shift guy that's what I do.

17 Q. And have you been doing that road shift work the  
18 entire time you've been on the sheriff's office?

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

20 Q. And what shift do you typically work?

21 A. I work day shifts 6:00 a. m. to 6:00 p.m. on rotating  
22 days.

23 Q. And were you working on December 13th 2009?

24 A. Yes, ma'am.

25 Q. Who were you working with?

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 119

1 A. I was working with Deputy Whitaker and my other deputy  
2 was Deputy Hamrick but he was not at this call.

3 Q. What area of the county do you patrol?

4 A. District One which is the York District which also  
5 includes McConnells, Hickory Grove, Smyrna.

6 Q. So most of the area that you patrol is very rural,  
7 very country?

8 A. Yes, ma'am.

9 Q. At some point during your shift on the 13th were you  
10 called out to Willow Creek Road?

11 A. Yes.

12 Q. What kind of area is Willow Creek Road?

13 A. It is a rural area between McConnells and Rock Hill.

14 Q. So lots of open land?

15 A. Yes, ma'am.

16 Q. Do you know why you were called out to 2100 Willow  
17 Creek on the 13th?

18 A. We were dispatched in reference to a vehicle that was  
19 parked on some property and it was given to us as a  
20 trespass call.

21 Q. Do you know who called you?

22 A. Yes it was the Defendant's parents.

23 Q. And when you say dispatched what does that mean?

24 A. Dispatch is the people that give the police officers a  
25 call. In other words when you give a call to the sheriffs

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 120

1 office requesting to speak to an officer or need one to  
2 come to your house the person that's on the phone is the  
3 dispatcher that turns around and tells us which location to  
4 go to.

5 Q. So you have a radio on your shoulder. Do you also  
6 have equipment in your car?

7 A. Yes, ma'am.

8 Q. And that radio is what the dispatcher would say - - -

9 A. Yes, ma'am.

10 Q. - - - got a call out for 2100 Willow Creek go out  
11 there?

12 A. That's correct.

13 Q. How quickly were you able to get out there on that  
14 day?

15 A. I was there in approximately ten minutes.

16 Q. Do you remember about what time you got sent out  
17 there?

18 A. It was somewhere in the neighborhood of Four o'clock.  
19 I'm not exactly sure.

20 Q. What was the weather like that day? If you remember.

21 Q. It was a rainy day. It wasn't raining at the time  
22 that I got there but it had rained earlier in that day.

23 Q. When you got out to Willow Creek was it still day  
24 light out?

25 A. Yes.

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 121

1 Q. But it had rained but it was clearing up a little bit  
2 still day light you could still see?

3 A. Yes. It was cloudy but it was not raining.

4 Q. And you indicated you had been working with Deputy  
5 Whitaker. Did he go out there with you?

6 A. Yes he did.

7 Q. Now you guys in two separate cars same cars?

8 A. We're in two separate cars but we arrive at the  
9 address at approximately the same time.

10 Q. Marked car?

11 A. Yes.

12 Q. How are sheriff cars marked?

13 A. It's got sheriff on the side. It has a light bar  
14 across the top. It's a fully marked police car.

15 Q. Says Sheriff's Department on it?

16 A. Yes, ma'am.

17 Q. Got the blue lights on the top?

18 A. Yes, ma'am.

19 Q. And that day were you in the same uniform you are in  
20 today?

21 A. Yes, ma'am.

22 Q. Now when you get out to 2100 Willow Creek can you  
23 describe that specifically the property?

24 A. Yes, ma'am. It's a - That home is sitting in a large  
25 field a good distance from the main road. From that house

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 122

1 the nearest house is probably three or more yards.

2 Q. So three or four hundred yards so a quarter mile, half  
3 mile of drive way?

4 A. About a quarter mile from the last house. The whole  
5 drive way is probably longer than that.

6 Q. And the last house you mean his mother and father's  
7 house?

8 A. You pass his mother and father's house to get to the  
9 house that Mr. Boozer was at.

10 Q. Deputy, I'm going to show you what's been premarked  
11 for identification only as State's Exhibit Forty-Three,  
12 Forty-Four, Forty-Five and Forty-Six. Could you look at  
13 those please.

14 (WITNESS REVIEWING EXHIBITS.)

15 Q. How long were you out at Timothy Boozer's house on the  
16 13th?

17 A. From when I got there to when I left it was  
18 approximately - Probably five hours total.

19 Q. So you - - Sorry. You were out there for five hours?

20 A. Yes, ma'am.

21 Q. And you had to drive down the driveway to get to the  
22 house; correct?

23 A. That's correct.

24 Q. And you were at Tim Boozer's house; could you describe  
25 the house?

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 123

1 A. It was - It looked kind of like a log home. It was a  
2 wood style home. Drive way was on the right side of the  
3 drive way at the back of the field next to a wood lot.

4 Q. And based on your experience what -- Of Forty-Three  
5 through Forty-Six that I handed you what are those?

6 A. Those are ariel photographs of the house..

7 Q. Now based on your being out there five hours and in  
8 the day time even though those are ariel photos does that  
9 fairly and accurately represent what the house looked like  
10 on the 13th? And if there's any changes let me know.

11 A. It looks like the house that I went to.

12 Q. Okay.

13 A. I don't see any differences.

14 Q. Now there's other items and cars in that picture but  
15 is that - What did it look like on the 13th? In other  
16 words was the car parked there on the 13th?

17 A. No. The vehicle the Jeep Cherokee was parked behind  
18 the house not in the driveway but parked in behind the  
19 house.

20 Q. So these photos they are ariel photos they are not the  
21 ones that you actually took on the 13th?

22 A. That's correct.

23 Q. Aside from the fact that you didn't take them your  
24 experience with the house on the 13th does the house itself  
25 appear to be an accurate depiction of how the house was on



OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 124

1 the 13th?

2 A. Yes.

3 Q. Your Honor, we would like to move those into evidence  
4 as Forty-Three through Forty-Six.

5 MR. DELANEY: Your Honor, we would object to those  
6 coming in at this time as far as those pictures not being  
7 an accurate depiction of the house.

8 THE COURT: He testified they were pictures of the  
9 house. I over rule the objection. I'll allow them in and  
10 allow them into evidence.

11 (WHEREUPON: STATE'S EXHIBITS NUMBER FORTY THREE  
12 THROUGH FORTY SIX IDENTIFIED AND MARKED, ENTERED INTO  
13 EVIDENCE.)

14 SOLICITOR DESCH: May we publish to the jury?

15 THE COURT: Yes.

16 BY SOLICITOR DESCH:

17 Q. I am going to start with State's Exhibit Forty-Five  
18 and give you this handy dandy laser pointer. And if you  
19 need to you can come out you can help assist the jury in  
20 this next part of questions as long as you don't stand in  
21 front of them.

22 A. Okay.

23 (NOTE: STATE'S EXHIBIT NUMBER FORTY-FIVE PUBLISHED ON  
24 COURTROOM OVER HEAD.)

25 Q. Now in looking at State's Exhibit Forty-Five it's the

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 125

1 angle the front of the house and the driveway to the left.  
2 You indicated that the Jeep Cherokee was parked elsewhere.  
3 Could you point out to the jury what you found when you got  
4 to the house?

5 (WITNESS POINTING TO STATE'S EXHIBIT FORTY-FIVE.)

6 A. This is the driveway that you come in from the road.  
7 This Jeep was actually parked behind the house right next  
8 to this group of trees right here.

9 Q. So back in that shadow behind the house?

10 A. Right in this location right here.

11 Q. Now could you see the Jeep when you first came down  
12 the driveway?

13 A. No, ma'am, I couldn't see the Jeep until I got in the  
14 approximate area where this parking area is right here.

15 Q. And who did you meet when you got out to that house?

16 A. I met the defendants parents which were parked  
17 approximately right here.

18 Q. So they had driven down presumably from their house?

19 A. That's correct.

20 Q. Were they out of their car or on the car when you got  
21 there?

22 A. I don't remember for certain. I remember as having  
23 pulled up that they got out of the car. As we pulled up I  
24 don't remember if they were sitting in or not. But as I  
25 came down the driveway they got out of the vehicle.

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 126

1 Q. And both of them come over to talk to you?

2 A. I remember speaking with Ms. Boozer more so than Mr.  
3 Boozer but I do believe that both of them were out of the  
4 vehicle talking to them.

5 Q. Where was Deputy Whitaker at the time that you guys  
6 got there?

7 A. He had parked alongside me in this location right  
8 here.

9 Q. So at some point do both of you get out of your car?

10 A. Yes, ma'am.

11 Q. And just for clarification sake now down this driveway  
12 all the way - - -

13 A. This way.

14 Q. - - - is there a gate or something on this driveway?

15 A. There is a gate probably about midway between this  
16 house and Mr. Boozer's parents house. From this parking  
17 area maybe two hundred yards. I'm guessing but about two  
18 hundred yards from the parking lot there is a gate.

19 Q. And was the gate open when you drove through it?

20 A. Yes it was.

21 MR. DELANEY: Your Honor, I object as to leading at  
22 this time.

23 THE COURT: Yeah just don't ask any leading questions  
24 please.

25 BY SOLICITOR DESCH:

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 127

1 Q. How did you get through the driveway?

2 A. I just drove right on down the driveway. There was no  
3 obstructions between Mr. Boozer's parents house and his  
4 house. I just drove right past the parents house and up to  
5 this location right here.

6 Q. And when you met up with the Boozer's did they seem  
7 receptive to you guys being there?

8 A. They were.

9 Q. And what happened once you met with them?

10 A. When I met with them they were asking me about a  
11 vehicle that was parked here in the driveway that they  
12 wanted removed from their property. And that they did not  
13 want that person nor their vehicle on the property that was  
14 owned by them. And that Mr. Boozer and the female that  
15 owned that vehicle had left. Had drove - - -

16 MR. DELANEY: Your Honor, I object at this point.

17 A. - - - around and left.

18 THE COURT: As to this particular answer I sustain the  
19 objection. Just disregard the question and answer that was  
20 just elicited.

21 BY SOLICITOR DESCH:

22 Q. Now when you got out - -

23 THE COURT: She will ask you another question.

24 SOLICITOR DESCH: I'm sorry, Your Honor.

25 THE COURT: I said that you will ask him another

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 128  
1 question.

2 SOLICITOR DESCH: Yes, sir.

3 So when you are speaking with the Boozer's what else  
4 do you notice about the property?

5 A. While I was speaking with the Boozer's about the  
6 vehicle and what they needed to do to try to get it removed  
7 and Mr. Boozer removed from the place I observed a fire  
8 that was burning behind the house behind that vehicle that  
9 was in the back yard.

10 Q. And what did the fire appear to be? Describe it. How  
11 big was it?

12 A. The fire was in a what appeared to be a metal bucket  
13 as I walked up there later. You could see the bucket at  
14 the time we were standing there but it appeared to be a  
15 fire that had a lot of dark smoke in it. We smelt the  
16 chemical odor that was coming from the fire.

17 Q. A chemical odor?

18 A. Yes, ma'am.

19 Q. Now could you see the source of it from your initial  
20 spot when you first got to the house?

21 A. No, ma'am, you could only see the smoke coming from  
22 behind the vehicle.

23 Q. Now I'm going to show you what's been marked as  
24 State's Exhibit Forty-Three.

25 (NOTE: STATE'S EXHIBIT FORTY-THREE PUBLISHED TO JURY

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 129  
ON COURTROOM OVER HEAD.)

Q. Now that's a picture more of the back of the house.

Can you with your laser pointer point out where the  
fire was after you started investigating?

A. This is the porch area the vehicle was right beside  
the porch and the fire was right behind the vehicle.

Q. Now it's hard to tell in the ariel photo but about how  
close is that car and the fire to that back porch area?

A. From the porch there maybe six feet.

Q. So about from me to you?

A. Closer.

Q. Closer? So this - -

A. From the porch to the vehicle it would about the  
distance from me to you.

Q. Okay. About five six feet between the fire and the  
porch.

THE COURT: I thought it was the vehicle and the  
porch?

SOLICITOR DESCH: Vehicle and porch. I'm sorry.

Where was the fire in relation to all this?

A. Directly behind the vehicle approximately the same  
distance from the porch.

Q. And I'm the vehicle and you are the porch where is the  
fire?

A. You are the vehicle and I'm the porch the fire would

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 130

1 be located right here and the driveway would be right here.

2 Q. Okay. Did you investigate closer the source of the  
3 fire?

4 A. I did. While I was speaking with Mr. And Ms. Boozer  
5 Deputy Whitaker went over to check the fire to see if it  
6 was contained and what was burning because of the chemical  
7 odor and came back to me and told me that he had located  
8 lithium or batteries that had lithium wrote on them that  
9 was actually burning inside the barrel behind the vehicle.

10 Q. At some point do you yourself go over and check this  
11 out?

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

13 Q. And what did you see?

14 A. I saw lithium batteries that were burning inside a  
15 barrel approximate two or three gallon barrel and what  
16 appeared to be blister packs from type of medication that  
17 was burning in the barrel.

18 Q. Any labels on those blister packs at that point?

19 A. I didn't see any no, ma'am.

20 Q. After you saw that did that raise nay concerns?

21 A. Yes, ma'am, it did.

22 Q. How come?

23 A. Cause lithium batteries from classes I've had in  
24 training lithium is one of the components to make  
25 methamphetamine.

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 131

1 Q. So you've had classes about meth labs?

2 A. Yes, ma'am.

3 Q. What kind of class was that?

4 A. I've had some training monthly training on candescent  
5 meth labs and I have had one day actual different course on  
6 meth candescent meth labs and the chemicals that's used the  
7 indicators that's used to look for.

8 Q. What did you do at the point where you see lithium  
9 batteries and blister packs on the fire what then?

10 A. I started observing what was in my immediate vicinity  
11 and I looked in the window in the back of the vehicle that  
12 was parked about six feet from the fire and observed a can  
13 of camping fuel and a bag of ammonium nitrate.

14 Q. How did the - How did it appear to you the camping  
15 fuel and the ammonium nitrate?

16 A. What I noticed about the - I noticed that the ammonium  
17 nitrate bag appeared to be open. And the camping fuel was  
18 what appeared to have rain water or condensation on the  
19 camp - On the can itself.

20 Q. But its inside of a Jeep?

21 A. It was inside of the Jeep.

22 Q. So what's your best guess as to how it got wet?

23 MR. DELANEY: Your Honor, - -

24 THE COURT: Let's don't guess. Ask another question.

25 SOLICITOR DESCH: Thank you.



OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 132

1 Now you went up did you manipulate the Jeep in any way  
2 to look in?

3 A. I did not.

4 Q. Was there any tint or anything on the windows?

5 A. There was some light tint but it was still a good time  
6 of the day and I could still see through the windows with  
7 no problem.

8 Q. Now at this point you have lithium batteries burning  
9 blister packs ammonium nitrate and camping fuel. What does  
10 that mean to you based on your training and experience?

11 A. Those I know are all components of making  
12 methamphetamine. I've never actually seen anybody burn  
13 lithium batteries other than this incident that happened  
14 this day. I know all of those are ingredients. When I say  
15 those items I looked around and I also saw a large quantity  
16 of car batteries they were in the area and a few cans of  
17 Drano a drain cleaner that was located some - -

18 MR. DELANEY: Your Honor, is this a question of this  
19 officer or is he just - -

20 THE COURT: No I think he's still answering that one  
21 question. Go ahead.

22 A. I also noticed the car batteries and cans of Drano  
23 cleaner in the area.

24 Q. Where did you notice those?

25 A. The car batteries there were a few car batteries that

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 133

1 were next to the porch back here and there was one can of  
2 Drano I believe it was next to the porch and there was some  
3 more. As we seen these indicators we walked down this path  
4 right here and there were more car batteries and some more  
5 things that are indications of usage for methamphetamine  
6 that was in behind the house.

7 Q. Is that a wood line? Is that a fence? What's back  
8 there?

9 A. There is a fence line. Do you see this little path  
10 where somebody has been driving? Right along the edge of  
11 this woods right here there is a fence and these are woods  
12 in behind it. These few trees here are actually out in on  
13 the Boozer property.

14 Q. And when you are seeing the car batteries and the  
15 Drano what do they appear to be - How do they appear to  
16 you?

17 A. The car batteries just look like old car batteries  
18 that had been taken out of people's cars. Old batteries.

19 Q. And what else did you say you found back there?

20 A. Several cans of drain cleaner.

21 Q. And those were strewn along that path back there?

22 A. Yes, ma'am.

23 Q. Did they appear new or used?

24 A. They appeared to be used.

25 Q. Empty?

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 134

1 A. Empty.

2 Q. About if you could guess how many car batteries did  
3 you find on the property?

4 A. I would say between a hundred and fifty car batteries.

5 Q. I think it's okay for you to sit back down.

6 (WITNESS RETURNED TO WITNESS STAND.)

7 Q. After you found all that what did you do?

8 A. At that time I called narcotics units and told them  
9 the indicators that I had and what address I was at.

10 Q. And what happened after that?

11 A. Approximately forty five minutes or so after that  
12 phone call narcotic units arrived at my location.

13 Q. Were you still there when the narcotic officers  
14 arrived?

15 A. I was.

16 Q. And what were you doing at that time once they  
17 arrived?

18 A. Once the narcotic units arrived and I told them what I  
19 had I secured the scene and if people came down the  
20 driveway I checked those people that was coming to the  
21 house.

22 Q. And how did you secure the scene?

23 A. We watched the house to make sure that nobody exited  
24 or entered and anybody that came in the area I kept them  
25 out of the area.

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 135

1 Q. Now in the time that you were waiting for narcotic  
2 officers and the time that they were there about how many  
3 people came down that driveway to Tim Boozer's house?

4 A. Approximately four or five peoples.

5 Q. And did you make contact with any of them?

6 A. Yes, ma'am.

7 Q. Who did you make contact with?

8 A. I made contact with a Ms. Pettigrew I cant' remember  
9 her first name. She came twice. And I also made contact  
10 with a I believe a Ms. Ratterree and a Ms. Boone.

11 Q. You said Ms. Pettigrew came twice. How come?

12 A. While me and Deputy Whitaker were waiting on narcotics  
13 to arrive Ms. Pettigrew drove up asked if everything was  
14 okay and what was going on. We assured her and she asked  
15 if anybody was home and we told her that there was nobody  
16 home and she subsequently left - -

17 MR. DELANEY: Your Honor, I object. That's hearsay.

18 THE COURT: I sustain his objection.

19 She's going to ask you another question.

20 A. Okay.

21 Q. So Ms. Pettigrew came up and after you talked with her  
22 what happened?

23 A. I talked with her and she left for a couple of hours.

24 Q. And at some point did she come back?

25 A. Yes she did.

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 136

1 Q. Do you remember why she came back the second time?

2 A. She was still trying to make contact with somebody  
3 that lived at the house.

4 Q. Now while you were out there did you know of anybody  
5 was in fact home at Tim Boozer's house?

6 A. We knocked on the door but we didn't get anybody to  
7 come to the door.

8 Q. Was there anything that Mr. And Ms. Boozer had told  
9 you that indicated that anybody was inside the house at  
10 that time?

11 A. From what they indicated to me that Mr. Boozer and the  
12 female - - -

13 MR. DELANEY: Your Honor, - - -

14 A. - - - had left.

15 MR. DELANEY: - - - again this is hearsay coming from  
16 the officer.

17 THE COURT: Yeah. I sustain the objection.

18 BY SOLICITOR DESCH:

19 Q. So to your knowledge there was nobody else in the  
20 house because - But you didn't go inside?

21 A. That's correct I did not go inside.

22 Q. How long did you stay after the narcotic officers got  
23 there?

24 A. Approximately two hours.

25 Q. And what were you doing while they were there?

OFFICER DANIEL SEAFORD: DIRECT EXAMINATION BY SOL. DESCH 137

1 A. Securing the scene and checking those vehicles that  
2 came in.

3 Q. Now essentially you and Deputy Whitaker are there at  
4 the same time; for the same length of time?

5 A. That's correct.

6 Q. Is there any time that the two of you were separated  
7 or that you were doing different things?

8 A. Not that I recall. For the most part we all were in  
9 contact with each other.

10 Q. So what he say you saw and what you saw he saw?

11 A. That's correct.

12 Q. Were Mr. And Ms. Boozer there when the narcotic  
13 officers got there?

14 A. They were not.

15 Q. Did you notice anything else about the property as you  
16 were walking around?

17 A. Other than what I talked about not that I recall.

18 Q. And you indicated - Now you indicated earlier when you  
19 looked in the back the Coleman fuel was wet; correct?

20 A. That's correct.

21 Q. While you were on shift that day do you remember about  
22 what time it stopped raining in that area?

23 A. It had rained that morning and early into the  
24 afternoon. It probably had been raining up to an hour  
25 maybe before we got there.

1 Q. So rain quits about an hour before you get out to the  
2 residence; correct?

3 A. That's correct.

4 MR. DELANEY: Your Honor, that's a leading question.

5 THE COURT: It is. I am going to over rule your  
6 objection.

7 Watch your leading.

8 BY SOLICITOR DESCH:

9 Q. And when you looked out at the Jeep did you see  
10 anything that indicated that there was a leak in the Jeep  
11 or that allowed water in?

12 A. No I did not. Nothing else in the back that was  
13 around it appeared to be wet.

14 Q. When you went out through the quarter mile of driveway  
15 did you see any animals any field full of cows did you see  
16 anything like that?

17 A. I did not. I saw a pasture and a pasture fence but I  
18 didn't see any animals.

19 Q. Did you see any fertilizer that was laid down any  
20 where around Tim Boozer's house?

21 A. I did not.

22 Q. Any other fires or anything else burning besides what  
23 was in the bucket?

24 A. That was the only thing I seen burning at the time.  
25 There were some other burn areas around in that area but

1 that was the only fire that was actually going on when we  
2 got there.

3 Q. So burn piles from previous fires but nothing else  
4 smoldering in the fire besides the bucket?

5 A. That's correct.

6 Q. The Court's indulgence.

7 Please answer any questions that the Defense might  
8 have.

9 CROSS EXAMINATION

10 OFFICER DANIEL SEAFORD BY MR. DELANEY:

11 Q. December 13th that was a Sunday; right?

12 A. I can't recall.

13 Q. Okay. And it was you and Deputy Whitaker?

14 A. That's correct.

15 Q. Okay. And you all went to 2100 Willow Creek because  
16 of a trespassing call?

17 A. That's correct.

18 Q. Okay. And if I would say that call came in at 4:06  
19 p.m. that pretty accurate?

20 A. That sounds correct.

21 Q. Okay. And are you familiar with the call for service  
22 reports that are generated?

23 A. Yes.

24 Q. Okay. I guess this would say the call came in about  
25 4:06; is that right?



1 Q. That's correct.

2 Q. Okay. And you probably got out there what about 4:30?

3 A. I can't remember exactly. It seemed to be ten or  
4 fifteen minutes after I got the call.

5 Q. Okay. And according to this report it list a car that  
6 was on the property; is that right?

7 A. It list a trespass in progress; correct.

8 Q. Okay. And it has the name Janell?

9 A. It does.

10 Q. Okay. And you went to -- When you arrived at 2100  
11 Willow Creek I know we've seen a few pictures and I want to  
12 aks you about those in a minute. There is a main house or  
13 Mr. And Ms. Boozer, Larry and Barbara, they have a house  
14 initially; id that correct?

15 A. That's correct.

16 Q. Okay. And then you go by their house and you follow  
17 the road up; is that correct?

18 A. That's correct. They have a driveway that goes to  
19 their house and you go by the driveway and around their  
20 house to the house - -

21 Q. And there is land on both sides; is that right?

22 Q. That's correct.

23 Q. Okay. And I think you described it a few minutes ago  
24 as pasture type land?

25 A. That's correct.

1 Q. And you said that you didn't see any animals that day  
2 when you were out there; is that right?

3 A. That's true.

4 Q. But you don't know - There is a lot of land out there;  
5 correct?

6 A. That's true.

7 Q. Okay. And there is some barns out there; is that  
8 right?

9 A. There is a barn that I do remember.

10 Q. Okay. Do you remember seeing one or do you remember  
11 seeing more than one barn?

12 A. I remember seeing a barn.

13 Q. Okay.

14 A. At Mr. Boozer's the parents house.

15 Q. Okay. But you just remember seeing just one?

16 A. That's correct.

17 Q. Okay. And do you remember seeing a shed up by Mr.  
18 Boozer's house?

19 A. There is a like a garage over to the left hand side of  
20 Mr. Boozer's house.

21 Q. IF you were going up to - -

22 THE COURT: Let's make sure which Mr. Boozer we're  
23 talking about. We got two Mr. Boozers.

24 MR. DELANEY: Yeah.

25 A. Tim Boozers.

1 Q. When you were going up towards Timothy Boozer's house  
2 up on the left there is a I think you described it as a  
3 garage or a shed; is that right?

4 A. That's correct.

5 Q. Okay. May I approach, Judge?

6 THE COURT: Yes, sir.

7 BY MR. DELANEY:

8 Q. You looked at this picture a little earlier; is that  
9 correct?

10 A. That's correct.

11 Q. You said that was an accurate depiction of the house  
12 when you were there on December 9<sup>th</sup> of this past year;  
13 correct?

14 A. Yes.

15 Q. Okay. Now did you walk around the -- Did you walk  
16 around the property? You walked around the property;  
17 right?

18 A. I did.

19 Q. Okay. And do you recall when you were behind the  
20 house you walked -- The land that's to our right you walked  
21 out into that area there's a grassy field out there is that  
22 not correct?

23 A. That's correct.

24 Q. Okay. Now in looking at that picture and the picture  
25 you got there there is no grassy field out there is there?

1 A. There on this picture it shows a looks like a trash  
2 pile but on the back side of that where those vehicles are  
3 there is a grassy area.

4 Q. And the house was that -- The house was that color  
5 when you went out there?

6 A. The house was a wood color.

7 Q. It wasn't much darker than that?

8 A. I can't tell from this picture.

9 Q. Okay. When you arrived Tim Boozer was not on the  
10 property; correct?

11 A. That's correct.

12 Q. Okay. Was not in the house; right?

13 A. That's correct.

14 Q. And you spoke to Barbara and Larry Boozer; right?

15 A. Yes.

16 Q. And that would be Tim's parents; correct?

17 A. Yes.

18 Q. Okay. And they were unhappy weren't they?

19 A. They were not happy that's correct.

20 Q. Okay. And they were not happy regarding individuals  
21 who were coming onto their property; right?

22 A. They did not want this lady that drove this vehicle at  
23 that place.

24 Q. Okay. And that was Amy Danielle Craig; they did not  
25 want her on the property; correct?

1 A. That's correct.

2 Q. And they indicated to you that they had keys to the  
3 house; is that correct?

4 A. I can't recall if they did or not.

5 Q. And you described this fire in a metal can; is that  
6 right?

7 A. It was a metal bucket yes, sir.

8 Q. About this big?

9 A. Maybe slightly larger than that.

10 Q. A little bit larger?

11 A. Yes, sir.

12 Q. Okay. And the metal can is located a few feet behind  
13 this white Jeep; is that right?

14 A. That's correct.

15 Q. Okay. And you don't know who put that metal can  
16 behind that white Jeep; correct?

17 A. That's correct.

18 Q. You don't know who started that fire; correct?

19 A. I do not.

20 Q. You do not know who put those pill, empty pill packs,  
21 the batteries in that bucket do you?

22 A. I do not.

23 Q. At that time you didn't know someone was just a few  
24 feet away inside that residence; right?

25 A. I did not.

1 Q. You didn't know how long that individual was inside  
2 that residence; right?

3 A. I did not.

4 Q. You don't know what that individual was doing inside  
5 that residence do you?

6 A. I do not. We couldn't get anybody to the door.

7 Q. Or for that matter you don't know what that individual  
8 was doing outside the residence before you arrived;  
9 correct?

10 A. That's correct.

11 Q. And you said that you observed -- The camping fuel  
12 that you observed in the back of the Jeep was wet; is that  
13 right?

14 A. Yes.

15 Q. Okay. And you said it had been raining earlier that  
16 day; correct?

17 A. That's correct.

18 Q. Okay. And that camping fuel was not in the Jeep that  
19 long was it?

20 A. It didn't appear it had been in the Jeep for a long  
21 period.

22 Q. Okay. You testified that you were there about five  
23 hours?

24 A. I was there from what it looks like on this sheet as  
25 4:20 until probably about Ten o'clock.

1 Q. Okay. And you stated that you had on two times a Ms.  
2 Pettigrew, Shelly Pettigrew, came to the residence; is that  
3 right?

4 A. Yes.

5 Q. Okay. And you do not know who she was looking for at  
6 the residence do you?

7 A. I do not know.

8 Q. Okay. And you also stated another car came there as  
9 well?

10 A. That's correct.

11 Q. Okay. Did you prepare an incident report in this  
12 case?

13 A. I do not recall if I done a report or if narcotics  
14 done a report.

15 Q. Well this - I have here - -

16 May I approach?

17 And what is that?

18 A. This is a report from me.

19 Q. Okay. And you would have generated that report  
20 shortly after December 13th or on December 13th; is that  
21 correct?

22 A. That's correct..

23 Q. And you are trained to be as accurate and detailed  
24 when you write those reports; is that correct?

25 A. Yes, sir.

1 Q. And no where in that report does it make any mention  
2 of any large amount of batteries being found around the  
3 outside of this residence; correct?

4 A. That's correct.

5 Q. Do you have access to a camera?

6 A. I do.

7 Q. And did you take any pictures of any of those  
8 batteries that you saw out there that day?

9 A. No I did not.

10 Q. The Court's indulgence one moment.

11 All right no further questions. Thank you.

12 THE COURT: Redirect?

13 REDIRECT EXAMINATION

14 OFFICER DANIEL SEAFORD BY SOLICITOR DESCH:

15 Q. Deputy, when you do -- When you arrest somebody do you  
16 do a report?

17 A. I do.

18 Q. And in this case did you keep the case or did you turn  
19 it over to narcotics?

20 A. I turned it over to narcotics.

21 Q. And are you aware of whether or not they in fact did a  
22 case report to turn over to our office?

23 A. I'm not aware -- The report that he just showed me was  
24 a report from me going out there; the initial report of  
25 what I saw and what I did as far as turning over it to



1 narcotics.

2 Q. And why do you have to write those reports?

3 A. Because any time we have anything like that where it's  
4 going to become - Something is going to become of it there  
5 needs to be documentation of what I did and why.

6 Q. So you are writing a brief synopsis of what you did?

7 A. It's a brief synopsis of why I went out there.

8 Q. Thank you.

9 THE COURT: Recross?

10 RECCROSS EXAMINATION

11 OFFICER DANIEL SEAFORD BY MR. DELANEY:

12 Q. You would have told some of the other - You did write  
13 down a report you would have then told some of the other  
14 drug enforcement or some of the drug enforcement officers  
15 so they can put it in their reports; is that right?

16 A. I would have told the narcotics what I saw and what I  
17 found.

18 Q. Okay. Thank you.

19 THE COURT: You can step down.

20 OFFICER SEAFORD: Thank you.

21 THE COURT: You can be excused. We appreciate your  
22 time.

23 (WITNESS LEAVING WITNESS STAND.)

24 We will take our afternoon break for about ten  
25 minutes. The jury can go to the jury room.

OFFICER LEWIS CANTEY: DIRECT EXAM. BY SOL. DESCH

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1 (JURY LEAVING COURTROOM ON RECESS AT 3:22 P.M.)

2 THE COURT: Take about a ten minute break.

3 (COURT IN RECESS AT 3:24 P.M.)

4 (BACK ON THE RECORD AT 3:44 P.M.)

5 THE COURT: Bring in the jury.

6 MR. DELANEY: My client first, Judge.

7 THE COURT: Oh yeah let's get - -

8 (NOTE: DEFENDANT ENTERING COURTROOM.)

9 (NOTE: JURY ENTERING COURTROOM AT 3:45 P.M.)

10 THE COURT: Call your next witness.

11 SOLICITOR DESCH: State calls Officer Cantey.

12 THE COURT: Step up and be re-sworn in please, sir.

13 (WHEREUPON: OFFICER LEWIS

14 ALLEN CANTEY, BEING FIRST CALLED AND DULY SWORN, TESTIFIED  
15 AS FOLLOWS:)

16 DIRECT EXAMINATION

17 OFFICER LEWIS ALLEN CANTEY BY SOLICITOR DESCH:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. Could you please state your name and spell your last  
21 name for the record.

22 A. Lewis Allen Cantey, Junior, C-a-n-t-e-y.

23 Q. And where is it that you work?

24 A. I work for the Rock Hill Police Department. I'm  
25 currently assigned to the York County Multi-Jurisdictional

1 Drug Enforcement Unit.

2 Q. So you are a police officer?

3 A. Yes, ma'am.

4 Q. How long have you been a police officer?

5 A. Sixteen years.

6 Q. All with Rock Hill P.D.?

7 A. A. No, ma'am. I had about eight months to a year  
8 prior at Lake City Police Department.

9 Q. That's in -- Around Florence?

10 A. South Carolina. Yes, ma'am.

11 Q. So about fifteen years with Rock Hill P.D.?

12 A. Yes, ma'am.

13 Q. And you indicated you were assigned to the Drug  
14 Enforcement Unit?

15 A. That's correct.

16 Q. What is that? Can you explain that to the jury?

17 A. It is a group of officers from each individual agency  
18 throughout the county who have the arrest powers of a  
19 deputy to be able to arrest anyone for drugs, prostitution  
20 or any other vice crimes. It's kind of - It's easier and  
21 more productive to have the officers a large group work  
22 throughout the whole county versus have each individual  
23 agencies who might only have one or two police officers  
24 working narcotics. Instead we would have the possibility  
25 of seventeen working that same area.

1 Q. So as a Rock Hill police officer you have Rock Hill  
2 City jurisdiction - - -

3 A. Yes, ma'am.

4 Q. - - - but as DEU what is your jurisdiction?

5 A. York County.

6 Q. County jurisdiction?

7 A. Yes, ma'am.

8 Q. How long have you been with the Drug Enforcement Unit?

9 A. Six. A little over six years.

10 Q. What is some of the training that you had to go  
11 through in sixteen years of law enforcement?

12 A. Quite a bit. Traffic accidents, domestics, general  
13 update on laws, drug enforcement training, swap training,  
14 sniper training. Quite a bit.

15 Q. What specific training do you have in relation to  
16 narcotics?

17 A. I went through the narcotics school at the South  
18 Carolina Criminal Justice Academy. And I've also graduated  
19 from the Narcotics Commander School. I was trying to  
20 remember the name of it down in Columbia. It's put on by  
21 the District Attorney's Office.

22 Q. And what kind of things do you learn in these specific  
23 instructional training?

24 A. How to identify different drugs. The way different  
25 drugs are made. How they are brought into the country or

1 produced and in the Commander School you go on the  
2 supervisor level. They are training you to be a  
3 supervisor.

4 Q. And are you -- Have you focused the last couple of  
5 years on any particular narcotic?

6 A. I am one of the officers that has been assigned to the  
7 meth problem we are starting to experience here in York  
8 County.

9 Q. Now you say starting to experience. Have we not had a  
10 lot?

11 A. Not in years past. In years past we might have two or  
12 three labs throughout the whole year maybe less. I believe  
13 since December we've had four labs this year.

14 Q. Now when you say lab a meth lab what does that mean?

15 A. It's where people are purchasing pseudoephedrine or  
16 pseudoephedrine products and through a process turn it into  
17 methamphetamine.

18 Q. Now to your knowledge based on your experience does ti  
19 have to be like large quantities - - -

20 A. No.

21 Q. - - - like does it - So when you say lab tell the jury  
22 what they should expect in a lab? I mean the word is kind  
23 of misleading.

24 Q. Its not on a large scale like you would think of like  
25 a chemist lab. In past we have had a lab that was all

1 encased inside a cooler like you would carry to the beach  
2 or something. Just all the ingredients could fit inside  
3 that.

4 Q. And what kinds of ingredients are used to make meth?

5 A. Ammonium nitrate fertilizer the 34-00 type. Lantern  
6 fuel, different types of caustic acids, drain cleaner and  
7 either pseudoephedrine or ephedrine products kind of like  
8 cold medicine or bronc aid or something of that effect.

9 Q. And have you yourself investigated certain meth labs  
10 in this county?

11 A. Yes, ma'am, I have.

12 Q. And about how many have you yourself gone to?

13 A. I've gone to about five. Like I said we haven't had  
14 very many until recently.

15 Q. Now to put it in perspective other counties in South  
16 Carolina have had numerous labs. What would say Greenville  
17 County have compared to what we have?

18 MR. SULLIVAN: Objection to relevance.

19 THE COURT: I sustain the objection.

20 BY SOLICITOR DESCH:

21 Q. So in the five labs that you've gone to did any of  
22 those labs result in investigation and ultimately a  
23 conviction?

24 A. Yes, ma'am.

25 Q. Were you working on the 13th of 2009 of December?

1 A. No, ma'am, I was at home. I got called out by the  
2 commander of the drug unit.

3 Q. Are you guys always on call?

4 A. No, ma'am. We always have at least one person on call  
5 but I was not the person on call that night.

6 Q. Okay. Do you remember who was on call that night?

7 A. Officer Del Castillo.

8 Q. And you said you were called out as well. How come?

9 A. Because I was more familiar with meth labs she is a  
10 newer officer to the drug unit and hasn't been around for  
11 the labs so far.

12 Q. Where were you called out on that night?

13 A. I was called out from my residence to 2100 Willow  
14 Creek the residence of Ronald Timothy Boozer.

15 Q. And so you are called out to Tim Boozer's house on  
16 Willow Creek Road?

17 A. That's correct.

18 Q. In Rock Hill?

19 A. Yes, ma'am.

20 Q. What county is that?

21 A. It's inside York County.

22 Q. Now you were called from your home so how are you  
23 dressed, what are you in?

24 A. Our -- Besides court attire our normal uniform is  
25 pretty much like blue jeans and T shirts. It's considered

1 a casual undercover type.

2 Q. Is that what you were dressed in that night?

3 A. Yes, ma'am.

4 Q. Do you take a gun with you and a badge?

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

6 Q. How is that gun displayed?

7 A. The badge will either be around my neck or on my hip  
8 right beside the gun.

9 Q. And do you drive marked police cars?

10 A. No we drive regular cars like you would buy off a car  
11 lot.

12 Q. Now regular cars you buy off the car lot does it have  
13 any camera equipment in there --

14 A. It does not have any type of camera equipment it does  
15 have blue lights and sirens installed onto it.

16 Q. How?

17 A. Wired by the mechanic shop.

18 Q. I mean is it on the top of the car or --

19 A. No, ma'am, it's inside the vehicle. Some of them are  
20 put in through the grill lights of the cars some of them  
21 are just a flip down off the visor. It just depends on  
22 which ever agency whatever they decide to do the individual  
23 agencies.

24 Q. The blue lights in case you need them but not other  
25 equipment as far as audio visual and the like?



1 A. No, ma'am.

2 Q. Did you in fact go out to Mr. Boozer's house at 2100  
3 Willow Creek?

4 A. Yes, ma'am.

5 Q. And about what time did you get there?

6 A. I received a phone call between 5:30 and 6:00 and it  
7 took me about twenty minutes to get there from my  
8 residence.

9 Q. Who else was there when you got there?

10 A. Deputy Seaford and Deputy Whitaker.

11 Q. No one else at the property at the time you got there?

12 A. Not to my knowledge no.

13 Q. And at some point did anybody else arrive from the  
14 narcotics unit?

15 A. Yes.

16 Q. Who else came?

17 A. Officer Del Castillo showed up shortly after I did.

18 Q. So when you arrived what did you do?

19 A. I spoke to the two deputies that were there to try to  
20 find out exactly what was going on and why they called us  
21 out. All I was advised was that they had a possible meth  
22 lab - -

23 MR. SULLIVAN: Objection to hearsay.

24 THE COURT: I sustain the objection.

25 Just disregard what somebody else told you.

1 SOLICITOR DESCH: Your Honor, could we approach  
2 please? May we approach?

3 THE COURT: Yes.

4 (NOTE: BENCH CONFERENCE OFF THE RECORD OUT OF THE  
5 HEARING OF THE JURY AT 3:50 P.M.)

6 BY SOLICITOR DESCH:

7 Q. So what happened when you arrived?

8 A. I spoke to the two deputies on scene.

9 Q. And after you spoke with them what did you do?

10 A. Looked around to confirm what they had advised me of  
11 or their findings. Upon confirming that I made a phone  
12 call to our commander of the drug unit Marvin Brown and he  
13 advised me to contact Sergeant Lubben and ask for a search  
14 warrant.

15 Q. So they point out what's going on but do you yourself  
16 walk around or go look at anything?

17 A. Yes, ma'am.

18 Q. What do you see?

19 A. The original complaint was of a burning barrel or a  
20 bucket like I've always called them dog water buckets like  
21 the little two gallon water buckets. In the bottom of it  
22 when I got there it was about two inches off the bottom of  
23 the bucket it was some burnt material. The only thing I  
24 could recognize out of it was a partial blister pack of  
25 what appeared to be cold medicine and a - Some batteries

1 that would have been separated and burned. They were of  
2 the lithium type batteries.

3 Q. When you say separated what do you mean by separated?

4 A. One of the things during the production of meth they  
5 want the lithium to create a chemical reaction so they take  
6 those out of the lithium batteries. They dismantle the  
7 batteries or cut the batteries open and pull the lithium  
8 stripes out of it.

9 Q. So that's what you are seeing in the bottom of the  
10 burn - -

11 A. Yes, ma'am.

12 Q. When you said blister packs -- Let me back up for a  
13 second. In your investigations with meth labs have you  
14 yourself investigated and found pseudoephedrine in those  
15 blister packs?

16 A. Yes. The type pack he had was - I'm not sure if  
17 anyone is familiar with the cold medicine pseudoephedrine  
18 of the generic type of it like Wal-phed or Walgreens or CVS  
19 type. They have two types one is the twelve hour type  
20 which has more pseudoephedrine in it. It's just a longer  
21 lasting version of it. The other one is just the small  
22 thirty milligram red tablets. That was the type package  
23 that was in the kind that you push through from the front  
24 to the back pushes through the foil.

25 Q. After you saw those blister packs and stripped

1 batteries what did you do?

2 A. It immediately dawned on me that was a meth lab that  
3 we were looking at because there is no legitimate usage for  
4 to have batteries stripped apart like that and the  
5 pseudoephedrine products.

6 Q. Did you find at all -- Let me strike that. So at  
7 this point in your mind there is a meth lab what else did  
8 you look at while you were there?

9 A. Through the tint the factory tint windows of the cargo  
10 area of his -- Mr. Boozer's white Jeep there appeared to be  
11 ammonium nitrate bags in the back of it and Coleman lantern  
12 fuel containers. Those two products in and of itself are  
13 relatively harmless but --

14 MR. SULLIVAN: Objection, Your Honor. The Solicitor  
15 is asking a yes or no question. She ask him what he found  
16 she didn't ask him to narrate.

17 THE COURT: You've answered what she asked so she will  
18 move forward.

19 BY SOLICITOR DESCH:

20 Q. At this point what was your daylight situation out  
21 there?

22 A. It was dark when I arrived.

23 Q. How are you able to see through the window of the  
24 Jeep?

25 A. I used a flash light.

1 Q. And where was the Jeep located?

2 A. To the rear of the residence beside the deck.

3 Q. And were there any lights on at the house; Mr.  
4 Boozer's house, anything helping you or are you just  
5 looking with a flashlight?

6 A. Pretty much using a flashlight. I believe there is a  
7 yard light there but it doesn't - I believe its just like  
8 the driveway area. Not a hundred percent certain.

9 Q. I am going to show you what's been premarked as  
10 Exhibits Twenty, Twenty-One, Sixteen, Seventeen and  
11 Nineteen. Could you look at those and with - And tell us  
12 what they are before you answer if you could tell exactly  
13 what it is you are looking at for the record? The numbers  
14 are on the back.

15 (NOTE: WITNESS REVIEWING EXHIBITS.)

16 A. Which one would you like me to start with the lowest  
17 number and work up or . . .

18 Q. It doesn't matter.

19 A. Number Sixteen is of the white Jeep that was at the  
20 residence that night.

21 Q. To you knowledge - You said that was Sixteen?

22 A. Yes, ma'am, State's Exhibit Sixteen on the back.

23 Q. Okay. Next.

24 A. Seventeen will be a side view of the same view.

25 Q. Okay.

1 A. Number Nineteen will be three Coleman fuel containers  
2 one of them appears to be burnt. Has condensation on  
3 those. And --

4 Q. I'm sorry to interrupt but if you could not show the  
5 jury yet. If you could just look at them and tell me what  
6 they are.

7 A. Three Coleman fuel containers one of them being  
8 partially burnt. And it appears it is also a corner bag of  
9 ammonium nitrate with fertilizer in it.

10 Q. Now the pictures that you are looking at Sixteen,  
11 Seventeen and Nineteen are those the pictures actually of  
12 the Jeep and the Coleman fuel that you are looking at  
13 through the back window of the Jeep? Are those the  
14 pictures of that?

15 A. A. No, ma'am. The one with the Coleman fuel is  
16 after the lift gate from the back had been lifted up.

17 Q. Okay. So starting with just Sixteen and Seventeen the  
18 Jeep and the side view of the Jeep that's the same Jeep  
19 that's parked -- Sorry. Whose Jeep is that and where is  
20 it parked?

21 A. It's Ronald Timothy Boozer's Jeep and it's parked off  
22 the deck in the back yard.

23 Q. This is the same Jeep that Deputy Seaford was  
24 referring to as being parked about six to eight feet from  
25 the back porch?

1 A. Yes, ma'am.

2 Q. And do those two Sixteen and Seventeen is that an  
3 accurate depiction of what it looked like that night?

4 A. Yes, ma'am.

5 Q. Now at some point Nineteen, Twenty and Twenty-One  
6 those photos were taken; correct?

7 A. Yes, ma'am.

8 Q. I'm sorry continue on with what those are.

9 A. Are we through with Number Nineteen the one that I  
10 described?

11 Q. Not yet.

12 A. Okay.

13 Q. I'm sorry yes you are. Twenty-One.

14 A. Number Twenty will be of it appears to be two partial  
15 bags of ammonium nitrate fertilizer for 34-00 fifty pound  
16 bags of it.

17 Q. And Number Twenty-One?

18 A. Number Twenty-One is the same thing as the ammonium  
19 nitrate fertilizer blue crate of bag or tarp type container  
20 that had the Coleman fuel cans inside it. And I can't  
21 really make out what's in that part of the picture.

22 Q. Now the photo of the Coleman canisters in Nineteen and  
23 the fertilizer in Twenty and the combination of both on  
24 Twenty-One based on you walking up and seeing all of that  
25 is that an accurate depiction of how those items looked on

1 the night of the 13th of December?

2 A. Yes, ma'am.

3 Q. The State would like to move in Exhibits Sixteen,  
4 Seventeen, Nineteen, Twenty and Twenty-One into evidence.

5 THE COURT: Any objection?

6 MR. SULLIVAN: Without objection.

7 THE COURT: In without objection.

8 (WHEREUPON: STATE'S EXHIBITS NUMBER SIXTEEN,  
9 SEVENTEEN, NINETEEN, TWENTY AND TWENTY-ONE IDENTIFIED AND  
10 MARKED, ENTERED INTO EVIDENCE.)  
11 BY SOLICITOR DESCH:

12 Q. State's Exhibit Number Nineteen could you explain, I  
13 know it's a small picture but could you explain to the jury  
14 what it is specifically that you are seeing there?

15 A. Three empty Coleman containers one of them has been  
16 partially burnt one of them appears to be partially  
17 crushed. It had either rained or dew or some type of  
18 moisture on them.

19 Q. And you indicated that that picture was taken when the  
20 lift of the Jeep had been taken?

21 A. That's correct.

22 Q. Did water get in after the back lift of the Jeep - - -

23 A. No.

24 Q. - - - or where they wet before you got there?

25 A. No, ma'am, when I got there it was kind of foggy out



1 but it wasn't raining.

2 Q. Now this may seem like a stupid question but are those  
3 new cans or used cans?

4 A. They appear to be used cans empty. The tops are off  
5 of them.

6 Q. Now do we take those into evidence?

7 A. They were taken by a clean up crew.

8 Q. What do you mean by a clean up crew?

9 A. Whenever you have a meth lab our procedure is to  
10 contact DEA and have them decide if a chemist and a clean  
11 up crew comes out to take all the hazardous material from  
12 the lab. IN this case a clean up crew came out and took  
13 all the hazardous material and what they call lab trash  
14 from it. This is what was the part that was considered lab  
15 trash.

16 Q. Now this stuff was found in the Jeep outside of the  
17 residence; correct?

18 A. That's correct.

19 Q. So what did you do after you see the lithium batteries  
20 stripped, the blister packs, the fuel, the fertilizer what  
21 did you do at that point?

22 A. Prior to opening the gate on the Jeep when I observed  
23 the stuff through the glass of the window and the stuff  
24 burning in the canister I contacted Sergeant Lubben and  
25 requested a search warrant to be - -

1 MR. SULLIVAN: Objection, Your Honor.

2 THE COURT: I over rule your objection.

3 BY SOLICITOR DESCH:

4 Q. Go ahead.

5 A. I asked Officer Lubben for a search warrant. At that  
6 time he went to petition a judge for the search warrant for  
7 the house and for the car.

8 Q. At some point was a search warrant obtained for that  
9 house and that car?

10 A. Yes, ma'am.

11 Q. At some point did Sergeant Lubben come back to the  
12 house with the search warrant in hand?

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

14 MR. SULLIVAN: Objection, Your Honor.

15 THE COURT: I over rule your objection.

16 BY SOLICITOR DESCH:

17 Q. About how long did it take for all of that to happen?  
18 What were you doing in the mean time?

19 A. Probably over an hour for the search warrant from the  
20 phone call until Officer Lubben arrived with it. He was  
21 also at his house he had to come from his house to the  
22 police department to type the search warrant up and locate  
23 a judge and get one signed and then make it out to the  
24 house it was probably I would say an hour an hour and a  
25 half possibly before Sergeant Lubben got there. During

1 that time period while we were waiting on the outside  
2 waiting on our answer for the search warrant I contacted  
3 Sergeant Lubben again and advised him of the stuff here and  
4 the fact that Mr. Boozer had left the scene prior to us  
5 getting there there was the possibility of a lab being  
6 inside unattended. That was also a concern of ours also for  
7 officer safety issues. Labs left unattended can explode  
8 because of the chemicals being mixed together.

9 Q. And what did you do after voicing your concerns?

10 A. Went into the residence or for officer safety issues  
11 cleared the house and while clearing the house we found a  
12 subject in the back bedroom asleep on the bed who had to be  
13 shaken awake. That was Mr. Rick Brookshire.

14 Q. Is that the first time you realized somebody was in  
15 the house?

16 A. Yes it was.

17 Q. Now at that point how long had you or other officers  
18 been at that house?

19 A. About an hour or so.

20 Q. So you had been there about an hour. Had you tried  
21 knocking on the door prior to going in?

22 A. I did not but the two deputies prior to had advised me  
23 that they had knocked on it and no one come to the door  
24 when they came.

25 Q. Where did you - Can you describe the house and where

1 you found Mr. Brookshire?

2 A. If you walk in through the back door of the residence  
3 you kind of walk into a mud room and once you exit it you  
4 are in the kitchen area. There is a master bedroom off to  
5 the right hand side and off to the left hand side there are  
6 two bedrooms. I walked through the first bedroom closest  
7 to the kitchen went through a connecting bathroom. And the  
8 back bedroom which would have been actually on the front of  
9 the house was where Mr. Brookshire was found.

10 Q. Was that the master bedroom?

11 A. No, ma'am. The master bedroom is off to the right  
12 which is Mr. Boozer's bedroom.

13 Q. Could you describe the bedroom that you found Mr.  
14 Brookshire in?

15 A. It had clothes female clothes on the floor and the  
16 drawers kind of cluttered. He was as I was walking out of  
17 the bathroom facing the bed he was laying on the left side  
18 of the bed. There was clothes stacked up on top of the bed  
19 also.

20 Q. Female clothes?

21 A. Yes, ma'am.

22 Q. Was this -- Did it appear to be a kids bedroom or --

23 A. No, ma'am. What appeared to be the kids bedroom was  
24 the first bedroom I walked through because it was still a  
25 lot of toys in --

1 MR. SULLIVAN: Your Honor, that calls for speculation.

2 THE COURT: I over rule your objection.

3 Go ahead.

4 A. It appeared to be a kids bedroom because of the toys  
5 and stuff that was in the area and I believe it was bunk  
6 beds in there as well. And then there was a connecting  
7 bathroom and the other bedroom was definitely a female's  
8 room because the only clothing found in there was a  
9 female's clothing.

10 Q. Tell me again how you had to wake him up.

11 A. I ordered him to get up he didn't move or groan or  
12 make any noise. I actually had to go over and physically  
13 shake his shoulder and arm to get him up and he awoke  
14 rather surprised and one of the first questions asked was  
15 where is Tim.

16 MR. SULLIVAN: Objection, Your Honor, hearsay.

17 THE COURT: I over rule your objection.

18 BY SOLICITOR DESCH:

19 Q. So the first thing he says is where's Tim?

20 A. That's correct.

21 Q. In your experience in dealing with law enforcement  
22 have you dealt with people that are taking methamphetamine?

23 A. Yes, ma'am.

24 Q. And if someone -- What is methamphetamine?

25 A. It's a form of speed pretty much.

1 Q. So how does somebody act if they had just taken - -

2 MR. SULLIVAN: Objection, Your Honor. This is going  
3 beyond the scope - -

4 THE COURT: I sustain his objection.

5 BY SOLICITOR DESCH:

6 Q. So what did you do with Mr. Brookshire?

7 A. Once I got him out of the bed I walked him towards the  
8 kitchen area.

9 Q. And how was he acting as he went through the house?

10 A. Kind of groggy just like he had just woken up.

11 Q. At some point did he become aware of what was going  
12 on?

13 A. Yes, ma'am. After some other people arrived and he  
14 kind of figured out what was going on.

15 Q. Was Mr. Brookshire arrested on that day?

16 A. No, ma'am, he was not. He never came back to the  
17 house.

18 Q. Why would Mr. Brookshire be found in the house? Was  
19 he arrested?

20 A. Oh no he was not.

21 Q. How come you didn't arrest Ricky Brookshire?

22 A. Through the investigation while we were speaking with  
23 Mr. Brookshire it appeared that he had showed up several  
24 hours prior to and was basically getting a ride to a place  
25 called U Pull It.

1 Q. So nothing appeared that he had anything to do with  
2 Mr. Boozer's house?

3 A. That's correct.

4 Q. Or anything that was found in the house?

5 A. It appeared that he was just visiting.

6 Q. About how much longer until the search warrant arrived  
7 with Officer Lubben?

8 MR. SULLIVAN: Objection, Your Honor, on grounds  
9 previously stated.

10 THE COURT: I'm sorry.

11 Ask the question again.

12 SOLICITOR DESCH: About how much longer until Officer  
13 Lubben brought the search warrant to the house?

14 THE COURT: And you object?

15 MR. SULLIVAN: Yes, Your Honor.

16 THE COURT: I over rule the objection.

17 A. Can I answer?

18 THE COURT: Yeah you can answer.

19 A. A short time. It wasn't I would say probably fifteen  
20 minutes maybe.

21 Q. So at this point once Officer Lubben returns to the  
22 scene with the search warrant who - Which officers are at  
23 the scene?

24 A. The only ones at the scene are the two deputies that  
25 were there prior to myself and Officer Del Castillo.

1 Q. Any civilians -- I will just call them civilians --

2 Any non law enforcement there besides Ricky Brookshire?

3 A. Yes.

4 Q. Who else is there?

5 A. While waiting for the search warrant a female named  
6 Jennifer Ratterree and another female named Wanda Boone  
7 drove up.

8 Q. Did you make contact with either one of them when they  
9 drove up?

10 A. Yes I did.

11 Q. Who did you make contact with?

12 A. With both of the females.

13 Q. Who was driving?

14 A. Wanda Boone was driving Jennifer was in the front  
15 passenger seat.

16 Q. Whose car was it; do you know?

17 A. Ms. Boone's.

18 Q. What happened with Wanda Boone and Jennifer Ratterree?

19 A. I inquired why they were coming to the residence. Ms.  
20 Ratterree said that she lived there and she --

21 MR. SULLIVAN: Objection to what Ms. Ratterree --

22 THE COURT: Yeah I sustain the objection as to Ms.  
23 Ratterree.

24 Just disregard what Ms. Ratterree said.

25 BY SOLICITOR DESCH:



1 Q. Without saying what they said if you could just tell  
2 what you did in relation to the car and dealing with  
3 anybody else.

4 A. I asked them for consent to search the consent was  
5 granted. The vehicle was searched and in the floor board  
6 behind the driver's seat some coffee filters were found  
7 that had methamphetamine in it.

8 Q. And were either one or both of those parties arrested?

9 A. Yes they were.

10 Q. Who was arrested with the methamphetamine and in whose  
11 car?

12 A. Both of them Ms. Boone and Ms. Ratterree were both  
13 arrested for I believe it was attempt to distribute  
14 methamphetamine due to the weight of the meth.

15 Q. Do you remember how the meth was packaged in the car?

16 A. It was folded up in the round type coffee filters.

17 Q. I'm showing you what has been marked for  
18 identification only as State's Exhibit Fourteen. Can you  
19 tell the jury what that is?

20 A. It's a plastic bag containing four coffee filters with  
21 methamphetamine in it.

22 Q. And is that the same bag of coffee filters and meth  
23 that you pulled out of the Boone/Ratterree car?

24 A. Yes, ma'am.

25 Q. And how do you know it's the same one?

1 A. Because after I took them out of the vehicle after  
2 they were weighed and sealed my initials and the name  
3 signed across the top line. And these evidence pouches are  
4 pretty much tamper resistant the red glue that you see  
5 there will when you pull it apart to try to go back in the  
6 bag will distort these blue lines so once they are sealed  
7 we sign it or initial it and put the date on it.

8 Q. Does it appear to be tampered in any way?

9 A. No, ma'am, it doesn't appear to be.

10 Q. What did you do with it once you collected it and put  
11 it in the evidence bag?

12 A. Once I placed it into the evidence bag it was -- This  
13 item was signed over to Officer Del Castillo who was the  
14 evidence custodian for the house.

15 Q. What's the purpose of an evidence custodian?

16 A. Pretty much keeping a chain of evidence so instead of  
17 everyone a group of people turning in evidence into with  
18 all their names on it you only have one person turning in  
19 all the evidence instead a large number of people.

20 Q. Now Boone and Ratterree are at the house arrested and  
21 taken away. At some point what did you do with Ricky  
22 Brookshire?

23 A. He was released to go home after speaking with him and  
24 determined that he wasn't involved in it.

25 Q. Do you remember how he got home or how he left?

1 A. No I don't recall.

2 Q. Did you see him get into a car and leave?

3 MR. SULLIVAN: Objection. He just answered the  
4 question he didn't know how he got there.

5 THE COURT: Okay. I sustain the objection.

6 BY SOLICITOR DESCH:

7 Q. Did you see him take anything with him when he left?

8 A. No, ma'am, not to my knowledge.

9 Q. Did he take any clothes or anything from the house  
10 indicating that he belonged to the house other than  
11 visiting?

12 A. A. No, ma'am, not that I recall.

13 Q. Did you -- So you have the search warrant. What  
14 happens after the search warrant what do you do?

15 A. After myself and Officer Del Castillo was advised of  
16 the phone buy Sergeant Lubben the search warrant had been  
17 signed we began to execute the search warrant.

18 MR. SULLIVAN: Your Honor, at this time we would  
19 object obviously on all previously objection and we would  
20 ask Your Honor to consider making a standing objection.

21 THE COURT: All right this is a standing objection.  
22 Anything dealing with the search warrant I already ruled  
23 based on an earlier ruling.

24 A. We began to search the residence.

25 Q. Now I know this is probably hard not to speak in cop

1 speak but when you take and execute a search warrant what  
2 does that mean in just every day language?

3 A. To execute a search warrant basically we in this  
4 situation we began to search is executing a search warrant.  
5 If someone is home during the search warrant we read off  
6 the search warrant to them and advise them of their rights.  
7 That night Ms. Boone, Ms. Ratterree and Mr. Brookshire were  
8 all advised of their rights and the search warrant was read  
9 to them.

10 Q. And then you went inside and starting looking around  
11 essentially?

12 A. That's correct.

13 Q. Okay. And what are you looking for when you go  
14 inside?

15 A. Methamphetamine, other chemicals used in the  
16 production of methamphetamine; any type of glass ware or  
17 containers that were used during the production of  
18 methamphetamine or any type of scales or weighing devices  
19 that would be used to weigh the methamphetamine after  
20 production.

21 Q. Can you see this picture right here?

22 A. Yes, ma'am.

23 Q. I will get a picture -- It appears to be Exhibit  
24 Forty-Three if you will just use that as reference. What I  
25 would like for you to explain to the jury is as you enter

1 and start in that house if you can remember I would like  
2 for you to describe where the mud room is you mentioned the  
3 kitchen and the bedrooms if you could describe that for the  
4 jury?

5 A. Off to your left - -

6 Q. Do you have the laser pointer?

7 A. I don't know if I can get it at this angle.

8 (WITNESS LEAVING WITNESS STAND TO REFERENCE EXHIBIT.)

9 A. Off to the left there the little roof line here that's  
10 on the back porch going into the mud room area.

11 Q. Okay so back by where we testified about the Jeep  
12 being parked outside - -

13 A. The Jeep would be right in here. And off this back  
14 porch there is a deck and you can see it in the picture  
15 there and beside the deck is where the Jeep was.

16 Q. Okay other than the mud room what does the rest of the  
17 house look like?

18 A. From the mud room going into where the kitchen would  
19 be right here this area is kind of like a great room or a  
20 living room area. This way would be the master bedroom and  
21 a bathroom. Off to this side of the house you got another  
22 bedroom a connecting bathroom and a front bedroom.

23 Q. And when you describe what appeared to be a kids  
24 bedroom and the bedroom that you found Brookshire tell the  
25 jury which is which.

1 A. This would be the front bedroom or the type bedroom  
2 area I said was the kitchen room type.

3 Q. Okay.

4 A. The connecting bathroom the front bedroom here is  
5 where Mr. Brookshire was found.

6 Q. Now the area where you described is a great room,  
7 kitchen, laundry room and master bedroom. Are there walls  
8 blocking all those areas?

9 A. There is not a wall from the kitchen and to the great  
10 room area. There is the wall separating the mud room the  
11 master bedroom bathroom and from the master bedroom from  
12 the great room. There is a wall and the one door there.

13 Q. How could you tell -- Did at some point did you go  
14 through the house and go into what you deemed the master  
15 bedroom?

16 A. Yes, ma'am.

17 Q. And how do you know that was the master bedroom? How  
18 do you know that's Mr. Boozer's bedroom?

19 A. Well the larger bedroom in the house is usually the  
20 master bedroom and Mr. Boozer's stuff was in that room.

21 Q. Okay. Thank you.

22 A. Thank you.

23 Q. For pointing that out. Now just briefly the front  
24 roof line that would be to the right of what you described  
25 as the great room what is that? Is that just an entry way?

1 A. Yes, ma'am, that's the front door.

2 Q. So how did you get into the house? Which direction  
3 did you go in the house first?

4 A. I came in through the door going into the mud room.

5 Q. When you came up on that back deck did you see  
6 anything on that back deck by the mud room?

7 A. Yes, ma'am.

8 Q. What did you see?

9 A. On the back deck before getting onto the back porch  
10 area there was a thirty pound gas cylinder that had been  
11 modified.

12 Q. And when you say a thirty pound gas cylinder do you  
13 mean like a propane tank you put on a grill?

14 A. I mean with the type propane tank that goes on just  
15 about all the gas grills around.

16 Q. Was there a grill there?

17 A. Yes, ma'am.

18 Q. Was it attached to the grill?

19 A. No, ma'am.

20 Q. What was it?

21 A. It was sitting off by itself beside the gas grill and  
22 it had been modified with the nozzle that you would attach  
23 the coupling going to your gas grill is it had a nipple  
24 screwed into it that kind of like down sized it to about a  
25 quarter inch.

1 Q. How does it normally attach to a gas grill?

2 A. Usually you have either a -- Your gas grill usually  
3 screws into or screws on top of the nozzle of the gas tank.

4 Q. And what's the whole diameter if you had to guess or  
5 from what you've seen what's about the - -

6 A. Inch, inch and a half maybe.

7 Q. So a propane tank that was hooked up to a gas grill  
8 would have about an inch and a half diameter valve hookup  
9 would that be - -

10 A. Yes, ma'am. To my knowledge they are pretty standard.

11 Q. And how was it changed in this case?

12 A. It had a down sizing nipple that was screwed into the  
13 inner part of the valve going from the inch and a half down  
14 to about a quarter inch.

15 Q. Now did we do anything with that propane tank?

16 A. That was also seized by the clean up crew.

17 Q. So the HAZ-MAT took the propane tank?

18 A. Yes, ma'am.

19 Q. When you entered into the mud room is that the first  
20 room you came to?

21 A. Yes, ma'am.

22 Q. What did you notice in the mud room?

23 A. It's the room where the washer and dryer was. Another  
24 freezer, a stand up freezer in that room and like a wooden  
25 box to the right of it.



1 Q. Did you look in the freezer around the mud room at  
2 all?

3 A. Yes, ma'am.

4 Q. And what did you find?

5 A. What we call pill wash. During the process of  
6 methamphetamine they crush up the pseudoephedrine pills to  
7 basically get the pseudoephedrine or ephedrine out of it  
8 and too all the binder, the other part of the pill, to  
9 settle to the bottom and is filled with Coleman fuel or  
10 some type of solvent.

11 Q. Did you open up the refrigerator in the mud room?

12 A. That was the freezer in the mud room.

13 Q. The freezer? And is that where you're talking about  
14 finding that binder?

15 A. Yes, ma'am.

16 Q. I'm showing you State's Exhibit for identification  
17 Thirty-Two. What is that?

18 A. This one actually appears to be an identical type  
19 object or solution that was in the freezer compartment of  
20 the kitchen.

21 Q. And is that what you found in the -- No that's the  
22 kitchen you found that.

23 A. This is from the kitchen yes, ma'am.

24 Q. Okay. State's Exhibit Thirty-Seven for  
25 identification. Is that also in the kitchen?

1 A. No, ma'am. This is from the mud room.

2 Q. Okay. Is that what you were just describing?

3 A. Yes, ma'am. This is a mason jar with a -- It appears  
4 that the pseudoephedrine is separating in the solution.

5 Q. Did we take that into evidence?

6 A. I believe this was also taken by the HAZ-MAT crew.

7 Q. So looking at the top one that's actually in the mud  
8 room is that an accurate depiction of what you found in the  
9 mud room?

10 A. Yes, ma'am.

11 Q. Okay. Could we enter that into evidence as State's  
12 Exhibit Thirty-Seven?

13 THE COURT: Any objection.

14 MR. SULLIVAN: Your Honor, we haven't seen that  
15 picture. Item Thirty-Two we have but not the other one.

16 THE COURT: You want to show it to him?

17 SOLICITOR DESCH: Yes, Your Honor. Could we approach  
18 for a second?

19 THE COURT: Yes.

20 (BENCH CONFERENCE AT 4:30 P.M. OFF THE RECORD OUT OF  
21 THE HEARING OF THE JURY.)

22 THE COURT: For the record he has now seen them.

23 SOLICITOR DESCH: Thank you, Your Honor.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-SEVEN

25 PREMARKED FOR IDENTIFICATION, ENTERED INTO EVIDENCE.)

1 I show you State's Exhibit Forty-One that we have  
2 presented to the defense. Do you recognize that?

3 A. Yes, ma'am.

4 Q. Is that something you found in the mud room?

5 A. It is on top of the either the washer machine or the  
6 dryer. It appears to be the washing machine. It's a  
7 container with a caustic liquid in it.

8 Q. When you say caustic liquid can you - -

9 A. I would have to check the evidence sheet. This is  
10 either Colman fuel or acetone. It appears to be the same  
11 color it's a yellow liquid in it.

12 Q. And does that picture accurately depict what you found  
13 on the 13th?

14 A. Yes, ma'am. The picture was taken prior to this being  
15 taken.

16 Q. Did we seize that into evidence or did the HAZ-MAT  
17 team - -

18 A. The HAZ-MAT team took that as well.

19 Q. The State would like to enter in Forty-One please into  
20 evidence.

21 MR. SULLIVAN: Without objection, Your Honor.

22 THE COURT: In without objection.

23 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-ONE  
24 IDENTIFIED AND MARKED, ENTERED INTO EVIDENCE.)

25 BY SOLICITOR DESCH:

1 Q. I'm showing you what's been marked as Thirty-Three and  
2 Thirty-Six. If you could look at those and tell me what  
3 they are please?

4 A. Thirty-Three is the jar of liquid of the pill wash  
5 from the freezer above the refrigerator in the kitchen.  
6 Off to the left of it is a grid I believe Officer Del  
7 Castillo is given by the HAZ-MAT Team when the picture was  
8 taken. And Thirty-Six is in a cupboard above or the upper  
9 part of a cupboard in the mud room is a container of  
10 acetone.

11 Q. And both Thirty-Three and Thirty-Six those pictures do  
12 they accurately depict what you found on the 13th?

13 A. Yes, ma'am.

14 Q. Did we seize either of those or were they seized by  
15 the HAS MAT team?

16 A. I believe those were taken by the HAZ-MAT Team as  
17 well.

18 Q. The State would like to move in Thirty-Three and  
19 Thirty-Six into evidence.

20 MR. SULLIVAN: Without objection.

21 THE COURT: In without objection.

22 (WHEREUPON: STATE'S EXHIBITS THIRTY-THREE AND THIRTY-  
23 SIX IDENTIFIED AND MARKED ENTERED INTO EVIDENCE.)

24 BY SOLICITOR DESCH:

25 Q. From the mud room where did you search?

1 A. From the mud room into the kitchen area.

2 Q. And what did you find to your recollection in the  
3 kitchen area?

4 A. There was a container of Coleman fuel under the  
5 kitchen sink some coffee filters that had been stained  
6 pinkish red that appeared to be used for to dry out the  
7 methamphetamine.

8 Q. So used coffee filters?

9 A. Yes. Not used with coffee but used coffee filters  
10 that had been used in the process.

11 Q. I am going to show you what's been marked as State's  
12 Exhibit Two. Do you recognize that?

13 A. Yes, ma'am.

14 Q. What do you recognize that to be?

15 A. Coffee filers with methamphetamine residue that was  
16 located in the cabinet above the microwave in the kitchen.

17 Q. Is that the same coffee filters you indicated you  
18 found in the kitchen?

19 A. Yes, ma'am. They had been stained a brownish color  
20 now. And on this bag as well has my signature and the date  
21 that was seized and sealed.

22 Q. You anticipated my next question. How do you know  
23 it's the same ones you got from Mr. Boozer's kitchen on the  
24 13th?

25 A. By my initials and the date.

1 Q. And again what did you do with the coffee filters once  
2 you found them?

3 A. Once I signed and sealed the bag I turned it over to  
4 Officer Del Castillo who was the evidence custodian.

5 Q. Does it appear to be tampered in any way?

6 A. No, ma'am.

7 Q. I'm showing you what's been marked as State's Exhibit  
8 One for identification. Do you recognize that?

9 A. Yes, ma'am.

10 Q. What do you recognize that to be?

11 A. Mason jar containing methamphetamine. It was located  
12 on the kitchen table.

13 Q. You found it on the kitchen table?

14 A. Yes, ma'am.

15 Q. How do you know that it's the same one that you found  
16 on Mr. Boozer's kitchen table?

17 A. Because its signed with my name on it dropping it in  
18 the bag and as well the evidence tape on the back of this  
19 bag. It's hard to read though.

20 Q. When you first put it into evidence did you put in  
21 that plastic bag that we see?

22 A. No, ma'am.

23 Q. How did you - -

24 A. The paper bag that's inside it and the red tape on the  
25 back of it is placed inside that bag.

1 Q. And how has it changed? Like why the plastic bag?

2 A. Because it's been taken out and tested by the chemist.

3 Q. And when you sealed it originally in that paper bag  
4 with the red tape what did you do with it at that point in  
5 time?

6 A. On the back of the bag I initialed dated and then  
7 handed it over to Officer Del Castillo.

8 Q. I'm going to show you State's Exhibit Twelve, Three  
9 and Five. And if you could go through individually tell me  
10 what it is and where you found it.

11 A. Exhibit Twelve is a Pyrex glass pan roughly the size  
12 of - -

13 Its inside the bag but you can see containing  
14 methamphetamine it was located on the floor in Tim Boozer's  
15 bedroom.

16 Q. So the Pyrex dish was found in the bedroom?

17 A. Yes, ma'am.

18 Q. And did you find that?

19 A. Yes, ma'am.

20 Q. And what did you do with it once you found that?

21 A. Placed it in the bag initialed it dated it and turned  
22 it over to Officer Del Castillo.

23 Q. And in looking at the next exhibit I put in front of  
24 you. Can you tell us which one you are looking at by the  
25 number?

1 A. State's Exhibit Number Three.

2 Q. And what is that and where did you find it?

3 A. Lithium batteries found in the kitchen drawer.

4 Q. And to your recollection are they new batteries or  
5 stripped batteries?

6 A. These were intact batteries they were not stripped  
7 down.

8 Q. And did you in fact find them?

9 A. Yes, ma'am.

10 Q. And how do you know those are the same batteries you  
11 found in the kitchen?

12 A. Once again I signed the bag and sealed it and signed  
13 and dated the back of it.

14 Q. And what did you do once you got it?

15 A. Gave them to Officer Del Castillo.

16 Q. And the last exhibit.

17 A. Plastic tubing State's Exhibit Number Five.

18 Q. And did you find that?

19 A. Yes, ma'am.

20 Q. And where did you find it?

21 A. On the kitchen table.

22 Q. Do you recall - I'm sorry let me back up. So you  
23 found the tubing on the kitchen table?

24 A. Yes, ma'am.

25 Q. And what did you do with it once you found it?



1 A. Placed it into the evidence bag and sealed it signed  
2 and dated it and then gave it to Officer Del Castillo.

3 Q. And it appears to be by your signature the same tubing  
4 that you found in Boozer's kitchen on the 13th?

5 A. Yes, ma'am.

6 Q. The Court's indulgence.

7 (PAUSE.)

8 Q. What else do you recall finding in the kitchen?

9 A. There was some glass ware or jars that had been  
10 altered from their original state to be used in the  
11 production of methamphetamine. I had like little holes  
12 punched in them. Some like tea pitchers or pitchers that  
13 had also been altered.

14 Q. What do you mean by tea pitcher?

15 A. Like a gallon size pitcher.

16 Q. A Tupperware pitcher?

17 A. Yeah like a plastic Tupperware pitcher, tea pitcher.

18 Q. I apologize these are probably not in order. I'm  
19 going to show you Twenty-Two, Twenty-Three, Twenty-Four,  
20 Twenty-Five and Twenty-Six, Twenty-Seven and Thirty-Two  
21 marked for identification. Could you look through those  
22 and as you are telling us what they are if you could just  
23 give us the exhibit number?

24 A. Just the number Number Twenty-Two. And you would like  
25 it described?

1 Q. Just tell me if you recognize it and what you  
2 recognize it to be.

3 A. The plastic container with a blue lid sitting on top  
4 of the kitchen table that had a caustic type liquid inside  
5 it some type of solvent.

6 Q. And is that accurately depict how you saw it on the  
7 13th?

8 A. Yes, ma'am.

9 Q. And is that something that we took into evidence or  
10 the HAZ-MAT took?

11 A. HAZ-MAT Team took that as well.

12 Q. And Number Twenty-Three.

13 A. Number Twenty-Three is just another picture of the  
14 pill wash that was in the freezer.

15 Q. Freezer in the kitchen?

16 A. Yes, ma'am. It's a picture taken outside the freezer  
17 when it was set on the kitchen counter.

18 Q. Is that the same dryer that would found on Exhibit  
19 Thirty-Two the last one in your file?

20 A. Yes, ma'am, the same picture.

21 Q. So the picture Number Thirty-Two of the dryer and the  
22 freezer and Number Twenty-Three that's the same jar out on  
23 the table to take a picture?

24 A. Yes, ma'am.

25 Q. Does that accurately depict how you saw it on the

1 13th?

2 A. Yes, ma'am.

3 Q. And is that's what was found in the kitchen in Mr.  
4 Boozer's house?

5 A. Yes, ma'am.

6 Q. And did we take that into evidence or did the HAZ-MAT  
7 Team?

8 A. HAZ-MAT Team took that one.

9 Q. If I could move Twenty-Two, Twenty-Three and Thirty-  
10 Two into evidence please?

11 MR. SULLIVAN: Without objection

12 THE COURT: Okay.

13 (WHEREUPON: STATE'S EXHIBIT NUMBERS TWENTY-TWO,  
14 TWENTY-THREE AND THIRTY-TWO IDENTIFIED AND MARKED, ENTERED  
15 INTO EVIDENCE.)

16 BY SOLICITOR DESCH:

17 Q. Number Twenty-Six and Twenty-Seven that you have in  
18 your hand what is that if you recognize it?

19 A. Twenty-Six and Twenty-Seven is the same jar from the  
20 freezer above the refrigerator in the kitchen that is being  
21 weighed on a digital scale.

22 Q. And Twenty-Seven?

23 A. Twenty-Seven is the amount of the glass jar after it  
24 settled on the numbers of 282.5.

25 Q. Now both of those photos did they accurately depict

1 first the pill wash dryer on the scale and the up post  
2 number is that how it was depicted to you? Is that how you  
3 saw it on the 13th?

4 A. Yes, ma'am.

5 Q. I would like to move Twenty-Six and Twenty-Seven into  
6 evidence.

7 MR. SULLIVAN: Without objection.

8 THE COURT: In without objection.

9 (WHEREUPON: STATE'S EXHIBIT NUMBERS TWENTY-SIX AND  
10 TWENTY-SEVEN IDENTIFIED AND MARKED, ENTERED INTO EVIDENCE.)  
11 BY SOLICITOR DESCH:

12 Q. Now that pill wash dry was what the HAZ-MAT took it's  
13 the same one we've seen in the freezer?

14 A. Yes, ma'am. From the freezer in the kitchen.

15 Q. Do you know what we did with that digital scale? Was  
16 that ours or Mr. Boozers?

17 State's Exhibit Six, I'm sorry, I'll show the defense.

18 (DEFENSE ATTORNEYS REVIEWING DOCUMENTS.)

19 Q. And if you don't remember what that is that's fine.  
20 Do you happen to know if it's the same scale that was used

21 --

22 A. It appears to be the same scale. I know the scale  
23 that was used that night was turned into evidence.

24 Q. But you yourself didn't actually find that?

25 A. No Officer Lubben found this.

1 Q. The Court's indulgence.

2 While you were mentioning it Twenty-four and Twenty-  
3 five do you recognize those two photos?

4 A. Yes, ma'am. State's Exhibit Twenty-four is the picture  
5 of the mason jar or canning jar that has the  
6 methamphetamine in it of the evidence that I described  
7 earlier.

8 Q. So Twenty-four is a picture of what we did seize?

9 A. Yes.

10 Q. And what was Twenty-Five?

11 A. Twenty-five is a container with a green lid that has  
12 paint thinner wrote on the lid that was seized the HAZ-MAT  
13 team.

14 Q. And Twenty-four and Twenty-five did you see those  
15 items on the 13th?

16 A. Yes, ma'am.

17 Q. Do those photos accurately depict how you saw them on  
18 the 13th at Mr. Boozer's house?

19 A. The paint thinner actually came from underneath the  
20 cabinet it was sitting beside the sink in the picture. It  
21 came from underneath the cabinet and placed up there to  
22 take a picture of and then it was seized. The ball jar or  
23 mason jar canning jar that has the methamphetamine in it  
24 was on the - I believe that was placed on a chair to get  
25 better lighting to take a picture.

1 Q. And both of those pictures accurately depict - -

2 A. Of the items that were taken that night yes, ma'am.

3 Q. I would like to move Twenty-four and Twenty-five into  
4 evidence please.

5 MR. SULLIVAN: Without objection.

6 THE COURT: In without objection.

7 (WHEREUPON: STATE'S EXHIBITS TWENTY-FOUR AND TWENTY-  
8 FIVE IDENTIFIED AND MARKED ENTERED INTO EVIDENCE.)

9 BY SOLICITOR DESCH:

10 Q. I'm going to show you Exhibits Twenty-eight, Twenty-  
11 nine, Thirty and Thirty-one. If you could go through those  
12 as we've been doing and let me know if you recognize it and  
13 what you recognize it to be.

14 A. Number Twenty-eight is the picture of plastic  
15 container that is holding quite a bit of coffee filters, a  
16 metal can of Coleman lantern fuel didn't develop well in  
17 the picture and the pickle jar that has the holes punched  
18 into the lid of the jar.

19 Q. And that was what number Twenty-nine?

20 A. No, ma'am, this is Twenty-eight.

21 Q. Twenty-eight. And Twenty-nine?

22 A. Twenty-nine is just of the lid of the pickle jar with  
23 the holes poked into it.

24 Q. Is that the same pickle jar - - -

25 A. Yes, ma'am.

1 Q. - - - in the larger picture in Twenty-eight?

2 A. Yes, ma'am.

3 Q. And Number Thirty?

4 A. Number Thirty is the picture of the Coleman fuel can  
5 the same one from the first picture.

6 Q. Do you remember where those items were found?

7 A. The island in the kitchen is where the pickle jar was  
8 found on the side of the island. The Coleman fuel was  
9 underneath the kitchen sink right directly in front of it.  
10 And the plastic container of coffee filters was on the  
11 counter top of the - around the stove area.

12 Q. Did it appear that the filters were used or new?

13 A. Those filters appeared to be new?

14 Q. New?

15 A. New like they had been taken out of a package and  
16 shoved down a plastic container.

17 Q. Do you also have Thirty-one in your hand?

18 A. No, ma'am. Yes, ma'am, Thirty-one.

19 Q. And what's Thirty-one?

20 A. A picture of the same the plastic container with the  
21 unused coffee filters, the pickle jar in the background and  
22 beside it being the Coleman fuel container.

23 Q. Twenty-eight, Twenty-nine, Thirty and Thirty-one those  
24 items, those photos of those items do they accurately  
25 depict the items as you saw them on the 13th when you found

1       them in Mr. Boozer's house?

2       A.    Yes, ma'am.

3       Q.    I would like to move Twenty-eight through Thirty-one  
4       into evidence please.

5       MR. SULLIVAN: Without objection.

6       THE COURT: In without objection.

7       (WHEREUPON: STATE'S EXHIBITS NUMBER TWENTY-EIGHT,  
8       TWENTY-NINE, THIRTY AND THIRTY-ONE IDENTIFIED AND MARKED,  
9       ENTERED INTO EVIDENCE.)

10      BY SOLICITOR DESCH:

11      Q.    This may be the last batch of photos. I'm going to  
12      show you Thirty-four, Thirty-five, Thirty-eight, Thirty-  
13      nine, Forty and Forty-two. As you've been doing go through  
14      them tell us if you recognize it and what you are looking  
15      at.

16      A.    Number Thirty-four is a picture of two containers one  
17      Drain Out the other of Crystal drain opener. Then  
18      underneath the Drain Out there is another container of what  
19      appears to be crystal drain opener as well. The crystal  
20      drain opener if two pounds each. I can't tell the weight  
21      of the Drain Out.

22      Q.    And Number Thirty-five? Why don't you tell me what  
23      number is on them.

24      A.    Number Thirty-five is the plastic container or plastic  
25      bag holding the three containers of drain cleaner.



1 Q. And both of those accurately depict what you saw on  
2 the 13th?

3 A. Yes, ma'am.

4 Q. I would like to move Thirty-four and Thirty-five into  
5 evidence please.

6 MR. SULLIVAN: Without objection.

7 THE COURT: In without objection.

8 (WHEREUPON: STATE'S EXHIBITS THIRTY-FOUR AND THIRTY-  
9 FIVE PREMARKED FOR IDENTIFICATION ENTERED INTO EVIDENCE.)  
10 BY SOLICITOR DESCH:

11 Q. And what else do you have there?

12 A. Number Thirty-eight is the plastic jar without the  
13 filter without the coffee filters in it.

14 Q. Is that what you were referring to as the tea? And if  
15 it's not correct me.

16 A. It doesn't really appear to be because I don't see the  
17 handle on it but it does have the whole quarter inch hole  
18 drill through the side of it.

19 Q. And that's Number Thirty-eight. What else do you  
20 have?

21 A. Yes, ma'am, that's Thirty-eight. This is going to be  
22 numbers Thirty-nine, Forty and Forty-two. Number Thirty-  
23 nine is coffee filters some used some not used. Number  
24 Forty is a close up of some of the used coffee filters.

25 Q. When you say used is it - -

1 A. As in the - they have been used in the production of  
2 methamphetamine. Used to dry out the methamphetamine.

3 Q. So not with coffee as you stated earlier?

4 A. Not with coffee.

5 Q. And Forty-two?

6 A. Forty-two is a picture of the large pickle jar with  
7 the two holes put in the top of them or drilled through the  
8 top of it.

9 Q. And the pictures of the filters and the close up and  
10 the big pickle jar with the holes in the lid is that  
11 accurately depict how they were when you found them on the  
12 13th of December?

13 A. Yes, ma'am. They were taken prior to being placed into  
14 evidence or taken by the HAZ-MAT Team.

15 Q. The State would like to move in Thirty-nine, Forty and  
16 Forty-two into evidence.

17 MR. SULLIVAN: Without objection.

18 THE COURT: In without objection.

19 (WHEREUPON: STATE'S EXHIBITS NUMBER THIRTY-NINE,  
20 FORTY AND FORTY-TWO IDENTIFIED AND MARKED ENTERED INTO  
21 EVIDENCE.)

22 BY SOLICITOR DESCH:

23 Q. I'm showing you what's been marked as Exhibit Thirteen  
24 for identification.

25 A. Okay.

1 Q. Do you recognize that?

2 A. Yes, ma'am.

3 Q. What do you recognize it to be?

4 A. Plastic CVS baggies that were located in the computer  
5 desk drawer in Boozer's bedroom seized by me placed into  
6 evidence by me signed over to Officer Del Castillo.

7 Q. Does it appear to be tampered in any way?

8 A. No, ma'am.

9 Q. The Court's indulgence one second.

10 (PAUSE AT 5:00 P.M..)

11 Q. Now I think when we left off you were talking about  
12 what you found in the kitchen. What did you do after going  
13 into the kitchen?

14 A. After searching the kitchen I went to the what I call  
15 the child's bedroom and went through it.

16 Q. Did you find anything in the child's bedroom?

17 A. No, ma'am.

18 Q. Okay. What next?

19 A. I believe at that time with Officer Lubben and Officer  
20 Des Castillo searching the search was complete.

21 Q. Did you ever go into the master bedroom?

22 A. Yes, ma'am.

23 Q. I'm going to show you what's been marked for  
24 identification as State's Exhibit Eight, Nine and Eleven.  
25 Starting with Eight if you could go through and tell me if

1 you recognize and what you recognize it to be.

2 A. It is evidence description Boozer's pill bottle  
3 containing ninety seven pseudoephedrine pills; his pill  
4 bottle from Walmart Pharmacy for Ronald Timothy Boozer.  
5 And it contains ninety-seven of the little red  
6 pseudoephedrine pills. It was located in Boozer's computer  
7 desk drawer in his master bedroom.

8 Q. So it's a pill bottle with his name on it and what was  
9 the prescription for?

10 A. Hydroco APAP 7.5 500 tablet.

11 Q. So it's a prescription bottle for hydrocodone 500 but  
12 there's -- What's in there?

13 A. Pseudoephedrine pills.

14 Q. And you found that in where?

15 A. The computer desk drawer in the master bedroom.

16 Q. How do you know that's the same pills you found in the  
17 desk drawer in his master bedroom?

18 A. Because it's sealed by me and initialed. I believe  
19 Officer Del Castillo initialed this one when I handed it to  
20 her.

21 Q. Is it in that same tamper proof bag?

22 A. Yes, ma'am. The Plastic bag here is - was items being  
23 tested by the chemist or by someone else. The plastic bag  
24 is placed inside there heat shrink bag. The pill bottle is  
25 actually outside the blue plastic bag it was originally

1       turned in too that night where the pills have been tested  
2       by the chemist.

3       Q.    Other than where it's been taken out and tested by the  
4       chemist does it appear to be tampered with in any way?

5       A.    No, ma'am.

6       Q.    Okay.  And in looking at Number Nine.

7       A.    Okay.  It is a box of ninety-six count pseudoephedrine  
8       pills located in Boozer's bottom computer desk drawer in  
9       Boozer's bedroom taken by me.

10      Q.    And are those in the appropriate box they would have  
11      been sold in?

12      A.    At this time no but that night they were a sealed box  
13      of pseudoephedrine.

14      Q.    So when you found it it was an intact box of  
15      pseudoephedrine?

16      A.    Yes, ma'am.

17      Q.    What did you do with it once you found it in the  
18      computer desk in his bedroom?

19      A.    It was placed in this bag and given to Officer Del  
20      Castillo.  At that time she signed it or with her initials  
21      and dated it as being sealed and placed it into evidence.

22      Q.    And did it appear to be tampered with in any way?

23      A.    No, ma'am.

24      Q.    And is it Number Eleven that you have?

25      A.    Yes, ma'am.

1 Q. Okay. What is that?

2 A. Number Eleven is a pill bottle with one  
3 pseudoephedrine pill inside it. It was located on Boozer's  
4 computer desk. It is a prescription pill bottle that has  
5 had the label torn off and it only has one pill in it.

6 Q. And based on your experience in dealing with  
7 pseudoephedrine pills what does that appear to be to you?

8 A. It appears to be a pseudoephedrine pill from one of  
9 the blister pack pacs.

10 Q. And no label on that bottle?

11 A. No, ma'am. Pseudoephedrine is pretty much - -

12 Q. And that is the same pill and bottle that you found in  
13 his bedroom on the 13th?

14 A. Yes, ma'am. It's the same one it was taken by me  
15 handed over to Officer Del Castillo which she initialed the  
16 top of the bag and dated it and this bag has not been  
17 tampered with.

18 Q. Were you present when the HAZ-MAT Team arrived?

19 A. Yes, ma'am.

20 Q. What did you see them doing?

21 A. Suiting up and I guess their protocol type suits and  
22 then took the items we pointed out to them any type of the  
23 hazardous liquids, the altered propane tank and what they  
24 called lab trash they took.

25 Q. Now are any of these hazardous materials workers this

1 clean up crew that comes out are any of them law  
2 enforcement?

3 A. No, ma'am.

4 Q. So what is their sole role in this if you know?

5 A. I'm not exactly sure what their whole role is.

6 Q. Were they in any part of your investigation as a law  
7 enforcement officer?

8 A. No not as part of our investigation. They are  
9 contacted by the DEA to come to the sites and clean up.

10 Q. After everything was gathered and labeled and secured  
11 for evidence what did you do?

12 A. At that time we went to the York office because it was  
13 closer and began work on the paper work for the evening.

14 Q. The Court's indulgence.

15 (PAUSE.)

16 Q. Please answer any questions that the defense might  
17 have.

18 CROSS EXAMINATION

19 OFFICER LEWIS CANTEY BY MR. SULLIVAN:

20 Q. Who is the case agent on this case?

21 A. I have been deemed the case agent on it.

22 Q. You became the case agent - - -

23 A. Yes, sir.

24 Q. - - - today when you came to court to testify?

25 A. No a few days prior to it.

1 Q. Okay. But this incident happened back in December of  
2 2009; correct?

3 A. That's correct, sir.

4 Q. December 13th. And at that point Officer Del Castillo  
5 was designated as the case agent; correct?

6 A. Yes, sir, because she was the person on call that  
7 night.

8 Q. And obviously Officer Del Castillo is responsible for  
9 preparing the majority of the paperwork in this case;  
10 right?

11 A. That's correct..

12 Q. But its' your testimony today that you are now the  
13 case agent?

14 A. That's correct.

15 Q. So this case is your responsibility?

16 A. Yes, sir.

17 Q. You testified that you are currently employed by the  
18 Rock Hill Police Department; correct?

19 A. That's correct.

20 Q. But you are assigned specifically to the county Drug  
21 Enforcement Unit?

22 A. That's correct.

23 Q. And the drug unit I guess your title would be an  
24 agent?

25 A. Investigator yes, sir.



1 Q. An investigator. And you've worked for the county  
2 drug team six years; right?

3 A. That's correct.

4 Q. And as an investigator or agent for the Drug  
5 Enforcement Unit it's your job to investigate narcotics  
6 cases all across York County; right?

7 A. That's correct.

8 Q. And you have jurisdiction throughout the entire county  
9 and not just Rock Hill?

10 A. That's correct.

11 Q. And you've been involved in many cases throughout your  
12 time; right?

13 A. Yes, sir.

14 Q. You've been involved in cases where you've arrested  
15 people for possessing drugs?

16 A. That's correct.

17 Q. You've been involved in cases where you arrested  
18 people for selling drugs?

19 A. That's correct.

20 Q. And you've arrested people for manufacturing drugs;  
21 right?

22 A. Yes, sir.

23 Q. And you've made a lot of arrest out of those cases?

24 A. Quite a few.

25 Q. And you've worked as the case agent on some of those

1 cases; right?

2 A. Yes, sir.

3 Q. And you've testified today that you've had some  
4 training, specialized training experience to be a narcotics  
5 officer?

6 A. Yes, sir.

7 Q. And you've been involved in a total of five  
8 methamphetamine labs in your career; right?

9 A. From my knowledge yes, sir.

10 Q. And Officer Del Castillo has never been around any  
11 meth cases is that your testimony?

12 A. I believe this was her first.

13 Q. Okay. But she was the one who coordinated the entire  
14 case; correct?

15 A. After we left the scene she was the one that  
16 coordinated the rest of the stuff.

17 Q. She was the one responsible for taking out the arrest  
18 warrants in this case?

19 A. Yes.

20 Q. She was the one responsible for preparing often what's  
21 referred to the case file summary; right?

22 A. That's correct.

23 Q. And you testified prior to going to work for the drug  
24 enforcement team that you had some additional experience  
25 for that; right?

1 A. Yes, sir.

2 Q. And you've been involved in law enforcement for did  
3 you say fifteen years?

4 A. Sixteen years.

5 Q. Sixteen years? Okay. And you received training down  
6 in Columbia in the Criminal Justice Academy?

7 A. That's correct.

8 Q. And as part of your training you learned the  
9 importance of locating witnesses in a case; right?

10 A. Yes, sir.

11 Q. You learned the importance of interviewing witnesses?

12 A. Yes, sir.

13 Q. You learned the importance of obtaining statements;  
14 right?

15 A. If needed yes, sir.

16 Q. And those statements could include oral or written;  
17 right?

18 A. Yes, sir.

19 Q. Okay. And you also learned the importance of physical  
20 evidence; right?

21 A. Yes, sir.

22 Q. And that's basically everything the majority of these  
23 things we have here in this case are physical; right?

24 A. Yes, sir.

25 Q. At the academy they taught you how to take physical

1 evidence into custody; right?

2 A. Yes, sir.

3 Q. And they also taught you the importance of forensic  
4 evidence?

5 A. That's correct.

6 Q. You are aware of the importance of forensic evidence;  
7 right?

8 A. Yes, sir. In certain cases you are correct.

9 Q. Of course there is different types of forensic  
10 evidence; correct?

11 A. Yes, sir.

12 Q. Forensic evidence can be extremely important in  
13 solving crimes?

14 A. That's correct.

15 Q. And there is in fact a special unit here in York  
16 County designated as a forensic service unit; right?

17 A. Yes, sir.

18 Q. And as a law enforcement officer in York County you  
19 have access to the forensic services unit; correct?

20 A. Yes, sir, you contact your supervisor and the  
21 supervisor decides it.

22 Q. And you can call upon them to assist you in processing  
23 a crime scene?

24 A. That's correct.

25 Q. And they are available to law enforcement officers

1 twenty-four hours a day?

2 A. That's correct.

3 Q. Seven days a week, three hundred and sixty five days a  
4 year?

5 A. Yes, sir.

6 Q. But the forensic services unit is not involved in any  
7 way in this case; right?

8 A. No, sir, I do not believe they've been trained in meth  
9 lab.

10 Q. But they've been trained in obtaining finger prints;  
11 correct?

12 A. Correct.

13 Q. And there were no - None of the items in this case  
14 were tested for fingerprints; correct?

15 A. That's correct, sir.

16 Q. Sot they could have been an asset had they been  
17 involved in this case?

18 A. Some of the items that were taken by the HAZ-MAT Team  
19 I would not have requested them to process those items.

20 Q. But items such as - I guess let me ask you this. You  
21 admit it would be helpful to know who had touched this  
22 item; right?

23 A. Yes, sir.

24 THE COURT: What Exhibit is that?

25 MR. SULLIVAN: I apologize, your Honor. Your Honor,

1 this is State's Exhibit Number One. This is the Ball mason  
2 jar.

3 And in your law enforcement training experience you've  
4 learned that forensic testing to be done on items such as  
5 this; correct?

6 A. That's correct.

7 Q. So you were one of I guess basically three  
8 investigators involved in this case?

9 A. Yes, sir.

10 Q. Okay. And you were responsible primarily for  
11 executing the search warrant; right?

12 A. That's correct.

13 Q. Or assisting with the execution of that?

14 A. Yes, sir.

15 Q. And you recovered as we can see today a majority of  
16 the items that were taken into evidence on December the  
17 13th; - - -

18 A. Yes, sir.

19 Q. - - - right? And you also filled out the return in  
20 this case?

21 A. Yes, sir.

22 Q. Okay. So you are a key person in this case for the  
23 State; right?

24 A. Correct.

25 Q. You had to let Officer Del Castillo not know what you

1 saw that day; right?

2 A. Yes, Officer Del Castillo was there so she knew pretty  
3 much what I saw.

4 Q. But she didn't follow you around every step in that  
5 house?

6 A. No, sir, but she is the evidence custodian so whenever  
7 I observed and took into evidence she had to process with  
8 putting it on the evidence return and dropping it into  
9 evidence.

10 Q. Sure. And you had to let her know what you did?

11 A. That's correct.

12 Q. Right. And what you heard?

13 A. That's correct.

14 Q. So she could write that down in the reports that she  
15 prepared for this case?

16 A. Yes, sir.

17 Q. And you've invested a lot of time in this case;  
18 correct?

19 A. No more than normal for other cases but.

20 Q. Well on the scene for several hours on December the  
21 13th; right?

22 A. Yes, sir.

23 Q. You worked with the Solicitor and preparing your  
24 testimony today?

25 A. Preparing the case yes, sir.

1 Q. Okay. And you want to see a favorable outcome; right?

2 A. Whatever the jury decides.

3 Q. Okay. You testified that you received a call from  
4 Commander Brown in December between 5:30 and Six o'clock?

5 A. Yes, sir.

6 Q. And then you arrived at 2100 Willow Creek Road  
7 approximately twenty minutes later; right?

8 A. Approximately.

9 Q. So approximately 6:20?

10 A. Yes, sir.

11 Q. Okay. And you were called out there as part of this  
12 narcotics investigation?

13 A. Yes, sir, to assist Officer Del Castillo.

14 Q. And when you got there Mr. Boozer was not at 2100  
15 Willow Creek; right?

16 A. No, sir, he had left the scene prior to us getting  
17 there.

18 Q. Okay. And in fact you learned after talking to the  
19 deputies he's not on the scene when they arrived either;  
20 right?

21 A. That's correct.

22 Q. And they arrived on scene at 4:20 p.m.?

23 A. Yes, sir.

24 Q. So two hours before you got there the deputies arrive

25 - - -



1 A. Yes, sir.

2 Q. - - - or give or take twenty minutes. And Mr. Boozer  
3 wasn't there when they got there?

4 A. That's correct.

5 Q. Okay. And you and Officer Del Castillo went inside  
6 the home actually on two separate occasions; correct?

7 A. The first occasion to secure the residence and to make  
8 sure there was no active meth lab going on inside the  
9 residence. And the second one was during the execution of  
10 the search warrant.

11 Q. The first time was for a protective sweep and you did  
12 the sweep at what time?

13 A. I don't have it wrote down anywhere, sir. I don't  
14 remember exactly. It was prior to the search warrant  
15 getting signed.

16 Q. But if you arrived at 6:20 in your estimation can you  
17 guesstimate what time you went in to do that sweep?

18 SOLICITOR DESCH: Your Honor, I'm going to object.  
19 He's answered the question. He doesn't remember the exact  
20 time.

21 THE COURT: I over rule your objection. Its cross  
22 examination.

23 A. Approximately forty-five minutes or so.

24 Q. So it was somewhere in the neighborhood of Seven  
25 o'clock. Is that fair?

1 A. I would say a little bit after Seven but somewhere  
2 around there.

3 Q. And then the second time you went in with the search  
4 warrant and that was about Nine o'clock?

5 A. Yes, sir.

6 Q. After Officer Lubben had gotten on scene; right?

7 A. Yes, sir, it should be on the back of the search  
8 warrant what time it was executed.

9 Q. And you went in with Officer Lubben, Officer Del  
10 Castillo and yourself; correct?

11 A. No, sir, Officer Lubben showed up with the search  
12 warrant afterwards. He called to let us know that it had  
13 been signed so that we could execute the search warrant.

14 Q. But I'm not talking about the first time I'm talking  
15 about the first time - -

16 A. That's what I'm speaking of also.

17 Q. So he arrived with the search warrant?

18 A. Yes, sir, that's when we began searching after the  
19 search warrant was signed.

20 Q. And the only person who was inside the home at 2100  
21 Willow Creek when you went in was Rick Brookshire?

22 A. That's correct the first time.

23 Q. Rick Brookshire was located inside the house?

24 A. Asleep in one of the back bedroom yes, sir.

25 Q. Who was asleep. And when you walked into the house

1 you testified that that bedroom is -- If I am walking in on  
2 the back porch the bedroom where Mr. Brookshire was  
3 sleeping was located just off the kitchen area here to the  
4 left?

5 A. It's off the great room area.

6 Q. Of course the kitchen and the - -

7 A. Closet to the kitchen would be the child's bedroom.

8 Q. Okay.

9 A. The one towards the front of the house is the bedroom  
10 where Mr. Brookshire was located.

11 Q. But the kitchen area and the great room is actually  
12 one room?

13 A. One large room yes, sir.

14 Q. And you have to walk through only one doorway to  
15 actually get into where Mr. Brookshire was sleeping?

16 A. Yes, sir.

17 Q. And Mr. Brookshire had been inside the house the  
18 entire time; right?

19 A. Yes, sir.

20 Q. But you didn't know he was there; right?

21 A. Not at the first no, sir.

22 Q. And he was there when the deputies arrived?

23 A. Apparently so yes, sir.

24 Q. And they didn't have any idea he was in there?

25 A. That's correct.

1 Q. So the first time that law enforcement knew that Rick  
2 Brookshire was inside that house was when you went in to do  
3 that protective sweep about Seven o'clock?

4 A. That's correct.

5 Q. And you don't know how long he had been in the house  
6 prior to going in at Seven o'clock?

7 A. That's correct.

8 Q. Or you don't know what he was doing inside that house  
9 before you arrived?

10 SOLICITOR DESCH: Your Honor, I'm going to object to  
11 this.

12 THE COURT: I over rule your objection this is cross  
13 examination.

14 SOLICITOR DESCH: May we approach, Your Honor.

15 THE COURT: Yes, ma'am.

16 (NOTE: BENCH CONFERENCE OFF THE RECORD OUT OF THE  
17 HEARING OF THE JURY AT 5:20 P.M..)

18 BY MR. SULLIVAN:

19 Q. Rick Brookshire wasn't arrested?

20 A. No, sir, he was not.

21 Q. When you went in at Nine o'clock with a search warrant  
22 you searched the entire house; right?

23 A. Yes, sir.

24 Q. Searched it high and low?

25 A. That's correct.

1 Q. You took many of these items into evidence; right?

2 A. Yes, sir. And photographed others.

3 Q. And all the items that you took into evidence that  
4 night are listed on the evidence inventory sheet; right?

5 A. Should be yes, sir.

6 Q. And it's your testimony today that all the items that  
7 are listed on that evidence inventory sheet are used in  
8 making meth; right?

9 A. Yes, sir.

10 Q. Okay. Many of the items that you took into evidence  
11 that night are actually household items; right?

12 A. Yes, sir.

13 Q. Many of the items that you took into evidence that  
14 night have a legitimate use?

15 A. Yes, sir. And by someone not attempting to make meth  
16 they do have a legitimate use.

17 Q. Many of the items taken into evidence can be found in  
18 any home; right?

19 A. Yes, sir.

20 Q. Many of the items you took into evidence can be found  
21 in any garage?

22 A. That's true.

23 Q. At any place in York County?

24 A. That's true.

25 Q. In looking at the Evidence Inventory Sheet the first

1 item that you recovered that night when you went into the  
2 house were the coffee filters; right? With meth residue.

3 A. I don't have that sheet in front of me, sir.

4 Q. May I approach, Your Honor.

5 THE COURT: Yes, sir.

6 (NOTE: ATTORNEY SULLIVAN HANDING WITNESS DOCUMENT.)

7 A. Thank you, sir.

8 Q. Do you recognize that document; correct?

9 A. Yes, sir, it's a photo copy of the Evidence Inventory  
10 Sheet.

11 Q. And an Evidence Inventory Sheet has as the title  
12 implies written Inventory of all the evidence that was  
13 taken in - - -

14 A. That's correct.

15 Q. - - - in this particular case; right?

16 A. That's correct.

17 Q. In fact that document - And this reflects all the  
18 evidence that was taken in from 2100 Willow Brook Road on  
19 December the 13th; right?

20 A. Yes, sir.

21 Q. Okay. And according to that document the first item  
22 that you recovered were the coffee filters; right?

23 A. Yes, sir, plastic bags containing four coffee filters  
24 with methamphetamine. That is from Ms. Boone's car.

25 Q. The first item you took into evidence when you went

1 inside the house were also coffee filters?

2 A. The first item inside the house appear to be  
3 methamphetamine off of a pizza stone or something believed  
4 to be methamphetamine that was on a pizza stone - -

5 THE COURT: Keep your voice up so the juror's can hear  
6 you.

7 A. Should I repeat it, Your Honor.

8 THE COURT: No go on to the next which you are kind of  
9 fading down.

10 A. I'm sorry. The third item, sir, is the coffee  
11 filters.

12 Q. But I do want to take a step back actually to that  
13 first item. So the first item you found inside the house  
14 was some brown powder substance on a pizza stone in the  
15 oven; right?

16 A. That's correct.

17 Q. Okay. And as the case agent you are aware that all  
18 the items -- Excuse me. Not all the items but several of  
19 these items you believed to be methamphetamine that night  
20 were sent to the chemist down to the sheriff's office;  
21 right?

22 A. That's correct.

23 Q. And in fact they were tested to determine whether or  
24 not they were actually methamphetamine; right?

25 A. That's correct.

1 Q. Because only a person who has specialized training can  
2 determine whether or not something is meth?

3 A. That's correct.

4 Q. Based on your training all you can do out in the field  
5 is make a fair guess; right?

6 A. That's correct.

7 Q. Okay. So you are aware that that item which you found  
8 on the pizza stone was sent down to the chemist; correct?

9 A. That's correct.

10 Q. You've had a chance to review the drug report - -

11 A. To my knowledge it did not test positive for  
12 methamphetamine.

13 Q. So the item you found in there actually wasn't meth?

14 A. That's correct.

15 Q. Okay. All right, I hate to get off course here but I  
16 know you testified on direct examination that you also took  
17 a Mason jar into evidence that night; right?

18 A. Yes, sir.

19 Q. That item was actually tested recently at the lab  
20 downstairs; correct?

21 A. Yes, sir.

22 Q. That item didn't test positive for meth either did it?

23 A. I'm not sure what that item tested positive for.

24 Q. Your Honor, may I approach the witness?

25 THE COURT: I believe - -



1 Q. Do you recognize the document?

2 A. Yes, sir. It's a sheet from the lab Item Twenty-Five.

3 Q. Yes, sir. Item Number Twenty-Five that's the Mason  
4 jar that you were referring to on direct when you  
5 testified?

6 A. Yes, sir.

7 Q. And you testified that contains pseudoephedrine and  
8 methamphetamine that's not correct; right?

9 A. Test resulted pseudoephedrine found point ten grams.

10 Q. Excuse me. You testified it was methamphetamine and  
11 pseudoephed?

12 A. I testified that it was whatever was on the bag, sir.  
13 I believe it was pseudoephedrine or methamphetamine  
14 residue.

15 Q. And that's not true it's actually pseudoephedrine in  
16 it.

17 A. Yes, sir.

18 Q. It's not methamphetamine?

19 A. The lab test came back to pseudoephedrine.

20 Q. Okay. So there was no meth found in that jar?

21 A. No, sir, but pseudoephedrine was found in the jar the  
22 precursor for methamphetamine.

23 Q. But pseudoephedrine is not meth?

24 A. No, sir, but you can't have meth without  
25 pseudoephedrine or methamphetamine.

1 Q. But when you testified and when you told the jury that  
2 there was methamphetamine found inside that Mason jar  
3 that's not correct?

4 A. I testified that methamphetamine residue which is what  
5 it appeared to me at the night that it was seized.

6 Q. Okay.

7 A. The chemist report says that it was pseudoephedrine.

8 Q. All right. You also testified that there was that  
9 Pyrex pan found inside the master bedroom; right?

10 A. Yes, sir, Pyrex dish.

11 Q. And that would be Item?

12 A. Twenty-One it appears to be.

13 Q. Twenty-One on the evidence inventory sheet which you  
14 took into evidence at 10:50; right?

15 A. Yes, sir.

16 Q. And that was also sent down to the laboratory to be  
17 tested; right?

18 A. Yes, sir.

19 Q. That also came back negative for meth?

20 A. I'm not sure what it came back we tested as.

21 SOLICITOR DESCH: Your Honor, I'm going to object.

22 First on the cross it's he -- Defense says you just take a  
23 fair guess when you're out there on what it is and now he's  
24 crossing him on the chemist lab on what it should have been  
25 and he can't have both. He can't have our officers

1 testing it out on the field and then contradicting them and  
2 acting as if he's not being truthful when its two different  
3 things. Their guess in the field chemist - -

4 THE COURT: I think he can ask him the answer was what  
5 he thought it was when he saw it. But I think you have a  
6 right to ask whether or not it actually ended up being  
7 meth.

8 SOLICITOR DESCH: Question one needs to go to the  
9 chemist and two was Item Twenty-One actually in fact  
10 tested.

11 THE COURT: Well you're asking me questions now and I  
12 don't have the answer. I'm going to let him go ahead on  
13 his cross.

14 BY MR. SULLIVAN:

15 Q. Officer Cantey, please step back. The coffee filter  
16 that you found in Number Three on the Evidence Inventory  
17 Sheet you recovered those filters at 9:21 p.m.; right?

18 A. Yes, sir.

19 Q. And that's about ten minutes after you went inside the  
20 residence?

21 A. Yes, sir.

22 Q. And those coffee filters were located in a kitchen  
23 cabinet area?

24 A. Yes, sir.

25 Q. They were located above the microwave?

1 A. Yes, sir.

2 Q. And the kitchen was in fact the first place you  
3 searched that night; right?

4 A. Yes, sir.

5 Q. And you spent a long time searching in around the  
6 kitchen area?

7 A. Yes, sir.

8 Q. And in fact many of the items that you took into  
9 evidence that night were found in that kitchen area; right?

10 A. Yes, sir.

11 Q. In addition to the coffee filters you found at least  
12 seven or eight other items in that specific area of the  
13 house; right?

14 A. That's correct.

15 Q. You found a package of batteries; right?

16 A. Yes, sir.

17 Q. A pickle jar; right?

18 A. I - that's the next item. I'm trying to keep up with  
19 you on the sheet, sir.

20 Q. You found the plastic pitcher with the holes drilled  
21 into it?

22 A. Yes, sir.

23 Q. Right?

24 A. Yes, sir.

25 Q. You found a can of Coleman camp fuel; right?

1 A. That's correct.

2 Q. And that was found under the sink; right?

3 A. Yes, sir.

4 Q. You found some batteries which were found in the  
5 kitchen? In the drawer excuse me; is that right?

6 A. Yes, sir, in the kitchen drawer.

7 Q. You found some tubing in the kitchen area and that was  
8 located on the table?

9 A. That's correct.

10 Q. You found a cup of or some type of caustic substance  
11 in it which by your best estimation was camping fuel;  
12 right?

13 A. That's correct.

14 Q. And that was sitting out on the kitchen table; right?

15 A. Yes, sir.

16 Q. So three of those items were sitting on the kitchen  
17 table; right?

18 A. Yes, sir.

19 Q. One of those items was inside the kitchen drawer?

20 A. Yes, sir.

21 Q. One of them was on the sink?

22 A. Yes, sir.

23 Q. And one of them was on the center island; right?

24 A. Yes, sir.

25 Q. Sitting out in the open; right?

1 A. Yes, sir.

2 Q. And the three items that were sitting on the kitchen  
3 table the cup, the tubing and the Mason jar it's your  
4 testimony that all of those items were used to make meth?

5 A. Yes, sir.

6 Q. And you know the significance of those items; right?

7 A. Yes, sir.

8 Q. You know exactly how each of those items is used in  
9 the manufacturing process?

10 A. I'm not an expert on how it's made but I know  
11 approximately how it's made.

12 Q. Can you convey to the court today exactly how those  
13 three items are used to manufacture meth?

14 A. The tubing is used for the ammonia to come out of and  
15 it's also used to pump a form of gas into the liquid to  
16 cause the pseudoephedrine or the methamphetamine to drop to  
17 the bottom of the Coleman fuel. The jar with the  
18 pseudoephedrine residue appear to be a pill wash jar now.  
19 And so the only one left over was the Coleman fuel.

20 Q. Tubing.

21 A. Tubing I spoke of.

22 Q. Yes, sir. Cup full of the caustic substance?

23 A. Yes, sir, of the Coleman lantern fuel.

24 Q. But the tubing in this case had not been used?

25 A. Not as of yet no, sir.

1 Q. And that's Item Number Nineteen on the Evidence  
2 Inventory Sheet; right?

3 A. That's correct.

4 Q. In fact the tubing was brand new?

5 A. Yes, sir. Like I said it had not been used yet.

6 Q. Still in the package?

7 A. Yes, sir.

8 Q. And that was sitting on the kitchen table?

9 A. That's correct.

10 Q. And according to the title on the package that was  
11 actually an ice maker repair kit.

12 A. Yes, sir.

13 Q. So the tubing that you found on the table has other  
14 uses other than making meth; right?

15 A. Yes, sir, it would have a legitimate use to it.

16 Q. You also found a pitcher sitting on the island in the  
17 kitchen; right?

18 A. On shelf on center island on the side of the island.  
19 It had some shelves on it that's where it was sitting.  
20 They had been cleaned and set on the side of the island.

21 Q. Okay.

22 A. On the shelves.

23 Q. And that had a hole drilled into it?

24 A. That's correct.

25 Q. And you also found some lithium batteries in that

1 area; right?

2 A. Close to on the shelf there with the plastic pitcher  
3 was also the empty pickle jar with the holes drilled in the  
4 top of it.

5 Q. And people who make meth use these -- They strip down  
6 these lithium batteries and use the lithium inside as one  
7 of the ingredients in making meth; right?

8 A. That's correct.

9 Q. But you testified that the batteries that you found on  
10 the kitchen inside the kitchen drawer hadn't been stripped;  
11 right?

12 A. Not as of yet no, sir.

13 Q. They were still inside some type of packaging; right?

14 A. I believe they were loose. I'm not exactly sure.

15 Q. Now of those items you didn't find any receipts  
16 showing who bought the two; right?

17 A. No, sir.

18 Q. You didn't find any receipts showing who purchased the  
19 batteries?

20 A. I don't believe there were any receipts recovered.

21 Q. Okay. So you don't have any idea when those items  
22 were purchased; right?

23 A. No, sir.

24 Q. Now the last item you took into evidence from the  
25 kitchen area was a can of camp fuel; right?



1 A. Yes, sir.

2 Q. You found that item at 10:00 p.m.?

3 A. That is correct.

4 Q. You found that camp fuel sitting under the kitchen  
5 sink?

6 A. Yes, sir.

7 Q. And camp fuel is sometimes used as an ingredient in  
8 making meth?

9 A. That's correct.

10 Q. Camp fuel is also a common household item?

11 A. For people with lanterns or some type of Coleman  
12 product to use the camp fuel.

13 Q. Sure. And there was a lantern sitting inside Mr.  
14 Boozer's house that night?

15 A. I don't recall if there was or not.

16 Q. Camp fuel has legitimate purposes?

17 A. Yes, sir.

18 Q. Its not illegal to buy it?

19 A. No, sir.

20 Q. Its not illegal to possess it?

21 A. No, sir.

22 Q. There's nothing unusual about having camp fuel inside  
23 your house?

24 A. In a normal house no, sir. In a house that is a meth  
25 lab yes, sir, it is significant.

1 Q. And the camp fuel was found in the room right next to  
2 where Rick Brookshire was sleeping?

3 A. It was found in the kitchen, sir. The room right next  
4 to where Rick Brookshire was sleeping would have been the  
5 great room or the den and there was nothing there.

6 Q. It was off the great room?

7 A. Yes, sir.

8 Q. And the great room - The kitchen and the great room  
9 are one singular room?

10 A. Yes, sir.

11 Q. There is not a wall in between the great room and the  
12 kitchen?

13 A. There is no way in between them that's correct.

14 Q. So in fact it is off -- The bedroom is off the kitchen  
15 area?

16 A. Yes, sir.

17 Q. But Rick Brookshire was not arrested that night?

18 A. No, sir, he was not.

19 Q. And you reviewed all the drug reports in this case;  
20 right?

21 A. Yes, sir.

22 Q. And you are aware that several substances that were  
23 taken into evidence that night as you testified earlier  
24 actually came back negative; right?

25 A. That's correct.

1 Q. Some of the items which you thought that night were  
2 meth weren't meth; correct?

3 A. That's correct.

4 Q. You yourself were responsible for taking about of the  
5 items that were found inside the house twenty-one of those  
6 thirty-one items into evidence; right?

7 A. It appears so.

8 Q. And a good portion of those items were found in the  
9 kitchen area of Mr. Boozer's house?

10 A. Yes, sir. The majority was found in his bedroom and  
11 the kitchen area.

12 Q. But all the items that you yourself took into evidence  
13 that night from Mr. Boozer's home only one of those came  
14 back positive for meth; right?

15 A. I would have to look at the sheet again, sir.

16 Q. The Court's indulgence.

17 (PAUSE AT 5:40 P.M..)

18 Q. May I approach, Your Honor.

19 THE COURT: Yes.

20 Q. Do you recognize that document?

21 A. Yes, sir, it's a chemist report.

22 Q. And that report list all the items that were taken  
23 into evidence and sent down to the lab to be tested; right?

24 A. Yes, sir.

25 Q. And that includes all the items that you took into

1 evidence that night; right?

2 A. Of all the items tested yes, sir.

3 Q. And of the items that you took into evidence from  
4 inside that house, I'm not talking about any other items  
5 I'm talking about items you specifically were responsible  
6 for, only one of those came back positive for meth. The  
7 coffee filters which you found in the kitchen above the  
8 microwave; right?

9 A. Yes, sir.

10 Q. And those filters came back positive for meth residue;  
11 right?

12 A. This sheet does not have Number Three on it, sir.

13 Q. I think the drug report -- The most recent drug report  
14 which would have been dated August the 9th.

15 Q. I have August the 10th which has Item Seven, Item  
16 Twenty-Three, Item Twenty-Five and Item Twenty-Seven.

17 Q. And those coffee filters are listed on that report;  
18 right?

19 A. Item Seven yeah. Yes methamphetamine and  
20 pseudoephedrine found.

21 Q. Okay. But there is no discernable weight listed on the  
22 drug report?

23 A. No, sir, there is no weight listed on it.

24 Q. So there was a very small amount of meth found inside  
25 the coffee filters; right?

1 A. Yes, sir.

2 Q. So of the twenty-one items you took into evidence  
3 which are laid out before the jury only one of them tested  
4 positive for meth and that was meth residue?

5 A. Yes, sir, the coffee filters is used at the end of the  
6 production of meth.

7 Q. The Court's indulgence, Your Honor.

8 (PAUSE.)

9 Q. No further questions, Your Honor.

10 THE COURT: Redirect?

11 REDIRECT EXAMINATION

12 OFFICER ALLEN CANTEY BY SOLICITOR DESCH:

13 Q. Officer Cantey, the Evidence Inventory Sheet.

14 A. Yes, ma'am.

15 Q. Twenty-one out of those Items that you collected;  
16 correct?

17 A. Yes, ma'am.

18 Q. Do you still have the sheet in your hand?

19 A. Yes, ma'am.

20 Q. Lithium batteries that you collected would you expect  
21 that to have methamphetamine?

22 A. No, ma'am.

23 Q. An empty pickle jar with holes that were taken by the  
24 HAZ-MAT Team would you expect that to have methamphetamine?

25 A. No, ma'am.

1 Q. Coleman camping fuel would you expect that tot have  
2 methamphetamine?

3 A. No, ma'am.

4 Q. Ammonium nitrate fertilizer would you expect that to  
5 have methamphetamine?

6 A. No, ma'am.

7 Q. Now I can go through the whole list and ask the same  
8 question but is that in fact a misleading statement that  
9 all items that you brought in and had tested would have  
10 methamphetamine residue in it?

11 A. Yes, ma'am, it is.

12 Q. Now looking at the two reports, you still have the  
13 drug reports he handed you?

14 A. Yes, ma'am.

15 Q. In fact looking at the first one labeled March 10th,  
16 2010 Case No. 2009-41478 you have that one in front of you?

17 A. Yes, ma'am.

18 Q. Defense just ask you or stated that only one thing  
19 came back with methamphetamine. Is that a true statement  
20 of what he asked you?

21 A. Yes, ma'am, I believe so.

22 Q. Could you actually read the results of Item 1 A and  
23 1.1 what do those say?

24 A. Item 1 red power was what was observed results  
25 methamphetamine found .42 grams. Item 1.1 a brown powder

1       - -

2               MR. SULLIVAN: Your Honor, I hate to interrupt with  
3 this but the question I elicited from Officer Cantey of the  
4 items that you found inside Mr. Boozer's home that night.  
5 Wasn't referencing any other items that may have been found  
6 in other locations. Surely the items he found inside the  
7 house.

8               THE COURT: Over rule.

9 BY SOLICITOR DESCH:

10 Q. Okay let's go to Item 6.

11 A. Item 6.

12 Q. Item 6, methamphetamine in straw containing meth on  
13 the kitchen counter. Was that tested?

14 A. Yes, ma'am.

15 Q. And what did that result?

16 A. Powder substance was what was observed by the chemist  
17 results methamphetamine found.

18 Q. Now Number 8. I believe -- Oh Number 8. He had asked  
19 you about Number 7; correct?

20 A. Yes, ma'am.

21 Q. So now Number 8 there was also found in his bedroom  
22 plastic bag containing methamphetamine. Did that in fact  
23 result in methamphetamine?

24 A. Yes, ma'am.

25 Q. And the supplemental report dated August 10th. Item 7

1 that was the one that he referred to as the only thing  
2 coming back as meth; correct?

3 A. Yes, ma'am.

4 Q. So that's in fact wrong?

5 A. Yes, ma'am.

6 Q. Thank you.

7 THE COURT: Recross?

8 RECROSS EXAMINATION

9 OFFICER ALLEN CANTEY BY MR. SULLIVAN:

10 Q. I just want to clarify something. Item 6. You  
11 didn't take that into evidence Officer Del Castillo is  
12 responsible for taking that into evidence that night;  
13 right?

14 A. That's correct.

15 Q. So when I asked you of the items that you were  
16 personally responsible for that you found inside that house  
17 that night only one of those tested positive for meth and  
18 you answered yes that's the correct answer?

19 A. Item 7 is an item that I took that tested positive for  
20 meth yes, sir.

21 Q. Yes, sir. But Item 6 you didn't take into evidence?

22 A. No, sir, I did not take into evidence.

23 Q. Officer Del Castillo took that into evidence; right?

24 A. That's correct.

25 Q. And Item Number 8 which Ms. Desch just referred to you



1 didn't take that into evidence either; right?

2 A. No, sir, that was taken by Officer Lubben.

3 Q. Okay. So the only item that you took into evidence  
4 yourself from the house were the coffee filters that tested  
5 positive for residue?

6 A. Yes, sir, for methamphetamine and pseudoephedrine  
7 residue.

8 Q. Thank you, Your Honor, no further questions.

9 THE COURT: You can step down.

10 OFFICER CANTEY: Thank you, Your Honor.

11 (WITNESS LEAVING WITNESS STAND.)

12 THE COURT: Thank you. Members of the jury panel we  
13 are going to stop for the day. Keep in mind what I told  
14 you about not letting anyone discuss the case; not doing  
15 any independent research, not letting yourself being  
16 exposed to any news coverage if there is and not trying to  
17 make up your mind and discuss the case. I have something  
18 scheduled at 9:15 hopefully it will be over by Ten so I am  
19 going to ask you to be here at Ten although I may not be  
20 able to start right at the crack of Ten. Please be back at  
21 Ten o'clock so you can be ready to start at Ten o'clock so  
22 have a pleasant evening and we will see you at Ten in the  
23 morning.

24 Everyone else remain seated while the jury leaves.

25 (JURY LEAVING COURTROOM AT 5:48 P.M..)

1 THE COURT: Anything from the State before we stop for  
2 the evening?

3 SOLICITOR DESCH: Nothing, Your Honor, thank you.

4 THE COURT: Anything from the Defense?

5 MR. DELANEY: Just briefly, Judge. Just to Mr. Boozer  
6 is equipped with a GPS monitoring if that does make any  
7 difference with the court as far as him being allowed to  
8 stay out tonight.

9 THE COURT: No I am going to require that he remain in  
10 for the duration of the trial. All right we will see you  
11 at Ten in the morning.

12 (COURT IN RECESS FOR THE EVENING AT 5:45 P.M.)

13 (BACK ON THE RECORD IN CASE NO. 2010-GS-46-1169;1170  
14 STATE V. TIMOTHY BOOZER WEDNESDAY, AUGUST 13, 2010 AT 9:50  
15 A.M.)

16 SOLICITOR DESCH: Do you want to go ahead and swear  
17 her?

18 THE COURT: Yeah why don't we go ahead. Step on up  
19 here and be sworn and have a seat and we'll just wait until  
20 Mr. Delaney gets back before any questions. We'll have  
21 that much out of the way.

22 MADAME CLERK: Raise your right hand and place your  
23 left hand on the Bible.

24 (WHEREUPON: BRIDGET DARTY,  
25 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

1 (PAUSE.)

2 THE COURT: Mr. Delaney has returned so we can go  
3 forward.

4 SOLICITOR LIPINSKI: Thank you.

5 DIRECT EXAMINATION - IN CAMERA

6 BRIDGET DARTY BY SOLICITOR LIPINSKI:

7 Q. Would you state your name spelling your last name for  
8 the record? You seem to be leaning to that side. If you  
9 could lean towards the left that will help it pick up. You  
10 don't have to speak into it or anything like that but if  
11 you could just lean in that direction a little all right.  
12 So what's your name?

13 A. Bridget Darty.

14 Q. And how do you spell your last name?

15 A. D-a-r-t-y.

16 Q. And do you live here in York County?

17 A. Yes, ma'am.

18 Q. All right. And did you grow up here?

19 A. Yes, ma'am.

20 Q. More or less grew up here lived here on and off your  
21 whole life?

22 A. Yes, ma'am.

23 Q. And do you -- I see that you are expecting?

24 A. Yes, ma'am.

25 Q. Do you currently work?

1 A. No, ma'am.

2 Q. Have you worked in the past?

3 A. Yes, ma'am.

4 Q. And what kind of jobs have you had?

5 A. I worked at Lexington Medical. They make medical  
6 parts.

7 Q. And went to high school here and those kind of things?

8 A. I quit in the middle of the ninth grade.

9 Q. Middle of the ninth. And after that was that when you  
10 worked at Lexington Medical - - -

11 A. Yes.

12 Q. - - - or sometime in the past?

13 A. Yes, ma'am.

14 Q. All right. And do you know the Defendant Tim Boozer?

15 A. Yes.

16 Q. And approximately how long have you known Mr. Boozer?

17 A. I've known Mr. Boozer since I was thirteen.

18 Q. Did you all grow up together?

19 A. I've known him from my uncle. I didn't grow up around  
20 him. I wasn't around him with my uncle.

21 Q. And how did your uncle know Mr. Boozer?

22 A. I think he grew up with him I'm not for sure.

23 Q. So through family you met him?

24 A. Yes, ma'am.

25 Q. And how - Obviously when you are thirteen and through

1 your uncle did you see him often?

2 A. Off and on.

3 Q. Or just there once in a while?

4 A. Yeah.

5 Q. In the most recent past did you come to become  
6 acquainted with Mr. Boozer any more? Did you see him more  
7 often?

8 A. Yes, ma'am.

9 Q. And were you friends with him?

10 A. Yes.

11 Q. And did you start hanging out with him socially?

12 A. Yes.

13 Q. And about when if you recall did that happen?

14 A. Probably when I was about fifteen.

15 Q. About fifteen?

16 A. Fifteen.

17 Q. And how often would you say that you saw -- Let's  
18 start with the year 2009 so last year how often would you  
19 say that you saw Mr. Boozer?

20 A. Well last year I didn't see him. I just got out of  
21 drug court so I was away from everybody for a while. Last  
22 year I maybe seen him say ten, eleven times maybe.

23 Q. And did you see him maybe more towards the end of the  
24 year or more towards the beginning or middle or how off and  
25 on?

1 A. Off and on.

2 Q. All right. In December of 2009 did you see him then?

3 A. Yes.

4 Q. And have you ever been to his house?

5 A. Yes.

6 Q. Do you know his address?

7 A. I only know --The only thing I know is he lived on a  
8 dirt road I don't know the name of it. I just know how to  
9 get there.

10 Q. Do you know what area it is? Is it McConnells?

11 A. McConnells.

12 Q. McConnells. And how often would you say you've been  
13 to Mr. Boozer's house?

14 A. A lot.

15 Q. A lot?

16 A. From the time I was thirteen till when we got arrested  
17 off and on a lot.

18 Q. Do you know his parents?

19 A. I seen them before.

20 Q. Were you friends with them as well?

21 A. I used to date his brother and I used to go up to his  
22 parents house with his brother.

23 Q. Is that his younger brother or older brother?

24 A. Jason Boozer. I don't know if he's the youngest or -  
25 He's got two other brothers I don't know which one's the

1 youngest. I think Jason is the youngest I'm not for sure.

2 Q. Did you ever have the occasion that you dated Mr.

3 Boozer himself?

4 A. We seen each other off and on.

5 Q. Did you say you dated off and on or - - -

6 A. No.

7 Q. - - - just hung out like friends?

8 A. Just hung out.

9 Q. You stated that you were in drug court?

10 A. Uh-huh.

11 Q. What were you in drug court for?

12 A. Burglary 2nd.

13 Q. And was that related to drugs that you had been - - -

14 A. Oh yeah.

15 Q. - - - in drug court?

16 A. Yeah I got caught with possession of crack cocaine and  
17 burglary 2nd.

18 Q. The burglary were you breaking into a house or a  
19 business?

20 A. A house.

21 Q. And were you doing that in relation to your drug  
22 habit?

23 A. Yes.

24 Q. And you said you went to drug court and the jury may  
25 not be familiar with it but if you were in some type of

1 drug treatment program?

2 A. Uh-huh.

3 Q. And did you know Mr. Boozer during that time?

4 A. Yes.

5 Q. And are you a drug addict?

6 A. Yes.

7 Q. How long have you been a drug addict?

8 A. I've been doing drugs off and on since I was thirteen.

9 Q. Have you ever done drugs with Mr. Boozer?

10 A. Yes, ma'am.

11 Q. Was that something you did in 2009??

12 A. Yes, ma'am.

13 Q. And were there - Did you all focus in on any one drug  
14 in particular or did you use a multitude of drugs?

15 A. Just meth around Mr. Boozer.

16 Q. Mr. Boozer you used methamphetamine?

17 A. Uh-huh.

18 Q. So you might have done other drugs with other people?

19 A. Yeah.

20 Q. But with Mr. Boozer that was something the two of you  
21 shared?

22 A. Yeah.

23 Q. Did Mr. Boozer just use methamphetamine?

24 A. He's made it and sold it.

25 Q. He's made it?



- 1 A. Uh-huh.
- 2 Q. Have you ever seen him make it?
- 3 A. Yes.
- 4 Q. Have you ever seen him make it at his house?
- 5 A. Yes.
- 6 Q. Did you ever see him make it at his house in 2009?
- 7 A. Yes.
- 8 Q. Did you ever see him make it at his house in December
- 9 of 2009?
- 10 A. The beginning of December I did.
- 11 Q. The beginning of December?
- 12 A. Uh-huh.
- 13 Q. And when you say see him make it what exactly did you
- 14 observe?
- 15 A. The only thing I couldn't take the smell so the only
- 16 thing I seen him do was put stuff in a gas can, a gas can.
- 17 Q. And how do you know he was making meth at the time?
- 18 A. Because he told me what he was doing.
- 19 Q. He told you what he was doing?
- 20 A. Uh-huh.
- 21 Q. Was anyone else around when he would make meth?
- 22 A. Rick.
- 23 Q. Rick Brookshire?
- 24 A. Uh-huh.
- 25 Q. Did Rick Brookshire make methamphetamine?

1 A. He helped him out but he didn't know exactly what to  
2 do and when to do it. Tim would follow him through.

3 Q. Did you ever see Tim tell him what to do in terms of  
4 making meth?

5 A. Yes.

6 Q. Did you ever see Rick Brookshire make meth by himself?

7 A. No.

8 Q. And when you saw Tim Boozer make meth was it  
9 exclusively at his house or did you ever see him make it  
10 anywhere else?

11 A. It's mainly at his house.

12 Q. Did you ever -- Are you aware of some of the things  
13 they used to make meth?

14 A. The only thing that I know is the pseudoephed pills  
15 and I don't know what else he puts together.

16 Q. You said you would see a --

17 A. A gas can.

18 Q. A gas can of some part?

19 A. Yeah.

20 Q. So you knew that part of it?

21 A. Yeah.

22 Q. And you said there was some part in making meth that  
23 you didn't like to be around?

24 A. The smell of it.

25 Q. And how would you describe this smell?

1 A. Real strong.

2 Q. And was it - That smell did it have anything in  
3 particular? Did it smell like anything else?

4 A. The only thing I knew it was real strong. I couldn't  
5 breath it. I mean I would put something over my face to  
6 try to stay in there with him but I couldn't do it.

7 Q. While you were over at his house other than when he  
8 was making meth did the two of you ever do anything else?

9 A. Huh-huh.

10 Q. While you were over there did you watch TV or - -

11 A. Oh. I used to burn CD's over at his house.

12 Q. And you stated that one of the other things that you  
13 knew as an ingredient in methamphetamine was  
14 pseudoephedrine?

15 A. Yeah the pill.

16 Q. Did you ever buy the pills and provide those to Mr.  
17 Boozer?

18 A. Yes, ma'am.

19 Q. And in exchange for that did he ever give you  
20 anything?

21 A. Yeah.

22 Q. What would he give you?

23 A. He would give me like a half a gram.

24 Q. So if you went and bought the pseudoephedrine pills at  
25 a drug store or wherever you might be able to locate them

1 and brought them to Mr. Boozer he in return would give you  
2 some methamphetamine?

3 A. Yes, ma'am.

4 Q. And was that something you did in December of 2009?

5 A. Yes, ma'am.

6 Q. All right. Do you remember being with him on December  
7 23<sup>rd</sup> of 2000 or not when you were arrested with him?

8 A. Yes.

9 Q. And how did you come to - Did you talk to him that  
10 day?

11 A. He had called - Before that he had called me that his  
12 car had broke down and he had some things out at my house.

13 Q. And why did he have things out at your house?

14 A. Because he was -- The day I guess you all ran up to  
15 his house he was on the run and he wanted to stay down at  
16 my house and he brought his things down there and then we  
17 was over at Rick's house and he wanted to come and get his  
18 things from my house so he got dropped off over at Rick's  
19 and I picked him up and me and my husband drove down to the  
20 house to get his things and that's when the narcotics and  
21 everything pulled up.

22 Q. Who is Jen?

23 A. Who?

24 Q. Jen?

25 A. Jennifer?

1 Q. Uh-huh.

2 A. It was a whole bunch of girls staying over at his  
3 house it had to be one of them.

4 Q. All right. Did Jen ever tell you whether or not Tim  
5 had warrants on him or anything?

6 A. I found out that he had warrants out on him from Rick.

7 Q. Okay. So you are in the car with him and you say you  
8 are taking - Has he gotten his clothes from your house?

9 A. He hadn't got em yet. We was on the way down there to  
10 get em.

11 Q. So you've picked him up at Ricky Brookshire's house  
12 and you are on the way back to your house to get your  
13 clothes?

14 A. To get his clothes.

15 Q. To get his clothes. I apologize. And the police stop  
16 you?

17 A. Uh-huh.

18 Q. And what happens then?

19 A. He took off running and me and my husband stayed at  
20 the car and I signed a paper for them to you know could  
21 search my house and everything and we went to jail.

22 Q. Did they find anything on you personally?

23 A. No.

24 Q. Did they find anything in the car?

25 A. Yes.

1 Q. What did they find in your car?

2 A. They found weed in my car, meth, and I guess the stuff  
3 to make it with in the back which I didn't know was there.

4 Q. And how did it get in the back of your car if you  
5 didn't know it was there?

6 A. I guess when Tim came to Rick's house before he came  
7 in he put it in there because I was supposed to take him to  
8 my house so he could pick up his clothes and take him back  
9 to meet some girl that was supposed to pick him up.

10 Q. Did you purchase the items that were found? Were they  
11 in your trunk?

12 A. They were in the back.

13 Q. In the back seat?

14 A. No I didn't purchase them.

15 Q. Were they in the trunk or the back seat?

16 A. They were in the very back.

17 Q. What kind of car do you have?

18 A. I got a Blazer.

19 Q. All right. So there is a little storage compartment  
20 in the back of the Blazer. It doesn't necessarily have a  
21 trunk that's open in the body of the car?

22 A. Yeah.

23 Q. And you stated that in the back storage compartment  
24 where the back door and the back window - - -

25 A. Yeah.

- 1 Q. - - - that's where those items were found?
- 2 A. Yes, ma'am.
- 3 Q. You hadn't purchased those items?
- 4 A. No, ma'am.
- 5 Q. Had your husband purchased those items?
- 6 A. No, ma'am.
- 7 Q. Had you been with him all day?
- 8 A. I been with my husband we was over at Rick's house and
- 9 I had went to the grocery store and come back. And then
- 10 after I come back that's when Tim got dropped off and
- 11 that's when we left.
- 12 Q. And when Tim got dropped off did he have any bags or
- 13 anything with him - -
- 14 A. I was in the house when he got dropped off.
- 15 Q. So you weren't aware?
- 16 A. Huh?
- 17 Q. Were you aware of whether or not he had anything with
- 18 him at that time?
- 19 A. I wasn't.
- 20 Q. Was your car unlocked; was it possible he put anything
- 21 in there while - -
- 22 A. Yeah my car was unlocked.
- 23 Q. Do you know how to cook methamphetamine?
- 24 A. No.
- 25 Q. Have you ever helped Tim cook methamphetamine?

1 A. No.

2 Q. And you were actually charged that day with a crime?

3 A. Uh-huh.

4 Q. And you pled guilty to it?

5 A. Yeah.

6 Q. And what sentence did you receive?

7 A. A year probation.

8 Q. And prior to that did you meet and talk with anyone  
9 else about your testimony?

10 A. No.

11 Q. Were you made any offers that if you agreed to testify  
12 against Mr. Boozer that your sentence would be anything?

13 A. Uh-huh.

14 Q. About how many times have you seen Mr. Boozer cook  
15 methamphetamine if you can say?

16 A. Shew probably about five times, five or six times.

17 Q. When was the first time you saw him do it if you  
18 recall?

19 A. The beginning of last year.

20 Q. The beginning of last year?

21 A. Uh-huh.

22 Q. So for the most part when you saw him cook you were  
23 doing it in 2009?

24 A. He just learnt how to do it not too long probably  
25 about two years ago.



1 Q. And how do you know that?

2 A. He had told me.

3 Q. He told you?

4 A. Yeah because he used to go to Greenville to buy his  
5 stuff but he said that he found out a way to make it so he  
6 wouldn't have to drive all that way and spend extra money.

7 Q. You stated that you brought Mr. Boozer pseudoephedrine  
8 tablets and traded them for methamphetamine. Did you ever  
9 see anybody else do that?

10 A. (POSITIVE HEAD NOD.)

11 MADAME COURT REPORTER: I'm sorry. I'm sorry I need a  
12 verbal response.

13 BY SOLICITOR LIPINSKI:

14 Q. You have to say yes or no you can't just shake your  
15 head because obviously she can't take that down.

16 A. Yes.

17 Q. And about how many other people have you seen do that?

18 A. Quite a few.

19 Q. More than ten; more than twenty? Two difficult - -

20 A. More than ten.

21 Q. More than ten. Were they predominately women or have  
22 you seen men do it?

23 A. Both.

24 Q. Let me show you State's Exhibit Forty-Five that's  
25 already been admitted into evidence. Do you recognize that

1 house?

2 A. Yeah that's Tim's.

3 Q. And what kind of cars have you ever seen him drive?

4 A. Oh a white jeep, a four door car, a red Ford truck,  
5 different kinds.

6 Q. Different kinds. But you had seen him at least on one  
7 occasion drive a white Jeep?

8 A. Yeah. That's the one that got broke down near the  
9 Barbell Club when he called me to pick him up.

10 Q. And when was that approximately? Do you ever  
11 remember?

12 A. No I don't remember.

13 Q. It's been a while?

14 A. Yes.

15 Q. Have you ever seen Mr. Brookshire drive a white Jeep?

16 A. No.

17 Q. Have you ever seen Mr. Boozer sell methamphetamine?

18 A. Yes.

19 Q. Have you ever seen Mr. Brookshire sell  
20 methamphetamine?

21 A. No.

22 Q. Have you ever used methamphetamine with Mr.  
23 Brookshire?

24 A. Yes.

25 Q. The Court's indulgence one moment.

1       Your Honor, we may go into obviously a little bit more  
2 detail with her but I think that covers the subject matter  
3 of what we would like to. I can continue more into that  
4 detail but I think that gives the Court in terms of an in  
5 camera hearing a good direction if where the State intends  
6 to go.

7       THE COURT: Well the problem is going to be carving it  
8 out. I don't know where you intend to go there's -- I'm  
9 not ruling now but I'm only going to be able to rule on  
10 what I've heard.

11       SOLICITOR LIPINSKI: And I understand that. I don't  
12 know that there will be substantially any more detail  
13 coming from the State but I can state if -- I think  
14 obviously the way I would segment it out is is she allowed  
15 to say that she has seen Mr. Boozer sell or trade  
16 methamphetamine. In terms of cooking it in terms you know  
17 and I don't know how to actually but obviously it's to  
18 establish her knowledge that she knows Mr. Boozer  
19 manufactured methamphetamine in close proximity to the time  
20 that these events occurred.

21       THE COURT: All right. And under what theory are you  
22 proceeding?

23       SOLICITOR LIPINSKI: Under the theory that first of  
24 all that's what he's charged with so I believe it is part  
25 of the res gestae if some of these items obviously could

1 have been component parts left there from December when she  
2 saw him cooking. So in essence she's one of the people  
3 that will say she saw him using these supplies to  
4 manufacture methamphetamine on or about the date in  
5 question. So I think res gestae is one. The second one is  
6 identity. Obviously identity its been made an issue by the  
7 Defense so while I do think we are going into Lyle in terms  
8 of talking about him trading pills for meth and  
9 distributing methamphetamine and events and dates that  
10 occurred not necessarily limited to December 13th I believe  
11 it goes to both motive identity and lack of -- And in some  
12 essence a lack of mistake argument and the way I would  
13 phrase that to the Court is that I understand it's a little  
14 counterintuitive to what we traditionally think but they  
15 have raised on a number of levels that these are common  
16 household items. And they are innocently so to speak. And  
17 the State would say to respond to that argument that it  
18 just happen to mistakenly have the ingredients of meth and  
19 not be cooking it it would obviously be probative to the  
20 jury and relevant that she had witnessed him manufacturing  
21 methamphetamine with these ingredients. So we think it  
22 comes into those three Lyle factors that are triggered as  
23 well.

24 THE COURT: All right. The three Lyle again motive -  
25 -

1 SOLICITOR DESCH: Mistake and identity. And intent  
2 actually is also four. That he had the intent to use these  
3 items to manufacture methamphetamine because he was engaged  
4 in the ongoing practice of doing that.

5 THE COURT: all right. Cross?

6 MR. DELANEY: Judge, I don't have anything on cross.  
7 Just a response to - -

8 THE COURT: Ms. Darty, I'm going to let you step back  
9 outside. They will call you back in. When you come back  
10 in you will have to be sworn again.

11 SOLICITOR LIPINSKI: You are under oath and not  
12 allowed to talk to anybody about your testimony. You can  
13 go take a break but come back.

14 (WITNESS LEAVING WITNESS STAND.)

15 THE COURT: All right.

16 MR. DELANEY: Judge, I haven't heard any testimony  
17 that's elicited from Ms. Darty in this case that would fall  
18 under classic 404 B character evidence that would be  
19 presented against Mr. Boozer. Combining that with the  
20 potentially implications of 403 prejudices that Mr. Boozer  
21 would suffer from this type of testimony one, Judge, that  
22 their argument that this is under the -- I guess first of  
23 all that this is under the Lyle exception of identity.  
24 Judge, this is constructive - essentially a constructive  
25 possession type of argument that's being made here in this

1 case. The facts that are in evidence that Rick Brookshire  
2 was in this house my client wasn't this is my clients house  
3 they have individuals who testified that my client left  
4 this house not - Just prior to the police arriving.  
5 Identity is not an issue in this case. As far as res  
6 gestae is for, Judge, the right when such evidence  
7 furnishes part of the context of the crime or is necessary  
8 to a full presentation of the case or is so intimately  
9 connected with and explanatory the crime charged against  
10 the Defendant and is so much a part of setting the case and  
11 its environment as proved as appropriate or is complete -  
12 of the crime on trial by proving there is immediate context  
13 of uncharged offense is so point of time and circumstances  
14 of the crime charged that one cannot be fully shown without  
15 proving the other. I don't think that applies - -

16 THE COURT: I don't consider it to be a part of res  
17 gestae I will tell you that. Don't waste your time on  
18 that.

19 MR. DELANEY: I don't believe this falls into again  
20 the mistake as far as the Solicitor alluded to we are  
21 saying that certain things in this house or that you can  
22 have these things that's part of our argument, Judge. Now  
23 part of our argument is there's things being made in that  
24 house. There is components precursors for meth that were  
25 being used to make some we're not disputing that. So as far

1 as the State saying everything in that house you know  
2 that's not where we're going with our argument in this case  
3 and I don't believe that should open the door so to speak.  
4 And with intent I think the case law is strong, Judge, as  
5 far as State v. Parker and State v. Cantrell and State v.  
6 Carter with drug cases saying that you know prior in light  
7 of those cases it was dealing with the State trying to  
8 introduce prior distributions, CI's coming in to testify  
9 they bought from somebody so many times in the past. The  
10 Court has said and I would argue not allow this type of  
11 evidence to come in in these type of trials. I believe the  
12 prejudice that my client would suffer and again this is  
13 just classic character evidence of prior bad acts trying to  
14 be - -

15 THE COURT: I'm going to allow -- I find by clear and  
16 convincing evidence that there is some - -

17 You can sit down.

18 That Ms. Darty's testimony would be allowed. Not all  
19 of it. I don't find that it will fall on res gestae but I  
20 find that by clear and convincing evidence that it does  
21 rise to the level of 404 B of showing motive and the common  
22 scheme of the plan. I find that any possible prejudice to  
23 the Defendant does not outweigh the probative value of the  
24 following and it's restricted to the following. Restricted  
25 to the center of 2009; restricted to her experience with

1 his manufacturing and restricted to her providing the pills  
2 and trading those for methamphetamine. Those are three  
3 separate things but I think they go to show motive and  
4 common scheme of plan I find by clear and convincing  
5 evidence so I will allow Ms. Darty to testify to those  
6 things.

7 MR. DELANEY: Judge, may I at this time. I think for  
8 the purposes of the record and I didn't hear any arguments  
9 as far as the State trying to argue this coming in under  
10 the common plan of scheme and I guess for the purposes of  
11 the record can I make an argument regarding that?

12 THE COURT: Sure. But I mean - -

13 MR. DELANEY: I know you've already ruled, Your Honor, A  
14 - -

15 THE COURT: I'm not restricting that -- I don't know  
16 that I am restricted to allow evidence in based on the  
17 argument presented by either side. I'm to determine in my  
18 mind where it all -- Evidence falls and I find it does fall  
19 under motive and common scheme and plan even though that  
20 was not argued specifically by the State. Go ahead and  
21 tell me about that.

22 MR. DELANEY: And, Judge, what I would argue to you  
23 under the common plan of scheme a logical relationship of  
24 relevance and a close degree of similarity or connection  
25 between the prior crime of bad act and the crime for which



1 the Defendant is on trial is required to support in this  
2 ability. We have her talking about distributions, her  
3 talking about you know him making meth or watch him make it  
4 as far as when this occurred and as far as any type of  
5 connection or similarity that 's not there, Judge. But more  
6 importantly this here you can exclude this under the 403  
7 exception. And I would argue that that should be kept out  
8 under that. I do have as I said State v. Parker, - -

9 THE COURT: Hand those up I'll take a look at it.  
10 We'll take a little break and I will take a look at those  
11 over the break.

12 MR. DELANEY: And all those cases just talk about the  
13 common plan of scheme and the connection and the  
14 similarity. It needs to be shown and specifically to deal  
15 with drug cases and I would ask Your Honor to - -

16 THE COURT: Any of them deal with the manufacturing of  
17 any drug?

18 MR. DELANEY: Excuse me, Judge.

19 THE COURT: Do any of those cases deal with the  
20 manufacturing of any drug?

21 MR. DELANEY: Distribution - -

22 THE COURT: No. I didn't ask you - Just answer my  
23 question. Do any of those cases - -

24 MR. DELANEY: I don't believe so.

25 THE COURT: Okay.

1 MR. DELANEY: I don't believe so.

2 THE COURT: Well you can hand them up and I will take  
3 a look at them but we need to take a short break before we  
4 get started.

5 SOLICITOR DESCH: And I don't want to belabor the  
6 issue I just want to make sure I understand the Court's  
7 ruling and I don't want to run a foul when we do get  
8 started in front of the jury. I did elicit from Ms. Darty  
9 questions regarding had she ever seen Mr. Brookshire cook  
10 methamphetamine and obviously he you know there is no  
11 prejudice to him or that's not an issue but if you are  
12 limiting to her of December of 2009 and I'm not going to  
13 belabor the issue in order to increase the frequency during  
14 the fowl of the prejudice argument but the State would like  
15 to be able to elicit the argument from her that she had  
16 seen --

17 THE COURT: No let's don't have her argue.

18 SOLICITOR DESCH: I'm sorry but I apologize. See her  
19 testify that she had seen -- The State would like to go  
20 into the level of questioning had she ever seen Mr.  
21 Brookshire and Mr. Boozer cook and the who was in more of a  
22 supervisory role or just a following role. I don't know  
23 that she saw that in December of 2009. I don't necessarily  
24 need to make that distinction to indicate it happened a  
25 number of times and I think that may raise more of a

1 prejudice issue. I can just simply ask that question and  
2 not limit it to a time frame but the State would like to go  
3 into that and we do think that's probative as to identity.

4 THE COURT: Well I think that falls under what I said  
5 earlier that her experience with his manufacturing. That  
6 would include the smell was so strong I couldn't stand it.  
7 I don't think we need to go into the fact that -- not  
8 allowed to go into he decided it apparently cost too much  
9 to get it from Greenville he decided - -

10 SOLICITOR DESCH: And I understand that.

11 THE COURT: But no the manufacturing coupled with the  
12 fact that these items were found on his premises lead me to  
13 conclude he's experienced with manufacturing and knowing  
14 how after her having seen him utilize these things that are  
15 common and everybody but me apparently has a house. I'm  
16 not sure Mr. Sullivan and Mr. Delaney's house is loaded  
17 with a camp stove and fertilizer but mine is not. Those  
18 are my rulings but I will be glad to look at that case. Do  
19 we need anything else before we get the jury in? I do want  
20 to take a short break.

21 MR. DELANEY: I guess just to some clarity what  
22 exactly is the State going into? Is the State going into  
23 her - -

24 THE COURT: I'm allowing her to testify to the things  
25 that she observed in December of 2009. I'm not restricting

1 to that date her experience with his manufacturing of  
2 methamphetamine and I'm going to allow her to go into  
3 providing pills and I think I'm going to leave it at that.  
4 Not the trading but that she provided him with pills. As  
5 far as the December 23<sup>rd</sup> I'm not going to allow them to go  
6 into that. I feel that's mostly at the end doesn't make it  
7 necessarily inadmissible but I do not find clear and  
8 convincing evidence that all this paraphernalia that was  
9 found was in fact put there by Mr. Boozer. Because nobody  
10 knows who put it there. Some sort of logic would assume  
11 that's where it came from. If the car was unlocked and she  
12 didn't know who put it in there and I'm not going to allow  
13 them to go into that the December 23<sup>rd</sup>. All right. You  
14 want me to see those cases and we'll take a real short  
15 break.

16 Tell the jury - Give the jury a five minute warning.  
17 Tell them we'll be ready in five minutes.

18 (COURT IN SHORT RECESS AT 11:13 A. M..)

19 (BACK ON THE RECORD IN STATE V. TIMOTHY BOOZER AT  
20 11:53 A. M..)

21 SOLICITOR DESCH: May it please the Court?

22 THE COURT: Yes, ma'am.

23 SOLICITOR DESCH: While they are doing that can I do  
24 an administrative matter?

25 THE COURT: Yes, ma'am.

1 SOLICITOR DESCH: On the indictment we are adding  
2 Indictment 2010-1168 to this straight up plea before you.  
3 On that indictment it was indicted as under the CDR Code  
4 3015. We would like to amend that as we did with any trial  
5 indictment to be 3199 which is just specifically to meth.  
6 It does not change the sentencing range.

7 THE COURT: All right. You agree to that Mr.  
8 Sullivan?

9 MR. SULLIVAN: We accept that, Your Honor.

10 THE COURT: All right. Mr. Boozer, you are here and  
11 you are forty-two; is that correct?

12 MR. BOOZER: Yes, sir.

13 THE COURT: Are you represented by Mr. Sullivan?

14 MR. BOOZER: Yes, sir.

15 THE COURT: You are charged with possession of  
16 methamphetamine and manufacturing methamphetamine and  
17 attempting to manufacturing methamphetamine. Possession  
18 and attempt; first attempt, are alleged to have occurred on  
19 December 13th 2009 when you did aid abet and attempt to  
20 conspire to manufacture methamphetamine in York County,  
21 South Carolina in violations of the laws of this state.  
22 Its alleged on that date that you knowingly or  
23 intentionally possessed or otherwise aid and abet attempt  
24 or conspired to possess a quantity of methamphetamine a  
25 controlled substance of the violations of the laws of this

1 state.

2 What does possession carry? Simple possession, 3017?  
 3 We'll pull it. The two attempts to manufacture  
 4 methamphetamine carry five to thirty years a fine of up to  
 5 fifty thousand dollars these are felonies they do not allow  
 6 probation or suspended sentence. They are violent offenses  
 7 and they are serious offenses. I don't have them marked -  
 8 I have them marked violent I don't have them marked as  
 9 serious.

10 MR. SULLIVAN: Your Honor, we would consent to the  
 11 Court - -

12 THE COURT: Okay.

13 MR. SULLIVAN: - - - amending the sentencing the  
 14 sheets to reflect them being a serious offense.

15 THE COURT: It is?

16 MR. SULLIVAN: Yes, sir, Your Honor.

17 THE COURT: That's what I indicated. These are  
 18 violent offenses that means that while you are incarcerated  
 19 there are certain programs that a violent offender cannot  
 20 participate in which non violent offenders may. A serious  
 21 offense is the type of offense that if in your life time  
 22 you receive three serious or a combination of three serious  
 23 and most serious offenses you would be subject to being  
 24 incarcerated for life without parole. Do you understand  
 25 the two charges involving attempting manufacturing

1 methamphetamine and the potential penalty on those two?

2 MR. BOOZER: Yes, sir.

3 THE COURT: How do you plead today?

4 MR. BOOZER: Guilty.

5 THE COURT: To both?

6 MR. BOOZER: Yes, sir.

7 THE COURT: You are also charged with simple  
8 possession second offense of methamphetamine that would  
9 carry up to five years in jail and it is also a felony that  
10 does not allow probation or suspended sentence. Do you  
11 understand that charge and the potential penalty?

12 MR. BOOZER: Yes, sir.

13 THE COURT: How do you plead to that?

14 MR. BOOZER: Guilty.

15 THE COURT: Other than the fact that they - Well are  
16 there any negotiations or recommendations?

17 SOLICITOR DESCH: No, sir.

18 THE COURT: Anybody promised you anything or  
19 threatened you in any way to get you to enter your plea of  
20 guilty to these charges today, Mr. Boozer?

21 MR. BOOZER: No, sir.

22 THE COURT: Are you today under the influence of  
23 anything that would cause you to be intoxicated?

24 MR. BOOZER: No, sir.

25 THE COURT: Are you entering your plea today to these

1 charges freely and voluntarily?

2 MR. BOOZER: Yes, sir.

3 THE COURT: Mr. Boozer, you have the right to a trial  
4 by a jury on these charges. In fact we started a trial and  
5 are in the second day of that trial. You have the right to  
6 a trial and you are as you heard me tell the jury possibly  
7 yesterday you are presumed innocent of these charges until  
8 such time as the State could if it could prove to that jury  
9 your guilt beyond a reasonable doubt. As to the charges  
10 you have the right to remain silent the right to confront  
11 witnesses against you and you have the right to have your  
12 witnesses made to come to court to testify on your behalf.  
13 Do you understand you have these rights?

14 MR. BOOZER: Yes, Your Honor.

15 THE COURT: Do you have any questions about that?

16 MR. BOOZER: No, sir.

17 THE COURT: I advise you that by entering pleas of  
18 guilt you are giving up these rights and you are also  
19 giving up any defense that you might have to these charges.  
20 Do you understand that?

21 MR. BOOZER: Yes, sir.

22 THE COURT: Knowing all those things I ask again how  
23 do you plead to attempting to manufacture methamphetamine  
24 on two occasions?

25 MR. BOOZER: Guilty.



1 THE COURT: To both times the 13th and the 23rd of  
2 December?

3 MR. BOOZER: Yes, sir, Your Honor.

4 THE COURT: To both?

5 MR. BOOZER: Yes, sir.

6 THE COURT: And to possessing marijuana on December  
7 13th? I mean possessing methamphetamine on the 13th of  
8 December?

9 MR. BOOZER: I plead guilty, Your Honor.

10 THE COURT: Guilty or not guilty?

11 MR. BOOZER: Guilty.

12 THE COURT: All right. I don't need to go over the  
13 facts because I've heard the presentation so I don't need  
14 to go over the facts. Do you agree with those facts that  
15 the was entered in the trial, Mr. Boozer?

16 MR. BOOZER: Yes, sir.

17 THE COURT: All right. I accept your pleas I find  
18 they are freely and voluntarily and intelligently entered  
19 entered with the advice of competent counsel with whom you  
20 are satisfied. I find the facts support your plea and you  
21 signed a plea of guilt. I also have in front of me the  
22 paperwork from probation and before we go into that I  
23 believe that Probation has served you with a citation by  
24 entering these pleas today.

25 (DEFENDANT SERVED WITH PROBATION CITATION BY PROBATION

1 PARDON AND PAROLE.)

2 THE COURT: You've been served with a citation now  
3 indicating that you have violated a previous sentence by  
4 entering pleas today a probationary sentence; is that  
5 correct?

6 MR. BOOZER: Yes, sir.

7 THE COURT: The sentence that addresses the one that  
8 Judge Alford imposed on the 8th day of October of last year  
9 for manufacturing cocaine or manufacturing cocaine base  
10 possession of one gram of meth. Is that also a  
11 manufacturing meth?

12 SOLICITOR DESCH: I was, Your Honor.

13 THE COURT: Okay. Judge Alford gave you eight years  
14 you served ninety days and be on probation for five years  
15 on manufacturing and then three provided on the service of  
16 ninety and five years probation on the possession; is that  
17 correct?

18 MR. BOOZER: Yes, sir.

19 THE COURT: the citation alleges that you have by  
20 entering your pleas today you violated that probationary  
21 sentence and you have in fact so done, is that correct?

22 MR. BOOZER: Yes, sir.

23 THE COURT: You also had two warrants served on you  
24 one on December 30th of 2009 and one on March 8th of this  
25 year; is that correct?

1 MR. BOOZER: Yes, sir.

2 THE COURT: They both allege that you violated that  
3 same sentence the December one alleges you did it by  
4 failing to bring a doctor's note being excused from weekend  
5 time; failing to do your weekend time; failing to inform  
6 your agent you were arrested on the charges to which you  
7 just pled. Are those things true?

8 MR. BOOZER: Yes, Your Honor.

9 THE COURT: All right. Those are substantial  
10 violations. The March one alleges that you failed to  
11 follow your agents advice and instructions again talk about  
12 - Well no this is different this is after the 23rd of  
13 February disregarding a stop sign and receiving stole goods  
14 operating a motor vehicle that you did not notify them that  
15 you had been arrested for that. Also looks like some  
16 manufacturing charges at that time. Is that true?

17 MR. BOOZER: Yes, sir.

18 THE COURT: All right that is a substantial violation.  
19 And your plea you are entering today is a substantial  
20 violation. I'll be glad now - anything else from the  
21 State?

22 SOLICITOR DESCH: Nothing from the State, Your Honor.

23 THE COURT: I'll be glad to hear from your attorney  
24 and then from you. And then I believe these might be folks  
25 or somebody and I will be glad to hear from them.

1 MR. SULLIVAN: Thank you, Your Honor, May it please  
2 the court. As Your Honor noted Mr. Boozer is forty-two  
3 years of age he's a divorced father of two teenage children  
4 Hayden and Paxton. He was married for fifteen years got a  
5 divorce a couple of years ago. His children are now living  
6 down in Blythewood with their mother but they are a very  
7 important part of Tim's life, Your Honor. I know that's  
8 one of the reasons why his decision today is so difficult  
9 for him, Your Honor. Tim was born and raised in Rock Hill  
10 he's lived off the Willow Creek Road in rural York County  
11 for some time now. He went and attended Northwestern High  
12 School during his senior year he was involved in a very  
13 serious motorcycle accident so he did not complete or  
14 graduate and participate in the commencement ceremony at  
15 Northwestern. He did ultimately go on after he was  
16 recuperated from that accident to get his GED Your Honor.  
17 After he obtained his GED Tim attended Greenville Technical  
18 College and became a certified pipe welder. Its my  
19 understanding in talking with Tim and others who know Tim  
20 he is an extraordinarily talented welder, Your Honor. He  
21 works for a commercial field fabrication unit here in York  
22 County. He's conducted work on not only the women's center  
23 at Piedmont but also at the Rock Hill airport he done some  
24 pretty significant projects here in the York County area.  
25 He was gamely employed for many years as a welder, Your

1 Honor, making about forty or fifty thousand dollars a year.  
2 He began using marijuana he tells me in his thirties. He  
3 tried marijuana and didn't like the way that it made him  
4 feel. At some point a friend had offered him some speed  
5 that became a drug of preference for Tim he liked the way  
6 it made him feel he liked the energy it gave him it allowed  
7 him to do things he wanted to do, Your Honor. He began  
8 buying speed or buying methamphetamine and using it on a  
9 daily basis he was using it with a fairly small group of  
10 people, Your Honor, people he considered friends of his. I  
11 think Tim recognizes first hand the impact that drugs can  
12 have on somebody's life, Your Honor. He's seen many of his  
13 friends be arrested and go to prison for drugs. He's also  
14 seen some of his friends be placed on probation as a result  
15 of drugs, Your Honor. This is not somebody who was a  
16 violent person. He has a fairly minimal criminal history  
17 although candidly he is on probation for the same offense  
18 for which he is before the court now, Your Honor. But this  
19 is not somebody who is a violent individual he's never done  
20 any time in the department of corrections, Your Honor. He  
21 understands that whatever sentence Your Honor were to give  
22 him today would be a no parole offense and he would have to  
23 serve eighty five percent of that sentence. And out the  
24 gate he understands he has eight years hanging over his  
25 head on the probation, Your Honor. He is standing before

1 the court he is accepting responsibility for what he has  
2 done, Your Honor. We would ask Your Honor for some type  
3 of sentence that would allow Tim to get his life back, Your  
4 Honor. He understands the punishment and a very serious  
5 punishment is appropriate for these actions, Your Honor. I  
6 would ask Your Honor to consider in light of the fact he  
7 has eight years hanging over his head on probation perhaps  
8 fashion a sentence in the eight to ten year range which  
9 would be eighty five percent. And also send a message to  
10 Tim this kind of behavior is not only destructive to him  
11 but many people in the community, Your Honor, have been  
12 destroyed as a result of the meth culture that is fairly  
13 new in the York County area. Your Honor, his parents Larry  
14 and Barbara Boozer are in the court today; they have been  
15 very very supportive of him throughout my representation of  
16 him. We've all worked very hard in preparing this case for  
17 trial, Your Honor, in light of some of the developments  
18 that have happened at trial Tim understands that certainly  
19 sufficient evidence by which a jury would likely convict  
20 him of these charges rather than face the consequences of  
21 possibly doing thirty years which at forty two years of age  
22 would essentially the rest of his life in prison. Your  
23 Honor, that's why we decided to enter this guilty pleas.  
24 He and I have discussed the fact that this is not only a no  
25 parole offense but also the significance of the fact that

1 it is a serious offense and a violent offense I believe he  
2 understands how that's going to affect him going forward in  
3 the future, Your Honor. I would ask the court to hear from  
4 his parents at this time.

5 THE COURT: Mr. and Ms. Boozer, I'll be glad to hear  
6 from you. Just tell me who you are.

7 MS. BOOZER: I'm Barbara Boozer. I'm his mother. My son  
8 Tim is a good kind and wonderful person who has made some  
9 bad decisions. He's a very good and kind person and I hope  
10 I will get to see Tim sometime and I ask for mercy.

11 THE COURT: Thank you. Mr. Boozer, do you want to say  
12 anything?

13 (PAUSE.)

14 THE COURT: I don't believe Mr. Boozer does.

15 Timothy Boozer, do you understand the ramifications of  
16 what's called a no parole, eighty-five percent sentence?

17 MR. BOOZER: Yes, sir.

18 THE COURT: Is that a yes or no.

19 MR. BOOZER: Yes, sir.

20 THE COURT: All right. I will be glad now to hear  
21 from you. Anything you want to say?

22 MR. BOOZER: I just want to apologize to my parents  
23 for hurting them. And I throw myself on the mercy of the  
24 court.

25 THE COURT: All right. Well as to your probationary

1 sentence I am going to revoke. I find those are  
 2 substantial violations we've already gone over them and I  
 3 am going to revoke your probationary sentence on those.  
 4 I'm going to run that concurrent with the sentence that I  
 5 imposed today. On the charge of and these all three will  
 6 run concurrent and I am giving you credit for any time if  
 7 you've already served any and also recommend that you  
 8 receive treatment through the Addiction Treatment Unit. On  
 9 the possession of marijuana 2nd offense; possession of  
 10 methamphetamine. - I'm sorry 2nd offense that's five years  
 11 and that's concurrent. On the two attempting to  
 12 manufacture those each are seventeen years and they will  
 13 run concurrent and they will run concurrent with the  
 14 probation revocation.

15 MR. SULLIVAN: Your Honor, there's one other matter I  
 16 do want to put on the record. He has a pending - He has  
 17 some pending charges from February of this year. As part  
 18 of the negotiations process it's my understanding the  
 19 Solicitor's office is going to be dismissing those warrants  
 20 and I just wanted to put that on the record.

21 SOLICITOR DESCH: Yes, sir.

22 THE COURT: One of those is again for meth; right?

23 SOLICITOR DESCH: Correct.

24 THE COURT: Thank you.

25 MR. SULLIVAN: Thank you, Your Honor.



1 SOLICITOR DESCH: Thank you, Your Honor.

2 SOLICITOR LIPINSKI: Thank you, Your Honor.

3 THE COURT: We've got to get the jury in and - -

4 SOLICITOR LIPINSKI: Oh I apologize, Your Honor.

5 THE COURT: Bring in the jury.

6 (JURY ENTERING COURTROOM AT 12:12 P.M.)

7 THE COURT: I'm sure by now you all think I missed  
8 that class in kindergarten when they taught you how to tell  
9 time. Actually I did not we had some legal matters like I  
10 told you that I have to take up. I made some rulings and  
11 based on those rulings Mr. Boozer determined that he would  
12 rather than go forward with the trial plead. So the case  
13 is over he has pled guilty. He was already on probation  
14 for the same thing on an eight year sentence on that. He  
15 had the defense for which he was on trial from December  
16 13th he had another methamphetamine charge ten days later  
17 December 23rd and another one from February of this year.  
18 I revoked his eight year probation and gave him an  
19 additional seventeen to run concurrent. He's forty-two  
20 years old I gave him a seventeen year sentence; it's under  
21 what's called a no parole sentence he will have to serve  
22 eighty-five percent of that like fifteen years. So the  
23 case is over I handled it. It would not have happened had  
24 you not been there and I'm sorry we had you sitting back  
25 there so long but as you can see we were working

1 productively actually. So you are through for the week you  
2 will be mailed a check and if any of you need a statement  
3 to take to work to show that this is in fact where you were  
4 you can stop by downstairs at the Clerk's office and they  
5 will give you one but I am going to allow you to leave at  
6 this time and thank you so much. This finishes your term,  
7 it finishes your work for this term. Thank you.

8 (WHEREUPON: COURT'S EXHIBITS TWO AND THREE MARKED AND  
9 ENTERED INTO EVIDENCE.)

10 (NOTE: JURY DISMISSED AT 12:14 P.M. IN THE MATTER OF  
11 STATE OF SOUTH CAROLINA VERSUS RONALD TIMOTHY BOOZER. CASE  
12 NO'S SA 2009-GS-46-0309; 2010-GS-46-1168-1170

13  
14 END OF TRANSCRIPT OF RECORD

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CERTIFICATE OF REPORTER

State of South Carolina    )  
                                  )  
County of York                )

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 11th and 12th days of August, 2010.

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

Wanda Nelson

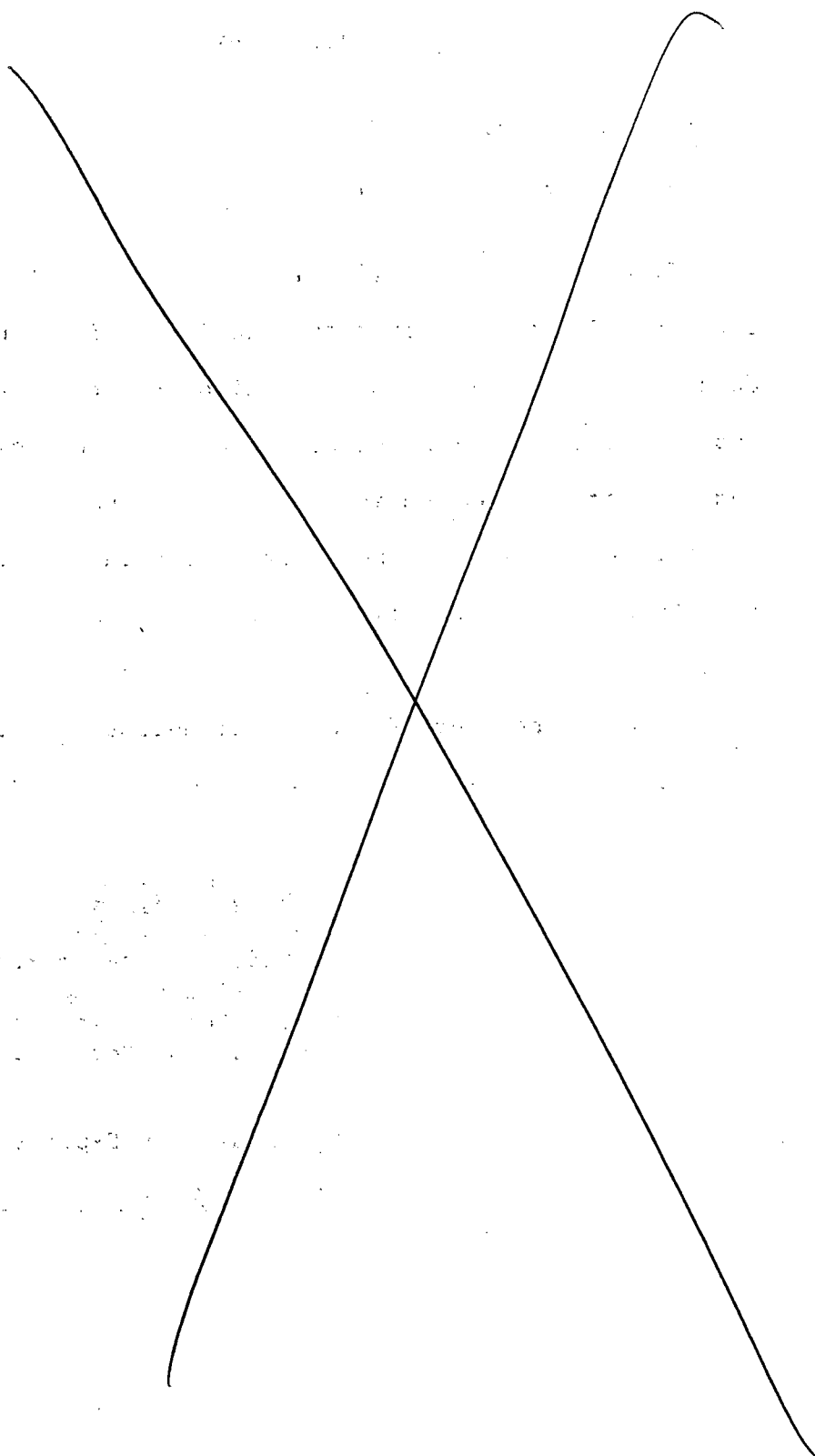
Wanda Nelson, CVR  
Certified Verbatim Reporter,  
Official Court Reporter,  
Notary Public, in and for  
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: 6-4 / 2012

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1 STATE OF SOUTH CAROLINA

2 -----x

3 RONALD BOOZER,

4 Applicant,

5 Case No.

6 -against-

2011-CP-46-1544

7 State of South Carolina,

8 Respondent.

9 -----x

10 October 8, 2012

11 York, S.C.

12

13 B E F O R E:

14 HONORABLE EDGAR W. DICKSON

15

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

17 TOMMY A. THOMAS, Esquire

18 Attorney for the Petitioner

19

20 J. RUTLEDGE JOHNSON, Esquire

21 Attorney for the State

22

23

24 Aileen Butler

25 Official Court Reporter

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I N D E X

| <u>WITNESS</u>    | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|-------------------|---------------|--------------|-----------------|----------------|
| Jonathan Sullivan |               |              |                 |                |
| Mr. Thomas        | 5             |              | 25              |                |
| Mr. Johnson       |               | 23           |                 | 26             |
| Ronald Boozer     |               |              |                 |                |
| Mr. Thomas        | 27            |              | 40              |                |
| Mr. Johnson       |               | 35           | 41              |                |
| Barbara Boozer    |               |              |                 |                |
| Mr. Thomas        | 43            |              |                 |                |
| MR. Johnson       |               | 47           |                 |                |

E X H I B I T SNO.DESCRIPTIONI.D.EVD.

NO EXHIBITS MARKED

MR. JOHNSON: May it please the court.

1 MR. JOHNSON: May it please the court.

2 THE COURT: Yes, sir.

3 MR. JOHNSON: This is the case of Ronald  
4 Boozer versus the State of South Carolina, case  
5 number 2011-CP-46-1544. Mr. Boozer was indicted  
6 in March 2010 term of York County of one count  
7 of Attempt to Manufacture Methamphetamine, one  
8 count of Possession of Methamphetamine.

9 On August 12, 2010 Mr. Boozer plead guilty  
10 to attempt to Manufacturer Methamphetamine  
11 2nd offense as indicted and Possession of  
12 Methamphetamine as indicted before the Honorable  
13 John C Hayes, III.

14 He received a 17-year sentence for the  
15 Attempt to Manufacturer Methamphetamine, 2nd  
16 offense and five years concurrent sentence for  
17 Possession of Methamphetamine, 2nd offense.

18 Mr. Boozer did not appeal his conviction or  
19 sentence. Thereafter, he filed a timely PCR  
20 April 19, 2011. The State filed its return on  
21 September 14, 2011 and he is represented here  
22 today by Mr. Tommy Thomas.

23 THE COURT: All right. Mr. Thomas.

24 MR. THOMAS: If it please the Court,  
25 just a couple of housekeeping matters. He did



1 actually file a Notice of Appeal. That notice  
2 and the appeal went to the Court of Appeals. The  
3 Court of Appeals issued an Order, Your Honor,  
4 stating that there were no issues that were  
5 preserved for review and the case was dismissed.  
6 It was taken no further from there.

7 The appeal was not taken from there and then  
8 the Post Conviction was filed Your Honor.

9 THE COURT: All right. Are you prepared to  
10 call your witness.

11 MR. THOMAS: I am. Your Honor we would  
12 call Mr. Jonathan Sullivan to the stand please.

13 THE COURT: Okay.

14 MR. SULLIVAN: Good afternoon, Your Honor.

15 THE COURT: Mr. Sullivan, how are you sir.

16 MR. SULLIVAN: Fine.

17 JONATHAN SULLIVAN, called as a witness,  
18 having been duly sworn by the clerk, was examined  
19 and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. THOMAS:

22 Q. Mr. Sullivan, you had an opportunity to represent  
23 Mr. Ronald Boozer?

24 A. Yes, I did.

25 Q. All right. In what capacity? Were you retained

1 or were you appointed counsel?

2 A. I was working in the public defender's office at  
3 that time, so I was serving as a public defender on this  
4 set of charges and a few other charges.

5 Q. And were there actually two attorneys involved in  
6 the case?

7 A. Mr. Delaney assisted me in this preparation of  
8 this trial.

9 Q. All right. Now, if you don't mind could you give  
10 us just a short factual summary about what this case is  
11 about, just for the Court's information.

12 He was charged with with what?

13 A. Attempt to manufacturer methamphetamine.

14 Q. And how did that arise?

15 A. Essentially what had happened was, Tim parents,  
16 Larry and Barbara Boozer contacted York County Sheriff's  
17 Department. They were concerned that they had seen a  
18 suspicious vehicle park in Tim's driveway. They live on  
19 one section of the property and then Tim lives in a home  
20 located on the back of that section. So Mr. And Mrs.  
21 Boozer had contacted the sheriff's department on a  
22 completely unrelated phone call. Deputies came out to  
23 the house and spoke with Mr. and Mrs. Boozer about this  
24 potential trespass and this car being there and while  
25 they were there deputies noticed some form of smoke

1 coming out from a small two or three gallon bucket  
2 located behind the house. Deputies looked inside of  
3 that bucket and noticed a few things which they  
4 determined to be suspicious. They then found a few  
5 things. They looked through the windows of my client's  
6 Jeep Grand Cherokee that was parked out there and  
7 identified a few other things that are precursors to  
8 making methamphetamine. So they then contacted the York  
9 County Drug Enforcement Unit. Did some further  
10 investigation. They then had another officer, who was  
11 not on the scene at that time, call in a warrant to  
12 serve on the house. Excuse me. Prior to that they  
13 actually, the officers, went inside the house and did  
14 what they coined as a protective search. They were  
15 concerned about this fire and the potential of a meth  
16 lab being inside the house. So the officer came out.  
17 They executed a search warrant and found in various  
18 places throughout the house items that they confiscated.  
19 At no point was my client, Tim Boozer, in the house.  
20 There was another gentlemen there. They ultimately  
21 swore out warrants from that incident and there were a  
22 couple unrelated drug cases that I represented him for  
23 that. We were able to get some of those cases thrown  
24 out in Magistrate's Court for lack of probable cause.  
25 Essentially I represented Tim on three separate

1 incidents.

2 Q. All right. Now given that fact situation, you  
3 prepared this case for trial or for plea?

4 A. Well, we ultimately prepared it for trial.

5 Q. And what process did you take in preparing the  
6 case for trial?

7 A. That process consisted of, of course, when we  
8 decided to go to trial, that is when Mr. Delaney came on  
9 board and we did a lot of preparation work with Mr. and  
10 Mrs. Boozer, Tim's parents. We went out to the house on  
11 one or two or three occasions. Saw the layout of the  
12 home and everything out there and interviewed the  
13 witnesses as best as we can locate them.

14 Q. And did you have a private investigator?

15 A. No, we did the work ourselves.

16 Q. And you did visit the scene?

17 A. Yes.

18 Q. Now, how about the physical evidence. Were you  
19 able to view that evidence?

20 A. No, that was taken in as part of the  
21 investigation process. Because of the combustible  
22 nature HazMat responded and took possession of a vast  
23 majority of the physical items themselves. HazMat took  
24 in it to custody.

25 Q. Does that present any type of unique issue in

1 regards to the evidence and how that is introduced at  
2 trial?

3 A. No, I don't think so.

4 Q. And potential witnesses, you were able to talk to  
5 the potential witnesses in this case?

6 A. Yes. We spoke with Larry and Barbara Boozer who  
7 were listed in the sheriff's incident report. They were  
8 the client's parents, but we worked with them  
9 significantly. We also interviewed -- I think I did or  
10 Mr. Delaney interviewed Ricky Brookshire who the State  
11 had brought in as witness. They had him in jail at that  
12 time listed as a potential witness and of course spoke  
13 to Mr. Boozer our client.

14 Q. And this case is little bit unique in that it  
15 actually went through a partial trial and then at a  
16 point in time a decision was made to plea and a plea was  
17 entered?

18 A. Correct.

19 Q. And in working with Mr. Boozer were you able to  
20 develop a theory of defense in this case?

21 A. Yes. Our defense -- Tim has always maintained  
22 innocence to us, from day one all way up even after the  
23 first day of trial. When Mr. Delaney and I went back  
24 and spoke with Tim even at that point he maintained his  
25 innocence to us. So, we crafted kind of three-prong

1 strategy for our defense. Part of that defense included  
2 trying to attack the items that were seized subject to  
3 the -- excuse me -- pursuant to the search warrant. So  
4 we developed a theory trying to keep that evidence out.  
5 Then we also had our theory of purely reasonable doubt.  
6 The fact that our client was not in the house when any  
7 of this evidence was taken into custody. The fact there  
8 was another gentlemen there. There was no fingerprints  
9 or anything like that so we had a purely reasonable  
10 doubt theory and then of course with drug cases you can  
11 always argue possession. Simple possession. There was  
12 very little drugs taken in to possession in this case,  
13 despite it was attempt to manufacturer, ultimately it  
14 was only residue that was taken in or tested. It  
15 ultimately came back positive. So, we had those three  
16 strategies.

17 Q. They actually seized a number of items?

18 A. I think there were fifty items or so taken in.

19 Q. And do you remember how many actually tested  
20 positive for methamphetamine?

21 A. If my memory serves me, two. Maybe a straw and  
22 then maybe I can't think of the other, but I think it  
23 was two. It was ultimately residue.

24 Q. Right. And your argument in the suppression, I  
25 guess, is that these were every day household items that

1 they had seized?

2 A. Yes.

3 Q. And they were attempting to put all this together  
4 to say that these pieces and parts made a meth lab?

5 A. Yes.

6 Q. Were you successful in the motion to suppress?

7 A. No.

8 Q. An in talking with Mr. Boozer did you sit down  
9 and discuss in regards to the motion for suppression and  
10 the trial to give him information in regards to being  
11 able to I guess make the decision to go to trial or to  
12 entertain the question of a plea?

13 A. Yes. This is a situation where Tim and his  
14 parents were good clients. They were actively involved  
15 in the preparation of this case. We discussed it on a  
16 couple of different occasions. Of course in our opinion  
17 that search warrant, attacking that search warrant was  
18 critical depending on how that came about or what the  
19 ultimate decision was on that, but I did sit down in  
20 this instance with Tim and his mother, Barbara. We sat  
21 down. Had a meeting in my office when the solicitor  
22 gave us a plea offer on the case. We discussed possible  
23 strategies. Possibly what the sentence would be because  
24 Tim was on probation at that point for the same offense  
25 and had eight years hanging over his head. So I sat

1 down with Tim and his mother and I don't know if Mr.  
2 Delaney was there or not. But we went through the  
3 possible plea and the search warrant issue and all that.  
4 So we did go over that. It was about a two-hour meeting  
5 from what I remember.

6 Q. What was the offer? The plea offer, do you  
7 remember?

8 A. Yes, and I will give you the full background of  
9 the plea offer. The first plea offer that I had from  
10 the solicitor in this case was, it was a range of seven  
11 to ten years, but that would be consecutive to what he  
12 had on his probation. So he had eight years hanging  
13 over his head. So in that instance he was looking at  
14 potentially anywhere from 15 to 18 years was the  
15 original plea offer. And then I sat down during that  
16 actual two-hour meeting that I just referenced. We had  
17 a visiting judge come in to town and the solicitor had  
18 agreed to dismiss everything except for the items that  
19 were found in the house. She agreed to dismiss  
20 everything. Let him plead straight up to those charges  
21 but again it would be consecutive to what he had on his  
22 probation. The charge that he had at the time I think  
23 carried 5 to 30, no parole. So he was looking at a  
24 significant amount of time.

25 We discussed all that and the possible no parole.



1 And at that point Tim and his mother, Barbara, asked me  
2 if they could have a copy of his Discovery. They said  
3 they would like to talk to another attorney. So I said,  
4 obviously we are under a time constraint here. I think  
5 this was Monday or Tuesday of that week when we had the  
6 judge in and the offer was set to expire either Thursday  
7 or Friday. I talked again with Tim. I think it was by  
8 phone. That is not enough time for me to get my affairs  
9 in order. He didn't want to plead straight up in front  
10 of the judge. So we didn't get the plea done that week  
11 because he wasn't prepared at that point.

12 He still wanted to talk with some other lawyers  
13 and see if he could get something different.

14 Q. And Judge Hayes gave him 17 years; is that  
15 correct?

16 A. Yes.

17 Q. Is that any different then you think he would  
18 have gotten under the plea offer? Would it have been  
19 advantageous to accept the plea offer?

20 A. Let me do my math. Hang on just a second. Yes.  
21 He could have gotten less had he done the plea offer,  
22 but he could have gotten more. As you know that charge  
23 carries a wide range and because he had probation, eight  
24 years hanging over his head. He could have gotten  
25 slightly less, but he could have gotten more.

1 Q. Okay. Now, at the trial, of course the motion to  
2 suppress was based upon the probable cause and the  
3 protected sweep.

4 A. Correct.

5 Q. And you looked at the search warrant. As far as  
6 the mechanics. I was looking at the transcript and it  
7 says I think at one point --

8 A. I think I might have even cross examined the  
9 officer on the return.

10 Q. You did. And he says that he calls in, I think  
11 it is page 68 of the transcript. He calls in and says  
12 that he didn't have all the information to the identity  
13 of Mr. Boozer. That he had an address and he had  
14 registration from the car.

15 A. He had the VIN number of the car. Yes, sir.

16 Q. Did you see anything that could have been  
17 challenged in the search warrant?

18 A. No.

19 Q. One thing in talking to Mr. Boozer, there is  
20 quite a bit of testimony in regards both pretrial and  
21 trial testimony about car batteries.

22 MR. JOHNSON: Your Honor at this point I am  
23 going to object. He is trying to retry the case.  
24 We are here for his guilty plea. He can go over  
25 the involuntary guilty plea, but we are not here

1 to retry this case.

2 THE COURT: Thank you, Mr. Johnson. Mr.  
3 Thomas, where are you going with this?

4 MR. THOMAS: Your Honor, we will move along.  
5 I think it is a unique case in that we got a  
6 partial trial and then we have a plea resulting  
7 from that trial. Our burden is to show that  
8 but for the information that is provided to him  
9 by counsel that he would have elected to continue  
10 with the trial.

11 THE COURT: Yes, sir.

12 MR. THOMAS: And we see there are a couple  
13 of discrepancies that I think were not done at  
14 trial which I think could have influenced his  
15 decision to enter a plea.

16 THE COURT: And what are those?

17 MR. THOMAS: One of those involve the  
18 car battery.

19 THE COURT: I will let you continue.

20 MR. THOMAS: And for brevity I will  
21 just note those pages, if that will help. There  
22 is no reason to go to them if he remembers those  
23 sections, but I will just note them for the  
24 record.

25 THE COURT: If you wouldn't mind that would

1           be great. The Court would appreciate that.

2           Q. Counsel, they talk about that there was somewhere  
3 between fifty and one hundred car batteries on site and  
4 I guess the questioning was the sulfuric acid used in  
5 the processing to produce methamphetamine; do you  
6 remember that?

7           A. I do remember part of that yes, sir.

8           Q. And were you able to investigate if in fact there  
9 were batteries on site, you went to the scene. Did you  
10 see the batteries?

11          A. I don't recall seeing the batteries and it seems  
12 to me that Tim may have even said there weren't any car  
13 batteries -- there were only a few car batteries or  
14 something but beyond that I don't remember the specific  
15 amount.

16          Q. Did any witness come to you and say they were  
17 able to testify that there weren't any batteries on the  
18 scene?

19          A. Not that I can remember.

20          Q. And I know this is obscure, but basically what  
21 they were trying to do is piece all this information  
22 together to convince a jury that he was in the process  
23 or going into the process of manufacturing meth?

24          A. I am sorry.

25          Q. They were using many different items?

1 A. Law enforcement was.

2 Q. And pulling those together that they had found --

3 A. Okay.

4 Q. -- To attempt to show to a jury that he was  
5 manufacturing meth?

6 A. Yes.

7 Q. And sulfuric acid was one of these?

8 A. Yes, but if my memory serves me those batteries  
9 were not ever taken into evidence or presented as part  
10 of their case in chief at trial. I am not sure if it  
11 would have been completely germane or relevant at that  
12 point to go into those.

13 Q. Now, there were a number of indications in  
14 regards to the HazMat crew coming in, DEA being  
15 contacted. They coming in and seizing certain items and  
16 taking them.

17 A. Yes. Sounds familiar.

18 Q. Would that have -- could you have objected to  
19 that information coming in?

20 A. I don't think so because at that point due -- I  
21 don't want to say of poisonous nature, combustible  
22 nature, clearly they had to take pictures of them as  
23 opposed to bringing in these items.

24 Q. I was wondering about the prejudicial nature of  
25 them saying we are coming in to basically clean up a

1 meth lab.

2 A. I am not really sure.

3 Q. If they are able to say that these individuals  
4 come in to clean up the site and that they contact DEA  
5 and DEA contacts a cleanup crew to clean up a meth lab,  
6 don't you think that is inferring that there was in fact  
7 a meth lab to clean up at the scene.

8 A. I am not so sure about that. I am not sure it  
9 was completely prejudicial just by referencing the  
10 HazMat team.

11 Q. How about Bridget Darty, she was the witness who  
12 testified?

13 A. Yes, sir.

14 Q. And I think that was possibly why you made the  
15 decision to recommend that he accept a plea?

16 A. Yes, sir.

17 Q. Did you have notice that she was going to  
18 testify?

19 A. I think we had notice at some point that she was  
20 going to be a witness for the State. I don't think we  
21 necessarily had anticipated what the substance of her  
22 testimony was going to be. I don't think we were ever  
23 informed of that.

24 Clearly we would have been looking at a different  
25 situation. I don't think we were ever informed of what

1 the complete substance of her testimony was going to be,  
2 only that she was a potential witness.

3 We tried to locate her and to interview her and  
4 went out -- Mr. Delaney went on Sunday afternoon went  
5 out to the house I guess up on the lake. She was not  
6 there. Her father was there but she was not there.

7 Q. Okay. And after her testimony or I guess her  
8 proffered testimony, what did you do? What kind of  
9 interaction did you have with your client in regard to  
10 talking about a plea?

11 A. That's when we went in to see Tim and that would  
12 have been the morning of the second day of trial and of  
13 course we met with Tim five or six times. Whenever  
14 trial broke down. After the first day at that point he  
15 still said I am not guilty. I am not going to plead to  
16 something I am not guilty of. He was always consistent  
17 with us on that. And I am not a lawyer that going to  
18 force my client to do something he doesn't want to do,  
19 but after Miss Darty testified clearly at that point we  
20 knew if that issue or that fact went to the jury that  
21 they were going to convict him and at that point he was  
22 looking at thirty years, no parole. So, with the  
23 situation that we found ourselves in we went back and  
24 talked with Tim at that point. I think we talked with  
25 maybe his parents out in the hallway. At that point

1 everybody recognized, look this is a bad situation, but  
2 it is going to get much worse if we continue to go  
3 further and argue this case to the jury. So I went back  
4 and talked to the solicitor -- I and Mr. Delaney. I  
5 think there were actually two solicitors. Went back and  
6 spoke with the judge in chambers. He indicated to us if  
7 Tim plead now as opposed to taking the case for the  
8 verdict that he would probably split the baby, is what  
9 he told us and give him 15. So we told Tim and his  
10 parents at that point Judge Hayes is indicating it looks  
11 like he is going to give you 15. Later on it ended up  
12 being 16 but other issues were discussed.

13 Q. And you had ample opportunity to discuss that  
14 with Tim. You feel it was an informed decision on his  
15 part?

16 A. Especially I think it was informed because  
17 clearly from five o'clock or six o'clock the night  
18 before until that next morning he was telling us, no, I  
19 am not pleading to something I am not guilty to, to  
20 yeah, I recognize this is not a good situation. So yes,  
21 I think he was clearly informed.

22 Q. And that decision was based upon what was going  
23 on in the courtroom in regards to the trial?

24 A. Surely.

25 Q. And the motion to suppress and I guess the



1 proffered testimony of Miss Darty?

2 A. Sure, no doubt about it. Once Miss Darty  
3 testified, for better or worse was about the worse facts  
4 that could have come out.

5 MR. THOMAS: If I could get the Court's  
6 indulgence for one moment.

7 THE COURT: Take your time.

8 Q. You talked to Tim about parole eligibility?

9 A. My notes indicate -- I am sorry. Just a second  
10 please. My notes indicate on June 23 from about five or  
11 six thirty p.m. that I met with Tim and mother.  
12 Provided a copy of Discovery because they may talk with  
13 another attorney. Reviewed all of the penalties on all  
14 charges including the fact this was not a parolable  
15 offense. My notes indicate that I did.

16 Q. And was his charges, was this prior or after the  
17 passage of Omnibus Bill?

18 A. This was prior.

19 Q. And that's what my question was, under the new  
20 Omnibus Crime Bill he potentially could be parole  
21 eligible?

22 A. I am not aware of the new law. I apologize. But  
23 this was definitely under the old law.

24 Q. And do you know whether or not he was listed by  
25 SCDC eligible for parole?

1 A. Have not checked that, no, sir.

2 Q. And have you -- are you aware of the Order that  
3 was recently issued by Judge Hayes in regard to parole  
4 eligible?

5 A. No, sir.

6 Q. Your Honor may an approach?

7 THE COURT: You may.

8 A. I have to the read the whole thing, but I will  
9 tell you I left the public defender's office in 2011. I  
10 notice this Order is dated 2012 and there is some  
11 reference about defense counsel failing to consent to  
12 something. Trial counsel. I was no longer here. I was  
13 not notified of this.

14 Q. What in essence this is actually an Order to  
15 correct sentence saying that he is not eligible for  
16 parole.

17 THE COURT: Okay.

18 Q. But you had no knowledge, nor were not aware of  
19 that?

20 A. No, sir absolutely not.

21 MR. THOMAS: Your Honor, I would like to  
22 introduce that order, as Applicant's one.

23 MR. JOHNSON: Is this talking about parole  
24 eligibility? This is a collateral consequence  
25 and not a PCR issue.

1 THE COURT: I understand that.

2 MR. THOMAS: We would like to put it in for  
3 the record.

4 THE COURT: I would like you to proffer it  
5 into the record. I will let you proffer. To  
6 have it to look at and you will have it for your  
7 record.

8 MR. THOMAS: Thank you.

9 Your Honor that is all the questions I have.

10 MR. JOHNSON: Just briefly.

11 CROSS EXAMINATION

12 BY MR. JOHNSON:

13 Q. Mr. Sullivan, you testified that the defense  
14 theory was to try and exclude the evidence found at the  
15 scene because they were every day household items,  
16 correct?

17 A. Yeah. Essentially we were attacking it based on  
18 lack of probable cause due to these items were something  
19 that could be found anywhere, household items. The fact  
20 that these items were found outside of the house. They  
21 weren't even found inside the house. Those factors we  
22 argued did not support probable cause for the warrant.

23 Q. Because those items, lithium batteries and  
24 pseudoephedrine tablets, which are legal to have,  
25 Fertilizer, some type of gasoline that they found

1 tablets in, isn't that correct?

2 A. Correct.

3 Q. But you did have a suppression hearing; is that  
4 correct?

5 A. Yes.

6 Q. And you argued to suppress all the evidence based  
7 on lack of probable cause?

8 A. Yes.

9 Q. But the Court allowed that into evidence?

10 A. Yes.

11 Q. It also talks about this Bridget Darty and she  
12 was allowed to proffer her testimony and I believe it  
13 was counsel Delaney who actually made the argument, but  
14 the argument was made that she shouldn't be allowed to  
15 testify; isn't that correct?

16 A. Correct.

17 Q. But the Court allowed her testimony to go  
18 forward. Was going to allow her testimony to go  
19 forward?

20 A. Yes.

21 Q. And that is the time Mr. Boozer decided to plead  
22 guilty?

23 A. Yes.

24 Q. And it was his decision wasn't it?

25 A. Yes.

1 Q. Did you make any threats to him?

2 A. No.

3 Q. Any promisees?

4 A. No.

5 Q. And he did it freely and voluntarily?

6 A. Yes.

7 Q. And he understood that judge would sentence him  
8 to roughly around 15 years?

9 A. He appeared from my perceptive to understand  
10 that.

11 Q. But nothing in his demeanor gave you any second  
12 guessing to whether or not he understood?

13 A. No.

14 Q. That is all the questions I have Your Honor?

15 THE COURT: Anything on redirect.

16 MR. THOMAS: Your Honor, if I may, just one  
17 or two.

18 THE COURT: Okay.

19 REDIRECT EXAMINATION

20 BY MR. THOMAS:

21 Q. Counsel, basically what was happening is that you  
22 had a client that said he was not guilty of the crime?

23 A. Yes.

24 Q. And you obviously had started a trial in this  
25 case?

1 A. Yes.

2 Q. And the things that happened at trial and  
3 pretrial is what ultimately ended up in information  
4 being provided to Mr. Boozer whether to decide to accept  
5 the plea or not?

6 A. Yes.

7 Q. So that the actions of the trial basically  
8 influenced or were taken into consideration in his  
9 decision?

10 A. I think that is fair to say, yes.

11 MR. THOMAS: I have no further questions.

12 THE COURT: Any recross?

13 RECROSS EXAMINATION

14 BY MR. JOHNSON:

15 Q. Ultimately whose decision was it to plead guilty?

16 A. It was my client, Tim Boozer.

17 MR. JOHNSON: No further questions.

18 THE COURT: All right. You may step down.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Call your next witness.

21 MR. THOMAS: We call Mr. Boozer.

22 RONALD BOOZER, called as a witness, having been duly  
23 sworn was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. THOMAS:

1 Q. Mr. Boozer, you are currently being housed at the  
2 South Carolina Department of Corrections?

3 A. Yes, sir.

4 Q. And what type of sentence are you serving?

5 A. Seventeen years.

6 Q. And what were you -- what are you serving time  
7 for?

8 A. Manufacture of methamphetamine.

9 Q. Yes, sir. And do you also have a probation  
10 revocation?

11 A. Yes.

12 Q. What were you on probation for?

13 A. Manufacturing methamphetamine.

14 Q. All right. Now, I understand that you are here  
15 today for post conviction relief?

16 A. Yes.

17 Q. And the relief that you are seeking or the only  
18 relief you can seek is a new trial?

19 A. Yes.

20 Q. You understand if you are successful that these  
21 charges -- that the charges that were dismissed and the  
22 charge that you were convicted would be set aside and  
23 all this would be reinstated?

24 A. Yes, sir.

25 Q. You could potentially go back to a new trial?

1 A. Yes, sir.

2 Q. And that you could receive any punishment if you  
3 are convicted to whatever those crimes may carry?

4 A. Yes, sir.

5 Q. Which could potentially be more than what you  
6 have today?

7 A. Yes, sir.

8 Q. Now, you want to go forward?

9 A. Yes, sir.

10 Q. Understanding the risk?

11 A. Yes, sir.

12 Q. All right. Now, Mr. Boozer when you were  
13 arrested I guess you were appointed counsel in this  
14 case?

15 A. Yes, sir.

16 Q. And that was Mr. Sullivan and who was the other  
17 gentlemen?

18 A. Mr. Delaney.

19 Q. Now, what happened as far as were you on bond or  
20 did you remain in county jail for a period of time?

21 A. I did not have a bond for most of the time and  
22 then I think I got out. I was out for only a few weeks.

23 Q. Prior to trial?

24 A. Prior to trial, yes, sir.

25 Q. And what period of time was it before when you



1 were arrested and when this case came to trial?

2 A. I would say approximately one year.

3 Q. During that period of time you met with your  
4 attorney to prepare this case for trial?

5 A. Yes, sir.

6 Q. And it was your contention and it is your  
7 contention today that you are not guilty of these  
8 charges?

9 A. Yes, sir.

10 MR. JOHNSON: Actually innocence is not a  
11 claim in PCR.

12 THE COURT: Thank you, thank you Mr.  
13 Johnson.

14 MR. THOMAS: Just as to why he wanted to go  
15 to trial.

16 A. Yes, sir.

17 Q. The purpose of it? What did you do? What was  
18 your part in helping or assisting to prepare your case  
19 for trial?

20 A. I basically sat in the county waiting I guess,  
21 you know, to go to trial I guess.

22 Q. What was your theory of defense?

23 A. That I was innocent, so I would be found  
24 innocent.

25 Q. Did you talk about evidence? Do you know what I

1 mean by Discovery? Discovery that you received from the  
2 State?

3 A. Yes, sir.

4 Q. All right. Did you receive that information?

5 A. Right. Not long before we went to trial.

6 Q. Did you sit down and go through all that  
7 information with counsel?

8 A. We went through some of it. It was a lot to take  
9 in in a short amount of time.

10 Q. Did you assist him in providing information about  
11 things that you thought would help?

12 A. Yes, sir.

13 Q. And we talked about the car batteries. I know it  
14 seems a little bit obscure, but did you talk about the  
15 car batteries.

16 A. No, we didn't really talk about it. There wasn't  
17 any car batteries there. There was no batteries there.

18 Q. And there was talk -- there was testimony there  
19 was about fifty or one hundred batteries on your  
20 property

21 A. Yes, sir.

22 Q. And which would have been used for the  
23 manufacturer of the meth?

24 A. That is what they say, yes, sir.

25 Q. Now, were there other items that you brought to

1 his attention that you felt like he didn't act on or  
2 should have acted on?

3 A. Yes, sir. There was receipt from Lowe's that  
4 like I say somebody could have gone to Lowe's and got  
5 the video that went with the receipt to see who  
6 purchased it. That would have cleared me.

7 Q. I am confused. You are talking about going to  
8 Lowe's. What are you going to show? What are you  
9 attempting to show?

10 A. Who purchased those items.

11 Q. Which items?

12 A. The receipt that they had. I am not exactly sure  
13 what was on the receipt.

14 Q. But there were certain items that were seized  
15 that you are contending that were purchased by someone  
16 else?

17 A. Yes, sir.

18 Q. And you believe that had counsel gone and  
19 investigated it at that point in time the information  
20 could have been obtained regarding those purchases?

21 A. Yes, sir.

22 Q. Now, you had a number of items that were seized  
23 on your property like fertilizer?

24 A. Yes, sir.

25 Q. And you live on a farm?

1 A. Yes, sir.

2 Q. And your contention it was fertilizer that was  
3 used in --

4 A. In the garden, the flower bed, roses, the yard,  
5 the grass everywhere..

6 Q. Now, you talked to counsel about that?

7 A. Yes, sir.

8 Q. And what did he say, if anything?

9 A. I don't remember exactly what he said about that.

10 Q. What else did you talk to him about? What else  
11 did you try and do to assist him in obtaining  
12 information that might be a benefit to you?

13 A. I guess we just tried to cover the bases. I  
14 guess to what I thought was relevant to the case.

15 Q. Was it your decision to go to trial?

16 A. Yes, sir.

17 Q. And you felt comfortable with that decision?

18 A. Yes, sir. Like I said I was innocent.

19 Q. All right. And how did you change your mind from  
20 a trial to deciding you were going to enter into a  
21 guilty plea?

22 A. Well, when the trial started you know, Mr.  
23 Sullivan tell me they can't do this. They can't do  
24 that. They can't do the other. And not long after the  
25 trial started he had changed that. Well, they are not

1 suppose to be able to do this and like I said it was on  
2 a little further and he said well, if you keep going to  
3 trial you will get thirty years.

4 Q. So why did you if you were saying you didn't do  
5 this crime why did you plead to it?

6 A. To keep from getting thirty years. I wish I  
7 would have went on with the trial.

8 Q. And that's what you are asking for today?

9 A. Yes, sir.

10 Q. Is that you be allowed to go forward with your  
11 trial?

12 A. Yes, sir.

13 Q. Mr. Boozer, did you think you fully understood  
14 what you were doing when you entered into this plea?

15 A. No, sir I didn't understand how a lot of this  
16 works. No, sir, I did not.

17 Q. Have you ever been in jail before? Prison  
18 before?

19 A. No, sir.

20 Q. And your prior arrest, you were on probation for  
21 that?

22 A. Yes, sir.

23 Q. Now, for a guilty plea you have to enter into it  
24 knowingly and intelligently which means that you have to  
25 know what you are doing. You have to know what the

1 facts are to be able to enter into this plea. Also, it  
2 has to be freely and voluntarily entered into.

3 Did you enter into this plea freely and  
4 voluntarily?

5 A. No, sir. I thought -- I felt like I was scared  
6 into it looking back.

7 Q. And you are saying that potentially certain  
8 information that was conveyed to counsel that could have  
9 assisted him in trial in this case?

10 A. Yes, sir.

11 Q. And that this information wasn't acted upon?

12 A. No, sir.

13 Q. Mr. Boozer, this is your day and I know you have  
14 been waiting a long time for this post conviction to  
15 come up. I am not suggesting that there is anything  
16 that we have forgotten or left out, but I want you to  
17 have every opportunity. Is there anything else you  
18 would like to say to the judge, to bring to the Court's  
19 attention that I may have omitted or forgotten?

20 A. My phone records were also left out. That could  
21 have been something that also could have helped me.  
22 Other than that, no, sir.

23 Q. Was there any information about whether there was  
24 methamphetamine found in one of the vehicles that was  
25 wrapped up in a coffee filter, you remember that?

1 A. Yes, sir, I think I do.

2 Q. And whose vehicle was that?

3 A. Boones, Wanda Boones.

4 Q. And were they arrested?

5 A. I think that they were arrested yes, sir.

6 Q. And they were arrested on your property?

7 A. Yes, sir.

8 Q. When this search was taken?

9 A. Yes, sir.

10 Q. And was there any information in regards to where  
11 that methamphetamine came from?

12 A. Yes, sir. I think that my mom had seen them  
13 place it inside Wanda Boones --

14 MR. JOHNSON: Objection. That is  
15 speculation. He doesn't have any personnel  
16 knowledge that that happened.

17 THE COURT: I will sustain that objection.

18 MR. THOMAS: Thank you, Your Honor.

19 Your Honor, I have no further questions.

20 THE COURT: Okay. Mr. Johnson your witness.

21 MR. JOHNSON: Thank you.

22 CROSS EXAMINATION

23 BY MR. JOHNSON:

24 Q. Mr. Boozer, you say that there are some phone  
25 records out there that could have help you?

1 A. That's right.

2 Q. Did you bring them here today?

3 A. No, sir.

4 Q. Okay. Let's talk about these items that counsel  
5 should have objected to or try to suppress. You do  
6 realize that counsel did try to suppress the fertilizer  
7 and pseudoephedrine found inside the house; isn't that  
8 correct?

9 A. Yes, sir.

10 Q. You also say there is this receipt or a video  
11 from a Lowe's that would have absolved you of this  
12 crime; is that right?

13 A. Right.

14 Q. Did you bring that here today?

15 A. No, sir.

16 Q. And you know you are looking at up to thirty-five  
17 years if you go back to trial?

18 A. Yes, sir.

19 Q. Okay. Now Mr. Boozer, you remember that guilty  
20 plea and the judge asked you or informed you about your  
21 charges, that possession of methamphetamine, second  
22 offense carried five to 30 years?

23 A. Yes, sir.

24 Q. And he asked you whether or not you wanted to  
25 plead guilty and you said at that point plead guilty?



1 A. Yes, sir.

2 Q. Then he asked you about possession of  
3 methamphetamine and you said you understood the charge?

4 A. Honestly that kind of happened so fast. I guess  
5 I really didn't understand it. I was doing what I was  
6 coached, I guess to do.

7 Q. You didn't stop the guilty plea at any point and  
8 say, oh, Your Honor, I don't understand you. I didn't  
9 do that?

10 A. No, sir. My head was spinning. Actually I  
11 didn't really know what to do.

12 Q. You didn't stop and say I need a little more time  
13 to think about this decision, did you?

14 A. No, sir.

15 Q. So the fact that he asked you again do you want  
16 to plead guilty and you said?

17 A. I don't know if he asked me again or not.

18 MR. JOHNSON: Your Honor, on page 266, line

19 14.

20 May I approach, Your Honor?

21 THE COURT: Yes.

22 Q. I am showing you a transcript and this is the  
23 simple possession, second offense of methamphetamine.  
24 And the Courts asks how you plead to that. Guilty.  
25 Isn't that correct?

1 A. Yes, sir, that is what it looks like.

2 Q. Now, the Court asked you if there were any  
3 recommendations or promises made in this case and you  
4 said no. Isn't that right?

5 A. Yes, sir.

6 Q. And you said you weren't under any influence of  
7 alcohol or drugs, isn't that correct?

8 A. Yes, sir.

9 Q. And you did this freely and voluntarily; isn't  
10 that right?

11 A. Yes, sir.

12 Q. And the Court also went over all of your  
13 constitutional rights with you; right to a trial, right  
14 to remain silent, right to confront witnesses, right to  
15 present witnesses and you said you understood all those  
16 rights?

17 A. Honestly I don't remember.

18 Q. Would you dispute it or would you like me to show  
19 you?

20 A. I can take your word for it, but I don't  
21 remember.

22 Q. Your Honor, that is page 267. And you said you  
23 wanted to give up those rights and plead guilty; isn't  
24 that right?

25 A. I take your word for it, yes, sir.

1 Q. That is line 21 on page 267. And so the  
2 solicitor went all over the facts and you agreed to  
3 those facts and said yes, those are the true facts;  
4 isn't that right?

5 A. I have to take your word for it.

6 Q. Your Honor, it is page 268 line 16. And then you  
7 apologized to your parents for hurting them. Say I  
8 throw myself on the mercy of the Court?

9 A. Yes, sir. I remember that.

10 Q. This is not your first rodeo with methamphetamine  
11 is it?

12 A. Actually, well I plead no contest.

13 Q. But it is the same thing as pleading guilty, do  
14 you realize that?

15 A. I do not.

16 Q. Manufacturer of Methamphetamine 2006?

17 A. Sir.

18 Q. That is was 2006, manufacturing methamphetamine?

19 A. Yes, sir, I guess.

20 Q. And that's what you were on probation for isn't  
21 that correct?

22 A. Correct.

23 Q. And you also realize there are other pending  
24 charges that were dismissed included in this guilty  
25 plea; do you understand that? There were other charges

1 that you had Mr. Sullivan work out those would be  
2 dismissed if you plead guilty?

3 A. What charges are those?

4 Q. I think it was Magistrate Court charges that he  
5 got, that they were thrown out because you plead guilty.

6 Do you realize those come back if you get a new  
7 trial?

8 A. Okay. Yes, sir. I do now.

9 MR. JOHNSON: No further questions Your  
10 Honor.

11 THE COURT: All right. Anything on  
12 redirect.

13 MR. THOMAS: Your Honor if I may.

14 THE COURT: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. THOMAS:

17 Q. Mr. Boozer, do you remember that plea?

18 A. Yes, sir. Vaguely.

19 Q. And counsel asked you these questions about did  
20 you say that. Did you say those things to the Court  
21 when you were entering into this plea?

22 A. I honestly don't remember.

23 Q. But if it is in the transcript you don't dispute  
24 it?

25 A. Yes.

1 Q. But it is all a blur to you?

2 A. Yes, sir.

3 Q. Now, understand we were talking about freely and  
4 voluntarily, legal terminology term. Do you understand  
5 that?

6 A. No, sir.

7 Q. All right. From your testimony today was your  
8 plea freely and voluntarily given? Did you know what  
9 you were doing?

10 A. No, sir. Wish I went on with the trial.

11 A. You told the judge you were entering into it  
12 freely and voluntarily.

13 A. Like I say, I really don't remember that part of  
14 it.

15 Q. And based on that you are asking for a new trial  
16 today?

17 A. Yes, sir.

18 Q. No further questions Your Honor?

19 THE COURT: Anything on recross?

20 RECROSS EXAMINATION

21 BY MR. JOHNSON:

22 Q. Counsel never threatened you to plead guilty, did  
23 he?

24 A. No.

25 Q. There were no threats or promises? You did this

1 on your own accord, of your own decision; is that right  
2 because it is you, the one that is going to prison?

3 THE COURT: Mr. Johnson, I hate to  
4 interrupt. Can you let him answer the question.

5 MR. JOHNSON: Yes, sir. I apologize.

6 THE COURT: I know you are anxious to get to  
7 the point.

8 A. No, sir. Never threatened me. No, sir.

9 Q. It was your decision wasn't it?

10 A. Yes.

11 Q. Freely and voluntarily. That's what you told the  
12 judge under oath?

13 A. Actually I don't really recall that. I will take  
14 your word for it.

15 Q. You don't dispute that?

16 A. No, sir.

17 Q. And that was under oath, wasn't it?

18 A. Yes, sir, I guess.

19 Q. Just like you are under oath here today?

20 A. Yes, sir.

21 MR. JOHNSON: No further questions Your  
22 Honor.

23 THE COURT: All right. Thank you sir. You  
24 may step down.

25 All right Mr. Thomas. If it please the

1 Court we would call, Mr. Boozer's mom to the  
2 stand.

3 THE COURT: Okay.

4 MR. THOMAS: Beg the Court's indulgence  
5 for a second.

6 THE COURT: Sure.

7 BARBARA BOOZER, called as a witness, having  
8 been duly sworn by The Clerk, was examined and  
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. THOMAS:

12 Q. Your relationship to Tim Boozer is what?

13 A. He is my son.

14 Q. And you love your son?

15 A. I do.

16 Q. And you support your son?

17 A. I do.

18 Q. Now, you understand that your swore to tell the  
19 truth?

20 A. Yes.

21 Q. And you in fact intend to tell the truth today?

22 A. Yes, I do.

23 Q. You are not making anything up?

24 A. No.

25 Q. To help your son?

1 A. No.

2 Q. Do you understand that you have an obligation to  
3 be truthful?

4 A. I do.

5 Q. Miss Boozer, I know that you and your husband  
6 were active in your son's case in preparation and  
7 assisting him getting ready for trial?

8 A. We were.

9 Q. And you were actually called as a State's  
10 witness?

11 A. Yes, I was.

12 Q. And you were sequestered from the courtroom? You  
13 were not allowed to go into the courtroom?

14 A. No, I was not.

15 Q. Now, Tim entered into a guilty plea after  
16 partially going through the trial?

17 A. Right.

18 Q. And did you provide information to counsel that  
19 you felt might have assisted him in his defense?

20 A. I did.

21 Q. And what information did you provide?

22 A. I am not sure.

23 Q. Did you provide information about the battery  
24 receipts?

25 A. Yes, I did.



1 Q. And were there any batteries available?

2 A. No, there was no batteries. In the little bucket  
3 there were two double batteries.

4 Q. And you have a neighbor who was available as a  
5 witness who was available to testify in regards to the  
6 battery receipts?

7 A. Yes, Wayne Hunsucker (phonetics).

8 Q. And he is in the courtroom today?

9 A. Yes, he is.

10 Q. And you provided that information to counsel?

11 A. I think I did. I am not sure. I think.

12 Q. All right. Now, how about the information about  
13 coffee filters and drugs that were found. Do you have  
14 information, you saw something in regards to that?

15 A. I did. We had gone to Lowe's and came back that  
16 day and there were cars everywhere, so we went back up.

17 Q. You went back up. You were talking about you  
18 were at the scene?

19 A. Yeah, because when we left they were suppose to  
20 lock the gate.

21 Q. And you were there when the police came?

22 A. Right. I was.

23 Q. As a matter of fact they were calling you as a  
24 State's witness because you were in fact there?

25 A. Right. So there were a lot of cars so we went up

1 the driveway halfway. They had kind of SUV-type vehicle  
2 stopped and then there was a guy. It was a tall dark  
3 hair guy. I was on the passenger's side. I was sitting  
4 on the passenger's side and our lights were on and he  
5 threw something white in the back seat of the car. I  
6 saw that.

7 Q. And Mr. Boozer was not there?

8 A. No, he was not there.

9 Q. And that turned out to be --

10 A. The coffee filter with the meth residue.

11 Q. Did you provide that information to counsel?

12 A. I told Jonathan about it.

13 Q. And what happened as a result of that?

14 A. I just was told that they didn't want to hear  
15 that.

16 Q. And did you feel like that information was  
17 important?

18 A. I did.

19 Q. There were a number of co-defendants in this  
20 case?

21 A. Yes, there was.

22 Q. And did you have any information in regards to  
23 one of the co-defendants?

24 A. I did. I had taken her to the public defender and  
25 it was like one hundred degrees outside, so I stayed in

1 the car as long as I could. I decided just to go inside  
2 and wait in the waiting room and she was talking to her  
3 attorney and I heard him tell her that if she would  
4 testify against Tim that she basically -

5 MR. JOHNSON: Objection. That is hearsay,  
6 anything the co-defendant may have said.

7 A. The co-defendant didn't say that. I heard it  
8 with my ears.

9 THE COURT: Yes, ma'am. You have to stop. I  
10 sustain that objection.

11 MR. THOMAS: Thank you.

12 Q. Did you tell counsel not what you heard, but that  
13 you had some concern that there were deals being cut in  
14 regards to testimony?

15 A. Yes, I did.

16 Q. And was anything done with that?

17 A. No.

18 MR. THOMAS: I have no further questions  
19 Your Honor.

20 THE COURT: All right. Anything on cross  
21 examination.

22 MR. JOHNSON: Just a couple.

23 CROSS EXAMINATION

24 BY MR. JOHNSON:

25 Q. Miss Boozer, I am just trying to do my job.

1 A. I understand.

2 Q. You testified here that you saw police throw  
3 something light in the back of the car?

4 A. Yes, I did.

5 Q. But you can't prove it was --

6 A. It looked like a white napkin or something that  
7 was thrown in on the passenger's side. It was on the  
8 passenger side.

9 Q. Did you test that item?

10 A. No, I did not.

11 Q. So you can't prove that methamphetamine was on  
12 that item?

13 A. No, I can not.

14 MR. JOHNSON: That is all I have.

15 THE COURT: Anything on redirect?

16 MR. THOMAS: No, Your Honor.

17 THE COURT: Thank you, ma'am, I appreciate  
18 that. Be careful stepping down.

19 All right. Mr. Thomas, your next witness.

20 MR. THOMAS: Your Honor, if I could have  
21 just a minute or two that may be the applicant's  
22 case.

23 THE COURT: All right.

24 MR. THOMAS: That is the applicant's case.

25 THE COURT: Mr. Johnson.

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MR. JOHNSON: The State has no further questions.

THE COURT: All right, gentlemen. What I will do, I will go back and I will review my notes. I will read the record and I will get back to you all with my decision.

MR. THOMAS: Thank you, Your Honor.

THE COURT: Thank you all for coming.

(End of transcript)

## C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Family Court for York County, South Carolina, on the 8th day of October, 2012.

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

July 11, 2013

A. Butler

# The South Carolina Court of Appeals

The State,

Respondent,

v.

Ronald Timothy Boozer,

Appellant.

The Honorable John C. Hayes, III  
York County  
Trial Court Case No. 2009-GS-46- 3779  
2009-GS-46-0309  
2010-GS-46-1168  
2010-GS-46-1169  
2010-GS-46-1170

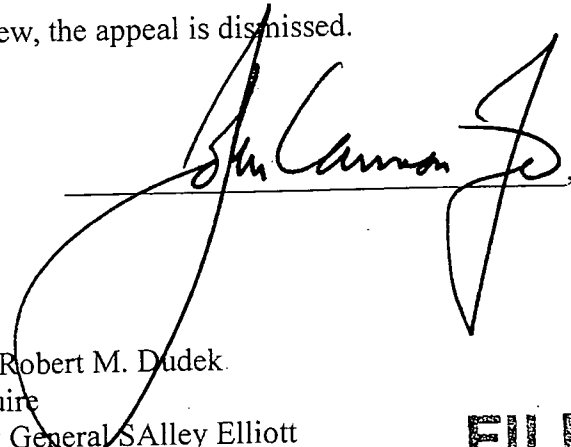
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## ORDER

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Appellant appeals his guilty plea and conviction imposed by Judge John C. Hayes. "Rule 203 (d)(B)(iv), SCACR, requires "a written explanation showing that there is an issue(s) which can be reviewed on appeal....including how the issue(s) was raised below and the ruling of the lower court on that issue(s)." After careful review, we find Appellant failed to show how any issue was preserved for our review. Therefore, due to Appellant's failure to establish any preserved issues for appellate review, the appeal is dismissed.

AND IT IS SO ORDERED.

  
\_\_\_\_\_, C.J.

Columbia, South Carolina

cc: Chief Appellate Defender Robert M. Dudek.  
Jonathan C. Sullivan, Esquire  
Assistant Deputy Attorney General Salley Elliott

**FILED**

*Boater* 10/26/10

# The South Carolina Court of Appeals

The State,

Respondent,

v.

Ronald Timothy Boozer,

Appellant.

The Honorable John C. Hayes, III  
York County  
Trial Court Case No. 2009-GS-46- 3779  
2009-GS-46-0309  
2010-GS-46-1168  
2010-GS-46-1169  
2010-GS-46-1170

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REMITTITUR

---

No Petition for Reinstatement having been filed in the above matter since issuance of this Court's Order dated October 26, 2010,

IT IS SO ORDERED that the above appeal be and hereby is remitted.

Janyce A. Gee Clerk

Columbia, South Carolina

Original to: The Honorable David Hamilton

cc: Chief Appellate Defender Robert M. Dudek  
Jonathan C. Sullivan, Esquire  
Assistant Deputy Attorney General Salley Elliott  
Jenny E. Desch, Esquire  
Larry Davis, Probation Agent

FILED

11/12/10



FILED RECEIVED  
2011 APR 19 PM 4:21  
DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF YORK

RONALD BOOZER #342268

Full name and prison number (if any) of Applicant

CERTIFIED TRUE COPY

2011 APR 26 AM 9:15

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

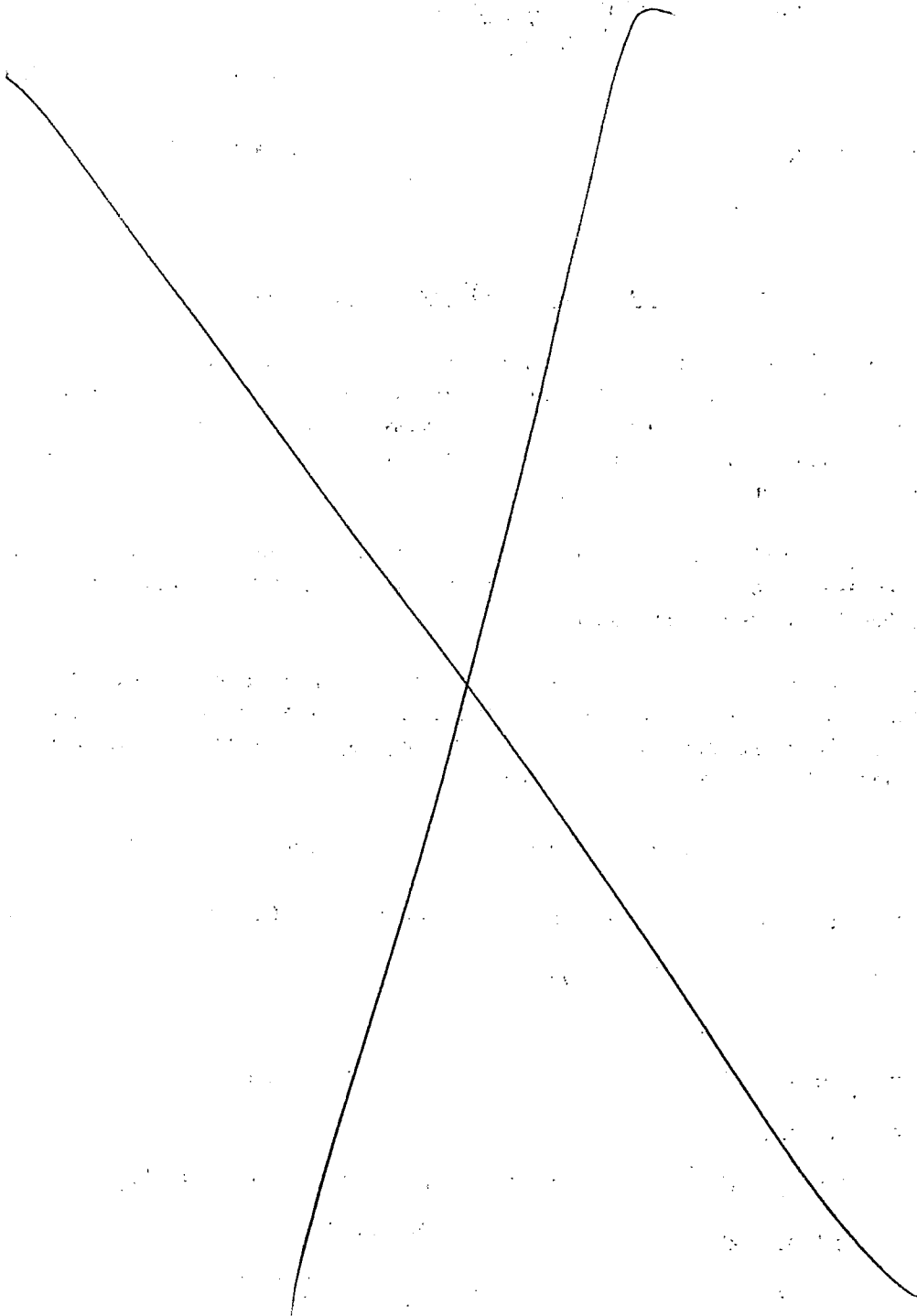
In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899
2. Name and location of Court which imposed sentence York County Court of General Sessions, 2 Congress Street, York, SC 29745
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) Attempt to Manufacture Methamphetamine 2<sup>nd</sup> - 2010-GS-46-1170
  - (b) Possession of Methamphetamine 2<sup>nd</sup> - 2010-GS-46-1169
  - (c) Probation Revocation - 2009-GS-46-0309 and 2009-GS-46-3779
5. The date upon which sentence was imposed and the terms of the sentence:

000333



- (a) August 12, 2010 - seventeen (17) years
- (b) August 12, 2010 - five (5) years - concurrent to 1170
- (c) August 12, 2010 - eight (8) years and three (3) concurrent to 1170
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
- (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?  
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Withdrew Appeal
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. December 21, 2010
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistance of counsel
- (b) Involuntary Guilty Plea
- (c) \_\_\_\_\_

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? 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 "yes" 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) \_\_\_\_\_
- (b) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? \_\_\_\_\_
- (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 "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. Jonathan C. Sullivan, Esq., York County Public Defender, 1675-1E York Hwy.,

York, SC 29745

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

i. plea

ii. \_\_\_\_\_

iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

New trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA

)

)

)

County of York

## VERIFICATION

I, Ronald Boozer, 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.

Ronald Z. Boozer

SWORN to and subscribed before me this 10  
day of Feb., 2011.

J. Franklin (L.S.)  
Notary Public

My Commission Expires: 12-16-2019

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

I, Ronald Boozer, 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.

Ronald Z Boozer  
Applicant

SWORN or affirmed to and subscribed before me this  
07 day of April, 2011.

J. A. Franklin  
Notary Public

My Commission Expires: 12-16-2019



STATE OF SOUTH CAROLINA

COUNTY OF YORK

Ronald Boozer #342268

☐ Plaintiff

v.

State Of South Carolina

☒ Defendant.

IN THE COURT OF COMMON PLEAS 00340

CASE NO.  
2011-CP-46-1544

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

Plaintiff's Attorney:  
Tommy A. Thomas, Bar No.  
Address:  
PO Box 88 Irmo, SC 29063  
phone: fax:  
e-mail: other:

Defendant's Attorney:  
J. Rutledge Johnson, Bar No. 78871  
Address:  
PO Box 11549 Columbia, SC 29211-1549  
phone: 803-734-3737 fax: 803-734-4113  
e-mail: other:

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

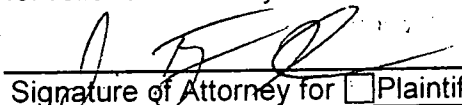
Nature of Motion:

Estimated Time Needed: Court Reporter Needed: ☐ YES / ☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached  
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

 September 14, 2011  
Signature of Attorney for ☐ Plaintiff / ☒ Defendant Date submitted

SECTION III: Motion Fee

- ☐ PAID - AMOUNT:  
☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support  
(check reason) ☐ Domestic Abuse or Abuse and Neglect  
☐ Indigent Status ☐ State Agency v. Indigent Party  
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief  
☐ Motion for Stay in Bankruptcy  
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)  
☐ Proposed order submitted at request of the court; or,  
reduced to writing from motion made in open court per judge's instructions  
Name of Court Reporter:  
☐ Other:

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the  
attached order.  
☐ Other:

JUDGE

CODE: \_\_\_\_\_ Date:

CLERK'S VERIFICATION

Date Filed:

Collected by: \_\_\_\_\_

- ☐ MOTION FEE COLLECTED: \_\_\_\_\_  
☐ CONTESTED - AMOUNT DUE: \_\_\_\_\_

000341

STATE OF SOUTH CAROLINA )  
 )  
 IN THE COURT OF APPEALS )

Indictment Nos.: 2009-GS-46-0309, 2009-GS-46-3779  
 2010-GS-46-1169, 2010-GS-46-1170

State of South Carolina )  
 )  
 -vs- )  
 )  
 Ronald Timothy Boozer, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

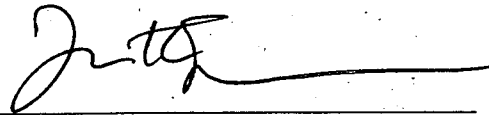
CERTIFIED TRUE COPY  
 2010 AUG 18 AM 10:29  
 DAVID HAMILTON  
 CLERK OF COURT  
 YORK COUNTY, SC

### RULE 203(B) EXPLANATION

Pursuant to Rule 203(B)(iv), the issue to be raised on appeal is whether the trial court abused its discretion when it imposed the seventeen year sentence upon the Appellant after he pled guilty to Attempting to Manufacturing Methamphetamine 2<sup>nd</sup> offense, Possession of Methamphetamine 2<sup>nd</sup> offense and two counts of Violation of Probation.

The undersigned does not have a good faith basis to believe that this issue is properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right to appeal, and after consultation, the undersigned has filed the instant appeal at the request of the Appellant because the Sixth Amendment requires counsel to follow the Appellant's request. *See Frazer v. South Carolina*, 430 F.3d 696, 705 (4<sup>th</sup> Cir. 2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate on behalf of his client.'") (quoting *Anders v. California*, 386 U.S. 738, 744 (1967)).

Respectfully submitted,



Jonathan C. Sullivan  
 P.O. Box 691  
 York, South Carolina 29745  
 (803) 628-3031  
 Attorney for Ronald Timothy Boozer

York, South Carolina

August 18, 2010

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )  
  
Ronald Boozer, #342268, )  
Applicant, )  
v. )  
State of South Carolina, )  
Respondent. )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

2011-CP-46-1544

**RETURN**

The Respondent, making its Return to the application for post conviction relief (PCR) filed April 19, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. The Applicant was indicted by the March 2010 term of the York County Grand Jury with one count of Attempt to Manufacture Methamphetamine (2009-GS-46-01170) and one count of Possession of Methamphetamine (2009-GS-46-01169). Applicant was represented by Jonathan C. Sullivan, Esquire. On August 12, 2010, the Applicant pled guilty to Attempt to Manufacture Methamphetamine, 2<sup>nd</sup> offense as indicted and to Possession of Methamphetamine as indicted before the Honorable John C. Hayes, III. Applicant received a 17-year sentence for the Attempt to Manufacture Methamphetamine, 2<sup>nd</sup> offense and a 5-year sentence for the Possession of

000343  
Methamphetamine, 2<sup>nd</sup> offense. Both sentences are to run concurrently. Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the York County Clerk of Court regarding the subject conviction(s) and the Applicant's records from the South Carolina Department of Corrections. The guilty plea transcript will be added upon receipt from the court reporter. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
2. "Involuntary Guilty Plea"

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

## III.

For purposes of this Return, Respondent interprets Applicant's allegations to be allegations of ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper

functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent

000345  
requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on Applicant's allegations.

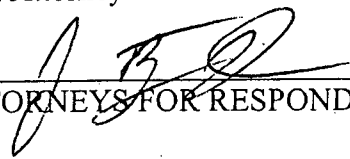
Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON  
Staff Attorney

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Sept 14, 2011.

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Ronald Boozer, #342268,

2011-CP-46-1544

Applicant,

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

FILED-RECEIVED  
2013 MAY -8 AM 10:41  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 19, 2011. The Respondent made its Return on September 14, 2011. An evidentiary hearing into the matter was convened on October 8, 2012, at the Moss Justice Center in York, SC. Tommy Thomas, Esquire represented the Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Jonathan Sullivan, Esquire and the Applicant's mother also testified. This Court had before it a copy of the records of the York County Clerk of Court, records from the South Carolina Department of Corrections, and the guilty plea transcript.

### PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. The Applicant was indicted by the March 2010 term of the York County Grand Jury with one count of Attempt to Manufacture Methamphetamine (2009-GS-46-01170) and one count of Possession of Methamphetamine (2009

GS-46-01169). Applicant was represented by Jonathan C. Sullivan, Esquire. On August 12, 2010, the Applicant pled guilty to Attempt to Manufacture Methamphetamine, 2nd offense as indicted and to Possession of Methamphetamine as indicted before the Honorable John C. Hayes, III. Applicant received a 17-year sentence for the Attempt to Manufacture Methamphetamine, 2nd offense and a 5 year sentence for the Possession of Methamphetamine, 2nd offense. Both sentences run concurrently. Applicant did not appeal his conviction and sentence.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
2. "Involuntary Guilty Plea"

At the hearing, the Applicant proceeded on both claims.

#### **SUMMARY OF TESTIMONY**

Counsel (Sullivan) testified he is an assistant Public Defender and was appointed to the Applicant's case. According to Counsel's brief recitation of the relevant facts, the Applicant's parents contacted law enforcement concerning a suspicious case on their property. When police came to investigate, they noticed smoke coming from a bucket. In the bottom of the bucket, police found some suspicious items, including lithium batteries. Police contacted the Drug Enforcement Unit to investigate further. Police then conducted a protective sweep of the Applicant's residence to ensure there was not an active methamphetamine lab. During this sweep, police also saw in plain view, items common to the manufacturing of methamphetamine.

Counsel testified he was prepared for trial, visited the Applicant's house two to three times, and interviewed witnesses. The witnesses included the Applicant's parents and Rick Brookshire, the



gentleman who was found inside the Applicant's house asleep when the police conducted the protective sweep. Counsel also stated HazMat (~~Hazardous Materials~~ <sup>Materials</sup>) took possession of the evidence of the methamphetamine lab. *AS*

Counsel testified the defense theory in this case was innocence as the Applicant was not present in the house. The method to attack the State's case was to try and exclude the evidence found based on the search warrant that police obtained. These items included lithium car batteries, pseudoephedrine blister packets, commercial-grade fertilizer, and coffee filters. There was also some methamphetamine found, pursuant to a consent search, in a Jeep parked outside the Applicant's house. Counsel testified the argument he made in a suppression hearing was the items found inside and around the Applicant's house were everyday, household items; none of which are illegal to possess. Counsel further testified he discussed the suppression hearing and the search warrant issues with the Applicant and his parents. Counsel, lastly, stated the suppression motion was unsuccessful, as the judge ruled the items found admissible.

As for the plea offer from the State, Counsel testified the first offer was for between seven and ten years to run consecutive to the eight years' probation the Applicant was currently serving of manufacturing methamphetamine. The solicitor was also going to agree to dismiss the other charges the Applicant had pending against him if the Applicant would plead straight up. Counsel stated he gave the Applicant a copy of the discovery and informed the Applicant the plea offer was to expire that Thursday or Friday. Counsel then testified the plea offer expired because the Applicant was not ready to accept the plea offer, as he wanted to consult with another attorney.

Counsel also testified law enforcement claimed they found fifty to one hundred lithium car batteries, which would have been used to manufacture methamphetamine. Counsel stated he did not

recall seeing any batteries during his visit to the Applicant's house, but testified HazMat would have confiscated the batteries. He further stated he did not remember any of the witnesses telling him they did not see any batteries.

Next, Counsel testified the State utilized Bridget Darty, a crucial witness in the case. Ms. Darty testified she had seen the Applicant cooking methamphetamine, had traded pseudoephedrine tablets for methamphetamine with the Applicant, and had seen the Applicant selling methamphetamine. Counsel stated he attempted to locate this Witness to interview her. The record reflects Counsel and co-counsel (Erik Delaney) moved to suppress Ms. Darty's testimony, yet the trial court allowed it. Counsel testified after Ms. Darty took the stand and testified, he again conferred with the Applicant about a guilty plea. He stated the offer at that time was approximately fifteen years.

On cross-examination, Counsel testified he attacked the search warrant in a suppression hearing based on lack of probable cause, but the trial court allowed the evidence to be admitted. He also stated he argued against allowing Ms. Darty to testify, but the trial court allowed her testimony. Counsel further testified the Applicant understood the guilty plea, that he made no threats or promises to convince the Applicant to plead guilty, and that it was the Applicant's decision to plead guilty.

The Applicant testified he was on probation for manufacturing methamphetamine when he was arrested and charged with Attempt to Manufacture Methamphetamine and Possession of Methamphetamine. He stated he met with Counsel and Mr. Delaney prior to trial and discuss his case. He received and discussed the discovery, although he did not think Counsel went over the entire discovery with him. The Applicant stated his theory of defense was innocence and that he

assisted in his own defense. The Applicant testified he and Counsel did not talk about car batteries because he claims there were no batteries at his house.

The Applicant testified he brought other items to Counsel's attention, such as receipts and a video from Lowe's Home Improvement Store, which would have shown who purchased the items found in and around his house. He stated he spoke with Counsel about the fertilizer found outside of his house.

The Applicant further testified his decision to go to trial changed because of Counsel's action during trial. He explained that he pled guilty to avoid receiving a thirty-year sentence, but wants a new trial. The Applicant testified he did not understand enough to plea freely and voluntarily, but was scared into pleading guilty.

On cross-examination, the Applicant admitted he did not have possession of any receipts or video from Lowe's to support his claims. The Applicant also admitted he told the plea court, under oath, that he understood the charges and his constitutional rights. He stated there were no threats or promises made to influence him to plead guilty and that he pled freely and voluntarily. The Applicant testified he agreed with the facts as presented by the State and apologized for his actions. The Applicant further stated he understood if he was successful in his PCR action, he faced over thirty-five years in prison and that the State could file the additional charges, which were dropped, against him again. The Applicant also testified it was his decision to plead guilty. He lastly admitted this is not the first time he has been convicted of manufacturing methamphetamine.

The Applicant's mother testified there were no batteries found in a bucket or pseudoephedrine blister packs at the scene. She also testified that she saw the police throw

something white into the back of the Jeep where the methamphetamine was found. She claimed she could prove this, but offered no supporting evidence.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

#### Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, *citing Strickland*. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

This Court finds Counsel was competent and diligent in his representation of the Applicant in this case. Counsel sufficiently advised the Applicant of the charges against him, the potential penalties if convicted at trial, and the evidence the State would produce at trial. Counsel satisfactorily investigated this case based on the information supplied by the Applicant. Counsel also engaged in plea negotiations which were beneficial to the Applicant, although the Applicant allowed the plea offer to expire. This Court also finds the Applicant was well informed by Counsel in this case.

This Court further finds the Applicant's testimony regarding Counsel's ineffectiveness is not credible while also finding Counsel's testimony is credible. This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby.

#### *Failure to investigate*

The Applicant alleged Counsel was ineffective for failing to investigate his case. Specifically, the Applicant alleged Counsel failed to investigate the receipts and video recording

from Lowe's which would have proven who purchased the items that were admitted as evidence at trial.

"Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998).

Here, the Applicant testified he brought to Counsel's attention receipts and video from Lowe's that would have shown who purchased the items that were seized in and around his house. The Applicant stated had Counsel investigated this information, Counsel would have been better able to defend the Applicant. The Applicant, however, failed to provide any proof of these receipts or video, and thus failed to show how this information would have aided his case. The claim that the receipts and video would have helped his defense is pure speculation. The Applicant has failed to show Counsel was deficient for not investigating this information, and further failed to prove any resulting prejudice. Therefore, this allegation is denied.

### **Involuntary Guilty Plea**

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977).

Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993).

The Applicant alleged his guilty plea was not freely and voluntarily entered. At the PCR hearing, the Applicant testified he did not feel that he understood enough about his case to plead guilty. He also stated he felt that he was scared into pleading. However, the guilty plea transcript and the Applicant's answers during cross-examination at the PCR hearing directly refute his claims. Additionally, Counsel testified he made no threats or promises to get the Applicant to plead guilty, that the Applicant understood his guilty plea, and that it was the Applicant's decision to plead guilty.

At the guilty plea, the Applicant stated he understood the charges against him and the penalties the charges carried. (Tr. p. 266 line 2). He then stated he wanted to plead guilty to the charges. (Tr. p. 266 lines 3-14). The Applicant testified he was not promised anything or threatened in any way to influence him to enter a guilty plea. (Tr. p. 266 line 21). He stated he was entering the plea freely and voluntarily. (Tr. p. 267 line 2). The Applicant also testified he understood his constitutional rights and waived those rights. (Tr. p. 267 lines 3-14; lines 17-21). He further stated he agree with the facts as presented during the trial phase of his case. (Tr. p. 268 line 16). Further, during the plea, the Applicant admitted he was in violation of his probation by pleading guilty to

these charges, among other violations. (Tr. p. 269 line 18; 22; p. 270 line 8; 17).

At the PCR hearing, the Applicant freely admitted he testified to all of the above at his guilty plea on cross-examination. Additionally, the Applicant stated he understood if he was successful in his PCR action that not only would the original charges be reinstated and he would be facing over thirty-five years' imprisonment, but also understood the solicitor was allowed to reinstate other charges which were dropped in exchange for his guilty plea.

Based on the foregoing, this Court finds the Applicant's testimony concerning an involuntary guilty plea not credible, while finding Counsel's testimony at the PCR hearing credible. This Court also finds the Applicant pled guilty freely and voluntarily. This Court further finds because of the Applicant's prior experience with the court system and his prior guilty plea colloquy, the Applicant fully understood his guilty plea.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied.

### CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his



application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

**AND IT IS SO ORDERED!**

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Edgar W. Dickson  
Presiding Circuit Court Judge  
Sixteenth Judicial Circuit

April 18, 2013

Orangeburg, South Carolina

FILED-RECEIVED  
2013 MAY 22 AM 10:34

DAVID HARRIS  
C.C.P. & ASSOC.  
YORK COUNTY, SC

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
FOR THE SIXTEENTH JUDICIAL CIRCUIT

DOCKET NO. 2011-CP-46-1544

RONALD BOOZER #342268, )  
Applicant, )  
v. )  
STATE OF SOUTH CAROLINA, )  
Respondent. )

**NOTICE OF MOTION AND  
MOTION TO ALTER OR  
AMEND THE JUDGMENT**

PLEASE TAKE NOTICE that the Applicant, through his undersigned attorneys hereby moves before the Honorable Edgar W. Dickson to alter or amend the judgment entered in this action on April 18, 2013. A copy of the Order of Dismissal was received by the undersigned attorneys on May 7, 2013.

COMES NOW the Applicant, by and through his undersigned attorneys, and submits the following grounds in support of his Motion to Alter or Amend the Judgment:

1. Counsel has, however, received communication from his client with concern about certain items not being fully addressed in the Courts Order.
2. Counsel would like to preserve Applicant's right to alter or amend the Order of Dismissal.

For the above reasons, the Applicant would respectfully request that this Court reconsider its decision and ruling dated April 18, 2013; and to take any additional testimony as it may deem necessary.

0000359  
STATE OF SOUTH CAROLINA  
COUNTY OF YORK

Ronald Boozer, #342268,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

2011-CP-46-1544

**AMENDED ORDER OF DISMISSAL**

FILED-RECEIVED  
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DAVID L. JOHNSON  
C.C.P. & G.S.  
YORK COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 19, 2011. The Respondent made its Return on September 14, 2011. An evidentiary hearing into the matter was convened on October 8, 2012, at the Moss Justice Center in York, SC. Tommy Thomas, Esquire represented the Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Jonathan Sullivan, Esquire and the Applicant's mother also testified. This Court had before it a copy of the records of the York County Clerk of Court, records from the South Carolina Department of Corrections, and the guilty plea transcript.

### PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. The Applicant was indicted by the March 2010 term of the York County Grand Jury with one count of Attempt to Manufacture Methamphetamine (2009-GS-46-01170) and one count of Possession of Methamphetamine (2009

GS-46-01169). Applicant was represented by Jonathan C. Sullivan, Esquire. On August 12, 2010, the Applicant pled guilty to Attempt to Manufacture Methamphetamine, 2nd offense as indicted and to Possession of Methamphetamine as indicted before the Honorable John C. Hayes, III. Applicant received a 17-year sentence for the Attempt to Manufacture Methamphetamine, 2nd offense and a 5 year sentence for the Possession of Methamphetamine, 2nd offense. Both sentences run concurrently. Applicant did not appeal his conviction and sentence.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
2. "Involuntary Guilty Plea"

At the hearing, the Applicant proceeded on both claims.

#### SUMMARY OF TESTIMONY

Counsel (Sullivan) testified he is an assistant Public Defender and was appointed to the Applicant's case. According to Counsel's brief recitation of the relevant facts, the Applicant's parents contacted law enforcement concerning a suspicious case on their property. When police came to investigate, they noticed smoke coming from a bucket. In the bottom of the bucket, police found some suspicious items, including lithium batteries. Police contacted the Drug Enforcement Unit to investigate further. Police then conducted a protective sweep of the Applicant's residence to ensure there was not an active methamphetamine lab. During this sweep, police also saw in plain view, items common to the manufacturing of methamphetamine.

Counsel testified he was prepared for trial, visited the Applicant's house two to three times, and interviewed witnesses. The witnesses included the Applicant's parents and Rick Brookshire, the

gentleman who was found inside the Applicant's house asleep when the police conducted the protective sweep. Counsel also stated HazMat (Hazardous Materials) took possession of the evidence of the methamphetamine lab.

Counsel testified the defense theory in this case was three-pronged: 1.) this was a case of simple possession; 2.) this was a reasonable doubt case; and 3.) to attack the items seized from Applicant's residence. The method to attack the State's case was to try and exclude the evidence found based on the search warrant that police obtained. These items included lithium car batteries, pseudoephedrine blister packets, commercial-grade fertilizer, and coffee filters. There was also some methamphetamine found, pursuant to a consent search, in a Jeep parked outside the Applicant's house. Counsel testified that the suppression motion was based upon lack of probable cause, that there was insufficient evidence for probable cause, and that there was no necessity for the protective search. Counsel also testified that he argued that, in his opinion, the protective search was improper and this search was the basis for the search warrant. Counsel further testified he discussed the suppression hearing and the search warrant issues with the Applicant and his parents. Counsel, lastly, stated the suppression motion was unsuccessful, as the judge ruled the items found admissible.

As for the plea offer from the State, Counsel testified the first offer was for between seven and ten years to run consecutive to the eight years' probation the Applicant was currently serving of manufacturing methamphetamine. The solicitor was also going to agree to dismiss the other charges the Applicant had pending against him if the Applicant would plead straight up. Counsel stated he gave the Applicant a copy of the discovery and informed the Applicant the plea offer was to expire that Thursday or Friday. Counsel then testified the plea offer expired because the Applicant was not ready to accept the plea offer, as he wanted to consult with another attorney.

Counsel also testified law enforcement claimed they found fifty to one hundred lithium car batteries, which would have been used to manufacture methamphetamine. Counsel stated he did not recall seeing any batteries during his visit to the Applicant's house, but testified HazMat would have confiscated the batteries. No batteries were taken into evidence or presented at trial. Counsel testified that the Applicant may have said that there were no batteries.

Next, Counsel testified the State utilized Bridget Darty, a crucial witness in the case. Ms. Darty testified she had seen the Applicant cooking methamphetamine, had traded pseudoephedrine tablets for methamphetamine with the Applicant, and had seen the Applicant selling methamphetamine. Counsel stated he attempted to locate this Witness to interview her. The record reflects Counsel and co-counsel (Erik Delaney) moved to suppress Ms. Darty's testimony, yet the trial court allowed it. Counsel testified after Ms. Darty took the stand and testified, he again conferred with the Applicant about a guilty plea. He stated the offer at that time was approximately fifteen years. Counsel testified that he met with the Applicant and his mother on June 23 and reviewed all of the penalties on all charges including the fact that this was not a parolable offense. Counsel also testified that he was unaware of the new Omnibus Crime Bill or if Applicant would be eligible for parole under the new law.<sup>1</sup> Counsel further stated he was unaware that Judge Hayes had signed a consent order stating that the Applicant was not eligible for parole. Counsel stated that this was "definitely under the old law."

On cross-examination, Counsel testified he attacked the search warrant in a suppression hearing based on lack of probable cause, but the trial court allowed the evidence to be admitted. He

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<sup>1</sup> This Court notes the Omnibus Crime Bill (OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010) took effect on June 2, 2010. Applicant was indicted in March 2010, thus making this Bill inapplicable to

also stated he argued against allowing Ms. Darty to testify, but the trial court allowed her testimony. Counsel further testified the Applicant understood the guilty plea, that he made no threats or promises to convince the Applicant to plead guilty, and that it was the Applicant's decision to plead guilty.

The Applicant testified he was on probation for manufacturing methamphetamine when he was arrested and charged with Attempt to Manufacture Methamphetamine and Possession of Methamphetamine. He stated he met with Counsel and Mr. Delaney prior to trial and discussed his case. He received and discussed the discovery, although he did not think Counsel went over the entire discovery with him. The Applicant stated his theory of defense was innocence and that he assisted in his own defense. The Applicant testified he and Counsel did not talk about car batteries because he claims there were no batteries at his house.

The Applicant testified he brought other items to Counsel's attention, such as receipts and a video from Lowe's Home Improvement Store, which would have shown who purchased the items found in and around his house. He stated he spoke with Counsel about the fertilizer found outside of his house.

The Applicant further testified his decision to go to trial changed because of Counsel's action during trial. He explained that he pled guilty to avoid receiving a thirty-year sentence, but wants a new trial. The Applicant testified he did not understand enough to plea freely and voluntarily, but was scared into pleading guilty.

On cross-examination, the Applicant admitted he did not have possession of any receipts or video from Lowe's to support his claims. The Applicant also admitted he told the plea court, under



oath, that he understood the charges and his constitutional rights. He stated there were no threats or promises made to influence him to plead guilty and that he pled freely and voluntarily. The Applicant testified he agreed with the facts as presented by the State and apologized for his actions. The Applicant further stated he understood if he was successful in his PCR action, he faced over thirty-five years in prison and that the State could file the additional charges, which were dropped, against him again. The Applicant also testified it was his decision to plead guilty. He lastly admitted this is not the first time he has been convicted of manufacturing methamphetamine.

The Applicant's mother testified there were no batteries found in a bucket or pseudoephedrine blister packs at the scene. She also testified that she saw the police throw something white into the back of the Jeep where the methamphetamine was found. She claimed she could prove this, but offered no supporting evidence.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

#### **Ineffective Assistance of Counsel**

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove

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that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

This Court finds Counsel was competent and diligent in his representation of the Applicant in this case. Counsel sufficiently advised the Applicant of the charges against him, the potential penalties if convicted at trial, and the evidence the State would produce at trial. Counsel satisfactorily investigated this case based on the information supplied by the Applicant. Counsel also engaged in

plea negotiations which were beneficial to the Applicant, although the Applicant allowed the plea offer to expire. This Court also finds the Applicant was well informed by Counsel in this case.

This Court further finds the Applicant's testimony regarding Counsel's ineffectiveness is not credible while also finding Counsel's testimony is credible. This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby.

*Failure to investigate*

The Applicant alleged Counsel was ineffective for failing to investigate his case. Specifically, the Applicant alleged Counsel failed to investigate the receipts and video recording from Lowe's which would have proven who purchased the items that were admitted as evidence at trial.

"Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998).

Here, the Applicant testified he brought to Counsel's attention receipts and video from Lowe's that would have shown who purchased the items that were seized in and around his house. The Applicant stated had Counsel investigated this information, Counsel would have been better able to defend the Applicant. The Applicant, however, failed to provide any proof of these receipts or video, and thus failed to show how this information would have aided his case. The claim that the receipts and video would have helped his defense is pure speculation. The Applicant has failed to show Counsel was deficient for not investigating this information, and further failed to prove any resulting prejudice. Therefore, this allegation is denied.

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### Involuntary Guilty Plea

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993).

The Applicant alleged his guilty plea was not freely and voluntarily entered. At the PCR hearing, the Applicant testified he did not feel that he understood enough about his case to plead guilty. He also stated he felt that he was scared into pleading. However, the guilty plea transcript and the Applicant's answers during cross-examination at the PCR hearing directly refute his claims. Additionally, Counsel testified he made no threats or promises to get the Applicant to plead guilty,

that the Applicant understood his guilty plea, and that it was the Applicant's decision to plead guilty.

At the guilty plea, the Applicant stated he understood the charges against him and the penalties the charges carried. (Tr. p. 266 line 2). He then stated he wanted to plead guilty to the charges. (Tr. p. 266 lines 3-14). The Applicant testified he was not promised anything or threatened in any way to influence him to enter a guilty plea. (Tr. p. 266 line 21). He stated he was entering the plea freely and voluntarily. (Tr. p. 267 line 2). The Applicant also testified he understood his constitutional rights and waived those rights. (Tr. p. 267 lines 3-14; lines 17-21). He further stated he agreed with the facts as presented during the trial phase of his case. (Tr. p. 268 line 16). Further, during the plea, the Applicant admitted he was in violation of his probation by pleading guilty to these charges, among other violations. (Tr. p. 269 line 18; 22; p. 270 line 8; 17).

At the PCR hearing, the Applicant freely admitted he testified to all of the above at his guilty plea on cross-examination. Additionally, the Applicant stated he understood if he was successful in his PCR action that not only would the original charges be reinstated and he would be facing over thirty-five years' imprisonment, but also understood the solicitor was allowed to reinstate other charges which were dropped in exchange for his guilty plea.

Based on the foregoing, this Court finds the Applicant's testimony concerning an involuntary guilty plea not credible, while finding Counsel's testimony at the PCR hearing credible. This Court also finds the Applicant pled guilty freely and voluntarily. This Court further finds because of the Applicant's prior experience with the court system and his prior guilty plea colloquy, the Applicant fully understood his guilty plea.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing

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professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied.

### CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate

appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief ~~must~~ <sup>shall, and hereby is,</sup> be denied and dismissed with prejudice; and
2. The Applicant ~~must~~ <sup>shall</sup> be remanded to the custody of the Respondent.

**AND IT IS SO ORDERED!**

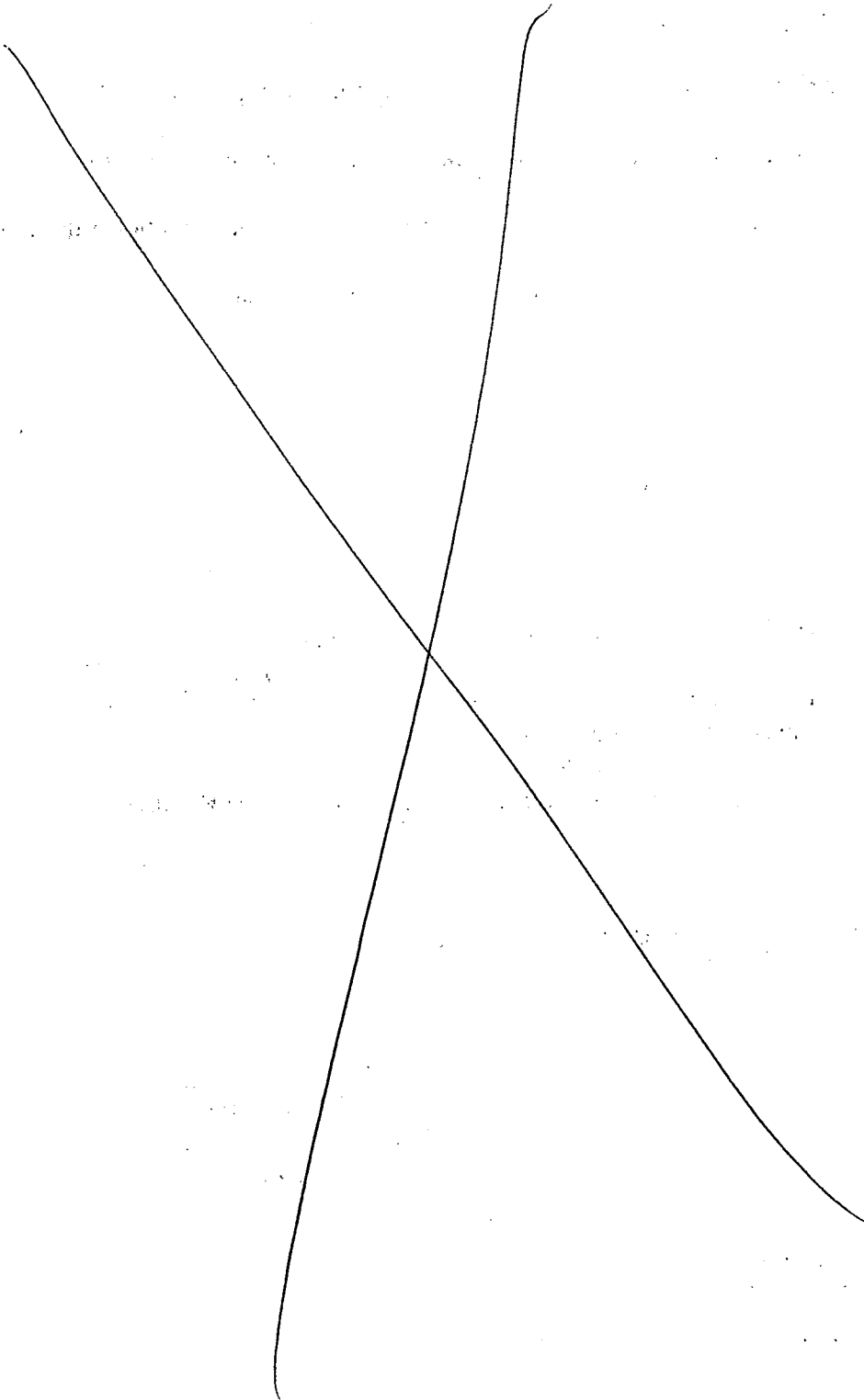


Edgar W. Dickson  
Presiding Circuit Court Judge  
Sixteenth Judicial Circuit

August 28, 2014

Orangeburg, South Carolina

000371





000872

WITNESSES

Attention

DOCKET NO. 2010-GS-46-01168

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

March 25, Term 2010

ARREST WARRANT NUMBER

9315

THE STATE

VS.

RONALD TIMOTHY BOOZER

ACTION OF GRAND JURY

TRUE BILL

Person of Grand Jury 3.25.10

VERDICT

Indictment for

ATTEMPT TO MANUFACTURE  
METHAMPHETAMINE

Person of Petit Jury  
ite:

SC Code: § 44-53-375  
CDR Code: 3015  
3199

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant  
*Ronald Boozer*

Witness:  
*Justin Berfield Ct Spec*  
C.C.C. PLS AND G.S.

CERTIFIED TRUE COPY  
2011 APR 28 AM 10:38  
DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

00373

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

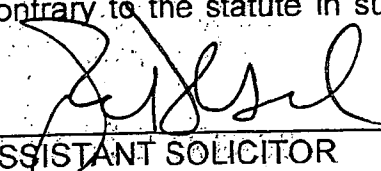
INDICTMENT

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of York County present upon their oath:

**ATTEMPT TO MANUFACTURE METHAMPHETAMINE**

On or about December 23, 2009, the Defendant, Ronald Timothy Boozer,, did manufacture or did aid, abet, attempt or conspire to manufacture methamphetamine in violation of provisions of Section 44-53-370. Said incident occurred in York County, South Carolina, all in violations of Section 44-53-370. Said incident occurred in York County, South Carolina, all in violation of Section 44-53-375(b), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
ASSISTANT SOLICITOR



DOCKET NO. 2010-GS-46-01149

WITNESSES

al Castillo

The State of South Carolina

County of York

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

COURT OF GENERAL SESSIONS

March 25, Term 2010

*Donald S. Booser*  
Defendant

ARREST WARRANT NUMBER

0

THE STATE

VS.

Witness:  
*Chunle Benfield Lt Spec*  
C.C.C. PLS AND G.S.

ACTION OF GRAND JURY

RONALD TIMOTHY BOOZER

TRUE BILL

*Reverend*  
Person of Grand Jury 3.25.10

VERDICT

Indictment for

POSSESSION OF METHAMPHETAMINE

SC Code: § 44-53-375  
CDR Code: 3017

Person of Petit Jury

00375

CERTIFIED TRUE COPY  
2011 APR 25 9AM 10:38  
DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

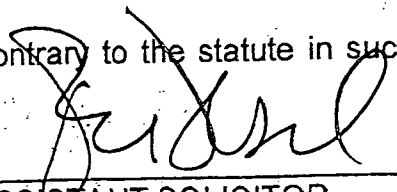
COUNTY OF YORK )

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of York County present upon their oath:

**POSSESSION OF METHAMPHETAMINE**

That on or about December 13, 2009, in York County, South Carolina, the Defendant, Ronald Timothy Boozer, did knowingly or intentionally possess or otherwise aid, abet, attempt, or conspire to possess a quantity of methamphetamine, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, such possession not having been authorized by law, all in violation of Section 44-53-375, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
ASSISTANT SOLICITOR

ARREST WARRANT  
J-169270  
STATE OF SOUTH CAROLINA  
County/ ☒ Municipality of  
rk

THE STATE  
against  
200900041478

Timothy Boozier

2100 Willow Creek Rd

Rock Hill, SC 29730-8307

1. Race: W Height: 5 10 Weight: 175

2. SC DL #: [redacted] Agency ORI #: SC0460000

3. [redacted] York County Sheriff

4. [redacted] M Del Castillo - 14263

5. [redacted] Drug/ possession of less than one gram of ice

crack or crack cocaine 2nd offense

6. Code: 3017

7. Ordinance Sec: 44-53-0375 (A)

8. Warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

9. be arrested and brought before me to be

with according to the law.

(L.S.)

Signature of Judge

RETURN

Copy of this arrest warrant was delivered to

defendant Ronald Timothy Boozier

12/23/2009

Signature of Constable/Law Enforcement Officer

WARRANT TO:

York County General Sessions

675 York Hwy

rk, SC 29745

53:11W

623306007

ORIGINAL

STATE OF SOUTH CAROLINA  
County/ ☒ Municipality of

York

Personally appeared before me the affiant M Del Castillo

being duly sworn deposes and says that defendant Ronald Timothy Boozier

did within this county and state on or about 12/13/2009

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of York

in the following particulars:

DESCRIPTION OF OFFENSE Drugs/ possession of less than one gram of ice crack or crack cocaine 2nd offense

3017

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on December 13, 2009 in the county of York, the Defendant, Ronald Timothy Boozier, did willfully and unlawfully violate South Carolina Drug Law 44-53-375 by being in possession of a quantity of methamphetamine, while at 2100 Willow Creek Road Rock Hill, South Carolina. Criminal records show the defendant has one prior drug conviction making this his second offense.

\* Police Investigation

\*\* Execution of Search Warrant

\*\* Recovery of Evidence (2 grams Methamphetamine)

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

York

Affiant's Address

Moss Justice Center

York 29745-7428

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/13/2009

did violate the criminal laws of the State of South Carolina (or ordinance of York

County/ ☒ Municipality of

defendant Ronald Timothy Boozier

DESCRIPTION OF OFFENSE: Drugs/ possession of less than one gram of ice crack or crack cocaine 2nd offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

12/14/2009

Signature of Issuing Judge

Norman Richard Watkins Jr

Judge Code: 7054

Judge's Address

1675-3C York Hwy

York, SC 29745-

Judge's Telephone

(803)682-3095

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

DOCKET NO. 2010-GS-46-01170

WITNESSES

del Castillo

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

March 25, Term 2010

THE STATE

VS.

RONALD TIMOTHY BOOZER

ACTION OF GRAND JURY

TRUE BILL

erson of Grand Jury 3-25-10

VERDICT

Indictment for

ATTEMPT TO MANUFACTURE  
METHAMPHETAMINE

erson of Petit Jury

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness: *David Hamilton*  
C.C.C. PLS AND GS.

CERTIFIED TRUE COPY  
2011 APR 25 AM 10:38  
DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

SC Code: 44-53-375

CDR Code: 3045-

3/99

000379

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

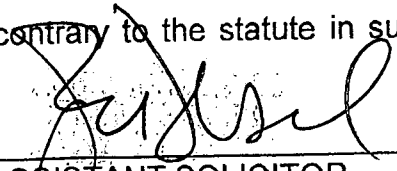
INDICTMENT

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of York County present upon their oath:

**ATTEMPT TO MANUFACTURE METHAMPHETAMINE**

On or about December 13, 2009 the Defendant, Ronald Timothy Boozer, did manufacture or did aid, abet, attempt or conspire to manufacture, methamphetamine in violation of the provisions of Section 44-53-370. Said incident occurred in York County, South Carolina, all in violation of Section 44-53-375(B), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
ASSISTANT SOLICITOR



ORIGINAL

AFFIDAVIT

STATE OF SOUTH CAROLINA  
☒ County/ ☐ Municipality of

York

M Del Castillo

Personally appeared before me the affiant  
being duly sworn deposes and says that defendant Ronald Timothy Boozer

did within this county and state on or about 12/13/2009

violate the criminal laws of the

State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

York

in the following particulars:

DESCRIPTION OF OFFENSE Drugs/ Manufacture, distribution, etc. methamphetamine or cocaine base, 2nd offense

3015

1 Timothy Boozer

THE STATE 200900041478  
against

2100 Willow Creek Rd

Rock Hill, SC 29730-8307

M Race: W Height: 5 10 Weight: 175  
DL #: [redacted] SSN: [redacted]

Agency ORI #: SC00460000

Posting Agency: York County Sheriff

Officer: M Del Castillo - T4263

a: Drugs/ Manufacture, distribution,  
etc. methamphetamine or cocaine base, 2nd offense

e Code: 3015

Ordinance Sec: 44-53-0375(B)(2)

warrant is CERTIFIED FOR SERVICE in the  
County/ ☐ Municipality of

be arrested and brought before me to be  
with according to the law. The accused  
(L.S.)

Signature of Judge

RETURN

copy of this arrest warrant was delivered to  
ndant Denise Timothy Boozer  
12/23/09

Signature of Constable/Law Enforcement Officer: [redacted]

WARRANT TO:

York County General Sessions SC: 1114 62300007  
1615 York Hwy  
Rock, SC 29745

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/13/2009

defendant Ronald Timothy Boozer

did violate the criminal laws of the State of South Carolina (or ordinance of  
☒ County/ ☐ Municipality of York

as set forth below:

DESCRIPTION OF OFFENSE: Drugs/ Manufacture, distribution, etc. methamphetamine or cocaine base, 2nd offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 12/14/2009

Judge's Address

1675-3C York Hwy  
York, SC 29745-

Signature of Issuing Judge

Norman Richard Watkins Jr

Judge Code: 7054

Judge's Telephone

(803)682-3095

Issuing Court:

☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

VS. Ronald Boozer  
A/W#: J169315  
Date of Offense: 12/23/2009  
S.C. Code §: 44-53-0375 (B) (2)  
CDR Code #: 3015  
Race: W Sex: M Age: 42  
DOB: [redacted] SS#: [redacted]  
Address: 2100 Willow Creek Rd  
City, State, Zip: Rock Hill, SC 29730-8307  
DL#: [redacted] SID#: [redacted]  
2011 APR 25 AM 10:38  
DAVID HAMILTON  
CLERK OF COURT  
ROCK HILL COUNTY, SC  
SENTENCE SHEET #1  
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or ☒ PLEADS  
TO: MANUFACTURING METHAMPHETAMINE 2ND OFFENSE (5 YRS, \$50,000)

in violation of § 44-53-0375 (B) (2) of the S.C. Code of Laws, bearing CDR Code # 3199  
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45  
(As Amended)

The charge is ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)  
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.  
ATTEST: [Signature] 72806 [Signature] [Signature] SC Bar# [redacted] Defendant Attorney for Defendant SC Bar# [redacted]  
Desch, Jenny E.

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 17 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.  
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with prior sentences 09-65-46-3096 3779  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.  
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.  
SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
☐ Set by SCDPPPS \_\_\_\_\_

|                                        |              |
|----------------------------------------|--------------|
| Recipient: _____                       | \$           |
| *Fine: _____                           | \$           |
| § 14-1-206 (Assessments 107.5 %)       | \$           |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100 \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100 \$     |
| § 56-5-2995 (DUI Assessment)           | \$12 \$      |
| § 56-1-286 (DUI Breath Test)           | \$25 \$      |
| Proviso 47.9 (Public Def/Prob)         | \$500 \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25 \$ 25   |
| § 14-1-213 (Drug Court Surcharge)      | \$150 \$ 100 |
| § 50-21-114(BUI Breath Test Fee)       | \$50 \$      |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea \$   |
| Proviso 90.5 (SCCJA Surcharge)         | \$5 \$ 5     |
| § 44-53-450(C) (Conditional Discharge) | \$350 \$     |
| 3% to County (if paid in installments) | \$           |
| TOTAL                                  | \$ 230       |

PTUP \_\_\_\_\_ days/hours Public Service Employment  
Obtain GED ☐  
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling ☐  
Random Drug/Alcohol testing ☐  
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: ATV  
☐ Conditional Discharge, § 44-53-450(C) requires  
\$350 be paid to the Clerk prior to case disposition  
☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/ Deputy Clerk David Hamilton  
Court Reporter: Wanda Nelson  
SCCA/217 (06/2010)  
Presiding Judge [Signature]  
Judge Code: 2049  
Sentence Date: 8-12-10

VS.

Ronald Boozer

INDICTMENT

000382

A/W#: J169270

Date of Offense: 12/13/2009

S.C. Code § : 44-53-0375 (A)

CDR Code #: 3017

AKA:

Race: W Sex: M Age: 42

DOB: [REDACTED] SS: [REDACTED]

Address: 2100 Willow Creek Rd

City, State, Zip: Rock Hill, SC 29730-8307

DL#: [REDACTED] SID#: [REDACTED]

CERTIFIED TRUE COPY

2011 APR 25 AM 10:38

SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was DAVID HAMILTON CONVICTED OF or ☒ PLEADS TO: POSSESSION OF METHAMPHETAMINE 2ND OFFENSE (S.C. Code § 44-53-0375 (A))

in violation of § 44-53-0375 (A) of the S.C. Code of Laws, bearing CDR Code # 3017

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Jenny E. Desch 72806 SC Bar# David Hamilton Defendant Attorney for Defendant SC Bar# 76661WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 6 days/months/years or ☐ under the Youthful Offender Act not to exceed        yearsand/or to pay a fine of \$       ; provided that upon the service of        days/months/years and/or paymentof \$       ; plus costs and assessments as applicable\*; the balance is suspended with probation for       

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$        plus 20% fee: \$       Payment Terms:       ☐ Set by SCDPPPS       Recipient:       \*Fine:        \$       § 14-1-206 (Assessments 107.5 %) \$       § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$       § 56-5-2995 (DUI Assessment) \$12 \$       § 56-1-286 (DUI Breath Test) \$25 \$       Proviso 47.9 (Public Def/Prob) \$500 \$       § 14-1-212 (Law Enforce. Funding) \$25 \$ 25§ 14-1-213 (Drug Court Surcharge) \$150 \$ 100§ 50-21-114(BUI Breath Test Fee) \$50 \$       § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$       Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5§ 44-53-450(C) (Conditional Discharge) \$350 \$       3% to County (if paid in installments) \$       TOTAL \$ 230Clerk of Court/ Deputy Clerk David HamiltonCourt Reporter: Wanda Nelson

SCCA/217 (06/2010)

       days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp.       May serve W/E beginning       Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$        beginning       \$        paid to Public Defender FundOther:       ☐ Conditional Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.Presiding Judge John H. AycockJudge Code: 2049Sentence Date: 8-12-10

AKA: W Race: Sex: M Age: 42 DOB: Address: 2100 Willow Creek Rd City, State, Zip: Rock Hill, SC 29730-8307 DL#: SID#

CERTIFIED TRUE COPY 2011 APR 25 AM 10:38 DAVID HAMILTON CLERK OF COURT YORK COUNTY, SC

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No CONVICTED OF or PLEADS In disposition of the said indictment comes now the Defendant who was TO: MANUFACTURING METHAMPHETAMINE 2ND OFFENSE (5-30 YRS, \$50,000)

in violation of § 44-53-0375 (B) (2) of the S.C. Code of Laws, bearing CDR Code # 3199 § 17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials) The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Desch, Jenny E. 72806 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 17 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 8/12/10 § 24-13-40 to be calculated and applied by the State Department of Corrections. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered Total: \$ plus 20% fee: \$ Payment Terms: Set by SCDPPPS

PTUP days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

|                                        |         |        |
|----------------------------------------|---------|--------|
| Recipient:                             |         | \$     |
| *Fine:                                 |         | \$     |
| § 14-1-206 (Assessments 107.5%)        |         | \$     |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$ 100 |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCJA Surcharge)          | \$5     | \$ 5   |
| § 44-53-450(C) (Conditional Discharge) | \$350   | \$     |
| 3% to County (if paid in installments) |         | \$     |
| TOTAL                                  |         | \$ 230 |

Conditional Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk David Hamilton Court Reporter: Wanda Nelson SCCA/217 (06/2010)

Presiding Judge Judge Code: 2049 Sentence Date: 8-12-10

County of  
STATE

York

VS.

Ronald Boozer

AKA:

Race:

W

Sex:

M

DOB:

SSN:

SID#:

CERTIFIED

2011 APR 25

DAVID H. HARRIS

CLERK OF COURT

YORK COUNTY, SC

INCL /MENT#:

000384

09

-GS-

46

-03779

Probation C/W#s:

W-46-09-0565/W-46-10-0090

RUE COPY

CC-46-10-48

Name of Original Offense: Poss. of Methamphetamine 1<sup>st</sup> Off.

Original A/W#: J166693

Date of Original Offense: 9-30-08

Conviction S.C. Code §: 44-53-6375(A)

Conviction CDR Code #: 3 / 0 / 0 / 9

Original Sentence: 3 yrs. provided upon service of 90 days, bal. susp. 5 yrs. prob.

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 10/8/09 in the Court of General Sessions of York County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 12-29-09, as set forth in the attached warrant(s) or citation(s) dated 12-29-09. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

1, 3, 6, 7, 9, 10

Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 3 months years, the remainder of the original sentence, and/or pay \$\_\_\_\_\_.

☐ the suspended sentence be revoked and the above named defendant be required to serve \_\_\_\_\_ months/years of the original sentence and/or pay \$\_\_\_\_\_ thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).

☒ Additional Conditions ordered by the Court:

Concurrent to 10-GS-46-1168, 10-GS-46-1169, 10-GS-46-1170

This satisfies all violations on warrants #W-46-09-0565/W-46-10-0090

☐ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant has previously served 16 days months years on this sentence. (split sentence time and/or prior partial revocation time)

☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540

This 12<sup>th</sup> day of August 2010  
York SC

John H. Hays  
Presiding Judge 10TH Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this

Day

12<sup>th</sup> day of August

Year

2010

at

City

York

SC

385

County of  
STATE

York

FILED-RECEIVED

VS.

2010 AUG 17 11:10 AM

Ronald Buzer

AKA:

Race: W Sex: M

DOB: [REDACTED]

SSN: [REDACTED]

SID#: [REDACTED]

DAVID HAMIL  
CLERK OF COURT  
YORK COUNTY, SC

IND. / MENT#: 09 -GS- 46 - 00359  
 Probation C/W#: W-46-09-0565 / W-46-10-0090  
 CC-46-10-48  
 Name of Original Offense: Manufacturing Methamphetamine  
 Original AWW#: J 116695  
 Date of Original Offense: 9-30-08  
 Conviction S.C. Code §: 44-53-0375 (b)(1)  
 Conviction CDR Code #: 3 / 0 / 1 / 4  
 Original Sentence: 8 yrs. provided upon service of 90 days,  
 bal. susp. 5 yrs. prob.

## ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 10/8/09 in the Court of General Sessions of York County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on 12-29-09, as set forth in the attached warrant(s) or citation(s) dated 12-29-09. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

1, 3, 4, 7, 9, 10

## Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 8 months (years) the remainder of the original sentence, and/or pay \$ \_\_\_\_\_.
- ☐ the suspended sentence be revoked and the above named defendant be required to serve \_\_\_\_\_ months/years of the original sentence and/or pay \$ \_\_\_\_\_; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- ☒ Additional Conditions ordered by the Court:

Concurrent to 10-GS-46-1168, 10-GS-46-1169, 10-GS-46-1170

This order satisfies all violations on warrants # W-46-09-0565 / CC-46-10-48 / W-46-10-0090

- ☐ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☒ The defendant has previously served 166 days months/years on this sentence.  
(split sentence time and/or prior partial revocation time)
- ☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 12<sup>th</sup> day of August 2010  
 York, SC

Presiding Judge

16<sup>TH</sup>

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this 12<sup>th</sup> day of August 2010, at York, SC